

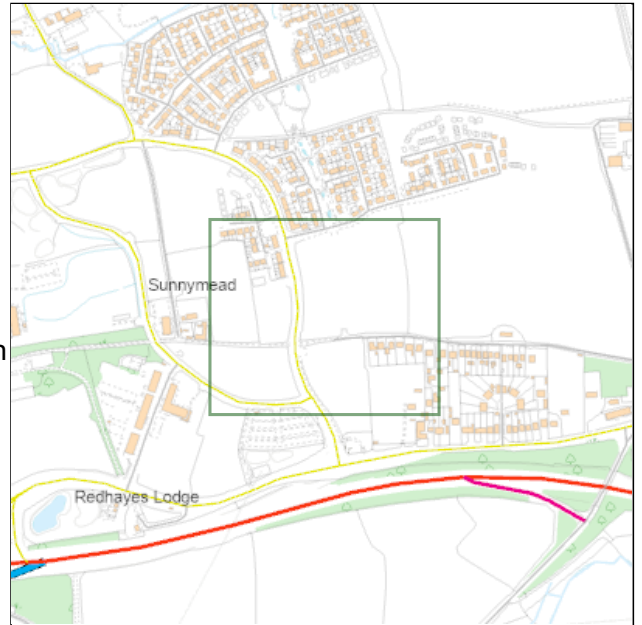
Ward Broadclyst

Reference 22/0975/MFUL

Applicant Eagle One MMIII Limited

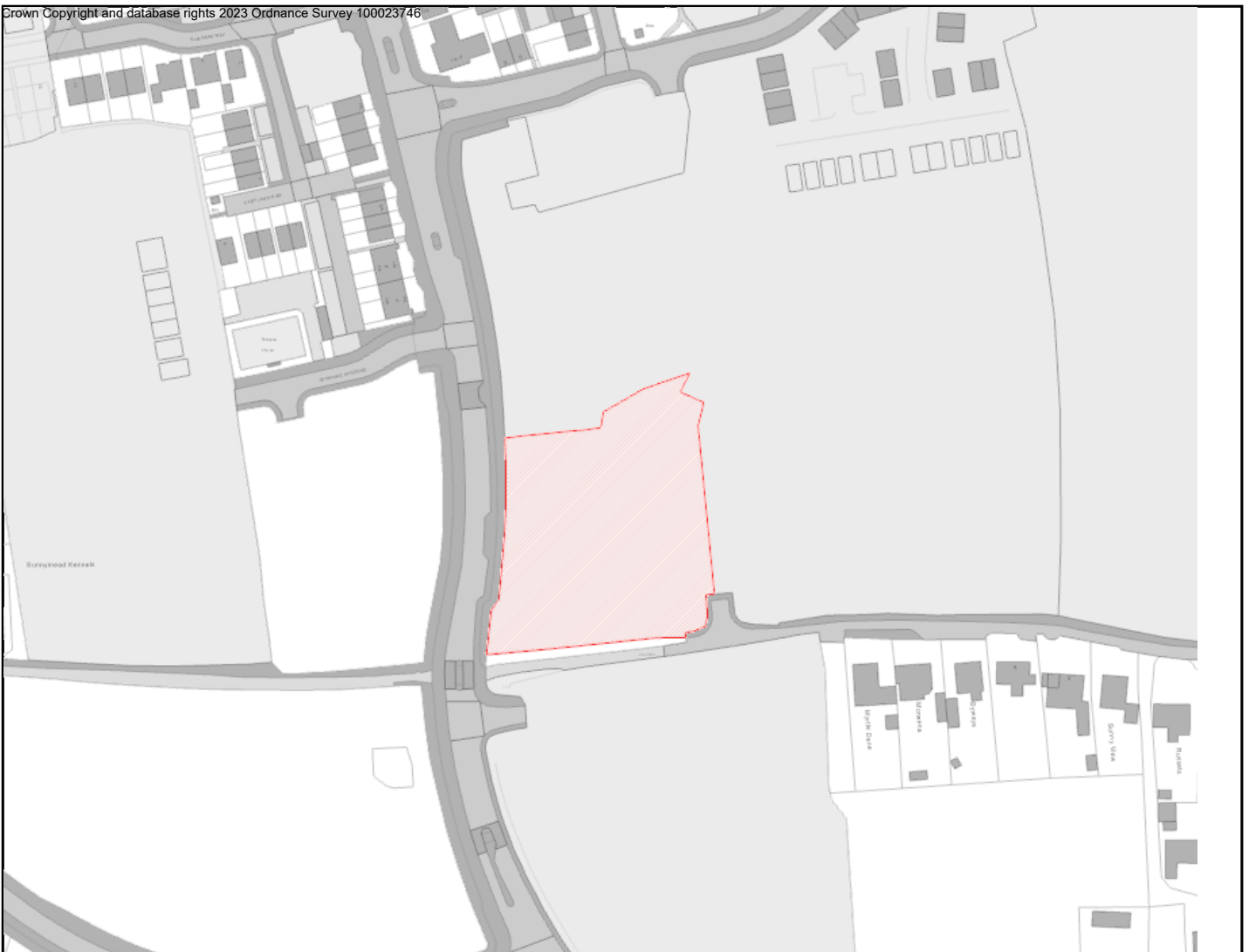
Location Land Adjacent Old Tithebarn Lane Clyst Honiton

Proposal Construction of four commercial, business and service units (Class E) and nine dwellings with associated access, parking and infrastructure



RECOMMENDATION:

- a) **ADOPT** the Appropriate Assessment as set out in Appendix A.
- b) **REFUSE** the application.



		Committee Date: 22.08.2023
Broadclyst (Broadclyst)	22/0975/MFUL	Target Date: 09.08.2022
Applicant:	Eagle One MMill Limited	
Location:	Land Adjacent Old Tithebarn Lane Clyst Honiton	
Proposal:	Construction of four commercial, business and service units (Class E) and nine dwellings with associated access, parking and infrastructure.	

RECOMMENDATION

- a) ADOPT the Appropriate Assessment as set out in Appendix A.**
- b) REFUSE the application.**

EXECUTIVE SUMMARY

This application is before members today because the recommendation to refuse permission is contrary to the views of Broadclyst Parish Council.

The proposal seeks full planning permission for 4 commercial units (Use Class E) and 9 residential dwellings (Use Class C3) and associated car parking, access and landscaping. The proposal would include a vehicular access from the approved local centre to the north and pedestrian and cyclist access from both the approved pedestrian and cycle path to the east and Tithebarn Way.

The proposed dwellings would each include two bedrooms with rear gardens and car parking. The dwellings would be provided with PV Panels and EV charging points and would be connected to the District Heating Network. The proposed commercial buildings would include four units across two buildings and would include car parking, 8 EV charging points and bin and bike storage.

The site is allocated within the wider Tithebarn Green development with 1500+ dwellings, a local centre, employment provision, allotments, play and open space previously approved. The site is well connected via public transport and active travel routes to Exeter and Exeter Airport and employment opportunities at the Science Park, Logistics Park and Skypark. The site is considered to be in a sustainable location where by mixed used development is supported by Strategies 9 and 13 of the East Devon Local Plan.

Officers have no concerns with the principle of development in land use terms and the application is considered to be acceptable in relation to neighbour

amenity, waste, archaeology, soils, biodiversity, trees, sustainability and the impact on the wider transport network is acceptable. However, officers have concerns with the amenity of future residents due to the internal size of dwellings, the proposed layout and appearance of the development and the levels of car parking provided. The proposed layout fails to suitably address the approved pedestrian/cycle path to the east of the site and fails to provide suitable surveillance to the approved adjacent sports pitches. The levels of car parking proposed is excessive and has not been justified which results in a car dominated development that promotes car use rather than sustainable modes of transport which is not supported by Strategies 5B and 11 and Policies D1 and D2.

The application site is in Flood Zone 1 where there is a low risk of flooding. DCC Flood Risk have objected to the application and require additional information to demonstrate that all aspects of the proposed surface water drainage management system have been considered and require details of the exceedance pathways and overland flow routes. Whilst the applicant submitted an Exceedance Plan, a drainage strategy has not been agreed and further information to address all concerns raised by DCC has not been submitted.

In accordance with the Affordable Housing SPD, there is no requirement for on-site affordable housing provision, however a financial contribution for each dwelling totalling £112,032 is required. This contribution would be secured via a S106 agreement however the contribution was not included in a draft heads of terms. As such, the lack of a legal mechanism to secure these contributions means that the proposal would fail to be in accordance with Strategies 34 and 50 and the Affordable Housing SPD.

In relation to protected European Wildlife sites, the Council concludes that there would be no adverse effect on the integrity of the Exe Estuary SPA/Ramsar site and the East Devon Pebblebed Heaths SPA and SAC provided the mitigation measures are secured via S106 agreement. Natural England was consulted on the Appropriate Assessment (See Appendix A) and agrees with the conclusion.

In weighing up the proposed benefits and harm of the development, it is acknowledged that the proposed development would provide 4 commercial units and 9 residential dwellings within the wider Tithebarn Green area thereby providing employment opportunities and residential dwellings in a sustainable location that is allocated for major development. The commercial space could complement the local centre and would provide employment and social opportunities for local residents. The residential dwellings are given significant weight especially as the LPA cannot demonstrate a 5 Year Land Supply.

However, the internal sizes of dwellings would fail to provide a high standard of amenity for future users and it is considered that the layout and appearance of the development and level of commercial car parking is not considered to be acceptable and the proposal fails to promote sustainable travel. The proposal has also failed to demonstrate that it is acceptable in terms of surface water drainage and flood risk and contributions for affordable housing to support the developments delivery have not been secured. Therefore, it is considered that

on balance the harm of the proposal in this instance would fail to significantly and demonstrably outweigh the benefits of the proposed development.

Therefore, the proposal would fail to comply with the NPPF and Local Development Plan and is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council – 25 July 2022

Thank you for consulting Broadclyst Parish Council.

Contrary to the claim made in the application, there has been no consultation with Broadclyst Parish Council as part of the pre-app; the applicant is most welcome to come and present the proposals, but this has not taken place.

We understood the original proposal was for commercial units on the ground floor with (affordable) housing above, however the application shows the different uses in different areas of the plot. The proposed layout includes a mixed access road and shared space to the rear of the commercial units and front of the residential units.

Council feels that this will not work in practice and has concerns for a) the safety of residents and b) the impact on occupants of commercial space, presuming deliveries / usage is restricted due to its proximity to residential properties. The Council therefore cannot support the proposed current layout for mixed use on this site.

Parish/Town Council – 18 July 2023

Thank you for consulting Broadclyst Parish Council.

At the full council meeting on the 17th of July 2023, the council discussed this planning application and supports this planning application with a majority vote.

The council takes note of the revised layout for the nine dwellings, making them safer for residents.

The council also noted the electric vehicle charging points for residents and commercial properties and cycle storage which are in support of the following policies:

- Policy DC4 Residential Storage.
- Policy T3 Parking Provision.

Technical Consultations

Exeter & Devon Airport - Airfield Operations + Safeguarding – 19 May 2022

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

This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria.

In terms of the Air Navigation Order, it is an offence to endanger an aircraft or its occupants by any means. In view of this I have included, as attachments, some safeguarding notes which all developers and contractors must abide by during construction and commissioning.

These include: Airport Operators Association (AOA) Advice notes:
Lighting near Aerodromes.
Cranes and other Construction Issues.
Renewable Energy and Impact on Aviation

Accordingly, Exeter Airport have no safeguarding objections to this development provided that all safeguarding criteria are met, as stipulated in the AOA Advice Notes, and there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter Airport.

Exeter & Devon Airport - Airfield Operations + Safeguarding - 17 July 2023

The amendments to this proposal have been examined from an Aerodrome Safeguarding aspect and do not appear to conflict with safeguarding criteria.

Accordingly, Exeter Airport have no safeguarding objections to this development provided there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter Airport.

Contaminated Land Officer – 13 May 2022

I have considered the application and do not anticipate any concerns in relation to contaminated land.

Contaminated Land Officer – 25 July 2023

As per previous comments.

Environmental Health – 13 May 2022

I recommend approval with conditions:

1. A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and

Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

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

2. The minimum required acoustic performance requirements for the residential properties FAÇADEs including glazing and ventilation units is as detailed:
 - The minimum single figure weighted sound reduction figure for East & West façades Bedrooms is R_w 37 dB and other habitable rooms R_w 32 dB. The minimum ventilator performance is Bedrooms - $D_{n,ew}$ 35 dB and other habitable rooms is $D_{n,ew}$ 32 dB
 - The minimum single figure weighted sound reduction figure for North & South façades is R_w 32 dB & $D_{n,ew}$ 32 dB
3. The specific noise level of any fixed plant or equipment installed and operated on the site must be designed as part of a sound mitigation scheme to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'

Reason: To protect the amenity of future local residents from noise.

4. A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

Reason: To comply with Policy EN15 for the avoidance of light pollution.

Environmental Health – 25 July 2023

As per previous comments.

EDDC Recycling & Waste Contract Manager – 16 May 2022

No comments from Recycling & Waste on this one.

DCC Flood Risk SuDS Consultation – 17 June 2022

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development)

of the East Devon Local Plan (2013-2031) which requires all developments to mitigate against flood risk and utilise sustainable drainage systems, where feasible and practical. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The runoff rate should be based on the proposed impermeable area of 0.32 ha only. The 10% increase for urban creep should be applied to the area used for attenuation calculation only.

Underground systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground SuDS components should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground components can be used in combination where development area is limited.

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system.

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

DCC Flood Risk SuDS Consultation – 19 July 2023

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant did not submit any updated information related to the drainage strategy of the proposed development to enable us to comment on.

Our previous consultation response FRM/ED/0975/2022, dated 17th June 2022 remains valid and to be addressed by the applicant.

DCC Flood Risk SuDS Consultation – 9 August 2023

I do not think they have addressed all the concern raised as per our consultation response on the 17th June 2022 and hence we will need to maintain our objection.

Housing Strategy/Enabling Officer - Cassandra Harrison – 20 July 2023

Our adopted Local Plan policy on affordable housing requires contributions to be sought from all sites for between 6-9 dwellings in the designated rural areas. As the application

falls within a rural area it will need to make a financial contribution, which will be secured in a section 106 agreement. The application has not made provision for this so I object to the application. If the application wants to make the application policy compliant, they would need to make provision for a financial contribution of £112,032.

National Highways – 25 May 2022

Council's Reference: 22/0975/MFUL
National Highways Ref: 94988

Referring to the notification of a planning application referenced above, for the construction of four commercial, business and service units (Class E) and nine detached dwellings with associated access, parking and infrastructure, at land adjacent to Old Tithbarn Lane, Clyst Honiton, Devon, notice is hereby given that National Highways' formal recommendation is that we:

a) offer no objection (see reasons at Annex A);

Highways Act 1980 Section 175B is/is not relevant to this application.¹
This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

¹ Where relevant, further information will be provided within Annex A.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gov.uk and may not determine the application until the consultation process is complete.

Annex A National Highways recommended No Objections

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Highways England was renamed National Highways in August 2021. Prior to April 2015 the organisation was known as the Highways Agency. National Highways is a government owned company responsible for operating, maintaining and improving the SRN.

Statement of Reasons

The application seeks permission for the construction of four commercial, business and service units (1,117 sqm of Class E floorspace) and nine detached dwellings with associated access, parking and infrastructure, at land adjacent to Old Tithbarn Lane, Clyst Honiton, Devon. The 0.53ha site is located approximately 250m north of the A30 trunk road and 650m north east of M5 Junction 29.

The site forms phase 10 of the consented Tithebarn Green/Redhayes development comprising up to 930 houses, employment area, park and ride facility, local centre, health and fitness centre, creche and open space, approved under outline permission 12/1291/MOUT. It is understood that the deadline for submission of reserved matters has now expired, so a full application is being made.

Impact on Strategic Road Network

Traffic Impact

We are satisfied that the traffic impact of the development was assessed at outline stage. As such we consider that the development is unlikely to result in an unacceptable impact on highway safety, as defined by NPPF.

Noise

Owing to the proximity of the development site to the strategic road network the developer must ensure that adequate noise mitigation measures are delivered to ensure there will be no adverse impact on the proposed development, with specific relation to the residential properties.

For outdoor amenity space to be enjoyed as intended, noise levels should conform to desirable thresholds specified in British Standard BS8233:2014 which states that 'it is desirable that the external noise level does not exceed 50dB LAeq, with an upper guideline value of 55dB LAeq. The World Health Organisation (WHO) Environmental Noise Guidelines, which are congruent with BS 8233:2014, set out that 'To protect the majority of people from being seriously annoyed during the daytime, it is recommended that the sound pressure level on balconies, terraces, and outdoor living areas should not exceed 55dB LAeq for a steady continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor noise level should not exceed 50dB LAeq.'

Paragraph 7.5 of the supporting Acoustic Design Statement states that 'Noise levels across much of the site are such that occupants should retain the option to keep windows closed in order to maintain appropriate internal noise levels'. Paragraph 7.6 states that noise levels in some amenity areas will be 'above the aspirational design range'. As such future residents are likely to be exposed to noise levels in excess of those set out in BS 8233:2014 and WHO Environmental Noise Guidelines.

Should a development propose any exceedance of the levels set out in BS 8233:2014 and WHO, the justification for such should be clearly evidenced including why the recommended levels cannot be achieved and how the 'desirability' of the development offsets any likely adverse noise impact upon the residential properties. As the responsibility for determination of the application rests with the Local Planning Authority we strongly advise the Authority satisfies itself that the development will deliver measures which adequately mitigate noise to levels as set out in British Standard BS8233:2014 and WHO guidelines. Any noise fences, screening and other structures must be erected on the developer's land, and far enough within the developer's land to enable maintenance to take

place without encroachment onto highway land, in line with Annex A of DfT Circular 02/2013.

National Highways will not be held liable for any adverse noise impact arising from the operation of the strategic road network should the development fail to deliver measures which adequately mitigate noise to levels as set out in British Standard BS8233:2014 and WHO guidelines.

Recommendation

National Highways has no objection to application 22/0975/MFUL, subject to the provision of adequate acoustic mitigation to the satisfaction of the Local Planning Authority.

National Highways – 17 July 2023

Thank you for consulting National Highways on proposed amendments to the above application.

We were originally consulted on application 22/0975/MFUL in May 2022 and offered no objections as set out in our response dated 25 May 2022.

Based on the submitted documents the revisions primarily relate to layout, design, materials and landscaping. We are satisfied these amendments are unlikely to result in an adverse impact on the safe operation of the strategic road network and on this basis continue to recommend no objections to application 22/0975/MFUL, as amended.

EDDC Trees – 26 July 2023

No arb concerns.

Natural England – 25 July 2023

Thank you for your consultation on the above dated 13 July 2023 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of the Exe Estuary Special Protection Area (SPA)/Ramsar, East Devon Heaths SPA and East Devon Pebblebed Heaths Special Area of Conservation (SAC).

Please be advised that, on the basis of the mitigation outlined in the Appropriate Assessment being secured, Natural England concurs with your authority's conclusion that

the proposed development will not have an adverse effect on the integrity of Exe Estuary SPA/Ramsar, East Devon Heaths SPA and East Devon Pebblebed Heaths SAC.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Protected Species

Natural England has produced standing advice¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

If you have any queries relating to the advice in this letter please contact me via neil.sherwood@naturalengland.org.uk.

Should the proposal change, please consult us again.

Natural England – 28 July 2023

The AA associated with this application was reviewed and our response was that we agreed with its conclusions.

Police Crime Prevention Officer – 19 May 2022

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application. Whilst I have no objection to the scheme, I would like to make the following comments and recommendations for your consideration. For ease, I have annotated the plan below.

- Ensure there is a boundary that doesn't allow vehicle access to the POS
- Ensure access to the side of units is restricted. Such spaces are somewhat concealed and could attract misuse. If left open they could also create 'desire lines' which would not promote use of safe, designated routes
- This path should be lit in accordance with BS 5489:2020 to promote safe use
- Consider moving gates to private gardens closer to the front building line in order to reduce the recessed space and thus increase surveillance opportunities
- If parking space is for the sole use of the commercial units, clear rule setting and demarcation e.g. change in tarmac colour etc. should be in place to differentiate it from the public realm.

Further Recommendations

- It is recommended that each commercial unit has a monitored intruder alarm installed or at least the infrastructure to enable the prospective occupier to easily install such an alarm. For police response, the system must comply with the

requirements of the Security Systems policy, which can be found at www.securedbydesign.com under the 'Group Initiatives' tab.

- CCTV should be considered for the commercial units or at least the infrastructure to enable the prospective occupier to easily install CCTV. Systems should have a clear Passport for Compliance Document, including an Operational Requirement. It is recommended that an accredited NSI or SSAIB is used. Further advice can be given if required.
- All external doors and accessible windows are advised to be tested and certificated to an appropriate nationally recognised security standard, suitable for their use in a domestic or commercial setting.

DCC Historic Environment Officer – 25 May 2022

I refer to your consultation on the above planning application.

I do not object or have any recommendations for archaeological mitigation.

The submitted archaeological assessment (Appendix 14.1: Exeter Archaeology, May 2011) is out of date, and the Submitted Geophysical Surveys (Appendix 14.2: Stratascan, Nov 2011 and Appendix 14.3: Stratascan, Jan 2012) do not relate to the application area. One is on the west side of the M5 and the other is north of Tithebarn Lane (the Pinn Brook Enclosure site).

However, various reports on archaeological survey, evaluation and excavation in and around the proposal area have been published and are publicly available. The application area itself has been the subject of geophysical survey (Wessex Archaeology, 2015) and archaeological evaluation (Cotswold Archaeology, 2016). I have checked the relevant survey reports and although some undated archaeological features were identified in the area I do not believe that they are of such extent or significance to warrant further archaeological evaluation or mitigation work. The existing reports are sufficient record.

I therefore do not object to the proposal or have further comments to make. I will be happy to discuss this further with you or the applicant if needed.

DCC Historic Environment Officer – 9 August 2023

I refer to your consultation on the above planning application.

The proposal is in an area that has already had archaeological evaluation and targeted excavation of prehistoric archaeology. No further archaeological mitigation is, in my opinion, required.

The applicant has submitted archaeological evaluation results that are not relevant to the application area. I attach the relevant report (Cotswold Archaeology, 2016, for Eagle One). The results of archaeological mitigation, following on from the evaluation, have also been published in the Proceedings of the Devon Archaeological Society (Vol.77, 2019).

Other Representations

No neighbour responses have been received.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)
Strategy 3 (Sustainable Development)
Strategy 5 (Environment)
Strategy 5B (Sustainable Transport)
Strategy 9 (Major Development at East Devon's West End)
Strategy 10 (Green Infrastructure in East Devon's West End)
Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End)
Strategy 13 (Development North of Blackhorse/Redhayes)
Strategy 31 (Future Job and Employment Land Provision)
Strategy 34 (District Wide Affordable Housing Provision Targets)
Strategy 37 (Community Safety)
Strategy 38 (Sustainable Design and Construction)
Strategy 40 (Decentralised Energy Networks)
Strategy 43 (Open Space Standards)
Strategy 47 (Nature Conservation and Geology)
Strategy 48 (Local Distinctiveness in the Built Environment)
Strategy 49 (The Historic Environment)
Strategy 50 (Infrastructure Delivery)
H2 (Range and Mix of New Housing Development)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
D3 (Trees and Development Sites)
TC2 (Accessibility of New Development)
TC4 (Footpaths, Bridleways and Cycleways)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)
TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)
EN5 (Wildlife Habitats and Features)
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)
EN13 (Development on High Quality Agricultural Land)
EN14 (Control of Pollution)
EN16 (Contaminated Land)
EN22 (Surface Run-Off Implications of New Development)

Government Planning Documents

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

Broadclyst Neighbourhood Plan (adopted 12 July 2023)

Policy DC4 Residential Storage
Policy T3 Parking Provision
Policy H5 New Housing in Broadclyst Parish

OFFICER REPORT

SITE LOCATION

The application site is located adjacent to Tithebarn Way within the Broadclyst Parish of East Devon. The site comprises of a 0.53ha parcel of land which is broadly rectangular in shape and is bounded by Tithebarn Way to the west and Blackhorse Lane to the south. The land levels of the application site falls from the south towards the northeast corner.

The application site is not located within a Conservation Area and the nearest Conservation Area (Sowton) is approximately 0.7km south east of the site. The site is approximately 0.9km from the Grade II Listed Milestone at SX987937 and 1km from the Grade II* and Grade II Listed Buildings at the Church of St Michael, Clyst Honiton. There are no TPO protected trees on or around the site.

The site is located within 10km of the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and SPA.

The application site is part of the wider Tithebarn Green development for approximately 1500 homes, employment provision, local centre, sports pitches and associated infrastructure. The applications at Redhayes (ref. 12/1291/MOUT and 19/0995/MFUL) and Mosshayne (ref. 17/1019/MOUT) alongside other applications have granted approval for 1,513 homes (613 Redhayes and 900 Mosshayne) within this area plus a further 150 dwellings at the Science Park (ref. 18/2799/MOUT).

PLANNING HISTORY

The site has the following relevant planning history:

- 12/1291/MOUT | Development of the site to provide up to 930 dwellings, a new link road, employment area (B1a Use Class), park and ride facility, local centre/square, health and fitness centre, creche, public and private open space and car and cycle parking, together with landscaping and associated servicing (all matters reserved except points of access) | APPROVAL WITH CONDITIONS (29 November 2013) [NOTE: Cross-boundary application with Exeter City Council]

Other relevant planning applications include:

- 17/1019/MOUT | Demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) | APPROVAL WITH CONDITIONS (16 November 2017) [Mosshayne]
- 19/0995/MFUL | Erection of 33 dwellings and associated works | APPROVAL WITH CONDITIONS (26 May 2020)
- 21/0936/MRES | Reserved matters application (access, appearance, landscaping, layout, scale) pursuant to the outline planning permission ref: 12/1291/MOUT (Phases 7 and 9) for the construction of a local centre, play area (NEAP) and multi-

use games area with associated public square, parking, access road and landscaping; the partial discharge of conditions 2, 3, 4, 5, 7 and 19 of outline planning permission 12/1291/MOUT relating to phases 7 and 9. | APPROVED (23 July 2021)

- 21/1016/MRES | Reserved matters application (access, appearance, landscaping, layout, scale) pursuant to the outline planning permission ref: 12/1291/MOUT for the creation of 2 sports pitches including pedestrian and cycle access, landscaping and associated works, together with the partial discharge of conditions 2, 4, 5, 17 and 19 of outline planning permission 12/1291/MOUT relating to phase 11 | APPROVED (15 May 2023)

APPLICATION

The application seeks full planning permission for the construction of four commercial, business and service units (Use Class E) and nine dwellings (Use Class C3) with associated access, landscaping, parking and infrastructure.

The application proposes 1,117 sqm of Class E floor space across 2 no. two storey buildings (Unit A & B and Unit C & D) and 9 no. two storey dwellings. The proposal would include a shared central access road, car parking spaces for both residential and commercial units, bin and bike storage and pedestrian and cycle access to Tithebarn Way and to the approved pedestrian and cycle path to the east.

The application has been revised during the planning process as the LPA raised concerns with the overall layout and design, levels of car parking, occupant amenity and wellbeing and landscaping proposals. The application has been determined based on the revised plans submitted.

ASSESSMENT

A) PRINCIPLE OF DEVELOPMENT

The Local Planning Authority (LPA) is unable to demonstrate a 5 Year Land Supply (4.68 years as of October 2022) meaning that paragraph 11(d) of the NPPF is therefore engaged and currently applicable to planning decision making within East Devon. For applications relating to housing development, this means that the presumption in favour of sustainable development applies and permission should be granted for sustainable development unless:

- I. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
- II. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Strategy 1 (Spatial Strategy for Development in East Devon) of the adopted Local Plan (2016) sets out the planned provision (including existing commitments) will be made in East Devon for: 1. A minimum of 17,100 new homes in the 2013 to 2031 period; and 2. Development on around 150 hectares of land for employment purposes.

Strategy 9 (Major Development at East Devon's West End) of the adopted Local Plan (2016) states that high quality development with associated infrastructure, built within a high quality landscape setting, will be provided in East Devon's West End. High quality walking and cycling connections; enhanced bus and rail services, and improved highway provision will be integral to the overall development within the West End of East Devon the following schemes will be provided:

- 1) Cranbrook - Major new East Devon market town;
- 2) Pinhoe - Mixed use, residential led development;
- 3) North of Blackhorse/Redhayes (Tithebarn Green/Mosshayne) - residential development;
- 4) Skypark - Substantial high quality business park;
- 5) Exeter Science Park - Research/technology employment site;
- 6) Exeter International Airport - Provision to be made for airport-related employment uses within operational site area.
- 7) Multi-modal Interchange - Facility for interchange of goods and distribution centre; and
- 8) Exeter Airport Business Park - Middle range business park providing for medium to smaller business uses.

Strategy 13 (Development North of Blackhorse/Redhayes Land North of Blackhorse/Redhayes (Tithebarn Green/Mosshayne)) of the adopted Local Plan (2016) shown on the proposals map is allocated for mixed use development. The mixed use development will be designed to form a 'village' community, and it will be built to reflect an agreed distinctive architectural character and will be low or carbon zero development with onsite and/or community power generation. The development will also be designed to ensure high quality links for walking and cycling and quality public transport to other nearby employment sites and into the City. The scheme will comprise of:

- 1) New Homes - 1,500 new homes, including affordable homes, will be required to be high quality with good access to services and facilities. Some of the homes should be designed to appeal to and potentially restricted to occupancy by workers at the Science Park.
- 2) Neighbourhood Centre - A new neighbourhood centre will provide a focal point for services and community facilities.
- 3) Social and Community Facilities - A range of social and community facilities will be needed to meet key needs of all age groups that will live North of Blackhorse and in the existing nearby communities.
- 4) Infrastructure: a) Energy Infrastructure - to include a heat and energy network to achieve low and zero carbon development. b) Contributions to meet educational requirements and transport provision - including Tithebarn Green road link.
- 5) Employment Provision - on site employment provision will form part of the overall development.

Strategy 31 (Future Job and Employment Land Provision) of the adopted Local Plan (2016) states that in order to secure local job provision we will promote mixed use developments and provision of employment uses close to where people live. Appropriate, sustainable,

mixed use schemes of all scales incorporating housing and employment will be encouraged across the district.

The application site is allocated within the West End of East Devon in which Strategies 1 and 2 support the delivery of over 10,500 homes and major employment development in this area. This is further supported by Strategies 9 and 13 which sets out that Tithebarn Green along with Mosshayne is allocated for a mixed use development and will accommodate 1,500 new homes, a neighbourhood centre, community facilities, employment provision and infrastructure.

The application site is allocated for a mixed use development within the adopted Local Plan and Strategy 31 supports mixed use developments meaning that the principle of residential dwellings and employment provision in this location is supported in planning policy terms subject to the satisfactory resolution of all relevant matters.

Application 12/1291/MOUT across East Devon and Exeter was approved for a mixed use development including 930 dwellings (580 within East Devon), employment land, local centre and associated infrastructure. Under this outline planning permission, the application site was Phase 10 on the approved phasing plan and designated for leisure uses falling within Use Classes D1 or D2. With changes to the Use Classes Order, Classes D1 and D2 have now been broadly incorporated into Class E (Commercial, Business and Service) which also includes a range of other uses. The time limit for reserved matters under the outline application has lapsed and in any case the permitted housing numbers have been met necessitating the need for a stand-alone planning application.

RESIDENTIAL

The application proposes 9 residential dwellings within the eastern part of the site. The proposed dwellings would each include 2 bedrooms, private gardens and car parking. The application site is within the wider Redhayes development with the local centre and residential uses approved to the north, offices approved to the south and sport pitches approved to the east.

As noted above, previous planning applications across the Tithebarn Green and Mosshayne developments has resulted in the approval of 1,513 dwellings. The proposed development would result in an additional 9 dwellings within this area which would bring the total number of approved dwellings up to 1,522. This would be higher than number set out in Local Plan Strategy 13 and therefore a key issue is whether the number of additional dwellings would be a significant or material breach of policy.

An additional 9 dwellings within this site would bring the total number of dwellings to 1,522 which would result in a small increase in the overall number of dwellings allocated (1,500) however the percentage increase would be less than 2%. Given that residential development in this area is supported, the Council is unable to demonstrate a 5 Year Land Supply and Strategy 2 supports up to 10,563 dwellings in the West End, the proposal is not considered to be a significant or material breach of Strategy 13 subject to the proposal being in accordance with remaining requirements of Strategy 13. The proposal whilst resulting in more dwellings than set out in Strategy 13 is not considered to be so significant to result in a reason for refusal. The Local Plan also supports residential development in sustainable locations of which is this considered to be due to links to Exeter and

employment opportunities. As the overall site is both allocated and consented for residential development, the principle of housing on this site is considered to be acceptable in the balance of considerations.

Furthermore, the application is located next to Tithebarn Way, public transport routes and walking and cycling infrastructure with links to Exeter and Exeter Science Park as well as the Logistics and Sky Park which is supported by Strategy 13. The proposed dwellings would have good access to services and employment which is also supported by Strategy 13. The site is overall considered to be located in an area which can support development of this scale.

COMMERICAL

The application proposes 1,117 sqm of commercial space (Use Class E; commercial, business and service) across two buildings fronting Tithebarn Way. The proposed buildings would include four separate commercial units in total, would be two storeys in height and would include rear car parking, cycle parking and waste storage.

The application site is allocated within the West End of East Devon whereby Strategies 1 and 2 support the delivery of over 10,500 homes and major employment developments in this area. As noted above and under application 12/1291/MOUT, the application site was designated for leisure uses falling within Use Classes D1 or D2. The proposed development would be for Class E uses which covers retail, food and drink, professional services, some leisure uses and more. As Use Classes D1 and D2 were broadly incorporated in Class E (other than Schools, Cinemas, Halls etc.), the proposed use of the buildings would be broadly consistent with those uses previously approved here and the provision of Class E uses would be supported in principle in this location.

Strategy 13 supports employment uses as part of the wider development, supports the development of a neighbourhood centre and supports the provision of homes close to jobs and other facilities and services. The proposed development would be located approximately 60m south of the approved local centre, would be within walking distance of over 1500 homes and would provide for jobs and services that support the local economy. The overall scale of the development would be compatible with the wider area and the proposal could help support the everyday requirements of local people thereby reducing travel to other neighbouring centres. The proposal would provide additional Class E services to the wider development and would help to support a balanced community. The proposed units would benefit from the flexibility of Class E and would make a useful contribution to local facilities and employment opportunities. The proposal is overall considered to be compatible with Strategy 13.

Overall, the principle of a mixed use development in this location is considered to be acceptable and supported by Strategy 9, 13 and 31. The proposal would provide 9 additional dwellings within an area earmarked for major housing development and would provide 1,117 sqm of commercial space which would support the local economy, provide services for local people and would be within walking distance of over 1500 homes. The proposal is supported in land use terms subject to the satisfactory resolution of all planning matters set out below.

B) MIX AND BALANCE OF DWELLINGS

Policy H2 (Range and Mix of New Housing Development) of the adopted Local Plan (2016) states that planning permission will not be granted for new residential development which provides for 15 dwellings or more, or is situated on a site of 0.5 ha or larger, unless it contains a mix of dwelling sizes or comprises predominantly, or totally, of smaller dwellings. However where site characteristics, including in respect of landscape prominence and character, clearly indicate an alternative scale is appropriate there will be flexibility in scale. To ensure a variety of housing provision, where possible, developers will be encouraged to make at least 10% of plots available for sale to small builders or individuals or groups who wish to custom build their own homes.

The application site is approximately 0.53ha which means that an assessment in accordance with Policy H2 is required, albeit the commercial development is included in this land take. Policy H2 supports a mix of dwellings within development or supports developments which contains smaller dwellings. The proposal development includes 9 no. two bedroom dwellings located on the east of the application site. The provision of two bedroom dwellings is considered to comply with the requirement for smaller dwellings as set out in Policy H2 and therefore the proposal is considered to be acceptable.

C) AFFORDABLE HOUSING PROVISION

Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted Local Plan (2016) states that affordable housing will be required on residential developments in East Devon. Within the areas defined a target of 25% of the dwellings shall be affordable. The major strategic West End development sites to which policy will apply are a) Cranbrook, b) adjacent to Pinhoe and c) North of Blackhorse. An affordable housing policy provision target of 70% social or affordable rent accommodation and 30% intermediate or other affordable housing is sought.

The Affordable Housing Supplementary Planning Document (SPD) (Adopted 25 November 2020) states that for residential developments of between 6 and 9 dwellings in locations such as this, no affordable housing on-site is required however a financial contribution towards off-site affordable housing is required for each dwelling.

The proposed development would include 9 dwellings meaning that on-site affordable housing is not required, however a financial contribution is required for each dwelling. A total contribution of £112,032 is required in order to comply with Strategy 34 and the SPD. The financial contribution would be secured via a S106 legal agreement however at this stage no information has been submitted regarding this should an approval be forthcoming. A draft heads of terms/planning obligations statement was submitted as part of the Planning Statement, however affordable housing contributions were not included. This has resulted in an objection from the Housing Enabling Officer of which the applicant has been made aware of however in the absence of a legal agreement, the LPA has not be able to secure these contributions which are necessary to support the delivery of development and mitigate any adverse impacts.

As such, the lack of a legal mechanism to secure these contributions should form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide

Affordable Housing Provision Targets) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing SPD (November 2020).

D) DESIGN, SCALE AND LAYOUT

Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) (July 2021) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Development should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and development that is not well designed should be refused.

Strategy 48 (Local Distinctiveness in the Built Environment) of the adopted Local Plan (2016) states that local distinctiveness and the importance of local design standards in the development process will be of critical importance to ensure that East Devon's towns and villages retain their intrinsic physical built qualities. Where towns or villages are or have been despoiled we will seek to have qualities reinstated through good design. Use of local materials and local forms and styles will be essential to this distinctiveness.

Policy D1 (Design and Local Distinctiveness) of the adopted Core Strategy (2016) states that in order to ensure that new development, including the refurbishment of existing buildings to include renewable energy, is of a high quality design and locally distinctive, a formal Design and Access Statement should accompany applications setting out the design principles to be adopted should accompany proposals for new development. Proposals should have regard to Village and Design Statements and other local policy proposals, including Neighbourhood Plans, whether adopted as Supplementary Planning Guidance or promoted through other means.

Proposals will only be permitted where they:

- 1) Respect the key characteristics and special qualities of the area in which the development is proposed.
- 2) Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
- 3) Do not adversely affect:
 - a) The distinctive historic or architectural character of the area.
 - b) The urban form, in terms of significant street patterns, groups of buildings and open spaces.
 - c) Important landscape characteristics, prominent topographical features and important ecological features.
 - d) Trees worthy of retention.
 - e) The amenity of occupiers of adjoining residential properties.
 - f) The amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; these considerations can be especially important in respect of proposals for conversions into flats.
- 4) Have due regard for important aspects of detail and quality and should incorporate:

- a) Secure and attractive layouts with safe and convenient access for the whole community, including disabled users.
 - b) Measures to create a safe environment for the community and reduce the potential for crime.
 - c) Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO2 reduction.
 - d) Necessary and appropriate street lighting and furniture and, subject to negotiation with developers, public art integral to the design.
 - e) Features that maintain good levels of daylight and sunlight into and between buildings to minimise the need for powered lighting.
 - f) Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.
- 5) Incorporate measures to reduce carbon emissions and minimise the risks associated with climate change. Measures to secure management of waste in accordance with the waste hierarchy (reduce, reuse, recycle, recovery, disposal) should also feature in proposals during the construction and operational phases.
- 6) Green Infrastructure and open spaces should be designed and located in a way that will minimise any potential security concerns for users.
- 7) Mitigate potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction.

Policy D2 (Landscape Requirement) of the adopted Core Strategy (2016) states that landscape schemes should meet all of the following criteria:

- 1) Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
- 2) Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
- 3) Measures to ensure safe and convenient public access for all should be incorporated.
- 4) Measures to ensure routine maintenance and long term management should be included.
- 5) Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
- 6) The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

The proposed development would include the construction of 9 residential dwellings (Class C3) and 4 commercial units (Class E) over two buildings. The proposed dwellings would be 2 storeys in height with a pitched roof, front canopy and projecting brick bands as well as including PV panels and EV Charging Points. The proposed dwellings would comprise of four pairs of semi-detached dwellings and one detached dwelling, finished in red and blue

brick with slate effect cement tiles, uPVC windows and doors and a rendered panel. The proposed commercial building would be two storeys in height with a pitched roof and the northern building (Unit C/D) would feature a central two storey recessed element. The commercial buildings would be finished in brick and the roof and first floor would be finished in standing seam and cladding. The buildings would include brick banding, GRP window boxing detailing and windows and doors would be aluminium and uPVC. The buildings would also include reflective spandrel panels and glass canopies.

LAYOUT

The proposed layout would include two character areas, one residential area to the east and the commercial area to the west. The residential area would contain 9 dwellings, car parking, shared access road and landscaping. The commercial area would contain 2 commercial buildings, car parking, bin and bike storage, open space and landscaping.

The residential area would include 9 dwellings positioned with the rear elevations and gardens facing one another with dwellings 1 to 4 facing south and dwellings 5 to 9 facing north. The dwellings would be positioned between the shared access road in the middle of the site and the approved pedestrian/cycle path to the east of the site. The inclusion of pedestrian and cycle links to this path adjacent to dwelling 1 and dwelling 9 is supported and improves the permeability of the site. The proposed dwellings would include front gardens/landscaping, rear gardens and rear access points with landscaping to the west and east. The proposal also includes public open space to the south of dwellings 1-4 and an area of planting/grass to the north of the access road, however these spaces are considered to be a missed opportunity. The northern area of space is disconnected and poorly relates to residential dwellings or the land to the north. The southern area would be predominately meadow grass and does not include any benches or street furniture to optimise the use of the space however details of these could be secured via a condition.

The layout originally submitted showed the dwellings fronting the central road however officers raised concerns that the proposal would fail to address the approved cycle path. This resulted in an amended layout however this does not overcome the concerns raised. As shown on the revised plans, the front doors of the proposed dwellings would face north and south and therefore would fail to address the pedestrian/cycle path to the east. It is noted that dwellings 1 and 9 would include side facing windows but these are limited in scale and effect and some of these windows are obscured glass which does not provide sufficient surveillance to the path or adjacent sports pitches. Whilst detailing has been included on the side elevations which provides some visual interest, the proposal would fail to front the pedestrian/cycle path and fails to create an active frontage to the public realm and natural surveillance over adjacent publicly accessible spaces, both the pedestrian/cycle path and consented sports pitches. This is not considered to be acceptable, results in a closed off development which is not supported and is contrary to Policy D1.

The commercial area would include two buildings positioned along Tithebarn Way with car parking to rear. The buildings would front Tithebarn Way with the main pedestrian access points from Tithebarn Way which helps to promote an active frontage. The commercial buildings, especially Unit B fails to step down in height along Tithebarn Way to address the land level changes. Whilst this results in a change in height from Unit B to Unit C, this does not significantly harm the appearance of the development. Additional access points and level access to both buildings is provided from Tithebarn Way and via rear of the buildings.

A shared pedestrian and cycle path would be located between the buildings from Tithebarn Way to the shared access road which is supported to improve permeability. The southern building would be located approximately 5.5m from Blackhorse Lane and the northern building would be located approximately 3m south of the site to the north. These distances are considered acceptable to provide a sufficient buffer to the north and south. The proposal would include landscaping and tree planting around the commercial buildings. The Designing Out Crime Officer and the LPA raised concerns with the location and potential use of the proposed public open spaces and raised concerns that spaces around the commercial buildings are concealed and could attract misuse. At the time of writing, revised plans which address these concerns have not been submitted, however these spaces are not overly large and could benefit from some natural surveillance from pedestrians and cyclists on Tithebarn Way. Improved planting proposals could also be secured via a planning condition

The proposed layout includes a shared central access road with residential car parking broadly to the east of the road and a number of commercial car parking areas located to the west. The proposal would also include a turning circle for refuse vehicles towards the south of the site. The residential car parking is considered to be broadly acceptable, although it would benefit from alternative materials, additional trees and landscaping to break up its appearance. In respect of the commercial units, the proposal would include tandem car parking for Unit B of which officers do not support as it creates conflicts between vehicles and may reduce the accessibility and use of these spaces. The applicant had agreed to remove the space north of the disabled space to reduce conflicts but at the time of writing, no such revised plans have been submitted and the other spaces remain as tandem. The LPA has raised concerns with the level of car parking proposed (see below for further information) and raised concerns that the level of car parking results in a poor-quality and car dominated layout. Car parking and hardstanding at present would cover around one third of the site which is an inefficient use of land especially as the site is in a sustainable location where development is supported. Furthermore, the car parking areas, footpaths and drives would all be black tarmac despite the varying colours used in the External Works Plan. This is not considered to provide any visual interest and fails to break up the hardstanding and is not in accordance with Policy T3 of the Broadclyst Neighbourhood Plan which suggests that development should minimise the visual impact of parking. The use of alternative materials to improve the appearance of the development would have been preferable here. Officers have recommended a number of options of the applicant including reducing the number of spaces, using communal car parking, increasing landscaping and amending the layout to reduce its impact. At the time of writing, revised plans which address these concerns have not been submitted.

The application proposes to include bin and bike stores for the commercial buildings. The bin storage areas are located at prominent locations within the car parking areas. The bike storage stands are located to the rear of commercial buildings and on the shared path. The design of both stores especially the bike stores are rather basic and could be improved to include green roofs and/or insect houses. Notwithstanding the details provided, improved stores could be secured via a condition. In accordance with Policy DC4 of the Broadclyst Neighbourhood Plan, residential dwellings would include bin and bike storage within rear gardens with further details to be secured via a condition.

SCALE AND DESIGN

The proposed development would include two storey residential dwellings and commercial buildings. Across the wider Tithebarn Green, buildings are a mix of one, two and three storeys meaning that the proposal would reflect the scale of the wider area.

The proposed house types with similar materials have previously been approved within this area and are considered to be acceptable in terms of scale, internal layout, design and materials. As noted above, dwellings 1 and 9 fail to suitably address the pedestrian/cycle path and dwellings fronting this path would have been more suitable in these locations. The dwellings would include front canopies, rendered panel and brick detailing which would add some visual interest. Further details of external materials would be secured via a condition.

The proposed commercial buildings reflect the design, scale and materials of the approved mixed use development to the north. Whilst concerns were raised in relation to the bulk and mass of the roof scape, the use of spandrel panels and use of dark materials, the overall appearance is acceptable on balance. The commercial buildings feature brick banding, window detailing and a mix of materials which would add visual interest to the development and wider area.

The proposed development would include a limited palette of ground materials, limited to black tarmac and natural paving slabs. This would fail to add interest to the development and fail to deliver the high quality landscaping and appearance that is expected at this site in accordance with Policies D1 and D2.

WIDER IMPACT

The proposal in terms of its impact on the surrounding area is considered to be acceptable. The site would be visible within the local area and from the Clyst Valley Regional Park however, the site is allocated for development of this scale and has received outline planning permission previously. The proposal would be visible in the surrounding area and glimpses of the development could be viewed from the Killerton Estate, Ashclyst Forest and other viewpoints in the surrounding area however the proposal in context with surrounding development is not considered alone to harm the character and appearance of the landscape. Given the distance to conservation areas and listed buildings, the proposed development is not considered to result in harm to designated heritage assets. It is also noted that the proposed impact of the development on the wider landscape and historical environment was considered under the previously approved outline application. Therefore the proposal is considered to be acceptable in this instance.

In summary, the overall layout and appearance of the proposed development is not considered to be acceptable in this instance and the proposal is not considered to comply with Section 12 of the NPPF and Policies D1 and D2 of the adopted Local Plan.

E) AMENITY OF NEIGHBOURING PROPERTIES/USERS

Section 12 (Achieving Well-Designed Places) of the NPPF (July 2021) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for existing users.

Policy D1 (Design and Local Distinctiveness) of the adopted Core Strategy (2016) states that proposals will only be permitted where they do not adversely affect the amenity of occupiers of adjoining residential properties.

Policy EN14 (Control of Pollution) of the adopted Core Strategy (2016) states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including smell, fumes, dust, grit, smoke and soot.
2. Pollution of surface or underground waters including:
 - a) Rivers, other watercourses, water bodies and wetlands.
 - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas.
 - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value.
5. Fly nuisance.
6. Pollution of sites of wildlife value, especially European designated sites or species.
7. Odour

The application proposes residential dwellings as well as commercial development. The proposed development is acceptable in land use terms and overall scale of the development as noted above would be acceptable.

The proposed development would be located approximately 40m from neighbouring properties on Blackhorse Lane. The proposed location, orientation, separation distance and overall scale of the development is not considered to result in significant harm to these neighbouring properties in terms of overbearing or overshadowing impacts. The proposed outlook from the dwellings would be towards the north and south and would be screened by boundary trees and hedging and therefore would not result in any harmful increases in overlooking or loss of privacy. The proposed outlook from commercial buildings would be towards the east and west and is not considered to increase opportunities for overlooking to these neighbouring properties.

The proposed development would be located approximately 75m south of dwellings approved at Phase 8 (Land South of Mosshayne; ref. 19/0995/MFUL). This is considered to be a sufficient separation distance to ensure the proposed development does not have any significant impacts on the approved dwellings. The proposed outlook is not considered to increase opportunities for overlooking to these neighbouring properties as the proposal would not result in any direct overlooking to these dwellings.

In terms of Environmental Health, the proposal was supported by a Noise Assessment which outlined that adverse noise impacts from the commercial units to neighbouring residential units are not expected and outlined the measures incorporated to achieve suitable internal noise levels within the proposed residential dwellings. The application was reviewed by the District Council's Environmental Health Team who recommended approval subject to conditions in relation to a CEMP, acoustic performance requirements, noise levels and lighting if an approval was forthcoming.

The proposal is therefore considered to comply with Policy D1 and EN14 and is acceptable subject to conditions.

F) SAFETY AND THE AMENITY OF FUTURE OCCUPIERS/USERS

Section 12 (Achieving Well-Designed Places) of the NPPF (July 2021) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for future users.

Paragraph 130 of the NPPF (July 2021) states that planning policies and decisions should ensure that developments...create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Strategy 37 (Community Safety) of the adopted Local Plan (2016) states that through the East and Mid Devon Community Safety Partnership the Council will work to reduce crime and the fear of crime in the District. The Council will encourage new development that has been designed to minimise potential for criminal activity and incorporates the principles of 'Secured by Design' and will support development proposals aimed specifically at improving community safety.

Policy D1 (Design and Local Distinctiveness) of the adopted Core Strategy (2016) states that proposals will only be permitted where they do not adversely affect the amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; these considerations can be especially important in respect of proposals for conversions into flats.

Policy EN14 (Control of Pollution) of the adopted Core Strategy (2016) states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including smell, fumes, dust, grit, smoke and soot.
2. Pollution of surface or underground waters including:
 - a) Rivers, other watercourses, water bodies and wetlands.
 - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas.
 - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value.
5. Fly nuisance.
6. Pollution of sites of wildlife value, especially European designated sites or species.
7. Odour

The Nationally Described Space Standards (NDSS) are not adopted planning policy within the Development Plan but are nevertheless a useful guide. Policy D1 seeks to ensure that development does not adversely affect the living conditions of occupants of proposed future residential properties and that development includes features that maintain good levels of daylight and sunlight into buildings. These requirements accord with the P.130 (f) of the NPPF's requirement for a high standard of amenity for existing and future occupiers. As a guide, a two bedroom, four person, two storey dwelling should be a minimum of 79m² with 2m² of storage. The proposed dwellings would be between 69m² and 73m². The proposed dwellings are significantly below (6m² and 10m²) the space standards which is not considered to be acceptable and therefore the proposed dwellings are not considered to offer adequate amenity for future residents with regard to internal space. It is acknowledged, that these dwellings have previously been approved by the LPA in 2020 however it is considered that poor quality development should not set a precedent for allowing further poor quality development. The proposal would therefore conflict with Policy D1, which amongst other things, seeks to ensure that development does not adversely

affect the amenity of future occupants and paragraph 130(f) of the NPPF which requires that developments provide a high standard of amenity for its users.

The proposed dwellings would have front and rear facing windows and doors and the proposed outlook would be towards the north and south providing views towards boundary trees and the mixed use area and public open space. The back to back distance between the properties would be 21m which is considered to be acceptable and boundary treatments would also help to screen outlook at ground level. The proposed dwellings would be acceptable in terms of sunlight/daylight, natural ventilation and outlook.

In addition, dwellings 1-4 would also be M4(2) complaint which exceeds local plan policy requirements under Strategy 36.

In terms of safety, it is noted that the Designing Out Crime Officer has made a number of recommendations regarding safety such as restricting side access', moving side gates closer to front building lines, installing alarms and CCTV and differentiating car parking. The applicant submitted revised plans with an amended layout which removed the side access points to dwellings. No further information has been provided regarding CCTV, alarms and as noted above limited ground materials are provided.

The Noise Assessment submitted with the application set out that acceptable noise levels can be achieved both internally and externally. Concerns have been raised regarding noise from Tithebarn Way and noise from aircraft movements which cannot be controlled by the development however mitigation has been provided in terms of glazing specification and overall design. National Highways also raised concerns with noise from the strategic road network and outlined that future residents are likely to be exposed to noise levels in excess of those set out in BS 8233:2014 and WHO Environmental Noise Guidelines. National Highways recommended that the developer ensures that adequate noise mitigation measures are delivered to ensure there is will be no adverse impact on future occupiers and overall raised no objections subject to the provision of adequate acoustic mitigation to the satisfaction of the Local Planning Authority. The application was reviewed by the District Council's Environmental Health Team who recommended approval subject to conditions in relation to a CEMP, acoustic performance requirements, noise levels and lighting if an approval was forthcoming.

The proposed development is therefore considered to be unacceptable and fails to comply with Policy D1 and Paragraph 130(f) of the NPPF (July 2021).

G) OPEN SPACE PROVISION

Strategy 43 (Open Space Standards) of the adopted Local Plan (2016) states that developments proposing net new dwellings will be expected to provide for open space on-site where there is a demonstrable need for such open space in the vicinity. Developments will be assessed against existing provision in the parish in which they are proposed. Where existing provision of specific typologies exceeds quantity standards, on-site provision will only be required where the existing open space typology is of poor quality or is in some other manner deficient such as not matching up to the accessibility standard. Developments will be expected to provide open space on-site through a Section 106 Agreement in line with the following thresholds:

- 9 dwellings or less will not be required to provide any specific open space typologies onsite, however developers may choose to make such provision.
- 10 - 49 dwellings will be required to provide amenity open space on-site.
- 50 - 199 dwellings will be required to provide amenity open space, and children's and youth play space on-site.
- 200+ dwellings will be required to provide for all open space typologies on-site.

The application would include 9 residential dwellings meaning that no formal public open space is required by Strategy 43. However in this case the proposal would include two small pockets of public open space near to the northern boundary and near to the southern boundary alongside tree planting and landscaping. Opportunities to enhance these spaces and the addition of benches etc. have been missed as noted above. The provision and maintenance/management arrangements for on-site communal open space would be secured via a S106 agreement in the event of any approval. It is considered that benches and street furniture could be secured via a condition.

Therefore, the proposal is considered to be acceptable in accordance with Strategy 43.

H) TRANSPORT, ACCESS, MOVEMENT AND WASTE

Strategy 5B (Sustainable Transport) of the adopted Local Plan (2016) states that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End) of the adopted Local Plan (2016) states that we will promote high quality and integrated transport provision at East Devon's West End where, working with partner organisations, we will secure a provision based on a hierarchy of; 1. Walking 2. Cycling 3. Frequent and high quality Public Transport provision (given priority over other road users) 4. Private motor vehicles. Though transport solutions will take into account site specific needs of a development to secure the most suitable form of sustainable transport provision. Coordinated infrastructure provision will be required to cover: 1. Low carbon heat and power supply; 2. waste management facilities and waste water treatment; 3. Highest quality data service infrastructure provision, especially broadband connections; 4. Health and education provision.

Policy TC2 (Accessibility of New Development) of the adopted Core Strategy (2016) states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car. Where proposals are likely to attract large numbers of visitors they must be accessible by public transport available to all sectors of the community. Development involving the creation of public open space, car parking area, highways and other areas to which the public have access, must provide adequate provision for persons with reduced mobility.

Policy TC4 (Footpaths, Bridleways and Cycleways) of the adopted Core Strategy (2016) states that development proposals will be required to include measures to provide, improve and extend facilities for pedestrians and cyclists commensurate with the scale of the proposal. Footways and routes for pedestrians and cyclists within and through new development schemes will be encouraged. These measures may include both shared and exclusive surfaces to provide safe, convenient and attractive routes, and must be designed to take account of the needs of persons with restricted mobility. Wherever possible the opportunity should be taken to join, upgrade and extend existing or proposed networks. Development which would result in the loss, or reduce the convenience or attractiveness of an existing or proposed footpath, cycleway or bridleway, will not be permitted unless an acceptable alternative route is provided.

Policy TC7 (Adequacy of Road Network and Site Access) of the adopted Core Strategy (2016) states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network. Where new development requires off-site highway improvements any planning permission granted will be subject to a planning obligation requiring these works to be carried out either by the developer, or through an agreement with the Highway Authority to ensure that: 1. The required highway improvements are included in, and, will be constructed as an integral part of the development or are part of a programmed improvement scheme to be undertaken by the Highway Authority. In the case of programmed schemes the planning permission will be subject to a condition delaying its implementation until the highway improvements have been carried out, unless otherwise agreed by the Highway Authority.. 2. The applicant is in a position to secure the implementation of the required highway improvements.

Policy TC9 (Parking Provision in New Development) of the adopted Core Strategy (2016) states that spaces will need to be provided for parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home. In town centres where there is access to public car parks and/or on-street parking lower levels of parking and in exceptional cases where there are also very good public transport links, car parking spaces may not be deemed necessary. All small scale and large scale major developments should include charging points for electric cars.

Policy TC12 (Aerodrome Safeguarded Areas and Public Safety Zones) of the adopted Core Strategy (2016) states that the outer boundary of the aerodrome safeguarded areas and the Public Safety Zones for Exeter International Airport are shown on the Proposals Map. Within these areas planning permission will not be granted for development that would prejudice the safe operation of protected aerodromes or give rise to public safety concerns. Planning permission will not be granted for developments in the vicinity of an airport (or that could impact on safe operation of aeroplanes) that would compromise air safety by creating physical obstructions that could interfere with flight paths or navigational aids. Permission will not be granted for developments that will unduly prejudice future development or expansion programmes or potential at Exeter airport.

PUBLIC AND ACTIVE TRANSPORT

The site is located adjacent to Tithebarn Way and with local bus services every 30 minutes to Exminster via Exeter City Centre and Marsh Barton and every hour to Monkerton, Pinhoe and Exeter Airport. There are also services every 10 minutes to Exeter City Centre and Exeter Airport and every 20 minutes to Cranbrook from stops on Honiton Road which is 400m from the site. The site is located approximately 1.4km from Pinhoe Train Station and 2.9km from Cranbrook Train Station with hourly services to Exeter St David's and London Waterloo. Furthermore, the site is located around 200m from the Park and Change located at the Science Park. The site is accessible by public transport which could help to reduce journeys made by private vehicle in accordance with Strategy 5B and 11.

The site is located within walking distance of the proposed local centre, NEAP and sports pitches. The site would also be within walking distance of the park and change, Minerva Country Park, Exeter Science Park, Blackhorse Lane as well as any future development within Redhayes/Mosshayne. Furthermore, the Met Office, Sowton Industrial Estate, Logistics Park and the Skypark would all be under a 30 minute walk which allows future residents to access employment or leisure without driving and in accordance with Strategy 5B and 11.

In terms of cycling, the site is directly north of Blackhorse Lane and west of a proposed cycle path within the Redhayes Development. The site is within a 30 minute cycle of Exeter City Centre, Royal Devon and Exeter Hospital and Cranbrook Town Centre. The proposed commercial units are provided with 12 cycle storage spaces located to the north and south of the buildings. As noted above they are not in highly visible locations might may limit their use. The proposed dwellings are provided with external cycle stores in accordance with Policy TC9 with further details subject to conditions.

ACCESS AND ROAD LAYOUT

The proposed shared road would act as an extension of the approved local centre road and would divide the site into eastern and western parcels with car parking located on either side of the road. The road would be shared between pedestrians, cyclists and vehicles within the site with a transition point included in the north east of the site where the road would tie into the approved mixed use road. The location of the road and inclusion of car parking either side as noted above, results in a large proportion of the site being for car parking and hardstanding which is not supported. Whilst no comments have been provided by DCC Highways, the road layout in principle is considered to be acceptable with buildings and structures set back to allow for visibility and safety. The proposed development would be serviced via the central vehicular route and swept paths have been provided to demonstrate the turning of a refuse vehicle.

The proposal would also include pedestrian and cycle links to Tithebarn Way, Blackhorse Lane and to the adjacent ped/cycle link. These are considered important for permeability and would be in suitable locations for future users and residents.

CAR PARKING

The proposed development would include a total of 53 car parking spaces of which 18 are for residential uses and 35 are for commercial uses. Of these spaces, 16 would have EV charging points and 4 are disabled.

Policy TC9 states that "as a guide at least 2 car parking spaces per home with two or more bedrooms" should be provided and Strategy 11 prioritises walking and cycling over private vehicles. Given the public and active transport links, the LPA requested a reduction in the number of car parking spaces for residential dwellings from 18 spaces to 14-16 spaces as the policy is a guide and does not set a minimum or maximum level. Despite the LPA requesting this to allow for an improved layout, this has not been achieved and therefore the opportunity to reduce car parking levels and promote walking and cycling in accordance with Strategy 11 has been missed. Whilst the policy wording states "as a guide", it is not considered reasonable to refuse the application on this basis. Therefore whilst the opportunity has been missed, the LPA accepts the level of car parking proposed for residential dwellings. All residential dwellings would require an EV charging point where possible and further details of these can be secured via a condition.

Following on, the number of car parking spaces for the commercial units is seen as excessive and not justified. Whilst the LPA does not have a specific policy for car parking for commercial buildings, Strategy 5B promotes sustainable modes of travel and transport and Strategy 11 prioritises walking and cycling over private vehicles and in any case the number of car parking spaces must be justified to reduce the impact of the development and to ensure car parking is integrated to the development in accordance with Policy D2.

The site is being developed speculatively and the levels of car parking required by end users is not known at this stage. The level of car parking required has been assessed as part of the submitted Transport Assessment which sets out that the peak staff parking accumulation is expected to be 27 vehicles. However this is only for two hours of the day and the average number across the day is only 20 vehicles. Whilst this does not include visitors, visitors could travel by public or active transport, could be accommodated on site and it is also noted that there are approximately 14 unallocated car parking spaces adjacent to the site on Tithebarn Way and other car parking may be available within the wider area. This means that that the level of car parking proposed at this stage is not justified and is considered to be an overprovision which does not accord with Strategies 5B and 11 which seeks to reduce travel by private car.

The LPA acknowledges that car parking is required for this development but has raised concerns with car parking levels with the applicant on a number of occasions from October 2022 to July 2023. Officers have expressed willing to allow 28 spaces as a compromise to allow for some flexibility and to allow for an improved layout to be submitted. This would allow for the peak of car parking and for visitors throughout the day to use the car park if required. The applicant has been unwilling to remove car parking spaces and raised viability concerns with the LPA's compromise. The applicant has not provided any evidence relating to viability and given the speculative nature of the development, the end user and car parking demands are unknown. Given the conclusions of the Transport Assessment, the LPA believes that the level of car parking is not justified and is not acceptable. The LPA considers that given the site would be located in close proximity to over 1500 homes, is adjacent to public transport routes and is located next to active travel routes, the proposed level of car parking for the commercial units is not in accordance with Strategy 11. Furthermore, as noted above, the excess provision of car parking is detrimental to the character and appearance of the scheme. The proposed level of car parking shown at present would encourage more people to drive to the site and would therefore fail to comply with Strategy 11 which attempts to reduce travel by private car. It is therefore considered that the level of car parking proposed is not supported.

It is noted that the LPA has approved an office development (ref. 21/3148/MOUT) for up to 6000 sqm of floor space to the south of the site by the same applicant with a similar ratio of car parking to floor space, however this ratio was agreed with Devon County Council and the context of the applications differ. The Transport Assessment to support that application was undertaken by the same consultant and does not reach the same conclusion as that for this application, demonstrating that the context is different. The office development is seeking to attract larger businesses whereas the commercial development under this application is smaller in scale and could be occupied by local residents who could walk/cycle. The site is also a mixed used development whereby the balance between the creation of an attractive living and working environment is important for the wellbeing of future residents.

Overall the level of car parking is not justified and not supported and it is considered that the scheme could better promote the role of sustainable travel through a reduction in parking on site.

IMPACT ON ROAD NETWORK

The Transport Assessment that accompanied the outline application (12/1291/MOUT) included the proposed site as part of the wider outline consent and considered that subject to the mitigation measures, the impact on the local highway was acceptable. The outline application included both residential and commercial uses and accounted for development on this site. National Highways consider that the development is unlikely to result in an adverse impact on the safe operation of the strategic road network. Whilst no comments have been received by Devon County Council Highways, the proposal is not considered to harm the surrounding road network.

IMPACT ON THE AIRPORT

The airport have been consulted on the application and have no safeguarding objections provided that construction complies with the AOA Advice Notes.

Overall, whilst the site is considered to be in a sustainable location and is not considered to result in harm to the surrounding road network, the level of car parking provided results in a development that fails to accord with Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End) of the local plan which seeks to prioritise walking and cycling over private cars.

I) TERMS OF TREES, GREEN INFRASTRUCTURE AND LANDSCAPING

Strategy 10 (Green Infrastructure in East Devon's West End) of the adopted Local Plan (2016) states that we will ensure that the Green Infrastructure Strategy for East Devon's West End dovetails with comparable work being undertaken in Exeter to provide a green framework within which strategic development occurs. All development proposals of the West End will individually and collectively contribute to the implementation and long-term management of green infrastructure initiatives through appropriate contributions and/or on site provision, and Green Infrastructure initiatives should feature in all developments. Where the likelihood of significant effects on European wildlife sites cannot be ruled out from developments in the West End, the Council will undertake an appropriate assessment

of impacts and will only support and approve proposals where it can be demonstrated that adverse effects on site integrity can be prevented.

Policy D2 (Landscape Requirement) of the adopted Core Strategy (2016) states that landscape schemes should meet all of the following criteria:

- a) Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
- b) Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
- c) Measures to ensure safe and convenient public access for all should be incorporated.
- d) Measures to ensure routine maintenance and long term management should be included.
- e) Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
- f) The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

Policy D3 (Trees and Development Sites) of the adopted Core Strategy (2016) states that permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees. The recommendations of British Standard 5837:2012 (or the current revision) will be taken fully into account in addressing development proposals.

The application was accompanied by detailed hard and soft landscaping plans and the site is home to existing trees and hedgerows along the southern boundary. The proposed development would include on-plot landscaping within front gardens and in-between car parking spaces and landscaping in open space and around the commercial buildings. The proposal would include new tree and shrub planting as well as areas of amenity grass and blueblossom planting. Concerns have been raised regarding the poor quality of hard surfacing materials and the poor quality of soft landscaping throughout the development. In particular, the use of tarmac fails to create an attractive development and the use of gravel is questioned adjacent to car parking and does not maximise biodiversity gains. It is also noted that car parking could be broken up further with landscaping especially spaces for dwellings 1 to 5 which is only broken up by one tree.

The application was reviewed by EDDC Landscaping and concerns raised with the over domination of parking, poorly related public open space, poor relationship with the cycle path and parcel to the north, treatment of Tithebarn Way frontage, poor amounts of tree planting. EDDC Landscaping also raised concerns with the specified tree supply sizes as

these are too small and must be increased in size to 14-16cm girth. The applicant submitted revised plans however these fail to overcome all concerns. It is considered that a revised hard and soft landscaping scheme could be secured via a suitably worded condition.

In summary, the proposal as currently proposed is considered to be unacceptable in terms of trees and landscaping, however should planning be granted these issues could be overcome through the use of planning conditions.

J) SUSTAINABILITY AND CLIMATE CHANGE

Strategy 3 (Sustainable Development) of the adopted Local Plan (2016) states that sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following issues and their inter-relationships are taken fully into account when considering development:

- a. Conserving and Enhancing the Environment
- b. Prudent natural resource use
- c. Promoting social wellbeing
- d. Encouraging sustainable economic development
- e. Taking a long term view of our actions.

Strategy 5 (Environment) of the adopted Local Plan (2016) states that all development proposals will contribute to the delivery of sustainable development, ensure conservation and enhancement of natural historic and built environmental assets, promote ecosystem services and green infrastructure and geodiversity. Open spaces and areas of biodiversity importance and interest (including internationally, nationally and locally designated sites and also areas otherwise of value) will be protected from damage, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged through a combination of measures. New development will incorporate open space and high quality landscaping to provide attractive and desirable natural and built environments for new occupants and wildlife.

Strategy 38 (Sustainable Design and Construction) of the adopted Local Plan (2016) states that encouragement is given for proposals for new development and for refurbishment of, conversion or extensions to, existing buildings to demonstrate through a Design and Access Statement how:

- a) Sustainable design and construction methods will be incorporated, specifically, through the re-use of material derived from excavation and demolition, use of renewable energy technology, landform, layout, building orientation, massing, use of local materials and landscaping;
- b) The development will be resilient to the impacts of climate change;
- c) Potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction, are to be mitigated.
- d) Biodiversity improvements are to be incorporated. This could include measures such as integrated bat and owl boxes, native planting or green roofs.

Due to their scale, developments in the West End and developments over 4 ha or 200 dwellings elsewhere in East Devon should achieve levels of sustainability in

advance of those set out nationally. The Council will wish to see homes built to Code for Sustainable Homes Level 4 and this will be a material consideration.

Strategy 40 (Decentralised Energy Networks) of the adopted Local Plan (2016) states that decentralised Energy Networks will be developed and brought forward. New development (either new build or conversion) with a floor space of at least 1,000m² or comprising ten or more dwellings should, where viable, connect to any existing, or proposed, Decentralised Energy Network in the locality to bring forward low and zero carbon energy supply and distribution.

The site is located adjacent to Tithebarn Way and with local bus services available and the site is also located 1.4km from Pinhoe Train Station and 2.9km from Cranbrook Train Station. Furthermore, the site is located around 200m from the Park and Change. The site is located within walking distance of the proposed local centre, NEAP and sports pitches as well as Minerva Country Park, Exeter Science Park and Blackhorse Lane. Furthermore, there are employment opportunities within a 30 minute walk which allows future residents to access employment in accordance with Strategy 5B and 11.

The commercial buildings would be expected to comply with BREEAM of at least 'Very Good'. Limited information has been provided at this stage however this can be conditioned in accordance with Strategy 38.

It is expected that residential dwellings would be connected to the District Heating Network as noted within the submitted Planning Statement and could be secured via a S106 legal agreement. Whilst not included within the Planning Statement, the LPA would expect the commercial buildings to be connected to the District Heating Network unless it can be demonstrated that the connection is not viable. As no information regarding viability has been submitted, the LPA would expect a connection to the DNH to be secured via a condition to comply with Strategy 40.

The residential dwellings would include PV panels on south facing roofs. This is supported in principle subject to further details which can be secured via a condition.

It is considered that waste will be generated during the construction phase which would be controlled through the CEMP to be secured via a condition and waste generated during the operational phase would be controlled via a Site Waste Management Plan. Both commercial and residential uses would be provided with dedicated areas for waste storage to encourage recycling. These are in suitable locations and would allow for easy access to collection points. The EDDC Recycling & Waste Contract Manager raised no concerns with the application.

In summary, the proposal is considered to be acceptable in terms of sustainability and climate change.

K) LAND CONTAMINATION

Policy EN16 (Contaminated Land) of the adopted Core Strategy (2016) states that where it is anticipated that contamination may be present on or near to a development site, a contaminated land assessment will be required. The assessment must be agreed with the

Council and must: a) Identify and characterise the contamination; b) Identify the risks; and c) Identify remediation and/or mitigation measures. Where identified as necessary, the agreed measures must be taken to remediate the site prior to or during the development. Development on or in close proximity to active or former waste sites will only be permitted where it can be demonstrated that there will be no harm to future occupiers of the site from leachate or landfill gas or other waste arisings.

The proposed development is sensitive to contamination but is situated on land not thought to have been subject to a potentially contaminating land use. It is not considered that the proposal would result in harm in relation to land contamination. Furthermore, land contamination was reviewed during the outline planning application which covers the site. The District Council's Land Contamination Officer raised no concerns with the proposal.

In light of the above, the proposal is considered to comply with Policy EN16.

L) SOILS AND AGRICULTURE

Paragraph 174 of The NPPF requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In addition, the planning system should contribute to and enhance the natural and local environment, including protecting and enhancing soils.

Policy EN13 of the adopted Local Plan aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The land is a mix of Grade 2 and 3a although it should be noted that the site is allocated for development in the Local Plan and has previously received outline planning permission. On this basis, a mixed use development proposal on the site would not prevent the loss of this agricultural land which was assessed previously and considered to be acceptable when balanced against all the other planning considerations. However, the soils on the site could be recovered and handled correctly to minimise the loss of soil resource. The NPPF also requires that decisions should protect and enhance soils. It is therefore recommended that any permission forthcoming should require a scheme of soil recovery and handling.

M) DRAINAGE AND FLOOD RISK

Policy EN22 (Surface Run-Off Implications of New Development) of the adopted Core Strategy (2016) states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.

3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.
5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

The application was supported by a Flood Risk Assessment. The site is currently vacant green field and does not include any water courses. The site, in Flood Zone 1, is not at risk of flooding from rivers and seas. In relation to surface water run-off, there is additional allowance made for climate change - originally at 20%, more recently at 40% and during 2022 increased to 45% within East Devon. For this application, the 40% allowance has been used not the 45% which is not supported.

Surface water would be conveyed by a below ground drainage network to a point of discharge into the proposed on-site attenuation features. Storm water drainage will be attenuated in these features and flows off site will discharge to the storm water sewer network. The proposal would not include any above ground drainage infrastructure which also provides benefits for biodiversity and general amenity.

The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who object to the application and require additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered. DCC Flood risk also are not supportive of the use of underground systems and require details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system. The applicant submitted an Exceedance Plan however the overall drainage strategy has not been agreed meaning the plan cannot be approved. The applicant failed to submit any further information to address the other concerns raised by DCC Flood Risk and therefore the development cannot be supported in this instance.

The Environment Agency were consulted on the application however no comments were received.

Therefore, the application has failed to provide sufficient information in relation to flood risk and drainage meaning that the proposal would fail to comply with Strategy 5 and Policy EN22 of the adopted Local Plan.

N) ARCHAEOLOGY

Strategy 49 (The Historic Environment) of the adopted Local Plan (2016) states that the physical and cultural heritage of the district, including archaeological assets and historic landscape character, will be conserved and enhanced and the contribution that historic places make to the economic and social well-being of the population will be recognised, evaluated and promoted. We will work with our partners and local communities to produce or update conservation area appraisals and conservation area management plans.

Policy EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance) of the adopted Local Plan (2016) states that when considering development proposals which affect sites that are considered to potentially have remains of archaeological importance, the District Council will not grant planning permission until an appropriate desk based assessment and, where necessary, a field assessment has been undertaken.

The application was supported by an archaeological assessment however this was considered to be out of date. Given the sites allocation and previous application (12/1291/MOUT), various reports on archaeological survey, evaluation and excavation in and around the proposal area have been published and are publicly available. The application area itself has been the subject of geophysical survey (Wessex Archaeology, 2015) and archaeological evaluation (Cotswold Archaeology, 2016). DCC Archaeology has reviewed the relevant survey reports and did not recommend any further archaeological evaluation or mitigation work as the existing reports are sufficient. Therefore, the proposal is considered to be acceptable in terms of archaeology.

O) NATURE CONSERVATION AND BIODIVERSITY

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (2016) states that all development proposals will need to:

1. Conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats.
2. Maximise opportunities for restoration, enhancement and connection of natural habitats.
3. Incorporate beneficial biodiversity conservation features.

Development proposals that would cause a direct or indirect adverse effect upon internationally and nationally designated sites will not be permitted unless:

- a) They cannot be located on alternative sites that would cause less or no harm.
- b) The public benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats.
- c) Prevention, mitigation and compensation measures are provided.
- d) In respect of Internationally designated sites, the integrity of the site will be maintained.

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (2016) states that where development or the occupants of development could lead to adverse biodiversity impacts due to recreational or other disturbance, we will require mitigation measures and contributions to allow for measures to be taken to offset adverse impacts and to create new habitats. All residential development schemes within a straight line 10 kilometres distance of any part of the SAC and/or SAC designated areas of the Exe Estuary or Pebblebed Heaths will be required to provide mitigation. Off-site provision in the form of SANGS should aim for a target level of provision of around 8 hectares of open space provision for every net new 1,000 residents accommodated through development. At a residential density averaged at 2.2 persons per each new home built this will equate to around 176 SqM of SANGS space per each net extra dwelling.

Policy EN5 (Wildlife Habitats and Features) of the adopted Core Strategy (2016) states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process. Where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

The application was supported by an Ecology Appraisal by Devon Wildlife Consultants. The site forms part of a wider area which is currently in construction for the mixed use area and comprises a network of ditches and spoil heaps. The findings are summarised by species below:

Badgers - No setts or signs of activity were recorded but it is likely that badger forage in the wider area. Mitigation to avoid trapping badgers in open excavations required.

Bats - No trees or buildings present to support a roost. The site has limited value to bats but hedgerows will be used for foraging/commuting. The south hedge bank will provide commuting habitat. Design should limit light spill to southern hedgerow/trees and the installation of bat boxes recommended.

Birds - The southern hedge bank is considered suitable to support nesting and foraging birds. Installation of bird boxes and increased planting recommended.

Dormice - They have been recorded in the wider area. The southern hedge does provide some potential for habitat although this is limited. The hedge would be enhanced through the landscape planting which will enhance the habitat.

Great Crested Newts - The site is located within a Devon Great Crested Newt Consultation Zone but there are no ponds on site.

Reptiles - The southern hedge bank represents potential foraging and commuting habitat. Low numbers of slowworm *Anguis fragilis* and common lizard *Zootoca vivipara* recorded in the wider Tithebarn Green site. The hedge would be enhanced through the landscape planting which will enhance this habitat.

Overall and number of mitigation and enhancement measures are proposed:

- o The southern hedgerow to be enhanced through native planting and additional planting across the site.
- o Grassland areas to be a native seed mix to be secured through the landscaping scheme.
- o Bird and bat boxes to be installed.
- o Grass cuttings and brash shall be left in piles beneath the vegetation on the eastern boundary.

In summary, the proposed mitigation and enhancement measures represent a reasonable biodiversity gain.

HABITAT MITIGATION

The site is located within 10km of the East Devon Pebblebed Heaths SAC and SPA together with the Exe Estuary SPA and Ramsar sites. During the operational phase, the development is likely to increase recreational pressures on these European sites which will likely have both direct and indirect significant effects when considered alone or in combination. This therefore requires the authority to undertake an Appropriate Assessment (AA) in accordance with the Conservation of Habitats and Species Regulations 2017. This has been undertaken which also concludes that the proposed development, as it is within 10km, is likely to have significant effects on the interest features of these European sites. The joint approach for mitigation by the relevant local authorities relies on a mechanism by which developers can make contributions to mitigation measures delivered by the South East Devon Habitat Regulations Partnership. The mitigation contribution would be secured through a S106, currently at £367.62 per dwelling.

Natural England were consulted on the AA and have advised that on the basis of the appropriate financial contributions being secured to the South-east Devon European Sites Mitigation Strategy, they would concur with this authorities conclusion in the AA that the proposed development will not have an adverse effect on the integrity of the European Sites. It is for the LPA to adopt the AA and accordingly there is a further recommendation on this at the end of the report.

P) PLANNING OBLIGATIONS

Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) states that the Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. The failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

As set out throughout this report, the following obligations are sought for this development via a S106 legal agreement:

1. Habitat Mitigation Contribution of £367.62 per dwelling (£3,308.58 in total). 50% would be payable before commencement and the remaining 50% would be payable prior to occupation of dwelling 4.
2. Connection to the District Heating Network for commercial buildings and residential dwellings.
3. Provision and maintenance/management arrangements for on-site communal open space.

4. Affordable Housing Contribution of £12,448 per dwelling (£112,032 in total). 50% would be payable before commencement and the remaining 50% would be payable prior to occupation of dwelling 4.

Section 9.0 of the submitted Planning Statement outlines CIL and other planning obligations which includes a contribution towards non-infrastructure mitigation under the Habitat Regulations, a connection to the District Heating Network for residential dwellings and maintenance/management arrangements for on-site open space.

The above planning statement makes no reference to Affordable Housing Contributions and in the absence of a legal agreement, the LPA has not be able to secure these contributions which are necessary to support the delivery of development and mitigate any adverse impacts. This has resulted in an objection from the Housing Enabling Officer and as such, the lack of a legal mechanism to secure these contributions should also form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing Supplementary Planning Document (November 2020). It is considered that a connection to the DNH for commercial buildings could be secured via a suitably worded condition.

PLANNING BALANCE AND CONCLUSION

The proposed development would provide 4 commercial units and 9 residential dwellings within the wider Tithebarn Green area thereby providing employment opportunities and residential dwellings in a sustainable location that is allocated for development. The benefits of the commercial space is given significant weight especially as it would complement the local centre, would provide employment and social opportunities and is close to where people live. It is also acknowledged that housing is in demand across the district and the LPA cannot demonstrate a 5 Year Land Supply. However, local plan policies promote well designed, sustainable developments and the NPPF (2021) states that development that is not well designed should be refused. The benefits of resident development are also given significant weight however it is acknowledged that 9 additional dwellings would not overcome the districts housing need.

However, the proposed development would fail to provide satisfactory living conditions for the future occupiers with regard to internal space and it is also recognised throughout this report that the layout and appearance of the development and level of car parking is not considered to be high quality and acceptable and the proposal fails to promote sustainable travel. The proposal has also failed to demonstrate that it is acceptable in terms of surface water drainage and flood risk and contributions for affordable housing to support the developments delivery has not been secured. Therefore, it is considered that on balance the harm of the proposal in this instance would fail to significantly and demonstrably outweigh the benefits of the proposed development.

Therefore, the proposal would fail to comply with the NPPF and Local Development Plan and is recommended for refusal.

RECOMMENDATION

a) ADOPT the Appropriate Assessment as set out in Appendix A

b) REFUSE the application for the following reasons:

1. The proposed development has failed to provide sufficient information in relation to flood risk and surface water drainage and has failed to demonstrate that all aspects of the proposed surface water drainage management system have been considered. The proposed underground systems are not considered to be sustainable and details of the exceedance pathways and overland flow routes have not been provided. The proposed development would therefore fail to comply with Strategy 5 and Policy EN22 of the adopted Local Plan 2013 to 2031.
2. Having regard to the over provision and dominance of car parking and hard surfacing within the site, the overall layout and appearance of the development fails to provide a high quality development as required by Policy D1 of the East Devon Local Plan. Furthermore, the proposed residential dwellings fail to suitably address and provide surveillance to the approved adjacent pedestrian and cycle path. The proposal therefore would fail to create a safe, attractive and well-designed development and would fail to comply with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan 2013 to 2031 as well as Section 12 of the NPPF (2021).
3. The proposed development fails to promote sustainable modes of travel and transport and emphasises private car usage over sustainable means of travel. The proposed development would include an excessive number of car parking spaces which would fail to be justified in line with the submitted Transport Assessment and results in a car dominated development. The proposal has therefore failed to promote and secure sustainable modes of travel and transport and limit future car use. The proposal is therefore contrary to Strategy 3, 5B and 11 of the adopted Local Plan (2016) and Section 9 of the NPPF (2021).
4. The proposed development would fail to provide satisfactory living conditions for the future occupiers with regards to internal living space. The proposed dwellings would result in poor living conditions for future occupiers and would fail to comply with Policy D1 of the East Devon Local Plan and Paragraph 130(f) of the NPPF (2021) which requires that developments provide a high standard of amenity for its future users.
5. In the absence of a legal mechanism to its delivery, the proposal fails to provide financial contributions for Affordable Housing. As such the proposal is contrary to Strategy 34 (District Wide Affordable Housing Provision Targets) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing SPD (November 2020).

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

1400: Enclosure Details	Other Plans	11.07.23
1402; Enclosure Details	Other Plans	11.07.23
1111 Rev F: Materials Plan	Other Plans	11.07.23
1114 Rev C: Enclosures Plan	Other Plans	11.07.23
1115 Rev C: External Works and Landscaping Plan	Other Plans	11.07.23
1116 Rev C: Waste Collection Plan	Other Plans	11.07.23
1150 Rev B: Street	Sections	11.07.23
1160 Rev C: Street Scenes	Other Plans	11.07.23
1161 Rev C: Street Scenes	Other Plans	11.07.23
856/01 Rev F: Planting Plan	Other Plans	11.07.23
1301 I : unit C1 semi detached	Proposed Elevation	02.08.23
1100 Q : planning	Layout	02.08.23

1401 A : enclosures details brick wall	Other Plans	02.08.23
1300 G : unit C1 semi detached	Proposed Floor Plans	02.08.23
1302 C : unit C1 semi detached	Proposed Elevation	02.08.23
1303 B : unit C1 detached	Proposed Floor Plans	02.08.23
1304 B : unit C1 detached	Proposed Elevation	02.08.23
1310 D : unit C2	Proposed Floor Plans	02.08.23
1311 D : unit C2	Proposed Elevation	02.08.23
1312 B : unit C2	Proposed Elevation	02.08.23
1200 G : units A+B	Proposed Floor Plans	02.08.23
1201 D : units A+B	Proposed Elevation	02.08.23
1210 H : units C+D	Proposed Floor Plans	02.08.23
1211 E : units C+D	Proposed Elevation	02.08.23
1220 C : cycle shelter	Proposed Combined Plans	02.08.23
1230 B : bin storage	Proposed Elevation	02.08.23
1000 C	Location Plan	04.05.22

List of Background Papers

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

Appropriate Assessment		
The Conservation of Habitats and Species Regulations 2017, Section (63)		
Application Reference	22/0975/MFUL	
Brief description of proposal	Construction of four commercial, business and service units (Class E) and nine detached dwellings with associated access, parking and infrastructure.	
Location	Land Adjacent Old Tithebarn Lane, Clyst Honiton	
Site is:	<p>Within 10km of the Exe Estuary SPA site alone (UK9010081)</p> <p>Within 10km of the East Devon Heaths SPA (UK9010121)</p> <p>Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602)</p> <p>Within 10km of the Exe Estuary Ramsar (UK 542)</p> <p>(See Appendix 1 for list of interest features of the SPA/SAC)</p>	
Step 1		
Screening for Likely Significant Effect on the proposed development on land to the east of Langaton Lane, Exeter Science park, Clyst Honiton		
Risk Assessment		
<p>Could the Qualifying Features of the European site be affected by the proposal?</p> <p>Consider both construction and operational stages.</p>	<p>Yes - additional housing within 10km of the SPA/SAC will increase recreation impacts on the interest features.</p>	
Conclusion of Screening		
<p>Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?</p>	<p>East Devon District Council concludes that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA.</p> <p>See evidence documents on impact of development on SPA/SAC at: East Devon District Council - http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf</p> <p>An Appropriate Assessment of the plan or proposal is necessary.</p>	
Local Authority Officer	Liam Fisher	Date: 13 July 2023
Step 2		
Appropriate Assessment		
<p>NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.</p>		
In-combination Effects		

<p>Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.</p>	<p>Additional housing or tourist accommodation within 10km of the SPA/SAC will add to the existing issues of damage and disturbance arising from recreational use.</p> <p>East Devon has an emerging New Local Plan to 2040 which is currently in preparation. This has recently been out to consultation under Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012 and while further housing is proposed across the District it is considered too early to understand the final distribution of the housing and it's relatively proximity and therefore access to the environments.</p> <p>The Teignbridge emerging Local Plan 2040 completed three Reg. 18 consultations between 2018 and 2021 and has begun Regulation 19 consultation in January 2023. This Plan proposes to deliver approximately 12,489 houses in the plan period 2020 - 2040.</p> <p>The Exeter Plan looks to deliver to 14,300 homes over the 20 year period to 2040. This Plan completed a Regulation 18 consultation in December 2022.</p>	
<p>Mitigation of in-combination effects.</p>	<p>The Joint Approach sets out a mechanism by which developers can make a standard contribution to mitigation measures delivered by the South East Devon Habitat Regulations Partnership.</p> <p>Residential development is also liable for CIL and a proportion of CIL income is spent on Habitats Regulations Infrastructure. A Suitable Alternative Natural Green Space (SANGS) has been delivered at Dawlish and a second at South West Exeter has been partially opened to attract recreational use away from the Exe Estuary and Dawlish Warren and Pebblebed Heaths.</p>	
<p>Assessment of Impacts with Mitigation Measures</p>		
<p>Mitigation measures included in the proposal.</p>	<p>The Joint Approach standard mitigation contribution required for non-infrastructure: Residential units £367.62 per house x 9 dwellings = £3,308.58</p>	
<p>Are the proposed mitigation measures sufficient to overcome the likely significant effects?</p>	<p>Yes - the Joint Approach contribution offered is considered to be sufficient in conjunction with CIL contributions.</p>	
<p>Conclusion</p>		
<p>List of mitigation measures and safeguards</p>	<p>Total Joint Approach contribution of £3,308.58 will be secured through the S106 for this site and CIL contributions.</p>	
<p>The Integrity Test</p>	<p>Adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA can be ruled out.</p>	
<p>Conclusion of Appropriate Assessment</p>	<p>East Devon District Council concludes that there would be NO adverse effect on the integrity of the Exe Estuary SPA/Ramsar site and the East Devon Pebblebed Heaths SPA and SAC provided the mitigation measures are secured as above.</p>	
<p>Local Authority Officer</p>	<p>Liam Fisher</p>	<p>Date: 13 July 2023</p>
<p>21 day consultation to be sent to Natural England Hub on completion of this form.</p>		

Appendix 1. List of interest features:

Exe Estuary SPA

Annex 1 Species that are a primary reason for selection of this site (under the Birds Directive):

Aggregation of non-breeding birds: Avocet *Recurvirostra avosetta*

Aggregation of non-breeding birds: Grey Plover *Pluvialis squatarola*

Migratory species that are a primary reason for selection of this site

Aggregation of non-breeding birds: Dunlin *Calidris alpina alpina*

Aggregation of non-breeding birds: Black-tailed Godwit *Limosa limosa islandica*

Aggregation of non-breeding birds: Brent Goose (dark-bellied) *Branta bernicla bernicla*

Wintering populations of Slavonian Grebe *Podiceps auritus*

Wintering populations of Oystercatcher *Haematopus ostralegus*

Waterfowl Assemblage

>20,000 waterfowl over winter

Habitats which are not notified for their specific habitat interest (under the relevant designation), but because they support notified species.

Sheltered muddy shores (including estuarine muds; intertidal boulder and cobble scars; and seagrass beds)

Saltmarsh NVC communities: SM6 *Spartina anglica* saltmarsh

SPA Conservation Objectives

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features**
- The structure and function of the habitats of the qualifying features**
- The supporting processes on which the habitats of the qualifying features rely**
- The population of each of the qualifying features, and,**
- The distribution of the qualifying features within the site.**

Dawlish Warren SAC

Annex I habitats that are a primary reason for selection of this site (under the Habitats Directive):

Annex I habitat: Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes').

(Strandline, embryo and mobile dunes.)

SD1 *Rumex crispus-Glaucium flavum* shingle community

SD2 *Cakile maritima-Honkenya peploides* strandline community

SD6 *Ammophila arenaria* mobile dune community

SD7 *Ammophila arenaria-Festuca rubra* semi-fixed dune community

Annex I habitat: Fixed dunes with herbaceous vegetation ('grey dunes').

SD8 *Festuca rubra-Galium verum* fixed dune grassland

SD12 *Carex arenaria-Festuca ovina-Agrostis capillaris* dune grassland

SD19 *Phleum arenarium-Arenaria serpyllifolia* dune annual community

Annex I habitat: Humid dune slacks.

SD15 *Salix repens-Calliargon cuspidatum* dune-slack community

SD16 *Salix repens-Holcus lanatus* dune slack community

SD17 *Potentilla anserina-Carex nigra* dune-slack community

Habitats Directive Annex II species that are a primary reason for selection of this site:

Petalwort (*Petalophyllum ralfsii*)

SAC Conservation Objectives

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

List of interest features:

East Devon Heaths SPA:

A224 *Caprimulgus europaeus*; European nightjar (Breeding) 83 pairs (2.4% of GB population 1992)

A302 *Sylvia undata*; Dartford warbler (Breeding) 128 pairs (6.8% of GB Population in 1994)

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

East Devon Pebblebed Heaths SAC:

This is the largest block of lowland heathland in Devon. The site includes extensive areas of dry heath and wet heath associated with various other mire communities. The wet element occupies the lower-lying areas and includes good examples of cross-leaved heath – bog-moss (*Erica tetralix* – *Sphagnum compactum*) wet heath. The dry heaths are characterised by the presence of heather *Calluna vulgaris*, bell heather *Erica cinerea*, western gorse *Ulex gallii*, bristle bent *Agrostis curtisii*, purple moor-grass *Molinia caerulea*, cross-leaved heath *E. tetralix* and tormentil *Potentilla erecta*. The presence of plants such as cross-leaved heath illustrates the more oceanic nature of these heathlands, as this species is typical of wet heath in the more continental parts of the UK. Populations of southern damselfly *Coenagrion mercuriale* occur in wet flushes within the site.

Qualifying habitats: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

**H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath
H4030. European dry heaths**

Qualifying species: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

S1044. *Coenagrion mercuriale*; Southern damselfly

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats

- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Exe Estuary SPA

Qualifying Features:

A007 Podiceps auritus; Slavonian grebe (Non-breeding)

A046a Branta bernicla bernicla; Dark-bellied brent goose (Non-breeding)

A130 Haematopus ostralegus; Eurasian oystercatcher (Non-breeding)

A132 Recurvirostra avosetta; Pied avocet (Non-breeding)

A141 Pluvialis squatarola; Grey plover (Non-breeding)

A149 Calidris alpina alpina; Dunlin (Non-breeding)

A156 Limosa limosa islandica; Black-tailed godwit (Non-breeding)

Waterbird assemblage

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Exe Estuary Ramsar

Principal Features (updated 1999)

The estuary includes shallow offshore waters, extensive mud and sand flats, and limited areas of saltmarsh. The site boundary also embraces part of Exeter Canal; Exminster Marshes – a complex of marshes and damp pasture towards the head of the estuary; and Dawlish Warren - an extensive recurved sand-dune system which has developed across the mouth of the estuary.

Average peak counts of wintering water birds regularly exceed 20,000 individuals (23,268*), including internationally important numbers* of *Branta bernicla bernicla* (2,343). Species wintering in nationally important numbers* include *Podiceps auritus*, *Haematopus ostralegus*, *Recurvirostra avosetta* (311), *Pluvialis squatarola*, *Calidris alpina* and *Limosa limosa* (594).

Because of its relatively mild climate and sheltered location, the site assumes even greater importance as a refuge during spells of severe weather. Nationally important numbers of *Charadrius hiaticula* and *Tringa nebularia* occur on passage. Parts of the site are managed as nature reserves by the Royal Society for the Protection of Birds and by the local authority. (1a,3a,3b,3c)