

Ward Woodbury And Lymestone

Reference 23/1079/OUT

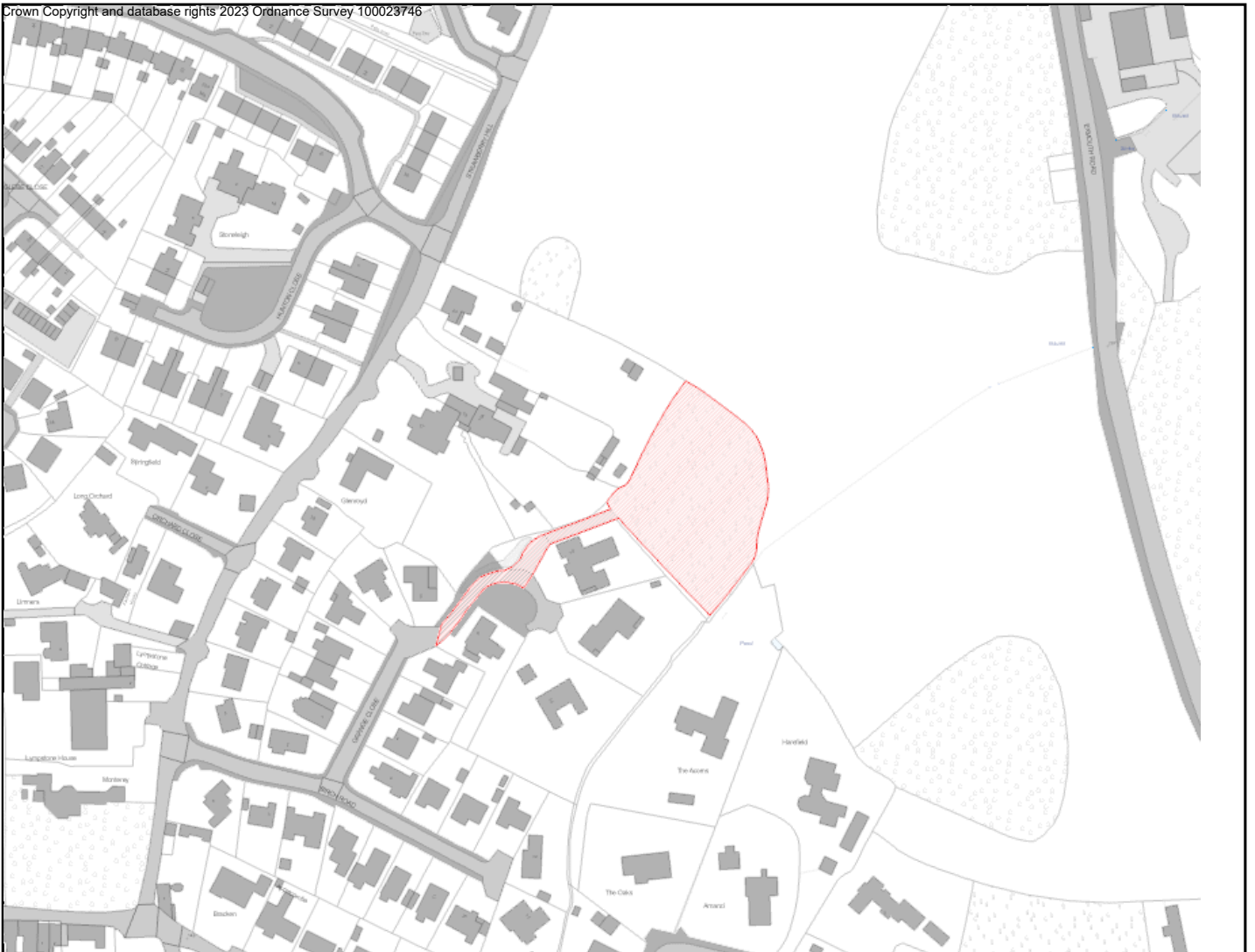
Applicant The Trustees (Strawberry Hill Holdings)

Location Land North East Of Grange Close Lymestone
Devon EX8 5LD

Proposal Outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale and landscaping reserved for future consideration)



RECOMMENDATION: Approval with conditions



		Committee Date: 22.08.2023
Woodbury And Lympstone (Lympstone)	23/1079/OUT	Target Date: 17.07.2023
Applicant:	The Trustees (Strawberry Hill Holdings)	
Location:	Land North East Of Grange Close	
Proposal:	Outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale and landscaping reserved for future consideration)	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members of the Planning Committee because the view of officers differs from that of the ward members and because it is a departure from the East Devon Local Plan and the made Lympstone Neighbourhood Plan.

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

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development, the majority of which is outside of a BUAB, the site is considered to be in a sustainable location on the northern edge of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development and ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. Local concern in relation to flood risk is acknowledged however a condition that requires the submission of a surface water drainage scheme and management plan that

includes evidence of calculations to achieve a runoff rate as close to greenfield conditions as possible would be sufficient to ensure that the proposal does not increase flood risk elsewhere The proposal would introduce a dwelling without any sense of visual incursion into the countryside and would result in no significant visual harm to the character and appearance of the area from public viewpoints outside of the site.

In the absence of a five year housing land supply, it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Accordingly, it is recommended that the application is approved.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung
23/1079/OUT

I have viewed the further documents for the planning application for 23/1079/OUT for an outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale, and landscaping reserved for future consideration) at land North East of Grange Close Lympstone.

The further documents do not alter my previous view which is I cannot support the application as it is outside the present BUAB. However, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung
23/1079/OUT

I have viewed the planning application for 23/1079/OUT for an outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale, and landscaping reserved for future consideration) at land North East of Grange Close Lympstone.

According to one of the letters of objection the access is proposed along a private drive owned by a third party. However, the ownership of the access drive is not a planning matter but a legal issue between the various parties.

The site is beyond the BUAB boundary for the village of Lympstone and therefore this development would be considered in the open countryside. I therefore cannot support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung
2/8/23

Thank you for your report and recommendation which unfortunately I still cannot support. Therefore I wish to continue my objection

Parish/Town Council

Recommendation: Object

Lympstone Parish Council object to this planning application due to the following reasons:

' The proposed new build will have a concerningly large impact for flooding issues affecting surrounding properties.

' Access to the site is unsuitable.

' The ecology impact is negative and hugely detrimental for wildlife.

Technical Consultations

South West Water

While I can appreciate the concerns that you have raised and your own history in the area, we have taken a look at the proposal under reference 23/1079/OUT on the East Devon planning portal and have no concerns or comments to add.

The sewers in the area are suitably sized to accommodate an additional dwelling, and the proposal to dispose of surface water via SUDS/Soakaway meets the first criteria of the surface water hierarchy. Should these prove unviable, there are dedicated surface water sewers in the area that could also handle the additional load.

If there is a historic risk of flooding due to issues with land drainage or the proximity of the river that have not been addressed by the agent or applicant, these concerns would need to be raised with both the council and the EA.

EDDC Trees:

In principle I have no objection to the proposal. However it should be noted that it appears that one A category Oak (T10), located centrally within the site has been removed which had been highlighted as a significant constraint in the Initial Tree Constraint Appraisal provided by Advanced Arboriculture (Nov 2021). The Tree Constraints Plan provided by PHA (May 2023) does not show this tree. Due to removal of the Oak, I recommend that a Tree Preservation Order be made on the remaining trees on site. The main tree constraints appear to be on the eastern boundary and in theory there now appears to be room for the proposal. The design should be based on the principles of BS5837:2012 including appropriate landscape planting to ensure long-term tree cover.

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

- a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full arboricultural survey based on BS5837:2012 is required including Tree Constraints Plan, a Tree Protection Plan and Arboricultural Method Statement including site monitoring and supervision shall be provided for the protection of the retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in

writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme. Details of method of construction of any hard surfaces (i.e access, drainage) in the vicinity of trees shall also be provided.

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

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

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

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

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

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

(Reason - To ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

Other Representations

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

- Flood risk to downstream properties
- Access unsuitable
- Impacts on wildlife
- Outside BUAB
- Contrary to Neighbourhood Plan
- Previous refusals on the site
- Impacts during construction
- Unsafe and unsuitable vehicular access
- Damage to private driveway
- Out of character
- No access for emergency vehicles

PLANNING HISTORY

Reference	Description	Decision	Date
98/P0223	Erection Of Single Dwelling	Refusal	23.04.1998

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

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

EN22 (Surface Run-Off Implications of New Development)

Strategy 5B (Sustainable Transport)

Lympstone Neighbourhood Plan (Made)

Policies??

Government Planning Documents

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

Site Location and Description:

The site refers to land to the north east of Grange Close, an undeveloped paddock extending to approximately 03. ha in area which is accessed off a private drive off Grange Close. The site is bordered by residential properties on its south western boundary and agricultural land to the north, east and north west. The majority of the site is located in the open countryside, outside of the built-up area boundary of Lympstone as defined by the East Devon Local Plan and the 'made' Lympstone Neighbourhood Plan. A small portion of the south west of the site does however fall within the BUAB as defined by the Lympstone Neighbourhood Plan. The site is not the subject of any national or local landscape designations and falls within an area designated as flood zone 1 (at lowest risk of flooding).

Planning History:

Whilst not related to this application site, it is notable that planning permission has recently been granted under planning permission (ref 21/2317/VAR) for a proposed new dwelling and car port on land adjacent to 21 Strawberry Hill. This site was outside of the built-up area boundary of Lympstone and is located to the north west of the application site.

Proposed Development:

Outline planning permission is sought for the construction of a single detached dwelling on the site. Planning permission is sought for the principle of development only, with matters relating to access, appearance, layout, scale and landscaping reserved for future consideration. Indicative drawings have been provided with the application which show how the site could be developed, with a dwelling positioned towards the south eastern corner of the site with an extended access driveway and parking area constructed off the existing driveway and access into the site. Indicative plans also suggest that the development would be served by a soakaway and a package treatment plant.

Issues and Assessment:

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

- The Policy Position
- The principle of development
- Five Year Housing Land Supply
- Sustainability/ Accessibility
- Character and Appearance

- Residential Amenity
- Highway Safety
- Ecological Impact
- Habitat Regulations Assessment
- Arboricultural Impact
- Surface Water and Foul Drainage

ANALYSIS

The Policy Position:

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined. The Lympstone Neighbourhood Plan (NP) has been 'made' and forms part of the Development Plan.

Principle of Development:

In planning terms the majority of the site is located outside of the built-up area boundary of Lympstone as defined by the East Devon Local Plan and the Lympstone Neighbourhood Plan where development is only permitted under the provisions of Strategy 7- Development in the Countryside where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement.
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings.
3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

As there are no policies within the Local Plan or the Lympstone Neighbourhood Plan which would support a proposal for the construction of a new dwelling in this countryside location and it isn't being put forward to meet an identified proven agricultural, forestry or horticultural need, the application has been advertised as a departure.

Planning law states that Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Five Year Housing Land Supply:

The Council is required under the NPPF to maintain a 5 year housing land supply. Annual monitoring of the housing supply position revealed that as of September 2022, the Council is unable to demonstrate a 5 year housing land supply position with supply standing at 4.68 years.

The consequences of not having a 5 year housing land supply means that the presumption in favour of sustainable development in the NPPF applies and that planning permission should be granted unless:

(i) the application of policies in the NPPF that protect areas or assets of particular importance such as AONB's, SSSI's, Heritage Coast, Heritage Assets, areas at risk of flooding or coastal change etc. provides a clear reason for refusing the development proposed ; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

As such the fact that the site is located in the countryside and outside of a BUAB as defined by the East Devon Local Plan cannot reasonably be a reason to refuse planning permission and the main test in determining this application relates to whether the adverse impacts of granting planning permission for the proposed dwelling would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Sustainability/ Accessibility:

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

This is echoed in policy TC2 Accessibility of New Development of the Local Plan which states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.

The site is located on the northern edge of the settlement and is considered to be well related to existing dwellings, facilities and services within the village.. Whilst the site is located outside of the BUAB of Lympstone, it does immediately adjoin its northern boundary where it would be possible to safely access the wide range of services and facilities and public transport links available within the village on foot or by cycling and thus reducing any over reliance on the use of the private car.

The application site is considered to be well related to the village and therefore accords with the provisions of Strategy 5B and policy TC2 of the Local Plan.

Character and Appearance:

Strategy 7- Development in the Countryside of the Local Plan states that development will only be permitted where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

Policy D1- Design and Local Distinctiveness of the Local Plan states that proposals will only be permitted where they respect the key characteristics and special qualities

of the area in which the development is proposed and where the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Whilst the site is currently an undeveloped paddock and therefore residential development within it would lead to an encroachment into the countryside, its visual impact is considered to be limited. The site is closely related to the settlement with neighbouring dwellings on Grange Close to the south and west bordering the site. Whilst detailed designs of the dwelling are reserved for future consideration, the indicative site plan clearly demonstrates that the site is of a sufficient size and configuration that could accommodate a detached dwelling with access and driveway in a scale and manner that would be in keeping with the existing urban grain and pattern of development.

Furthermore, the site itself is very self-contained and screened by existing vegetation and trees which would minimise any longer distance views from outside of the site particularly from the north east along the A376 where there may be glimpsed views of the site. In the event that glimpsed views are possible, the proposal development would still be read against the back drop of the village edge. Furthermore, the proposal seeks to position the dwelling in the lowest southern corner of the site which would help to ensure that there is no significant feeling of any visual intrusion into the rural landscape.

The detailed design of the development is reserved for future consideration where further assessment relating to the scale, footprint, form and design of the dwelling can be considered. However in principle, it is considered that the site is capable of accommodating a dwelling would resulting in any significant harm to the countryside or the rural landscape character and appearance of the area.

Residential Amenity:

The application site is bordered on its south western side by properties 10 and 12 Grange Close and their residential gardens. The introduction of a dwelling and a residential use to the site beyond that of its existing use as a paddock would therefore result in a degree of impact on the amenities of the occupiers of these properties in the form of residential activity and vehicles accessing the site. Of particular note is the fact that the existing access and driveway to the site runs parallel to the side elevation of no 10 Grange Close which occupies a lower position behind a low height brick wall.

Whilst matters of appearance, layout and scale are reserved for future consideration, it is considered that the site is of a sufficient size in principle to accommodate a detached dwelling without resulting in any significant harm or impacts to the amenities of no's 10 and 12 Grange Close. Careful consideration would have to be given to the siting of a dwelling on the site, it's outlook and position of windows to avoid any loss of privacy, however subject to it being carefully designed, it is considered that a detached dwelling on the site would not give rise to any significant amenity harm given the nature of well vegetated hedge and tree boundary to the south east.

Highway Safety:

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9- Parking Provision in New Development of the Local Plan states that Spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.

Whilst the matter of access is reserved for future consideration, in assessing the principle of development, some consideration still needs to be given to how the proposed development would be accessed.

The application site benefits from an existing hard surfaced access which is in turn accessed by the adopted highway that terminates at the turning head in Grange Close to the south east of the private drive. As a development for a single dwelling, it isn't considered that the proposal would generate a significant amount of vehicle movements to and from the site that would give rise to any highway safety concerns. The route to the site is through a quiet residential cul-de-sac where vehicle speeds would be low and the access and visibility onto Birch Road and Strawberry Hill are considered to be acceptable in terms of visibility onto the wider public highway network such that it is not considered an objection could reasonably be sustained on highway safety grounds. The proposal would comply with the provisions of policy TC7 of the Local Plan.

The indicative site plan clearly demonstrates that there is sufficient space within the site to make provision for two car parking spaces, a driveway and turning area such that the proposal would comply with the provisions of policy TC9 of the Local Plan.

Ecological Impact:

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

The application is accompanied by an Ecological Impact Assessment undertaken by Ecologic Consultants which provides the results of the Preliminary Ecological Appraisal, protected species surveys for bats, reptiles, Cirl Buntings and Dormice) to assess the likely impacts of the proposed development on legally protected species.

The report concludes that the site has potential for/supports:

- Amphibians - the scrub and hedgebanks provide suitable terrestrial habitat for common amphibian species;
- Badger -the site may be used for foraging and dispersal;
- Bats: Feeding & dispersal: the site will provide feeding and dispersal habitat for bat species; Roosting: eight trees on the site included potential bat roosting features (PRF).
- Birds - the habitats on site will provide nesting and foraging opportunities for bird specs;
- Hedgehog - the site is likely to provide foraging and dispersal habitat for hedgehog;
- Reptiles - the site supports a 'low' population of slow worm
- Invertebrates - the site will provide habitat for invertebrates.

The key ecological impacts from the development are reported as being:

- Removal of an extent of dense and scattered scrub habitat for the construction of the dwelling, associated infrastructure and garden;
- Removal of habitat for amphibians, badger, bats, birds, hedgehog and reptiles; and,
- Construction and post-construction occupation of the site, and external lighting, will further negatively impact upon species using the site, retained habitats/boundary vegetation and areas beyond the site.

A number of mitigation and compensation measures have been put forward by the ecologist which includes:

Precautions required to allow removal of scrub and hedgebank vegetation, to be informed by a Construction Ecological Management Plan (CEMP), including:

- Reptiles: A reptile translocation program will be required prior to works, relocating reptiles (& amphibians) into a protected wildlife area;
- Birds: avoidance of vegetation removal during the bird nesting season, or following nesting bird check/s;
- Protection of retained boundary hedgebanks, habitats and trees;
- Removal of the Schedule 9 invasive botanical species variegated yellow archangel) on site by experienced professionals; and,
- A sensitive lighting plan, including the avoidance of artificial lighting on retained mature trees, hedgebanks and hedgerow, any proposed landscaped habitats, and any areas beyond the site

From a site visit it would appear as though a degree of site clearance and vegetation removal has already taken place and it isn't clear to what extent this may have affected legally protected species identified as being present or suitable habitats on the site.

To mitigate the impacts of the development, the ecologist puts forward a number of compensation measures which include:

- Habitat creation: Development scheme to include wildlife habitats, potentially including on and/or off-site hedgerow, scrub, native woodland, orchard and/or wildflower meadow.
- Landscape plan to include planting consisting of native species of local provenance, which in combination are to provide suitable habitat and wildlife corridors for badger, birds, reptiles, amphibians, invertebrates and bats;
- One of each inbuilt bat, bird and invertebrate provision to be incorporated into the proposed development, at a ratio of one of each provision type per building;
- Creation of habitat piles, consisting of logs, brash and/or grass cuttings within relatively undisturbed area/s of the site
- Future management of retained and created habitats on and/or off-site, to be informed by a Landscape Ecological Management Plan (LEMP).

Without mitigation, the proposed development does represent a negative ecological impact through the removal of habitat for amphibians, badger, bats, birds, hedgehog and reptiles. However subject to conditions that require the submission of a Construction Ecological Management Plan (CEMP) as part of any forthcoming reserved matters application which prescribes a precautionary approach to further site clearance, the submission of a reptile translocation programme into an identified protected wildlife area and a sensitive lighting plan and the submission of a Landscape Ecological Management Plan (LEMP) which secures the future management of retained and newly created habitats for the site, it is considered that the impacts on habitats and protected species can be appropriately managed and mitigated and a positive biodiversity impact can be achieved.

Habitat Regulations Assessment:

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

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

Arboricultural Impact:

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

Whilst the layout of the site is reserved for future consideration, the application is accompanied by a tree constraints plan which has been used to inform the illustrative site plan that has been provided. The Arboricultural Report identifies that the most significant trees on site comprise oak trees. There is also a group of sycamore stems (G1), mixed species (A1) and mixed hedge (H1) towards the south-west of the site.

The application has been considered by the Council's Tree Officers who have advised that in principle there are no objections to the proposal. However it should be noted that it appears that one A category Oak (T10), located centrally within the site has been removed which had been highlighted as a significant constraint in the Initial Tree Constraint Appraisal provided by Advanced Arboriculture (Nov 2021). The Tree Constraints Plan provided does not show this tree and whilst its removal from the site is disappointing, the tree was not the subject of a Tree Preservation Order (TPO) such that the Council would not have been able to prevent its removal. Due to removal of the Oak, the tree officer has recommend that a TPO is made on the remaining trees on site.

Following removal of the Oak tree, the main tree constraints are on the eastern boundary where the tree officer has advised that there now appears to be room for the proposal.

It is considered necessary and reasonable to impose a condition which requires any reserved matters application to be accompanied by a Tree Constraints Plan and an Arboricultural Impact Assessment and Method Statement to demonstrate that the dwelling could be constructed in a manner that does not adversely affect the health and well-being of retained trees and hedgerows on site along with tree protection measures which would have to be in place prior to any development taking place on the site. In the absence of any objections from the Council's Tree Officer, it is considered that in principle a dwelling could be constructed on this site which could have a harmonious relationship with trees on the site in accordance with the requirements of policy D3 of the Local Plan.

Surface Water and Foul Drainage:

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

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.

2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.
3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.

Policy 14 of the LNP states that development should not increase flood risk. The use of sustainable urban drainage schemes and permeable surfaces for parking areas and other hard landscaping will be supported. Where appropriate, design and access statements should include a flood risk statement.

The application site is located within an area designated as flood zone 1 (low probability of flooding) however land immediately to the south east does fall within an area designated as flood zones 2 and 3 on account of fluvial flooding from a water course known as Harefield Stream. It is accepted that the site urbanisation would lead to an increase in impermeable areas over its current greenfield use as a paddock. A surface water drainage strategy has not been submitted a part of the application although it is suggested that surface water would be disposed of by soakaways.

South West Water have considered the nature of the objections received on flood risk grounds and have advised that the sewers in the area are suitably sized to accommodate an additional dwelling, and the proposal to dispose of surface water via SUDS/Soakaway meets the first criteria of the surface water hierarchy. Should these prove unviable, there are dedicated surface water sewers in the area that could also handle the additional load.

There is no objection in principle to the use of SUDs as a means of disposal of surface water which follows the SUDs hierarchy but it is recommended that a condition is imposed which requires the submission of a detailed surface water drainage and management plan to ensure that surface water will be adequately disposed via ground infiltration at a rate which mimics that of the greenfield infiltration rate and does not lead to increase flooding elsewhere in accordance with the provisions of policy EN22- Surface Run-Off Implications of the Local Plan.

Policy EN19 - Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems of the Local Plan states that new development will not be permitted unless a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the development.

Development where private sewage treatment systems are proposed will not be permitted unless ground conditions are satisfactory and the plot is of sufficient size to provide an adequate subsoil drainage system or an alternative treatment system.

Foul drainage is proposed to be via the existing mains in the road via a sewage pump solution. It is understood that the foul drainage would connect with the main sewer at the east end of Birch Road rather than in Grange Close. This would accord with the provisions of policy EN19 of the Local Plan.

Planning Balance and Conclusions:

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

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development, the majority of which is located outside of a Built Up Area Boundary, the site is considered to be in a sustainable location on the northern edge of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7 and the tilted balance in favour of sustainable development must be applied.. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development and the ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. Local concern in relation to flood risk is acknowledged however a condition that requires the submission of a surface water drainage scheme and management plan that includes evidence of calculations to achieve a runoff rate as close to greenfield conditions as possible would be sufficient to ensure that the proposal does not increase flood risk elsewhere The proposal would introduce a dwelling without any sense of visual incursion into the countryside and would result in no significant visual harm to the character and appearance of the area from public viewpoints outside of the site.

The proposed development is located outside of the BUAB however the principle of a residential dwelling on this site raises no wider harm or planning concerns. In the absence of a five year housing land supply, it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Accordingly, it is recommended that the application is approved.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Approval of the details of the layout, scale and appearance of the building, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved.)
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
3. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
4.
 - a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full arboricultural survey based on BS5837:2012 to include a Tree Constraints Plan, a Tree Protection Plan and Arboricultural Method Statement including site monitoring and supervision shall be provided for the protection of the retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme. Details of method of construction of any hard surfaces (i.e access, drainage) in the vicinity of trees shall also be provided.
 - b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
 - c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
 - d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such

installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

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

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

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

(Reason – A pre-commencement condition is required to ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

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

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

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

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

6. Any forthcoming reserved matters application shall be accompanied by a Construction Ecological Management Plan (CEMP) in accordance with the principles and mitigation measures contained within Section 5 (Assessment of Impacts) and the recommendations contained with Section 6 (Recommendations) of the Ecological Impact Assessment prepared by Ecologic (ref 211009 rev02). The development shall thereafter be carried out in accordance with the approved details. (Reason: To ensure a precautionary approach to site clearance and to ensure that the impacts on habitats and protected species can be appropriately managed and mitigated and that appropriate ecological mitigation measures are in place in the interests of ecology and biodiversity in accordance with policy EN5- Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

7. Any forthcoming reserved matters application for layout and or landscaping shall be accompanied by a Landscape Ecological Management Plan (LEMP) for a minimum period of 20 years in accordance with the principles and mitigation measures contained within Section 5 (Assessment of Impacts) and the recommendations contained with Section 6 of the Ecological Impact Assessment prepared by Ecologic (ref 211009 rev02). The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason: To ensure the future management of retained and newly created habitats for the site and that a positive biodiversity impact can be achieved in the interests of ecology and biodiversity in accordance with policy EN5- Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

8. Any reserved matters application shall be accompanied by details of existing and proposed ground and finished floor levels in relation to a fixed datum point. Development shall only proceed in accordance with the agreed details. (Reason - To preserve and enhance the character and appearance of the area in accordance with policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

9. Any landscaping scheme approved as part of a reserved matters application shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)

10. The development hereby approved shall not be occupied until details of the foul drainage system to serve the development have been submitted to and agreed in writing by the Local Planning Authority and implemented in full. The foul drainage system shall be retained and maintained as such for the lifetime of the development. (Reason: In the interest of pollution control and flood risk management)

Statement on Human Rights and Equalities Issues:

Human Rights Act:

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

Equalities Act:

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

Plans relating to this application:

T.01	Location Plan	18.05.23
initial tree constraints appraisal	Other Plans	18.05.23
211009 REV02	Ecological Assessment	18.05.23

List of Background Papers

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