

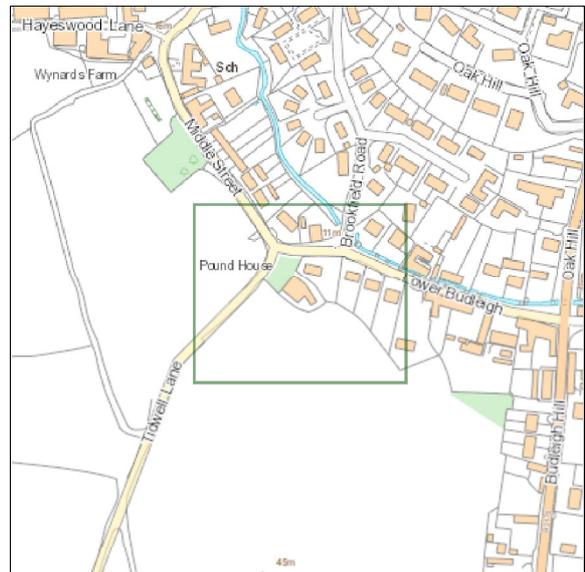
Ward Budleigh Salterton

Reference 18/1464/FUL

Applicant Mr Leigh Rix

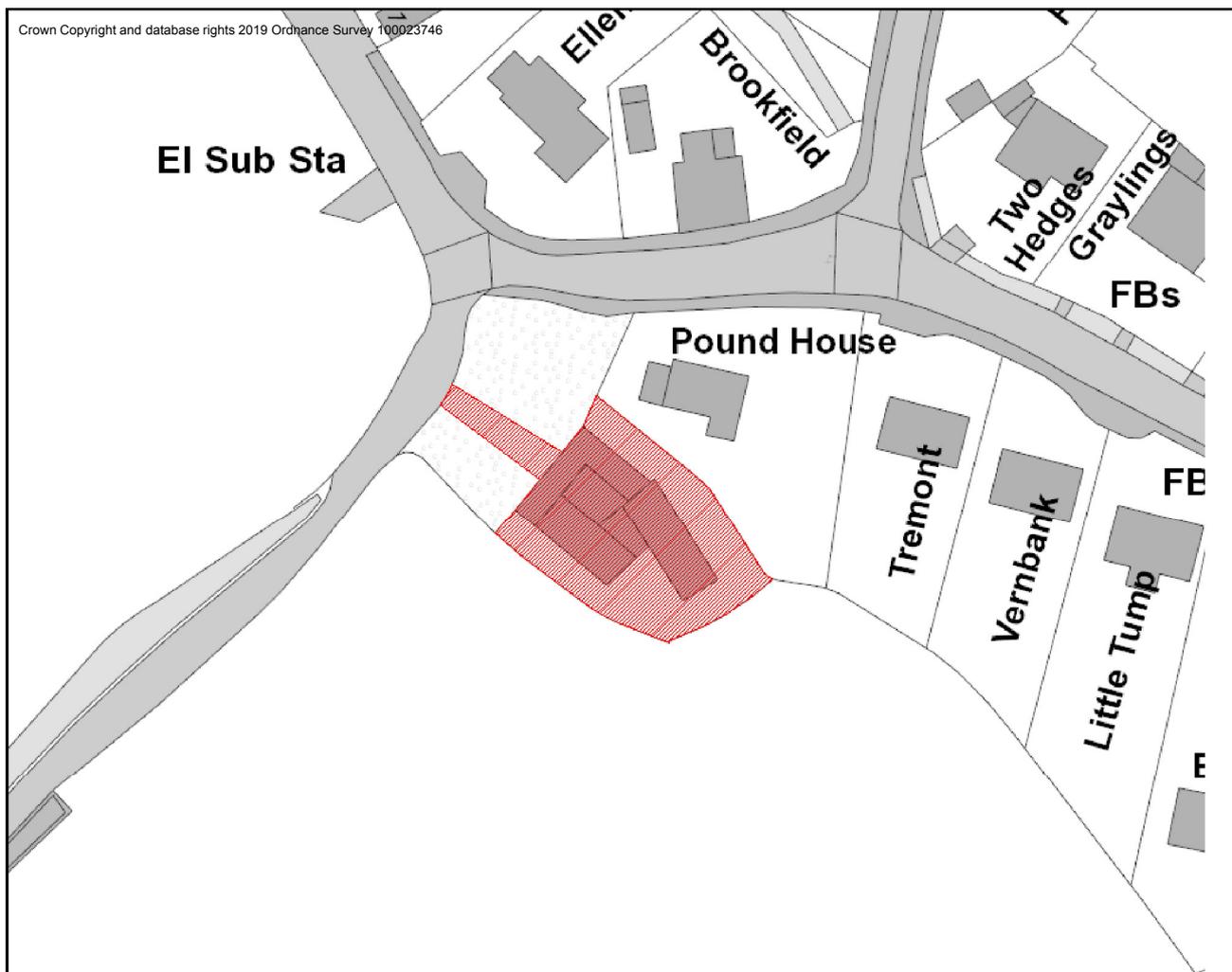
Location The Pound Lower Budleigh East Budleigh

Proposal Demolition of existing barn and construction of a single dwelling



RECOMMENDATION:

1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;
2. That the application be **APPROVED** subject to conditions.



		Committee Date: 30th April 2019
Budleigh Salterton (EAST BUDLEIGH)	18/1464/FUL	Target Date: 17.08.2018
Applicant:	Mr Leigh Rix	
Location:	The Pound Lower Budleigh	
Proposal:	Demolition of existing barn and construction of a single dwelling	

RECOMMENDATION:

- 1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;**
- 2. That the application be APPROVED subject to conditions.**

ADDENDUM REPORT

The application was considered by Members at the 12th February 2019 Committee (see attached report) where it was deferred to seek further written comments from Natural England to assess the impact on protected species. Members considered that it would be appropriate to seek the views of Natural England on the following:

- 1. Whether the proposed ecological mitigation is acceptable to natural England (particularly given the rarity of the bats involved); and**
- 2. Whether it is necessary and appropriate to seek evidence of the re-location of the bats before the demolition of the existing building.**

The application is before Members again to be assessed in light of the receipt of further comments from Natural England.

Since the 12th February Committee further comments have been received from Ward Member Cllr Dent stating the following:

'I note that Natural England now support the application provided that the bat barn is constructed and occupied prior to the demolition of the existing barn. Natural England also note the applicant has submitted a lighting plan indicating that the maximum light spill would be marginally under the required level of 1lux which comes in at .92 lux.

I remain concerned that this lighting mitigation is very close to the limit and despite the fact that the application has received no objections from the LPA Tree Officer or County Highways and is considered to be in accordance with

National, Local and Neighbourhood Plan Policies, i still feel uncomfortable that this is only a draft report.

Having witnessed first hand the strong concerns and objections of local residents I remain unable to support the officer recommendation to approve.'

In response to the deferral of the application and questions above, Natural England have provided the further comments on the 28th March 2019:

'Thank you for contacting Natural England regarding planning application 18/1464/FUL Demolition of existing barn and construction of a single dwelling. The Pound, Lower Budleigh, East Budleigh.

East Devon District Council are seeking the views of Natural England on the suitability of the mitigation to be provided and whether or not there should be evidence of the re-location of the bats before the demolition of the existing building.

In your attached letter you have highlighted that Natural England raised 'no objection subject to securing mitigation', which you believe referred to 'the provision of a substantial 'bat barn' that has been bespoke designed to be suitable for the bat species previously identified during the appropriate survey that use the site and surrounding area'. I have attached a copy of our response above for information. Natural England's comment clearly refers to impacts upon the East Devon Pebblebed Heaths SAC, East Devon Heaths SPA and Exe Estuary SPA (see heading 'Designated Sites – No Objection Subject to Securing Mitigation').

Our previous response states that 'Natural England has produced standing advice 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'. This is because, as you are aware, in determining a planning application, it is the responsibility of the Local Planning Authority, to ensure that protected species issues are fully considered and that ecological surveys have been carried out where appropriate. Due to the level of local interest in this planning application, we have exceptionally decided to provide some additional comments (in relation to bats) to assist you with your assessment. Normally we would refrain from further comment at this stage so as not to prejudice the consideration of a bat licence by our wildlife licensing colleagues.

Having considered the ecological reports and independent assessment, and taking into account the mitigation proposed and secured by conditions as described, we concur with your opinion that the development is licensable. With the proven presence of light averse bat species, it is important that the proposed bat mitigation and habitat features are not lit. The lighting plan and landscape scheme to be conditioned, should be designed to achieve this.

We concur that the bat house must be available for bat occupation prior to demolition. Had this been a significant maternity or hibernation roost then we may have considered it necessary for evidence of relocation of bats before demolition,

but unless otherwise required through the licensing process, we are satisfied that the protected species aspect of this application has been dealt with satisfactorily.'

The comments from Natural England confirm that the proposed mitigation is acceptable, that the proposal as submitted is likely to be granted a bat licence by Natural England for the works, and that it is only necessary to secure provision of the bat house prior to demolition.

On the basis that Natural England have confirmed the approach outlined in the original report, the application is again recommended for approval as detailed in the attached report to Members.

ORIGINAL REPORT

		Committee Date: 12th February 2019
Budleigh Salterton (EAST BUDLEIGH)	18/1464/FUL	Target Date: 17.08.2018
Applicant:	Mr Leigh Rix	
Location:	The Pound Lower Budleigh	
Proposal:	Demolition of existing barn and construction of a single dwelling	

RECOMMENDATION:

- 1. That the Habitat Regulations Appropriate Assessment within the Committee Report be adopted; and**
- 2. That the application be APPROVED with conditions**

EXECUTIVE SUMMARY

This application is before committee as the recommendation from the planning officer differs from that of the Ward Members.

Policies from both the East Devon Local Plan 2013 – 2031 and the East Budleigh with Bickton Neighbourhood Plan have been assessed.

Residential Development is considered acceptable in principle within Built-up Area Boundaries subject to policy within the Local Plan and Neighbourhood Plan.

The application is a revised submission of 17/2282/FUL that was withdrawn. The current application seeks to address previous concerns over the developments impact to local wildlife and upon the amenity of the adjoining property of Pound House. The application has altered the footprint of the build to ensure sufficient relief from the adjoining property is provided. The overall ridge height has been reduced to no higher than the existing barn. Therefore, from an amenity point of view, the proposal is considered acceptable.

The site is considered to be sufficiently screened by the existing boundary treatment which consists of fencing and mature vegetation. Due to the sites levels the dwelling would be cut into the site. This in addition to the scale, form and bulk of the build, to a similar level to that of the existing barn, results in a visual impact that is considered to be minimal. The proposed materials consist of local stone, timber cladding and natural slate, all considered acceptable to the sites rural

setting. Access to the site is provided by a track over a listed green space within the recently adopted East Budleigh Neighbourhood Plan. This small green space already has an informal track that is used to access the barn, albeit infrequently. It is considered that the installation of a no-dig access road over existing compacted earth track would not significantly alter the green spaces character or impact upon its use by the general public. Furthermore, it was made clear during the drafting of the East Budleigh and Bicton Neighbourhood Plan that Clinton Devon Estates, who own the land, would continue to have a vehicular right of access over the land. Therefore, overall, there are minimal concerns with regards to the developments visual intrusiveness.

Many third party objectors and local Ward Members have expressed concerns over the developments potential impact upon local wildlife, most notably bats that currently use the existing barn as a roost. The submitted Ecology Report and Mitigation Plan has been reviewed by an independent Ecologist employed by the Council who concluded that the proposed mitigation measures were adequate and in compliance with the National Planning Policy Framework. However it was emphasized that the proposed bat barn should be constructed prior to the demolition of the existing barn to allow for the bats to migrate. Any permission granted shall be conditioned so that the barn is in place and readily available to be used as a roost. Additionally the independent ecologist's comments raised concerns over potential light spill from the dwelling onto the bat barn, and that any light spill should be kept below 1 lux. A lux plan was completed and submitted to the planning authority showing maximum light spill of 0.92 lux. The survey methods and proposed mitigation is also considered to be in compliance with Natural England's Standing Advice and Policy within the East Devon Local Plan. A license for the works from Natural England will also be required.

The development has been reviewed and commented on by the Local Authorities Tree Officer. The Arboricultural Method Statement and accompanying Tree Protection Plan comply to BS5837:2012 and considered to comply with policies D1, D2 and D3 of the Local Plan.

The application has also been reviewed by the County Highways Team who have no objection to the application.

Overall the application is considered to be in accordance with National, Local and Neighbourhood Plan Policy and therefore recommended for approval subject to conditions.

CONSULTATIONS

Local Consultations

Budleigh - Cllr S Hall

This application is causing much concern with the residents of East Budleigh.

Before I consider my position on this I would like to hear of independent sources that state that two bat species affected would almost certainly take up residence in the alternative accommodation mentioned.

Some experts consider that re- housing does not always happen.

The other consideration would be adequate protection for the various trees onsite..

Further comments:

I'm content to agree with the Officer recommendation to approve.
I'm satisfied with the mitigation solutions that have been proposed.

Budleigh - Cllr A Dent

Good afternoon,

Having studied the papers and comments for this application it seems there are very few material grounds for objection. That said, I would need to be convinced that that mitigation plans for protecting the local bat species are going to be effective.

There is some loss of green space and the possibility of light loss to the neighbour. The site is within the Built Up Area Boundary of the Village and it is not in a conservation area.

Along with the Parish Council I believe this is a finely balanced application where the benefit of removing a dilapidated barn to provide sustainable accommodation just outweighs the potential harm to the environment and the wildlife. Therefore it has my support.

Budleigh - Cllr T Wright

I have again considered this application and register my formal objection as I have not been satisfied that the plans afford effective protection to safeguard the future of the bats.

Parish/Town Council

At last night's meeting, the pc approved the planning application by 6 to 4 in favour. However there are very strong objections from residents and various local organisations i.e. The Otter Valley Association and Natural England, which we feel must be seriously considered.

HARM TO LOCAL GREEN SPACE - laying down of an aggregate driveway through the Pound with frequent domestic use. The driveway suggested would have to be driven into the ground which will result in damage to tree roots. Crowning, pruning, service trench digging and the effect of heavy machinery will severely affect the health of protected trees. The Pound is designated as of Historical importance and free for the use of residents and visitors and historical documents support this.

One of the main objections is the untold harm to wildlife particularly the endangered long-eared bats which roost in the barn. These are a protected species and the removal of them to the purpose-built bat house in the grounds of the proposed newbuild would not guarantee their preservation or indeed that they would use this new accommodation. Residents have extensively researched the probable effect on the bats and adjacent rare wildlife which form part of a necessary food chain. Concern for the bats has been validated by experts (Natural England) who agree with the objections.

The adjacent house Pound Place will be affected by this overbearing new structure which will not be in keeping with local housing.

A point of concern is that the person who wrote the supporting reports for Clinton Devon Estates informed residents that they could not write to Natural England with objections until the building plans had been passed, which seems a very contentious remark to make.

Objections have been received in the form of emails and a village petition with nearly a hundred signatures.

Further comments:

Objections - Application Reference 18/1464/FUL

The Council reviewed extra information relating to the above Application, specifically:-

* The Consultation Response to EDDC by Encompass Ecology Ltd dated 18th October 2018

* The Second Report by Richard Green Ecology (October 2018 v 1.1)

* The Letter of Representation from the East Budleigh Parish Wildlife Protection and Conservation Group (EBPWPCG) dated 17th September 2018.

The Council's views can be summarised as follows:-

The Issue of Bats

1. Councillors agreed with Encompass Ecology and Richard Green Ecology that the bat barn must be built before the destruction of the existing barn. In this regard the Council believed (a) it is important that a Schedule of Works be submitted to the EDDC to explain how the perceived difficulties with this work could be overcome and (b) it will be essential to allow a suitable period - 1 year was suggested by some parishioners - between the construction of the new barn and the destruction of the existing barn to allow migration of bats from the existing roost to the new barn.

2. Councillors agreed with Encompass Ecology that (a) lighting may be an issue, (b) that no lighting should be positioned on the bat barn and (c) that the light spill on the barn should be quantified and should be no more than 0.5 - 1.0 lux as measured at the new bat barn and "flight corridor" of the bats on a moonless night. The Council were of the opinion that a lighting lux plan, as proposed by Encompass Ecology, should be made public.

3. Councillors noted that the Report from Richard Green Ecology acknowledges that rare bats roost in the existing barn. (Details are given in the EBPWPCG Letter). Also Councillors noted that Natural England has yet to issue a licence for this development. Councillors believed that, prior to the grant of a licence, Natural England should conduct a survey of the species of bat present in the existing barn given to the rarity of some species. Councillors agreed with Encompass Ecology that it is regrettable that such a survey is not available.

4. Councillors noted that EDDC will be mindful of the Habitats Directive Article 12.1 and Conservation and Habitat and Species Regulation 2010 (as amended) when considering this Application.

Other Issues

The Driveway Councillors concluded that the proposed driveway would replace an existing driveway and hence would not create an issue, provided appropriate care was taken not to disturb the roots of the adjacent trees.

Dormice

Councillors were appraised that scrub had already been cleared from around the site which may have disturbed dormice in the vicinity.

Conclusion and Recommendation

Councillors present at this Planning Meeting understood that they did not have the authority to change the Parish Council's previous decision (i.e. no objection) on this Application. However an informal show of hands at the Planning Meeting showed that the majority of Councillors objected to the Application, in part because of the new information received. The clerk will contact EDDC to verify the position regarding a change of Minuted decisions within the 6 month regulation period.

Disease management

Confirming the cause of symptoms of bleeding canker on horse chestnut is critical to any recommendations about effective control measures. Surveys are also recommended to assess the number and condition of affected trees.

There is no chemical treatment currently registered or approved for use in the UK to cure or arrest the development of bleeding canker caused by *Pseudomonas syringae* pv *aesculi*:

- If cankering lesions become extensive the entire trunk may be girdled and the tree will inevitably die and have to be removed.

- Consider removing major branches that are infected and show dieback. Recently-dead branches of horse chestnut may be susceptible to sudden fracture and drop as the wood dries out.

- Trees with bleeding cankers on the trunk can still have healthy-looking crowns and may not pose an immediate safety risk.

- Some trees may survive for many years as disease progression can be very slow or even show signs of recovery (vigorous callus development at the margins of cankers when bark has been killed by the disease).

- Removing affected trees can be unnecessary. Significant numbers of trees do recover.

Technical Consultations

EDDC Trees

The proposed scheme and supporting arboricultural report demonstrate a reasonable approach to developing this site with respect of BS5837:2012. Thus the scheme is considered to accord with our adopted local planning policies D1, D2 and D3.

The arboricultural report makes reference to the removal of the Horse chestnut (T1) which requires removal based on its impaired condition. This has been undertaken under planning permission 17/1377/TRE. As a condition of this planning permission a new tree should have been planted. This has not yet been undertaken. I would like to see the location and species of the tree included within the arboricultural report and confirmation as to when this tree is going to be planted.

Should the application be approved I would suggest it is carried out in accordance with the draft conditions below:

Tree Protection - Approved Tree Protection Plan(TPP) and Arboricultural Method Statement(AMS)

Prior to the commencement of the development hereby approved (including demolition and all preparatory work), the following tree protection measures as identified in the

submitted Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) dated 29th day of August 2018 will have been completed:

- a) The tree protection fencing and / or ground protection shall be in place and in accordance with the agreed specification.
- b) The installed tree protection will have been inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.
- c) The findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.

During the development hereby approved, the following tree protections measures identified in the above AMS and TPP will be undertaken:

- d) The AMS and TPP dated 29th day August 2018 shall be strictly followed.
- e) Ad-hock monthly site inspections shall be undertaken by a suitably qualified tree specialist and the finding recorded in the site monitoring log.
- d) Any departures from the approved TPP and AMS shall be reported to the Local Planning Authority in writing within five working days of the site inspection.
- e) All excavation within the Root Protection Areas (RPA) of retained trees shall be undertaken under arboricultural supervision as detailed in paragraphs 7.4 and 7.6 of the arboricultural report and the observations recorded within the site monitoring log. Root pruning that may be required, shall be undertaken in accordance BS 5837:2012 Trees in Relation to Trees in relation to design, demolition and construction - Recommendations Paragraph 7.2.

On completion of the development hereby approved:

- f) A completed site monitoring log shall be submitted to the Planning Authority for approval and final discharge of the tree protection condition.

Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2016 and pursuant to section 197 of the Town and Country Planning Act 1990

Informative:

The following British Standards should be referred to:

- a) BS: 3998:2010 Tree work - Recommendations
- b) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations

Pre-commencement Meeting

Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority (LPA) to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

Reason: Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2016.

Arboricultural Site Monitoring

The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in condition (INSERT CONDITION NUMBER) shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.

Reason: In order to ensure compliance with the tree protection and arboricultural supervision details submitted under condition (insert condition(s)) pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2016.

Natural England

Thank you for consulting Natural England regarding planning application 18/1464/FUL 'Demolition of barn and construction of single dwelling (AMENDED PLANS). The Pound, Lower Budleigh, East Budleigh'.

In your email dated 31st October 2018, you request that Natural England provides advice on European Protected Species.

Natural England has published Standing Advice on protected species. Standing Advice is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

You should apply our Standing Advice to this application and having done so, if you require further advice on European Protected Species, please could you:

- o Indicate which European Protected Species you require advice on.
- o Outline which specific section of the standing advice you are having difficulty in applying in relation to this application.
- o Set out what you require assistance with in the form of specific questions and include the case history.

Once you have gathered together this information please contact us at: consultations@naturalengland.org.uk.

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE (in line with the South East Devon European Sites Mitigation Strategy (SEDESMS) and the Joint Approach of your authority)

DESIGNATED SITES - NO OBJECTION SUBJECT TO SECURING MITIGATION

Habitats Regulations Assessment - Recreational Impacts on European Sites

This development falls within the 'zone of influence' for the East Devon Pebblebed Heaths SAC East Devon Heaths SPA and Exe Estuary SPA as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect' upon the interest features of the

SAC/SPA, when considered in combination, through increased recreational pressure. In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to avoid such an effect occurring and enable you to reach a conclusion of "no likely significant effect". You should not grant permission until such time as this mitigation has been secured.

Providing appropriate mitigation is secured to avoid impacts upon the European site occurring there should be no additional impacts upon the SSSI interest features of East Devon Pebbled Heaths

Protected Landscapes - East Devon AONB

The proposed development is for a site within or close to a nationally designated landscape namely East Devon AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The

policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 115 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed

development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

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

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

ANNEX A

Natural England offers the following additional advice:

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.

Environmental enhancement

Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 9, 109 and 152 of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 118 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.

- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.

Planning application 18/1464/FUL 'Demolition of existing barn and construction of a single dwelling. The Pound Lower Budleigh East Budleigh'.

Natural England has been contacted by a member of the public who has raised concerns for the impact that the above-mentioned planning proposal will have on protected species (namely 5 species of bat including both horseshoe species and grey long-eared bats).

In determining a planning application, it is the responsibility of the Local Planning Authority, to ensure that protected species issues are fully considered and that ecological surveys have been carried out where appropriate. Natural England has issued Standing Advice to assist Local Planning Authorities and developers in deciding whether there is a reasonable likelihood of protected species being present on a proposed development site. It provides detailed advice on those protected species most often affected by development to enable an assessment to be made of the suitability of a protected species survey and, where appropriate, a mitigation strategy to protect the species affected by the development.

Natural England recommends that the planning authority seek advice from their own in-house or the County Ecologist for advice in relation to this matter.

For information, grey long-eared bats, with only a small number of roosts in Devon, are a key species within the Back from the Brink project: <https://naturebftb.co.uk/the-projects/grey-long-eared-bat/>.

Other Representations

11 third party comments were made objecting to the proposed scheme due to concerns over the following;

Impacts upon wildlife, particularly rare bats within the existing building

Loss of light

Visual impact

Detrimental impact upon neighbouring amenity

Contrary to Neighbourhood Plan

PLANNING HISTORY

Application 18/2282/FUL – Demolition of existing barn and construction of single dwelling – Withdrawn.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

D3 (Trees and Development Sites)

Strategy 6 (Development within Built-up Area Boundaries)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

East Budleigh with Bicton Neighbourhood Plan

Policy N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character)

Policy B2 (General Design Principles)

Policy B3 (Previously Developed Land)

Policy D1 (Built-up Area Boundary of East Budleigh Village)

National Planning Policy Framework

National Planning practice Guidance

Site Location and Description

The site in question is located on the southern edge of East Budleigh. 'The Pound' lies within the Built up Area Boundary of the village and is situated within the East Devon Area of Outstanding Natural Beauty. The existing barn is a mixture of cob and blockwork with a corrugated iron roof. The access to the site is provided via an existing track across 'The Pound', an open space characterised by mature trees, grassland and a park bench. The site displays the transition from the built environment into the open countryside.

Proposed Development

The application seeks permission to remove the barn and construct a two storey residential property. After a previous application, under reference 17/2282/FUL, was withdrawn, this revised application has sought to address previous concerns over the developments impact to the amenity enjoyed by Pound House and to local wildlife.

ANALYSIS

The key issues for consideration as part of this application are the principle of development, impact upon neighbouring amenity, visual impact, impact upon wildlife, impact upon trees and highway safety.

Principle of Development

The site is within the built-up area boundary of East Budleigh as defined by the Adopted East Devon Local Plan and Villages Plan. The spatial strategy for development is focused around the seven main towns and larger villages with a built up area boundary, as described by Strategy 27, will form focal points for development.

Strategy 6 of the Local Plan sets out criteria against which development within built up areas can be assessed. Therefore residential development, whilst acceptable in principle, is subject to detailed considerations that will be assessed below.

Impact on Neighbouring Amenity

Whilst some third party comments have opposed the application with regards to loss of amenity to Pound House, the revised design has significantly reduced the footprint of the previously proposed build and reduced the overall ridge height to be in line with that of the existing barn. The North West elevation has been pulled further away from the northern boundary as not to detrimentally impact upon the amenity of Pound

House through overbearing effect. The proposed building would be situated, at its closest point, 12.6 metres away from Pound House. The mono-pitch roof slopes from north to south and therefore the impact of the north east elevation is further softened. The dwellings north east elevation does not propose any windows at first floor level, instead light will be provided through the instillation of rooflights that would be positioned at least 2.26 metres above first floor level.

These particular changes have ensured that the proposed dwelling would not significantly impact the amenity of adjoining neighbours anymore than the existing building.

Visual Impact

During the assessment of the previous application (17/2282/FUL) concerns were raised over the developments visibility due to the dwellings size, particularly the overall height, and the resulting impact upon the surrounding rural character of the area. It was considered that the previous scheme would have been prominent from public viewpoints at Lower Budleigh Road. However the changes under this application ensure that the build would be largely screened by the surrounding mature trees to the west and from the built environment to the north and east. Due to the sites levels the dwelling would be cut into the site further mitigating the developments wider visual impact. This, in addition to the scale, form and bulk of the build, with a similar ridge height to that of the existing barn, results in the visual impact of the build being acceptable.

The proposed materials consist of local stone, timber cladding and natural slate, all considered acceptable to the builds rural setting. Whilst the site is located on the fringe of East Budleigh and inherently rural in character, the new dwelling would be largely screened and silent within the townscape due to the sites topography, mature hedge growth and being set within the context of other residential properties along Lower Budleigh Road.

Access to the site is provided by a track over 'The Pound', a listed green space within the recently adopted East Budleigh Neighbourhood Plan. Policy N2 of East Budleigh with Bicton Neighbourhood Plan states that 'Development within Local Green Space is ruled out other than in very special circumstances. Third party comments expressing concerns over the developments impact upon the open character of this space are acknowledged. This small green space already has an informal track that is used to access the barn, albeit infrequently. It is considered that the instillation of a no-dig access road over existing compacted earth track would not significantly alter the green spaces character or impact upon its use by the general public. Furthermore, it was made clear during the drafting of the East Budleigh and Bicton Neighbourhood Plan that Clinton Devon Estates, who own the land, would continue to have a vehicular right of access over the land for the purposes of serving the adjoining Pound Barn. The proposed 3D cellular porous access road ensures that the existing Horse Chestnuts health would not be jeopardised. The laying of a no dig track may have a degree of impact to the rural character of The Pound however this is not considered significant enough to warrant refusal.

Ecological Impacts

Policy EN5 (Wildlife Habitats and Features), of the East Devon Local Plan, aims to ensure that where development is permitted on sites of high biological value that appropriate mitigation measures are undertaken. This will require the development to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required.

The submitted ecological appraisal and many third party comments have documented various protected species that inhabit the site. In particular the Ecological Survey has identified the presence of lesser horseshoe, greater horseshoe, brown long-eared, grey long-eared and natterer's Bats. These protected species are considered to be using the existing barn as a roost. The proposals include the provision of a bat barn that has been specifically designed to cater for the bats that currently roost in the barn to be in compliance with Regulations 53(9)(b) of the Conservation of Habitats and Species Regulations 2010 (as amended). The bat roost is positioned as close as reasonably possible to the roost that will be lost and includes features that are adapted to accommodate for specific species identified within the Ecology Report conducted by Richard Green Ecology. The bat barn will have a cooler ground floor and a warmer loft for long-eared and horseshoe bats. Crevices will also be provided in the loft and ground floor for crevice dwelling bats such as Natterers and pipistrelles. The existing barn is currently being used as a roost and therefore any permission granted would be conditioned to provide the bat barn prior to the barns demolition and retained in perpetuity. Bat barns that are found being used by bats are protected by the Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations (2017).

The submitted Ecology Survey also states how the development should mitigate against adverse impacts to other species. Any permission given shall be conditioned to adhere to the recommendations within the submitted Ecology Survey and Mitigation Plan. It is recommended that bird nesting sites be provided and that scrub is carefully removed during the winter months in case of hibernating dormice. There is an existing badger sett in the south east corner of the site. The ecology survey acknowledges that it is highly likely the sett would be disturbed during the construction of the dwelling. Therefore it is proposed that a new sett be created within the field to the south also owned by Clinton Devon Estates. Due to the new sett being proposed out of the site, this information shall be conditioned to be provided prior to commencement of development.

The proposed mitigation measures submitted within the Ecological Mitigation Plan and survey methods within the ecological report are considered to be in compliance with Natural England's Standing Advice. Furthermore the Local Authority consulted with an independent ecologist to assess the Ecology Report and proposed Ecological Mitigation Plan. The report, provided by Encompass Ecology, states that the mitigation provided is sufficient to compensate for the loss of a non-maternal roost. Additionally the remaining proposed mitigation methods are thought to be acceptable.

In accordance with the councils appointed ecologists recommendations, a request was made for a Lux Plan to be submitted to show that the light spill from the dwelling would be no more than 1 lux during a moonless night so as not to disrupt the bats flight paths. The requested survey was submitted communicating that light spill on the bat barn would be no more than the parameters stated (0.92 lux).

In addition to providing the mitigations measures that can be secured through any planning permission, before work is commenced the developer is legally required to obtain a licence from Natural England for the works.

Third party comments raising concerns over the developments impact on the sites wildlife habitats are noted. It is clear that many residents and the local Ward Members value The Pound and the role the site plays in accommodating a diverse range of wildlife. However taking into consideration the extensive Ecology Report and Ecological Mitigation Strategy submitted by the applicant alongside comments made from Encompass Ecology, with reference to Natural England's standing advice, it is concluded that the development is in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan and Policy N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character) of the Bickton and East Budleigh Neighbourhood Plan.

Impact on Trees

The Pound, located west of the site in question, has many Horse Chestnuts and an oak tree that form part of this green spaces rural character. Third party comments have raised concerns over the developments impact upon these trees. The proposed access track that runs across the green space is proposed to be a no-dig construction to prevent encroaching upon the trees root protection area. In addition to this, Tree Protection Details have been submitted to ensure exclusion zones are adhered to during construction. The Tree Officer considers the submitted tree survey, arboriculture method statement and tree protection details are acceptable. Any planning permission would be conditioned to adhere to recommendations set out within the submitted Arboriculture Method Statement.

Impact of the Proposal on Highway Safety.

The proposal would result in the formalisation of the existing access across The Pound, which would then egress onto a minor public road. Traffic movement on this road appears to be light and would, generally speaking, be slowly moving. Therefore, given the likely small amount of vehicle movements which would result from the proposed dwelling, it is considered that the proposal would not result in any highway related concerns. The County Highway Officer has not raised any concerns regarding this application.

Habitat Regulation Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths, Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas

will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Conclusion

Overall the proposal is considered acceptable in principle and represents development that takes into consideration all the site constraints. Third party comments and Ward Member comments have highlighted concerns over the developments impact upon the biodiversity of the site. Whilst the comments are noted, it is concluded that the proposed mitigation plan reduces the negative impacts of the development and provides adequate compensatory habitats for those species impacted.

The application is not thought to be detrimental to the adjoining amenity of Pound House. The proposed scale, orientation and fenestration is thought to have little to no impact upon the amenity enjoyed by Pound House through overlooking or overbearing impact.

The design and layout of the dwelling would not be harmful to the local areas rural character. The site is largely screened by the existing boundary therefore resulting in the buildings visual impact being limited. It is appreciated that the proposed access track would have a degree of impact on the character of the current designated Local Green Space. However the track will ensure the long term survivability of the nearby chestnut trees and is also an operation that could be carried out under permitted development rights as stated within the General Permitted Development Order.

Therefore taking the above into account it is concluded that the development is in compliance with the East Devon Local Plan and the Bicton and East Budleigh Neighbourhood Plan. Therefore the application is recommended for approval subject to conditions that are listed below.

RECOMMENDATION

- 1. That the Habitat Regulations Appropriate Assessment within the Committee Report be adopted; and**
- 2. That the application be APPROVED with conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no gates, fences, walls or other means of enclosure shall be erected within the curtilage of the dwellings hereby permitted, other than any approved as part of the landscaping scheme, without the prior express consent of the Local Planning Authority.
(Reason - To retain the open character of the area in accordance with policies D1 (Design and Local Distinctiveness) and EN1 (Developments Affecting Areas of Outstanding Natural Beauty) of the East Devon Local Plan.)
4. Development shall be carried out in accordance with the recommendations and mitigation measures in the Protected Species Survey and Ecological Mitigation Plan prepared by Richard Green Ecology dated June 2018.
(Reason - In the interests of wildlife protection in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan) and Policy N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character) of the East Budleigh and Bicton Neighbourhood Plan.)
5. Prior to the demolition of the existing barn the proposed bat barn shall be constructed in full and retained in perpetuity.
(Reason: To allow the bats roosting in the existing barn to relocate to the bat barn thus retaining the nature conservation value of the site and to ensure the development is in compliance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.)
6. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), the following tree protection measures as identified in the submitted Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) dated 29th day of August 2018 will have been completed:
 - a) The tree protection fencing and / or ground protection shall be in place and in accordance with the agreed specification.
 - b) The installed tree protection will have been inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.
 - c) The findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.

During the development hereby approved, the following tree protections measures identified in the above AMS and TPP will be undertaken:

- d) The AMS and TPP dated 29th day August 2018 shall be strictly followed.
- e) Ad-hock monthly site inspections shall be undertaken by a suitably qualified tree specialist and the finding recorded in the site monitoring log.
- d) Any departures from the approved TPP and AMS shall be reported to the Local Planning Authority in writing within five working days of the site inspection.
- e) All excavation within the Root Protection Areas (RPA) of retained trees shall be undertaken under arboricultural supervision as detailed in paragraphs 7.4 and 7.6 of the arboricultural report and the observations recorded within the site monitoring log. Root pruning that may be required, shall be undertaken in accordance BS 5837:2012 Trees in Relation to Trees in relation to design, demolition and construction - Recommendations Paragraph 7.2.

On completion of the development hereby approved:

- f) A completed site monitoring log shall be submitted to the Planning Authority for approval and final discharge of the tree protection condition.

(Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2016 and pursuant to section 197 of the Town and Country Planning Act 1990)

- 7. The development shall be carried out in full accordance with the Lux Plan from Hoarelea received 18th December 2018.
(Reason - In the interests of wildlife protection in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan) and Policy N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character) of the East Budleigh and Bicton Neighbourhood Plan.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

18043 L 01.01	Existing Site Plan	22.06.18
18043 L 01.03 A	Proposed Block Plan	22.06.18
18043 L 02.02 A : GROUND	Proposed Floor Plans	22.06.18

18043 L 02.03 A : FIRST	Proposed Floor Plans	22.06.18
18043 L 02.10 C : BAT BARN PLAN+ELEVATI ONS	Proposed Combined Plans	31.10.18
18043 L 02.11 : BAT BARN PLAN+SECTION S	Proposed Combined Plans	22.06.18
18043 L 03.05 A : PROPOSED NW	Sections	22.06.18
18043 L 03.06 A : PROPOSED NE	Sections	22.06.18
18043 L 03.07 A : PROPOSED SE	Sections	22.06.18
18043 L 03.08 A : PROPOSED SW	Sections	22.06.18
18043 L 03.09 A : PROPOSED NW	Sections	22.06.18
18043 L 04.02 A	Proposed Elevation	22.06.18

List of Background Papers

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