

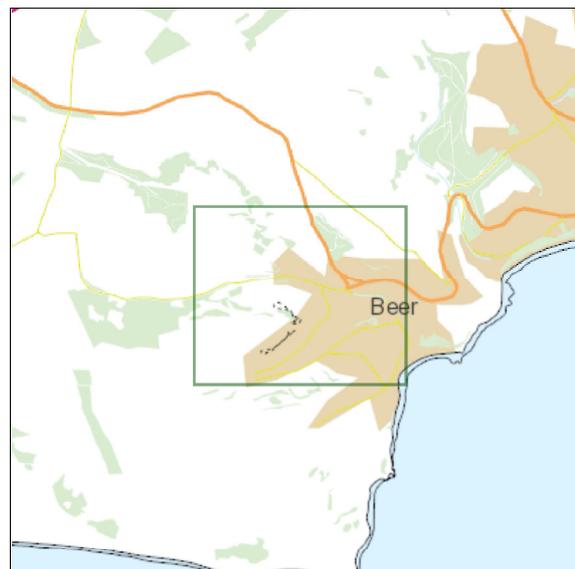
**Ward** Beer And Branscombe

**Reference** 18/1957/MOUT

**Applicant** Clinton Devon Estates

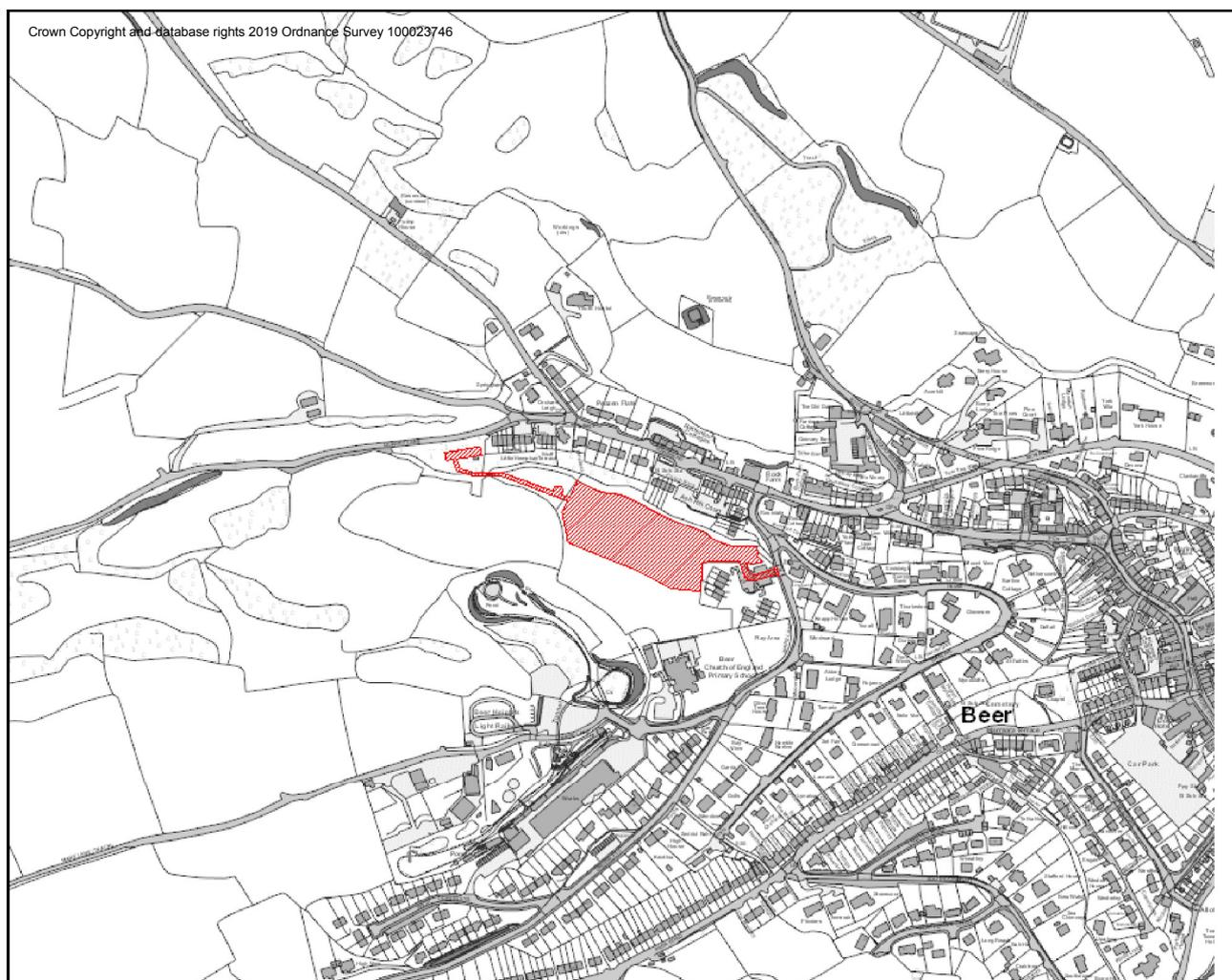
**Location** Land Adjacent Short Furlong Short Furlong Beer

**Proposal** Construction of up to 30 new dwellings (including affordable housing provision) outline application with all matters apart from access reserved



**RECOMMENDATION:**

1. That the Habitat Regulations Appropriate Assessment attached to this Committee report be adopted;
2. That the application be APPROVED subject to conditions and the completion of a Section 106 agreement to secure:
  - a. The provision of 43.3% affordable housing (including the provision of an overage clause and also a commuted sum towards the delivery of affordable housing off-site for any non-whole units as a result of the final number of dwellings on site); and
  - b. The provision of the off-site habitat mitigation measures identified in section 4 of the 'Statement to Inform an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017' (Richard Green Ecology January 2019)



		<b>Committee Date: 30<sup>th</sup> April 2019</b>
<b>Beer And Branscombe (BEER)</b>	<b>18/1957/MOUT</b>	<b>Target Date: 17.12.2018</b>
<b>Applicant:</b>	<b>Clinton Devon Estates</b>	
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**EXECUTIVE SUMMARY**

The application is brought before committee as the application is considered to be a departure from the development plan.

The application seeks outline consent for the development of up to 30 no. dwellings on an undeveloped and steeply sloping agricultural field. The site is located to the west side of the village, within the East Devon Area of Outstanding Natural Beauty and close to several protected habitats, most notably the Beer Quarry Caves Special Area of Conservation. It is mostly (with the exception of surface water drainage infrastructure) within the Built-up Area Boundary of the village as defined in the recently 'made' Beer Neighbourhood Plan. All matters apart from access are reserved, however indicative details of layout and some section details showing how the site might be developed have been provided. These details indicate 2 to 3 storey properties arranged either side of a central

spine road accessed from Mare Lane through the existing Short Furlong development to the southeast.

In terms of planning policy the site lies mostly in an area allocated for residential development in the Beer Neighbourhood Plan. The application proposes delivery of affordable housing at a level of 43.3% and therefore has the potential to provide up to 12 affordable housing units (with the balance between 12 and 13 being secured as a proportionate commuted sum to be used for off-site affordable housing). This has the potential to meet part of Beer's recorded outstanding affordable housing need of 27 units.

Viability information has been provided by the applicant which suggests that 43.3% is the maximum affordable provision that the development could support which was what the District Valuer on the Council's behalf suggested was viable during the previous application which was refused in 2016. The Council's viability consultant is satisfied that this is still the case to date. The provision of affordable housing in a village with a relatively high level of need weighs in favour of the proposal, where the Neighbourhood Plan seeks a level of provision of 50% or a minimum of 40% where viability indicates otherwise.

The Council has conducted a Habitat Regulations Assessment of the proposal and has found that with adequate mitigation the development will maintain the integrity of the Beer Quarry Caves SAC. The proposed access is considered to be suitable to serve the development.

The site's location within the Area of Outstanding Natural Beauty would result in a relatively localised but nonetheless harmful impact on the landscape and the setting of the town that weighs heavily against the proposal. However, the Neighbourhood Plan Steering Group has considered all other available sites, which potentially would have similar effect. The community, both through a public consultation exercise in 2016 and also via the Neighbourhood Plan referendum has selected the site in question as being the preferable one. The development may have some adverse effects on trees but given the heavy amount of habitat mitigation required, which includes substantial new planting both on and off the site, on balance this is considered acceptable.

Whilst concerns in relation to the ability to appropriately deal with surface water drainage relating to the site have been an ongoing issue, Devon County Council in their capacity as highways authority and Lead Local Flood Authority have recently advised that they are now satisfied with the proposals subject to a number of conditions.

In conclusion, the site offers one of the few opportunities to deliver housing for the village, some of which would be affordable, and this benefit must be balanced against the fact that the development strays outside of the allocated area for development and also the landscape harm to the AONB. In carrying out such a balancing exercise it is considered that the benefits from development outweigh the harm.

## **CONSULTATIONS**

### **Local Consultations**

#### **Beer And Branscombe - Cllr G Pook**

I support the above application.

My general comments and specifically those relating to affordable housing submitted in response to the earlier application still hold. I do however note that the affordable percentage is exactly on the NP lower limit of 40% as opposed to the earlier application of 43% and the percentage is based on the number of units (as is normal) and not the number of bedrooms. The affordable units should be the smaller ones as this is the primary demand however one larger affordable house would have been a useful addition to the affordable housing mix available to the village. This application conforms with the emerging Neighbourhood Plan and has the support of the PC.

During the debate on this application concern was raised about loss of parking space available to the existing houses (2 unallocated spaces will be lost to the road access to the new houses). There was also concern that the current footpath to the school used heavily by school children as a safe alternative to Mare Lane will cross the access to the new houses. Could the developer look to include additional parking within the new site for the existing houses and to provide traffic calming and a designated crossing point within the development.

#### **Parish/Town Council**

The Parish Council supports the application with the access as shown on to Mare Lane.

The Parish Council did express concern regarding the safety of pedestrians especially children and requested that appropriate traffic calming measures be installed and a designated crossing space to maintain a safe route to school.

The Parish Council also expressed concern regarding the loss of parking spaces even though they are not designated parking spaces and requested that the developer replaces the informal parking spaces.

Further comments:

Comment Date: Thu 14 Feb 2019

The Parish Council supports this application. Additional reports are noted.

### **Technical Consultations**

#### **EDDC Landscape Architect - Chris Hariades**

This report forms the EDDC's landscape response to the Outline application for development of 30 new dwellings on a green field site at Beer.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

## 2 SCHEME PROPOSALS AND RELEVANT PLANNING POLICY AND GUIDANCE

### 2.1 Site location, context and description of proposals

The site occupies an elevated position on the north western edge of Beer, above and to the south of Quarry Lane and to the west of Short Furlong and falls wholly within the East Devon AONB and close to the edge of the Beer Conservation Area. Access to the site is currently from a field gate adjacent to Short Furlong.

The site comprises permanent pasture surrounded by hedgerow with mature trees. It occupies an elevated position to the side of a combe and is steeply sloping with a north-easterly aspect. Land rises to the south of the site to a wooded ridge-top. Beer primary school is situated to the southwestern boundary with adjoining public open space and the grounds of Beer Light Railway to the southern boundary. A small, recent housing development is situated on the western boundary. A permissive footpath runs immediately along the northern boundary and further housing is situated below this along Quarry Lane. Land to the west is permanent pasture comprising small irregular fields with mature hedgerow boundaries.

There are clear views from the site across the combe to fields and scattered development to the north and over the higher parts of Beer to the northeast. Views to the south and west are largely restricted to the existing field boundaries by landform, tree cover and buildings.

Proposed development comprises erection of 30 homes in a linear arrangement following the site contours with individual plots terraced into the slope. The site is adjacent to, but outside of, the Built Up Area Boundary as defined in the East Devon Villages Plan, adopted 2018. However it is understood that there is an allocation for up to 31 dwellings on the site within the emerging Beer Neighbourhood Plan 2014-31.

The surrounding landform and established tree cover provide a good degree of enclosure for the proposed development from the south and west and restricting development to the lower part of the site ensures that in all views it will be seen below the skyline. Nevertheless the development will be prominent in a number of views from the north and northeast. While these will generally be seen in the context of the existing village settlement the development would appear as a westerly extension of the village envelope in views from New Road and land and dwellings to the north of this.

### 2.2 Relevant national, regional and local landscape related policy

The following landscape policies and guidelines are considered relevant to the application:

National Planning Policy Framework 2018

para. 172. Great weight should be given to conserving and enhancing landscape and scenic beauty in [inter-alia] Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas.

The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

East Devon Local Plan 2013-2031

### Strategy 3 - Sustainable Development

The objective of ensuring sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that [inter-alia] the following issues and their inter-relationships are taken fully into account when considering development:

- a) Conserving and Enhancing the Environment - which includes ensuring development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape.

### Strategy 7 - Development in the Countryside

Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development 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.

### Strategy 46 - Landscape Conservation and Enhancement and AONBs

Development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic

landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty.

Development will only be permitted where it:

1. conserves and enhances the landscape character of the area;
2. does not undermine landscape quality; and
3. is appropriate to the economic, social and well-being of the area.

D1 Proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
3. Do not adversely affect inter alia:
  - Important landscape characteristics, prominent topographical features and important ecological features.
  - Trees worthy of retention.
4. Have due regard for important aspects of detail and quality and should incorporate inter alia:
  - Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO2 reduction.
  - Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.

## Landscaping

21.4 Natural and artificial landscaping can enhance the setting of new buildings and enable them to be assimilated into surroundings. Landscaping can also assist in nature conservation and habitat creation particularly in urban areas.

21.5 Tree planting and retention should form an integral part of a landscaping scheme submitted with a development proposal either initially or at a detailed planning stage. Such a scheme may include ground and shrub cover together with hard surfaces and paving materials, adequate lighting and grass verges. Continuity of fencing, walling or hedging with existing boundary treatments, which contributes to the street scene, will be sought where appropriate. Schemes will need to include integration of areas of nature conservation value and provision of new areas into proposals.

## D2 Landscape Requirements

Landscape schemes should meet all of the following criteria:

1. Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
2. Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat

should be improved and where possible new areas of nature conservation value should be created.

3. Measures to ensure safe and convenient public access for all should be incorporated.

4. Measures to ensure routine maintenance and long term management should be included.

5. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.

6. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

### D3 - Trees and Development Sites

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.

No building, hard surfacing drainage or underground works will be permitted that does not accord with the principles of BS 5837 or Volume 4 National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees - Issue 2 (or the current revision or any replacement) unless, exceptionally, the Council is satisfied that such works can be accommodated without harm to the trees concerned or there are overriding reasons for development to proceed.

The Council will as a condition of any planning permission granted, require details as to how trees, hedges and hedge banks will be protected prior to and during and after construction. The Council will protect existing trees and trees planted in accordance with approved landscaping schemes through the making of Tree Preservation Orders where appropriate or necessary.

Planning permission will be refused for development resulting in the loss or deterioration of ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

## 4 REVIEW OF SUBMITTED INFORMATION

### 4.1 Landscape and visual impact Assessment (LVIA)

The Beer Neighbourhood Plan notes that proposals for development of the Short Furlong site 'should be informed by detailed landscape and visual impact assessment in line with current best practice guidance'. Although a Landscape and Visual Appraisal has been submitted in support of the application, the document does not

follow recognised standard guidance set out in Guidance for Landscape and Visual Impact Assessment Edition 3 published by the Landscape Institute and the Institute of Environmental Management & Assessment, and has a number of shortcomings, including the following:

- Despite its title the assessment does not cover landscape effects of the proposed development and is limited to a visual assessment.
- The consideration of landscape character does not relate the relevant National and Devon Landscape Character Areas and East Devon Landscape Character Types to the site context or consider how the key characteristics, landscape pressures and management guidelines they identify could be impacted by the scheme or inform its design.
- No methodology has been provided showing how the visual effects identified have been assessed and evaluated.
- The assessment fails to identify and assess all visual receptors likely to be impacted by the proposals. This includes private dwellings such as properties at Short Furlong and the Youth Hostel from which there are clear views over the site from the drive, house and terrace. There are also further locations on the public rights of way network in particular Beer Footpath 4 where the site can be seen from as well as the permissive path running along the northern boundary of the site.
- Photographs used in the report do not appear to have been taken in recognised standard format in accordance with Photography and Photomontage in Landscape and Visual Impact Assessment, Landscape Institute Advice note 01/11.
- The description for the view point photograph taken from Beer Light Railway (Section 4.2, viewpoint 1) inaccurately describes an intervening single line of trees as dense woodland, downplaying the visual impact of the development from this location.
- The photographic visualisations are misleading in that they show the scheme with well- developed screen planting. The visualisations should show the scheme as it looks immediately at completion and after 15 years from completion and should be based on photographs taken in winter so as to show a worst case scenario.

In view of the above, the assessment should be considered unsatisfactory and a revised LVIA should be submitted in accordance with the guidance noted above, prepared by a suitably qualified and experienced consultant. Where necessary the design proposals should be amended to reflect any further mitigation measures which the revised LVIA may identify.

#### 4.2 Review of submitted landscape drawings & other supporting information

##### Arboricultural survey

There appears to be an error in the numbering of hedgerow H1. A section of H1 is identified at the eastern end of the site, as per red line on aerial photo below, which is listed in the survey as a young, one metre high hawthorn hedge. A further section of hedgerow at the western end of the site along the line of the connecting drain to the Little Hemphay soakaway, as per purple line on the aerial image, is also labelled H1

on Tree Protection Plan 1 of 2. This is a well-established hedgerow with a number of mature trees and does not fit the arboricultural survey description for H1. This discrepancy should be checked and clarified with details amended as necessary to ensure design proposals and tree protection measures take proper account of the hedgerows.

Ecological survey: No comment

Design and access statement: No comment

#### Layout and landscape proposals

- a) The layout should include for provision of 200m<sup>2</sup> of amenity open space in accordance with EDDC open space standards of new development.
- b) The layout shows the south-westernmost plot being very close to the existing mature hedgerow H3 and the garden area is consequently pinched. Consideration should be given to adjusting the overall layout slightly to provide more space between the dwelling and the hedgerow. As well as gaining more garden for this plot it will help to protect the hedgerow by reducing the likelihood of the occupant trimming it back in order to gain more light.
- c) Proposed hedgebanks should be constructed in accordance with recommended guidance prepared by Devon Hedge Group. Further details can be found at the following link: [http://devonhedges.org/wp-content/uploads/2015/11/8\\_Hedge-Creation-1.pdf](http://devonhedges.org/wp-content/uploads/2015/11/8_Hedge-Creation-1.pdf)
- d) Commentary on page 27 of the Landscape and Visual Appraisal states that Monterey Pines are to be included in screen planting in order to help integrate the development into the wider landscape. Although Monterey Pine is present within the town and coastal plateau, it is not a feature of the application site or its combe setting. Additionally this fast growing and very large tree is also unlikely to be suitable for planting in close proximity to dwellings where its vigour and size may become a nuisance for occupants, who may consequently feel compelled to hard prune or fell trees overhanging their property. Proposed screen planting should be carefully considered in terms of location and species selection in order to reflect local landscape character.
- e) Consideration should be given to dedicating the existing permissive footpath to the northern site boundary as a public footpath to provide permanent access as a planning gain should the application be approved.

#### Drainage proposals

- a) The proposed drainage scheme provides for disposal of surface water on site principally by piping to buried infiltration tanks with two small overflow swales. Further consideration should be given to open systems for dealing with surface water discharge particularly by making the western swale into a pond or wetland feature.
- b) It is not clear where excess water from the proposed infiltration trench to the southern site boundary will discharge to and this should be clarified. Consideration should be given to providing an open ditch discharging to the western swale instead of the infiltration trench proposed to provide biodiversity benefit.

## 5 CONCLUSION AND RECOMMENDATIONS

### 5.1 Acceptability of proposals

It is likely that the proposed scheme will have some adverse impact on the setting of the village and the AONB. Prior to determining the application a satisfactory Landscape and Visual Impact Assessment prepared in line with current guidance should be submitted so that the extent of landscape and visual effects of the development can be properly understood.

Clarification of the description of hedgerow H1 in the arboricultural details as noted at section 4.1 above should also be provided.

If permission is granted, other points raised at section 4.2.1 above should be addressed at detailed design stage to accompany a full planning application.

### 5.2 Landscape conditions

In addition to the points noted at 5.1 above, should outline consent be granted for the proposed development the following details should be submitted as part of a full application:

- a) A full set of hard landscape details covering earthworks, external walls, retaining structures, fencing, pavings and edgings, site furniture and signage.
- b) Details of proposed levels and drainage scheme incorporating appropriate SuDS features.
- c) Details of locations, heights and specifications of external lighting.
- d) Detailed planting plans showing extent of existing trees and hedgerow to be retained and removed and details of proposed tree, shrub and perennial planting and grass and wildflower turfing and seeding.
- e) Specification for soil quality and preparation, tree pits and staking, hedge-banks, planting, turfing and seeding operations, mulching, watering and means of protection during establishment period.
- f) A landscape management plan should be provided covering a 10 year post completion period which should include the following details:
  - Details of ownership and responsibilities for management and maintenance.
  - Details of how the management and maintenance of communal areas/ open space will be funded for the life of the development.
  - Monitoring, management and maintenance arrangements for
    - existing and proposed trees and hedgerows.
    - shrub and perennial planting.
    - grass areas including wildflower areas.
    - enhancement of biodiversity value.

- any boundary structures, drainage swales and other infrastructure/facilities within public areas.

Further comments 22/02/19:

## 1 INTRODUCTION

This report provides an update to EDDC's landscape response in relation to the above application in relation to amended information submitted by the applicant.

## 2 REVIEW OF AMENDED INFORMATION

### 2.1 Landscape and visual impact Assessment (LVIA)

A revised LVIA has been submitted based on industry standard guidance and is generally a fair assessment of the anticipated landscape and visual effects of the development. The assessment acknowledges that the proposals will have a high adverse landscape effect and visual effects for principal receptors ranging from high to low adverse, with views from Long Hill Road and New Road, the youth hostel and properties at Short Furlong being particularly effected. However, the landscape and visual effects are geographically limited to within 300-700m from the site and will be mitigated to some degree by site planning and appropriate native tree and hedgerow planting.

It is also proposed to utilise suitable vernacular materials for building, although these are unspecified and will require agreement at detail design stage should the application be approved.

The assessment considers siting of street lighting within the development to reduce light spill to surrounding areas. Further consideration would also need to be given at detail design stage to the extent and size of any Velux type roof lights within the development and ensuring that all such windows are fitted with blinds.

### 2.2 Layout and landscape details

Minor amendments have been made to the site layout to address earlier landscape comments, in particular the moving of southwestern most unit away from adjacent hedgerow. There is also provision of on-site amenity space although some of this is on sloping ground and confirmation should be provided of the total anticipated useable area to ensure compliance with EDDC standards.

## 3 CONCLUSIONS AND RECOMMENDATIONS

### 3.1 Acceptability of proposals

The proposed scheme will have adverse landscape and visual impact but within a limited geographic area. Proposed mitigation is appropriate and will help to some extent to limit adverse impact, particularly as new planting matures.

Consideration should be given to dedicating the existing permissive footpath to the north of the site boundary, which is understood to be owned by the applicant, as a public footpath to provide permanent access as planning gain should the proposed scheme be recommended for approval.

In the event that approval is recommended, the following conditions should be imposed:

### 3.2 Landscape conditions

1) No development work shall commence on site until the following information has been submitted and approved:

- a) A full set of hard landscape details covering earthworks, hedgebanks, walls, retaining structures, fencing, pavings and edgings, site furniture and signage.
- b) Details of existing and proposed levels and drainage scheme incorporating appropriate SuDS features.
- c) Details of locations, heights and specifications of proposed external lighting.
- d) Samples of proposed building materials and colour pallet for external walls, doors, window and guttering finishes and samples of paving materials to public areas other than tarmac.
- e) A full set of soft landscape details including planting plans showing locations and number of new tree, shrub and herbaceous planting, type and extent of new grass areas, existing vegetation to be retained and removed and means of protection.
- f) Plant schedule indicating form size and density of planting
- g) Specification for soil quality, cultivation, planting/ sowing, mulching and means of plant support and protection during establishment period.
- h) Measures for protection of existing perimeter trees during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

2) In addition, the following standard EDDC landscape conditions should apply:

L01N, Landscaping - full permissions

L02N Landscaping – groundworks

L06N Landscaping - fences and boundaries

L11N Landscaping - landscape management which should include the following details:

Extent, ownership and responsibilities for management and maintenance.

Details of how the management and maintenance of open space will be funded for the life of the development.

Inspection and management arrangements for existing and proposed trees and hedgerows.

Management and maintenance of grass areas.

Management and enhancement of biodiversity value.

Management and maintenance of any boundary structures, drainage swales and other infrastructure/ facilities within public areas.

L15N Landscape condition for full planning permissions (omitting non relevant parts/sections)



- Softening the edges of urban areas to incorporate development into the landscape setting and minimising the impact of lighting and noise to maintain and enhance tranquillity and dark skies.

## **Devon Landscape Character Area Assessment**

### **DCA Name: Sidmouth and Lyme Bay Coastal Plateau**

#### **Brief description of the special qualities, landscape and historic environment character**

This area is made up of a variety of landscape types which together give rise to a distinctive coastal landscape, exposed to salt laden winds and comprising open plateau, dramatic cliff, secretive undercliff, steep wooded combe valleys and river estuary. Here the senses are stimulated by stunning scenery and dramatic landform, lofty remoteness on the plateau tops and contrasting dark secretive inaccessible undercliff and intimate picturesque settled combes. Both the plateau top and estuaries have a strong horizontal emphasis and a sense of space and air while from the cliff tops there are distinctive views out to sea and also along the cliffs. In parts the distinctive coastal cliffs are of chalk and limestone and are unique in a Devon context while to the west the cliffs are red sandstone.

#### **Key management guidelines relevant to this site**

- Protect the historic character of the combe villages and their settings, ensuring limited new development or property extensions that incorporate local buildings styles (whilst seeking to incorporate sustainable and low carbon construction and design).
- Protect the villages' contained form, resisting linear spread or coalescence.

## **East Devon and Blackdown Hills AONBs and East Devon District Landscape Character Area Assessment (2008 version currently being updated)**

### **LCT No: 2B**

### **LCT Name: Coastal slopes and combes**

#### **Brief description of the special qualities, landscape and historic environment character**

Individual small coastal areas of generally wooded slopes and branching valley systems. Many valleys are narrow and steep, with well wooded upper slopes and remnant orchards, and have an intimate, tranquil and enclosed character. Other valleys are more gently sloping and have an open scrubby downland character, especially along their upper boundaries. Land cover is a mix of unenclosed woodland and small to medium irregular fields, mainly in pastoral cultivation and with much wet pasture. This gives way to scrub along the upper edge of the adjoining cliffs. There is little settlement on the steeper slopes, but within the wider combes historic settlements often occur as a series of hamlets, occasionally with a strong tourism influence where there is reasonable vehicular access. The road network is generally narrow and winding, with very little vehicle access to the coast. Steep paths down to beaches and

the South West Coast Path provide extensive rights of way for pedestrians and access to the high, open and exhilarating top slopes with their extensive coastal views.

### **Key Characteristics**

- Narrow, steep valleys or more open shallow systems
- Coastal influence in exposure, vegetation and extensive views
- Mix of unenclosed woodland, especially along watercourses, and small to medium irregular fields
- Mainly pasture, with wet pasture and scrub
- Earth banks
- Old settlements in combes, with stone as dominant building material
- Narrow winding roads and limited vehicle access to coast
- Extensive coastal rights of way with steep paths down to beaches
- High, open and exhilarating on top slopes, grading to intimate and enclosed in lower valley
- Remnant orchards

### **Key management guidelines relevant to this site**

#### **Settlement and development: conserve by**

- Maintaining the inherent pattern of sparse settlement.

#### **Boundaries: conserve and enhance by**

- Encouraging management that maintains the characteristic earth banks, often with mature tree rows on top.
- Encouraging management and restoration of historic field boundaries.

### **Comments**

NPPF 172 states that 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development<sup>55</sup> other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.

Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'

*Footnote 55. For the purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.*

Given the above, the local planning authority, as the 'decision maker' should evaluate, undertake and record an assessment for this development which will determine, given the AONB designation, the scale of development relative to the village and the intimate nature of this landscape type as defined in the landscape character assessment, if the proposed development is deemed or not deemed to be major development. In doing so it demonstrate it is having due regard to the purposes of AONB designation under Section 85 CROW Act 2000 and the requirements of NPPF 172.

We can see from the supporting documentation and images the proposed development will visually impact on the setting of the village at this location. Given the inherent pattern of sparse settlement in this character type and the intimate nature of the coombes, extending development beyond the town boundary will require a very sensitive approach if it is not to be regarded as creating negative impact and unacceptable development in the AONB.

Modelled viewpoints 10a and 11a in the LVA document demonstrate this potential impact well and underscore how important the built form material and landscape considerations need to be in this location. The indicative stylised trees, of Lombardy/poplar shape, are strikingly incongruous to the landscape character backdrop. Moreover, the indicative roof colour and scale of building exposure give concern over the character impact from these views, however limited. SEO4 of the Blackdown NCA states 'Softening the edges of urban areas to incorporate development into the landscape setting and minimising the impact of lighting and noise to maintain and enhance tranquillity and dark skies.'

The development approach should therefore recognise land form, the characteristic vegetation, earth banks, hedges and the built form of stone-built houses in Beer; a key characteristic of the landscape type and reflected in the adjacent Conservation area bordering the location to the north. It should also, for example, control the potential for post development alterations should approval be given which may alter the character of individual properties within the site over time including the proposed landscaping; in particular trees, for example through TPOs.

Given the site proximity to Beer Quarry Cave SAC, the type and operation of street and property lighting will be important. We note the proposed integration of bats boxes in buildings and welcome these, in addition to the good husbandry and enhancement of the mature hedgerows to the site.

We are unclear what function/role/purpose the thin red line and rectangular box to the north west of the site plays. Is this to form some potential alternative access, given the current concerns associated with using the Short Furlong access point? Or is it pedestrian access? Given the proximity to the nearby primary school, safe access

provision for families/children should be integral to the design of any development in this location.

It is expected that the proposal will provide much needed affordable housing that will accord with the required Policy in the EDDC Local Plan and Beer Neighbourhood Plan and not result in the provision of further second homes, vacant for many weeks/month each year. The AONB welcomes measures to support appropriately designed and landscaped affordable housing for local communities to live and work in their area.

### **East Devon AONB Management Strategy 2014-19 Policy Reference(s)**

**P2** - Provide advice and support on planning policy and development to enable the special qualities of the AONB to be protected, conserved and enhanced.

### **Further Information**

1. East Devon and Blackdown Hills AONBs and East Devon District Landscape Character Assessment & Management Guidelines (2008)
2. Devon Landscape Character Assessment ([www.devon.gov.uk/landscapecharacter](http://www.devon.gov.uk/landscapecharacter))
3. Natural England NCA profiles (Devon Redlands and Blackdowns)
4. East Devon AONB Management Strategy (2014)

Further comments 21/02/2019:

I will leave the HRA comments to Natural England but recognise the proposed off site landscaping measures will help to support the Site Improvement Plan objectives for Beer Quarry Caves SSSI/SAC. However, it will be critical that any woodland and particularly any hedgerow tree planting is very closely monitored to ensure establishment is successful and growth maintained. It is inherently challenging to successfully plant and grow-on trees in existing long established hedgerows.

Our previous comments related to the impact on the AONB in particular, when viewed from viewpoints 10 and 11. These comments remain relevant as does our reference to maintaining a vernacular form in the building materials which would enhance their integration further, in particular with the adjacent conservation area. We would recommend particular attention is paid to consideration of the use of local stone on those buildings giving the greatest impact from these viewpoints should this application proceed.

The image used in Appendix B does reflect a different impact when fenestration, cladding etc. is included. It gives an impression of a somewhat lessened impact and underscores the comment above regarding the impact a more sympathetic and vernacular built form would have in this highly visible location. However, we do query the landscaping graphics used. They appear to be greener in tone than those used in the more simplified examples in Figs 20-24 and possibly more extensive. It would be helpful to clarify if this is just digital variation on my part.

We reiterate that the AONB Partnership welcomes measures to support appropriately designed and landscaped affordable housing for local communities to live and work in their area.

## EDDC Trees

I have no major issues with the supplied information on tree grounds, the only one is the proximity of the two houses to TG4 in the northwest corner. Particularly the northern one, this is clearly shown in the RPA/canopy of the retained tree. During the occupancy of the two dwellings this tree will grow and cause conflict to it appearing over bearing to the houses and gardens which will put considerable pressure on the removal of the tree. Consideration should be given to creating an open area here rather than residential.

Further comments 01 Feb 2019:

The new supplied information doesn't remove my previous objections to the two housing plots by tree group TG4 which is against BS5837:2012 and EDDC Local Plan; I am satisfied all other Arboricultural information relating to the rest of the site

## Natural England 9/11/2018

Planning consultation: Construction of up to 30 new dwellings (including affordable housing provision) outline application with all matters apart from access reserved  
Location: Land Adjacent Short Furlong Short Furlong, Beer, Devon

Thank you for your consultation on the above dated 27 September 2018 which was received by Natural England on the same date.

## SUMMARY OF NATURAL ENGLAND'S ADVICE- FURTHER INFORMATION REQUIRED

### Habitats Regulations Assessment

As submitted, the application could have potential significant effects on Beer Quarry and Caves Special Area of Conservation (SAC).

Natural England's advice is that this proposed development, and the application of mitigation measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment (AA) in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017.

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your

Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.

A Bat Mitigation Strategy must be provided and secured at this **outline** stage.

Without this information, Natural England may need to object to the proposal.

Natural England's further advice is set out below.

### **Internationally and nationally designated sites**

The application site is in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Beer Quarry and Caves Special Area of Conservation (SAC) which is a European site important for its population of hibernating bats including greater and lesser horseshoe bats and Bechstein's bat and also notified at a national level as Beer Quarry and Caves Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

Natural England advises that the proposal is unlikely to have a significant effect on the Sidmouth to West Bay SAC and Lyme Bay and Torbay SAC.

### **Further information required**

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA).

In advising your authority on the requirements relating to HRA, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment (AA) stage where significant effects cannot be ruled out.

We advise that the Council use information contained in the Ecological Appraisal submitted with the application and the HRA carried out for the allocation of this housing site in the Beer Neighbourhood Plan to inform their own HRA/AA of the application.

The following matters should be addressed in the HRA/AA.

- Beer Quarry and Caves SAC is important for bat hibernation.
- The development would result in the permanent and irreversible loss of bat foraging habitat.
- The qualifying bat SAC species are known to be light sensitive.
- The impact on the integrity of the Beer Quarry and Caves SAC.

A Bat Mitigation Strategy is recommended in the Ecological Appraisal. However we advise that the framework for this strategy must be provided and secured at this outline stage.

The strategy should include the following features:

- Compensation for the loss of bat foraging habitat;
- Site design to maintain and enhance connectivity of commuting habitats through and surrounding the site;
- Retention of suitable dark corridors;
- A lighting strategy;
- Inclusion of native planting,
- Implementation of long term suitable management of created and maintained habitats and
- Appropriate and proportionate monitoring.

### **Beer Quarry and Caves SSSI**

We advise your authority that provided it has been demonstrated there is no likely significant effect on the Beer Quarry and Caves SAC, the Beer Quarry and Caves SSSI does not represent a constraint in determining this application.

Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

### **Other advice**

In addition, Natural England would advise on the following issues.

### **Protected Landscapes**

The proposed development is for a site within or close to a nationally designated landscape, namely the 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 and that you consult the relevant AONB Partnership or Conservation Board. The policy and statutory framework to guide your decision and the role of local advice are explained in Annex A of this letter.

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

If you have any queries relating to the advice in this letter please contact me at Alison.Slade@naturalengland.org.uk.

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our Discretionary Advice Service.

Please consult us again once the information requested above, has been provided.

## ANNEX A - ADDITIONAL ADVICE

Natural England offers the following additional advice:

### **Landscape**

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. 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).

We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

### **Best and most versatile agricultural land and soils**

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply the requirements of the NPPF. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in Natural England's Technical Information Note 049.

Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for

further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

## **Protected Species**

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a decision checklist which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development.

You should apply our Standing Advice to this application as it 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 may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

## **Local sites and priority habitats and species**

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 113 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. Lists of priority habitats and species can be found here . Natural England does

not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

### **Ancient woodland and veteran trees**

You should consider any impacts on ancient woodland and veteran trees in line with paragraph 118 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forest Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland/veteran trees 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).

### **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 comments 21/2/2019

### **SUMMARY OF NATURAL ENGLAND'S ADVICE- FURTHER INFORMATION REQUIRED**

#### **Habitats Regulations Assessment**

Natural England advises that your authority should not grant planning permission until they have undertaken their own Appropriate Assessment and Natural England have been consulted.

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves SAC.

A Bat Mitigation Strategy must be submitted and secured at this outline stage. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Further information submitted

#### **Statement to Inform an Appropriate Assessment January 2019**

Natural England notes that the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The Statement concludes that the likelihood of significant effects arising from the proposal cannot be ruled out, either alone or in-combination. On the basis of the information provided, and excluding, at this stage, any measures specifically included in the proposal to avoid harmful effects on a European Site, Natural England concurs with this view.

The applicant's appropriate assessment concludes that it is able to ascertain that the proposal will not result in adverse effects on the integrity of Beer Quarry and Caves SAC (the SAC). Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions,

providing that all mitigation measures are appropriately secured in any permission given.

Natural England advises that your authority should not grant planning permission until they have undertaken an Appropriate Assessment, in order to assess the implications of the proposal for the SAC, in view of the site conservation objectives. Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process.

We concur with the Statement that mitigation is essential in order to avoid adverse effects on the integrity of the SAC. We also concur with the principle of off-site enhancement of bat foraging habitat close to the SAC.

#### Bat mitigation strategy

The key principles of the bat mitigation strategy that must be secured in this outline consent are:

Minimise the area of grazed grassland, hedgerows and trees lost;

Hedgerows should be double rows of species-rich native species and managed to be tall and thick. Note that hedgerows and trees will only perform a mitigation function once they have grown up. Therefore we recommend that these are planted at least two years prior to the commencement of development.

Planting locations should maintain and enhance connectivity between the SAC and foraging/commuting habitats.

With this permanent loss of habitat, the mitigation measures will need to be secured 'in-perpetuity'

Monitoring of planting success.

All the bat species are light averse therefore it is vital that there should be no light spill from the houses or street lights onto surrounding vegetation. Note that it is not possible to set an acceptable lux level therefore conditions should not specify lux levels.

The biodiversity mitigation strategy should include more detailed location plans for the proposed woodland planting locations. If this is currently grazed pasture then this is likely to already provide bat foraging habitat. As well as tree planting, pond creation would provide good bat habitat.

We note that the off-site planting locations are currently under countryside stewardship agreements. The detailed locations of the planting will need to be agreed with Natural England as part of the reserved matters application.

Please note that the proposed integral bat boxes in the dwellings are welcomed as a biodiversity enhancement but are not suitable for use by the SAC bat species.

#### Protected Landscapes

Landscape & Visual Appraisal January 2019

We have no additional comments to add to our previous response. We advise referring to the East Devon AONB and the EDDC landscape architect for detailed advice on the LVIA.

Further comments on Appropriate Assessment:

Thank you for your further consultation on the above dated 03 April 2019 which was received by Natural England on the same date.

## **SUMMARY OF NATURAL ENGLAND'S ADVICE- FURTHER INFORMATION REQUIRED**

### **Habitats Regulations Assessment**

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves SAC.

The information submitted to date provides insufficient certainty that appropriate mitigation will be secured and delivered. A revised Bat Mitigation Strategy must be submitted and secured at this **outline** stage.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

### **Appropriate Assessment 3 April 2019**

The Statement concludes that the likelihood of significant effects arising from the proposal (on the SAC) cannot be ruled out, either alone or in-combination. On the basis of the information provided, and excluding, at this stage, any measures specifically included in the proposal to avoid harmful effects on a European Site, Natural England concurs with this view.

We concur with the conclusion of the Appropriate Assessment (AA) that mitigation is essential in order to avoid adverse effects on the integrity of the SAC. We also concur with the principle of off-site enhancement of bat foraging habitat close to the SAC.

However, we advise that in order to agree with your conclusion that "it can be considered beyond reasonable scientific doubt that there would be no impact on the site's integrity" further details of the proposed on and off-site mitigation and details of how the local planning authority will secure this mitigation in-perpetuity must be submitted and included in the AA.

We are not aware that the amendments to the proposed bat mitigation strategy, as requested in our letter dated 11 February 2019, have been made. Confirmation of the following must be added to the mitigation proposals to pass the tests under the Conservation of Habitats and Species Regulations 2017:

- Mitigation measures must be in place and functional ready for the time that development impacts commence. To achieve this, there will need to be advance planting of landscaping bat mitigation features. Therefore we recommend that trees and hedgerows are planted at least **two years prior to the commencement of development**.
- **All** the off-site mitigation areas must be shown within a blue line on application documents to allow these to be secured via a S106/unilateral undertaking or other suitable legal agreement.

- Hedgerows should be **double** rows of species-rich native species and managed to be tall and thick (minimum height and width 3 metres by year 3).
- With permanent loss of habitat, the mitigation measures will need to be secured '**in-perpetuity**'.
- **Monitoring** of tree and hedgerow planting success, replacement of failures and ongoing management in-perpetuity is proposed.

At this outline stage, without an approved development layout, we advise that any requirement for, and the positioning of, screen fencing for bat mitigation purposes should be considered in combination with the detailed lighting and landscaping plans and therefore be submitted as part of Reserved Matters.

On-site mitigation must be secured through soundly worded planning conditions.

Please can the Local Planning Authority advise us which mechanism they propose to use to secure the off-site mitigation? Conditions or suitable legal agreements should include the following to be submitted at Reserved Matters stage:

- Submission of all details set out in the bat mitigation strategy, approved and conditioned at outline stage.
- A detailed lighting strategy to demonstrate no light spill from the houses or street lights onto surrounding vegetation.
- A detailed planting scheme for the mitigation planting, including advance planting ahead of commencement of development.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, *providing* that the above items form part of the mitigation measures and these are appropriately **secured** in any permission given.

Housing Strategy Officer Melissa Wall

This application is for up to 30 dwellings with 43.3% (13 units) as affordable. This site is located outside the built up area boundary defined by the East Devon District Council Villages plan however is included under the Beer Neighbourhood Plan and is allocated in the plan for housing (H3). The Beer Neighbourhood plan is due to go to neighbourhood planning referendum on 8th November 2018, the plan has been before the examiner and modifications recommended by the examiner have been made. In the examiner's final report it states that it has been agreed by all parties to extend the built up area boundary to include the subject site and the examiner agrees with this.

In accordance with Strategy 34 and policy H3 of the proposed Beer Neighbourhood Plan this site should provide 50% (15 units) affordable housing or if subject to viability considerations a minimum of 40% affordable housing. The applicant has submitted a viability assessment which accompanied the previous application for this site in 2016. At that time it was agreed by the district valuer that the site could support the provision of 43.3% affordable housing. The applicant has acknowledged that both house prices and costs will have changed in this time but the likelihood is that it wouldn't change

the overall viability position as the increases would counterbalance each other. They are therefore proposing 43.3% (13 units) as per the original viability assessment and the planning officer will make a decision on whether this assessment is still valid. Strategy 34 states that an overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets.

The masterplan shows an indicative mix of dwelling sizes to include 1 bedroom flats, 2, 3 and 4 bedroom house. A housing needs survey was carried out for Beer parish in July 2018 which identified a need for 21 affordable houses for rent and shared ownership. The identified bedroom need was predominately for smaller units comprising 1 or 2 bedrooms (need of 13) together with 2 bedroom houses (need of 6) and 3 bedroom houses (need of 2). The affordable dwellings should therefore meet the identified need. The tenure of the affordable dwellings should be as per policy with 70% (9 units) for rent and 30% (4) for shared ownership or similar route to home ownership. The housing needs survey supports this although the identified need is more heavily weighted to rented accommodation with 17 requiring rented properties and 4 being able to afford shared ownership.

The affordable units should be available in perpetuity and transferred to and managed by a preferred registered provider. Within Beer there is an established CLT which own and manage affordable housing within the village and we understand that they may be interested in these units. The affordable units should be tenure blind and should all be built to meet M4(2) of Building Regulations, Category 2: accessible and adaptable dwellings. The affordable dwellings should be dispersed throughout the scheme. Nominations for the completed units should come through Devon Home Choice for the rented units and Help to Buy Southwest for the shared ownership (80% restriction on staircasing applies). Future occupants of the affordable units should have a local connection to the parish, cascading to surrounding parishes and finally the district.

### Devon County Archaeologist

I refer to the above application. The proposed development lies in an area of archaeological potential with regard to the known concentration of prehistoric activity in and around Beer itself. While the County Historic Environment Record does not indicate any known archaeological sites within the actual development site there is the potential for groundworks associated with the construction of the new dwellings to expose archaeological and artefactual deposits associated with the known prehistoric activity in the vicinity. While these heritage assets are not of such significance as to warrant preservation in situ, the impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets

and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the District Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

#### Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological supervision of all groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

#### Environment Agency

Comment Date: Wed 20 Feb 2019

We do not have any comment to make apart from the following.

## Flood Risk Standing Advice to LPA

We have produced a series of standard comments for local planning authorities and planning applicants to refer to on 'lower risk' development proposals. These comments replace direct case-by-case consultation with us. This proposal falls within this category.

These standard comments are known as Flood Risk Standing Advice (FRSA). They can be viewed at <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications#when-to-follow-standing-advice>

We recommend that you view our standing advice in full before making a decision on this application. We do not need to be consulted further.

## Devon County Council (Highways) 4/12/2018

The site is located on land to the north and west of the existing housing development of Short Furlong.

It should be noted that the road of Short Furlong is not an adopted highway because the proposed surface water drainage system for that road was unacceptable to the County Highway Authority (CHA).

This development proposes a new surface water drainage system which will incorporate the existing Short Furlong via a new Drainage Strategy for both sites. The CHA has concerns over the proposed surface water drainage strategy, which will be discussed in greater length later in this response.

The application is made in outline with all matters reserved except access. The existing cul-de-sac of Short Furlong leads on to Mare Lane with a footway and street lighting which then leads downhill to Townsend and the B3174 which is the primary route for Beer. This road links with the A3052 to the north west and to Seaton in the east.

## Pedestrian and Cycle Access

It is proposed that that pedestrian access to the proposed development will be via Short Furlong, Mare Lane and Townsend to the town centre of Beer. The proposed and indicative layout of the housing development is linear in shape with footway provision also being in a linear fashion. This may not be ideal as it means that pedestrians would have to walk the entire length of the development and Short Furlong before doubling back on themselves to access Mare lane and Townsend.

There is, it would appear, a permissive footpath within land under the control of the applicant, that could possibly access Townsend to the west of the development site and/or to Mare Lane near its junction with Short Furlong. However, there does not appear to be anything within the proposed development for this to connect or be an improved pedestrian amenity within the application. This appears to be an opportunity to comply fully with Policy TC4 of The Local Plan that has been missed. This may also be an opportunity for cycling provision to and from the site.

I also note that the proposed maximum gradient for the access road into the new development is 1 in 10, this is too great for pedestrians and should be a maximum to 1 in 12 where the footway runs in contemporary manner or the road is to be of shared use.

### Public Transport

There is an existing meagre bus service is available near Short Furlong via a hail and ride service.

### Vehicular Access

As mentioned earlier vehicular access to the site is proposed via the existing Short Furlong cul-de-sac and as the design of the existing access from Short Furlong onto Mare Lane was subject of contemporary design criteria, I do not see any problems with the existing access arrangements or the additional number of traffic movements proposed.

### Drainage Issues

The application is accompanied by a Drainage Strategy and should be read simply as 'a *strategy*' only, and not as the ultimate drainage solution.

As mentioned earlier the existing Short Furlong road has not been adopted by the highway authority because the soakaways are not considered suitable or constructed to any agreed design or functionality.

There has been ongoing discussion with the applicants Drainage Consultants, the FRMT and the CHA to try and understand the specific problems of the site, it's geology and the existing problems of the highway drainage system in Mare Lane and how this impacts upon the lower streets and properties to the east in Beer.

These discussions have resulted in the correspondence below, some of which is in answer to the DCC's FRMT queries specifically:

Amy,

Many thanks for sending the DCC FRMT and DCC Highways comments.

We have lifted the queries from the four separate emails and provided [comments in blue text](#).

### **DCC CHA comments 27/02/19**

Following on from re-consultation with the receipt of additional information regarding this application, we are happy that this information does not affect our stance upon this application.

### **DCC FRMT comments 31/10/18**

If further investigations are required at this stage then we would suggest excavating some deeper trial pits within the location of the currently proposed soakaway so that infiltration tests can be completed at the depths of the currently proposed soakaway (and so that the deeper substrata can be assessed). [Noted and expected to be conditioned as outline in DCC FRMT email of 30/10/18](#)

Treatment upstream of the soakaway will need to be provided to ensure that surface water from the site will not pollute groundwater. The soakaway will be within, or close to, a groundwater source protection zone. *The soakaway will be located at the Outer Zone of a GSPZ. We could provide a pre-treatment prior to discharge to the soakaway and if really necessary even an oil/petrol interceptor. Associated report text and drawing will be updated accordingly*

We also have some concerns over the infiltration basins/swales being used for exceedance. Our first concern is regarding the underlying strata, if chalk is underlying these areas then we would prefer not to have large volumes of surface water infiltrating here. Our second concern is regarding over-topping of these features, these features will only be designed to provide 'some' storage of exceedance flows, if exceedance flows are above this then is there potential that these features will overtop and flow towards the properties to the north? *Noted. The layout offers limited opportunities for exceedance features which are in place to provide storage for events above the 1 in 100 year plus 40% climate change event and/or in the case of any blockage within these systems. High magnitude events and blockage scenarios are difficult to accurately predict and therefore quantify and the exceedance areas are located based on site topography and open space. The detailed design of the basins has not yet been undertaken as we are still at strategy stage. The basins could be lined to prevent large scale infiltration and reduce the potential risk of ground water emergence. If the basin to the east were omitted then the exceedance route would be the new estate road leading to Short Furlong and then Mare Lane. We will provide further information to quantify the basin sizing and the associated report text and drawing will be updated accordingly.*

The currently proposed drainage strategy provides potential levels of manholes and pipework. Some of these pipes will be about 7m deep. We would require some further information of this proposal to ensure that it is viable, particularly regarding maintenance, size of pipes, falls of pipes and excavation to lay the pipes. *The drainage design is only preliminary at this stage. There are some deep manholes due to existing and proposed topography and locations of the soakaway and attenuation tank but we would expect to provide further information at the detailed design stage.*

Will any trees need to be removed to construct the soakaway in the currently proposed location? *We don't believe so as we re-configured the route to the soakaway several times— would need double to check with Dom at Aspect.*

### **DCC FRMT comments 30/10/18**

It looks like the drainage information submitted is the same as submitted previously. However, if there are concerns over the highway networks capacity then I will note this in my response, this is something that needs to be clarified 2 now as I think discharging to the highway is the only option they have in this part of the site.

The discharge rate from the attenuation tank is above greenfield runoff rates, but the diameter of the outfall is 73mm and so if they go lower then there is a higher risk of blockage in the outfall. *Noted.*

We would require further infiltration testing to demonstrate that this method of managing surface water is viable (tests should be at locations and depths relevant to the proposed soakaway). We would also want to see some groundwater monitoring for the winter period, it looks like they previously excavated trial pits in October and December and didn't encounter groundwater. Testing and monitoring could be conditioned as previously.

*Noted and as expected.*

I think groundwater re-emergence needs to be further assessed at reserved matters stage (if planning permission is granted). This assessment should cover the chalk as well, ideally they should sink some boreholes to clarify what's directly beneath the soakaway and whether the material encountered is likely to weather or redirect flow laterally downstream. *Noted and as expected. Please note proposed timescales suggested by DCC Highways in their email of 30/10/18 (opportunities to reduce timescale).*

### **DCC Highway comments 30/10/18**

Drainage Strategy Plan LH02F shows the location of TP1 & TP2 for the large soakaway situated towards the north west of the site. The cross section shows that the depth of TP1 and TP2 does not correspond with the proposed installed depth of the soakaway. Testing in accordance with BRE Digest 365 should be carried out over the proposed depth range of the soakaway to prove the soil infiltration rate is appropriate. At least two trial pits would be required to properly cover the area of the proposed soakaway. *Noted and expected to be conditioned as outline in DCC FRMT email of 30/10/18*

I can't find any information regarding the seasonal high groundwater level for the area of the site with the proposed soakaway. Is this information available? If not they would need to carry this out. The borehole should be drilled to a depth of at least 2m below the lowest level of the proposed soakaway. Readings should be taken at least once per month and preferably twice per month (every two weeks) from December until the end of April. Ideally we would be provided with 12 months monitoring, however if the boreholes were installed now, then we could consider just monitoring from now until the end of May/end of June, providing the readings are showing a continuing falling trend in the groundwater level from the seasonal high (the seasonal high is normally Jan-April). *Noted and expected to be conditioned as outline in DCC FRMT email of 30/10/18. Please note proposed timescales suggested by DCC Highways in their email of 30/10/18 (opportunities to reduce timescale).*

I'm not sure if our concerns in my earlier e-mail have been addressed, particularly connecting into the existing storm drain from the proposed attenuation tank on the eastern area of the site. *See below*

### **DCC Highway comments 14/04/16**

For the proposed attenuation system discharging back into the existing sewer on Mare Lane, you would need to know that at each particular design storm, that the existing system has sufficient capacity to deal with the additional discharge of attenuated storm water at the proposed rates. If the existing system does not have capacity the outcome could be flooding of the road. Brian may be able to advise on this, though you will probably also want the developer to survey the system and prove that it can cope. *A*

*proposed solution was sent to Jerry Upfield on 10/08/15 and the response from Jerry Upfield following discussions with Brian Hoare is attached. The system currently in use at Short Furlong was surveyed by Drainology in Mar, Apr, Jun 2015. Full reports can be supplied. The attenuated flows will discharge to the existing Mare lane system at discharge rates which are less than the current discharge rates from the 440m<sup>2</sup> section of Mare Lane which is to be drained via the attenuation tank, offering betterment overall (see information below □ MD calculations can be provided on request). Discharge from the attenuation tank will be limited to 6.1l/s. The requirement for further survey is noted and expected to be conditioned.*

I can't assess the micro-drainage calculations for the attenuation system. Perhaps Richard Rainbow can advise on the calculations provided? *PDF copies of MD calcs were supplied as part of the FRA & DS report and also our email of 14/04/16. We suggest you (Graeme Peace) contact Josh Lewis for further support.*

Are the additional gullies in line with what Brian was requesting, or was he looking for something more substantial? *Yes these were as per previous discussions*

It hasn't been proven that the proposed soakaway at Little Hemphay will work. Further infiltration testing at the design depth and groundwater monitoring to prove the seasonal high groundwater level will be required. If this further testing and monitoring finds that soakaways will not work, what is the back up plan? They should have an alternative solution for the drainage in case soakaways don't work. *Noted and expected to be conditioned as outline in DCC FRMT email of 30/10/18. In the event infiltration does not work surface water will need to be attenuated and a controlled discharge released at greenfield rates into the existing watercourse at The Causeway, approximately 200m east of the site or further upstream if appropriate.*

The factor of safety used in the soakaway calculation of 1.5 may need to be revised. It comes down what the consequence of failure is. This may also be true for the factor of safety used in the attenuation design. *Noted.*

*The soakaway is located close to the bottom of the valley where the ground is starting to level out and therefore the slope of the ground at the soakaway construction location does not pose slope stability issues or increase the risk of re-emergence of water to the adjacent Quarry Lane. If potential failure of the soakaway is of concern then a low bund could be provided between the edge of the soakaway and the highway, the details of which would be determined at detailed design stage. Increasing the factor of safety for attenuation will not have any impact as it is only applicable to infiltration rates. The associated report text and drawing will be updated accordingly.*

The flood routing for exceedance events will take the majority of the storm water runoff to a shallow basin. The levels suggest the basin might be 3m above the ground to the north. Depending on how frequently this is used and how much water it will store, the consequence of re-emergence of infiltrating water down gradient must be considered. *As part of the Detailed Design work further details would be specified. The basin could be lined to prevent large scale infiltration with a return system to allow gradual release of exceedance flows into the proposed drainage systems once the peak flow has passed. We will provide further information to quantify the basin sizing and the associated report text and drawing will be updated accordingly.*

I trust this answers the outstanding queries.

Kind Regards  
Mercedes

#### Summary of Drainage Issues Conclusion:

There are a number of drainage issues that will require further discussion with the applicant to resolve all outstanding concerns. Some of these issues it has been suggested could be conditioned within any grant of planning. However before I could recommend any conditions in respect of drainage issues, I and the FMRT would need to be absolutely clear that this particular drainage strategy will work without the possibility of it causing issues of over- topping the existing drainage systems down the line lower in the town.

Further to the above the council's CHA, FMRT and Asset Intelligence have been party to ongoing consultations with the developer's designers, geotechnical engineer's and drainage consultant who have satisfied the council that the proposed highway drainage scheme, which could include a secondary drainage attenuation feature to the west of the site at Little Hemphay. The secondary system could ultimately be discharged at acceptable rates to the Water Authority at either Peazen Flats/Townsend, agreement in principle below:

Further to the meeting with yourself and DCC Highways yesterday we have undertaken some further analysis to develop a Plan B option.

At present surface water drainage is proposed to be via an infiltration feature at Little Hemphay to the west of the site and via an attenuated feature which also provides betterment to an area of Mare Lane to the east of the site. See attached plans.

Whilst feasibility soakaways have shown that infiltration to the west is viable there is always a risk that following further BRE365 compliant testing and groundwater monitoring that infiltration will not be feasible. Therefore the alternative is to attenuate and discharge at greenfield rates from a second attenuation feature located at Little Hemphay.

From the 0.735ha area of the site draining to the west (and the proposed drainage feature at Little Hemphay) we anticipate a potential 1 in 100 year Greenfield rate of 0.9l/s and for comparison a 1 in 10 year Greenfield rate of 0.5l/s.

In order to follow best practice and use the smallest potential viable flow control to prevent potential blockage a hydrobrake of 55mm is proposed which would discharge at a peak flow rate of 1.5l/s (see attached calcs). From FEH analysis of the surrounding 2.19km<sup>2</sup> catchment draining into the watercourse running along The Causeway and beyond, this flow equates to 0.1% of the catchment total for the 1 in 100 year event (see attached evaluation).

It is also worth noting that the Greenfield runoff from the site would be entering the catchment anyway prior to development but that under the development proposals the volume is not increased but the point of release from the site is no longer dispersed.

Whilst this attenuated discharge could be routed to the existing watercourse at The Causeway this is some distance from the site and would require routing along the highway- a difficult and probably non-economic option.

Another option would be a potential connection to the 150mm SWW combined service opposite Peazen Flats/Townsend and we have received the following agreement from SWW.

*“Mercedes should infiltration prove to be unachievable a discharge at 1.5l/s by means of a storage tank not SUDs feature to the combined sewer as proposed would be permitted.”*

*Regards*

**Martyn Dunn**  
*Development Coordinator*

Based on this assurance that suitable and effective drainage solutions could be incorporated within more detailed designs agreed bore-hole locations. Devon County Council is content that a development as described above will be viable without any undue risk of overbearing the existing surface water systems in and around Short Furlong or the wider area of Beer Town.

**Recommendation:**

**THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION**

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site,  
with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload  
building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery

vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. No development shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority. The approved details shall be implemented before the development is brought into use.

REASON: To ensure the layout and construction of the access is safe in accordance with the NPPF.

3. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

4. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk.

Devon County Council Flood Risk Management 1/03/2019

Recommendation:

At this stage, we have no in-principle objections to the above planning application, from a surface water drainage perspective, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it will affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Drainage Strategy (Ref. Short Furlong, Beer; Drainage Strategy; Rev. V9; dated 23rd January 2019).

Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems.

Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme, undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management.

Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it could affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

- No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

Observations:

The applicant has proposed to manage surface water via infiltration. Initial infiltration tests indicate that this could be a viable method. However, as acknowledged within the Drainage Strategy (Ref. Short Furlong, Beer; Drainage Strategy; Rev. V9; dated 23rd January 2019) further infiltration tests will be required at the proposed depths of the soakaway's and groundwater monitoring will be required to demonstrate that groundwater will not hinder infiltration.

An assessment of the existing highway drainage serving the access road known as Short Furlong has been carried out. It is understood that a soakaway, or multiple soakaway's, manages surface water from this access road. However, it is not understood how well this soakaway performs. An assessment of the existing highway drainage within Mare Lane will need to be completed to confirm whether additional surface water can drain into this system. The details of this assessment should be submitted at the reserved matters stage along with confirmation from Devon County Council's Highways Development Management Team.

Two detention basins, either unlined or partially unlined, are proposed to manage exceedance flows. This is commended, however we are concerned about over-topping of these basins. Whilst these basins will manage exceedance flows to an extent, over-topping will need to be prevented. Infiltration tests will need to be completed in the locations of the proposed basins to confirm whether infiltration is viable. Groundwater monitoring should confirm groundwater levels within the basins localities.

The topography of the site has been identified within the Drainage Strategy (Ref. Short Furlong, Beer; Drainage Strategy; Rev. V9; dated 23rd January 2019). The topography will need to be accounted for within the detailed design of the surface water drainage management plan. Currently there are numerous deep manholes and deep pipework proposed. At the reserved matters stage the applicant should confirm the viability of the surface water drainage system.

The applicant should complete a further site investigation to demonstrate the geology underlying the site. This investigation will need to demonstrate that infiltrating water will not affect the ground conditions beneath the site.

Features upstream of the soakaway and attenuation tanks will need to be assessed at the next stage to a suitable SuDS Management Train is implemented at this site.

### Other Representations

Nine letters of objection, raising the following concerns:

- Inadequate flood risk assessment or proposals to mitigate risk to residents below the site.
- Proposed access through car park will prejudice an occupant of existing affordable housing with disabilities that causes seizures/collapsing when triggered by emotional responses such as surprise, fear, laughing or anger, which may arise from the activity associated with the new access arrangements
- Concerns regarding safety of access arrangements through car park and refuse collection point with regards to young children.
- Proposal will result in two cul-de-sacs converging on a narrow steep road, without adequate pavements.
- Junction of Mare Lane and Townsend is dangerous for pedestrians.
- Outward journeys greater than suggested due to limited employment in Beer.
- Existing Short Furlong parking is inadequate.

- Residents of existing Short Furlong pay monthly for upkeep of car park while the new house would not contribute.
- Noise/disturbance and safety issues during construction for existing residents, particularly when using the car park.
- Potential flooding of Ashill Court and risk to retaining wall for Ashill Court
- Overdeveloping this beautiful village.
- AONB; rural landscape should be maintained and new building kept within the building line.
- Low percentage of affordable units not acceptable with the remainder becoming second/holiday homes.
- Only 28 houses shown, where are the other 2 going?
- Concerned about drains taking extra sewage.
- Access should be at the other end of the village i.e. Little Hemphay.

1 neutral letter:

- Consider Green Infrastructure criteria:
  - 40% green space including parks, wildlife corridors, community orchards
  - Retain and plant native trees at 25% cover
  - Plant wildflower rich meadows, verges
  - Plant fruit trees for pollinators
- Nest bricks for swifts, sparrows and other colony nesting birds
- Hedgehog 'highways' through gardens
- Insect bricks built into houses
- Swales that allow slow drainage and enhances aquatic fauna and associated wildflower planting

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 27 (Development at the Small Towns and Larger Villages)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

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

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Beer Neighbourhood Plan 2013 – 2041 (made 10 January)

Policy NE1 – Development and the Natural Environment

Policy NE2 – Locally Important Wildlife Sites

Policy NE3 – Protecting Historic Natural Features

Policy NE5 - Rights of Way and Other Access (footpaths, pavements, bridleways and cycleways)

Policy HBE2 – High Quality Design

Policy H1 – Meeting the Demand for Local Needs Housing in Beer Village

Policy H2 – Community Housing

Policy H3 – Site Allocation: Land at Short Furlong

Policy TP2 – Car Parking

Policy TP4 – Accessibility

#### Government Guidance

NPPF – National Planning Policy Framework (2019)

NPPG – National Planning Practice Guidance

#### **Site Location and Description**

The application site relates to the lower, northern section of a steeply sloping agricultural field located to the northwest of the village centre. The site extends to approximately 0.97 ha. The field is bounded by hedge planting on the western and eastern boundaries and is undemarcated from the remainder of the field to the south. The north-eastern boundary is formed by a post and wire fence. A permissive footpath runs parallel to this boundary and beyond this is a hedge line before the land drops more steeply away to the rear of properties fronting Townsend. These properties are set significantly below site level. There is an existing field gate access in the south-eastern corner of the field just to the northeast of the car park area that serves the properties of Short Furlong and from where it is intended to provide access. The properties in Short Furlong are of relatively recent construction and are elevated above the level of the car park that serves them and are subject of significant retaining works. Beyond the southern field boundary on higher land is the village primary school.

An additional area of site lies to the northwest of the main site on lower land and to the west of recent residential development fronting Quarry Lane. This part of the site is relatively level and is separated from the road to the north by hedgerow.

The site lies within the East Devon Area of Outstanding Natural Beauty (AONB). It also lies less than 500 metres from the Beer Quarry & Caves Special Area of Conservation (SAC), which is also designated as a Site of Special Scientific Interest (SSSI). Additionally, it lies within 600 metres of the Jurassic Coast World Heritage Site, also designated as the Sidmouth to Beer SSSI and the Sidmouth to West Bay SAC. The eastern end of the site lies just over 30 metres from the Beer Conservation Area. The nearest listed building is Rock Farm, a grade II listed property which lies on the north side of Townsend.

Most of the site lies within the Built-Up Area Boundary for Beer, as defined by the Beer Neighbourhood Plan (BNP), however a portion of the drainage infrastructure lies to the west of this boundary.

#### **Proposed Development**

The application seeks consent for the erection of up to 30 dwellings. It is in outline form with all matters reserved save for means of access. The application proposes 43.3% of the houses (13) as affordable.

A detailed indicative layout and site sections have been submitted to enable consideration of the potential landscape impacts of the proposal, bearing in mind the location of the site within the East Devon AONB. This shows development running parallel with the contours of the land, in two rows of built form either side of the spine road and with a visitor car parking area at the eastern end of the site. The indicative section details indicate split level housing to work with the natural slope of the site. Incidental amenity/open space is shown at the eastern end of the site, either side of the access road but no formal provision is indicated or proposed.

Access to the site is proposed off the existing car parking area serving the development at Short Furlong, this itself accesses onto the west side of Mare Lane just to the east.

At the western end of the site a narrow strip of land connects the site with a satellite area to the northwest (west of the 'Little Hemphay' development), which would serve as a surface water drainage area for the proposed development.

### **Considerations and Assessment**

A previous application was refused on 11 May 2016, following consideration by the Development Management Committee for the following reasons:

1. The application site forms part of the countryside that surrounds Beer and is outside of the established Built-up Area Boundary of the settlement. The residential development of the site would have a detrimental impact on: the undeveloped character of the site; its open rural appearance within a designated Area of Outstanding Natural Beauty; the landscape setting of the town, and; where such development would erode the transition from town to countryside. The proposal would therefore be contrary to the provisions of Strategy 7 (Development in the Countryside); D1 (Design and Local Distinctiveness); Strategy 27 (Development at the Small Towns and Larger Villages) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031 and the guidance contained within the National Planning Policy Framework.
2. The application site lies outside the established settlement boundary of Beer, in an area where new development is strictly controlled to safeguard encroachment into open countryside and where special justification is required for new housing, without such special justification the proposal would be contrary to the provisions of D1 (Design and Local Distinctiveness) and Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013 - 2031.
3. The application lacks an appropriate mechanism to secure contributions towards Open Space and education infrastructure necessary to mitigate its impact, as such the application is contrary to Strategies 43 (Open Space Standards) and 50 (Infrastructure Delivery) of the East Devon Local Plan 2013 - 2031.

4. The proposed development makes insufficient provision of and lacks a suitable mechanism for securing affordable housing. As such the proposal would be contrary to Policy 34 (District Wide Affordable Housing Provision Targets) of the East Devon Local Plan 2013-2031.

5. The proposed development indicates drainage works within the Root Protection Area (RPA) of a tree group of recognised amenity value and where such works would have a harmful impact on the trees, likely to lead to their loss or damage and with a resulting detrimental impact on character and appearance of the area and landscape setting of the site, as such the proposal would be contrary to policies D1 (Design and Local Distinctiveness), D3 (Trees on Development Sites) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013 - 2031.

The current application has been advanced again following the development and recent adoption of the Beer Neighbourhood Plan (BNP) as part of the development plan for the District. The proposal was screened at the time of the last planning application for the purposes of whether or not an Environmental Impact Assessment was required and it was found not to be.

It is considered that the main issues in the determination of the application relate to:

- The principle of the proposed development
- Provision of affordable housing
- The effect on the character and appearance of the area and wider landscape and AONB
- The effect on residential amenity
- The Public Sector Equality Duty
- The effect on Biodiversity (including an appropriate assessment)
- Highways Issues
- Surface Water Drainage and Floor Risk
- S.106 Requirements and other issues

### The Principle of the proposed development

The Beer Neighbourhood Plan 2013 - 2014 (BNP) was made on 10 January 2018 and forms part of the development plan for the area and therefore forms the policy framework for the purposes of determining the application in addition to the East Devon Local Plan 2013 to 2031. The BNP defines the Built-Up Area Boundary (BUAB) for the village which encompasses the majority of the site. Part of the proposed development falls outside of the BUAB, namely a drainage system which runs westwards along the back of Little Hemphay and down to Quarry Lane. In this respect the proposal is not fully in accordance with BNP Policy H3 nor Strategies 6 and 7 of the East Devon Local Plan 2013 to 2031.

In addition to lying mostly within the BUAB, the site is allocated for housing by BNP Policy H3. This provides for development for up to 31 dwellings with a minimum

amount of affordable housing of at least 40% to be provide on-site in accordance with BNP Policy H1.

Policy H3 contains other requirements related to landscape, biodiversity, drainage and heritage matters, which are addressed in the relevant sections of the report below.

Although the drainage scheme takes the development outside of the BUAB, these works will be subterranean and are necessary to make the development work. Therefore the principle of the development is considered to be acceptable, subject to the consideration of other material matters as described below.

### Provision of affordable housing

The allocation of the site under Policy H3 of the BNP sets a requirement of a minimum of 40% affordable housing. As noted above however this is subject to provisions of Policy H1 which requires 50% affordable housing, unless viability demonstrates otherwise. Taken together, the site must achieve 50% or whatever can be justified on viability grounds, subject to an absolute minimum of 40%.

Policy H1 of the BNP sets a requirement for there to be an identified need for affordable housing and that development should be tailored specifically to meet the identified need in terms of type and tenure.

The Housing Enabling Officer advises that a housing needs from July 2018 identified a need for 21 affordable houses for rent and shared ownership. The identified bedroom need was predominately for smaller units comprising 1 or 2 bedrooms (need of 13) together with 2 bedroom houses (need of 6) and 3 bedroom houses (need of 2). A development of 'up to' 30 dwellings which can afford affordable housing provision at 43.3% would in theory provide 12.99 affordable dwellings. The illustrative layout shows a provision of only 28 dwellings and if that were the number provided on site it would be expected that 12.12 affordable dwellings should be provided. Any requirement for less than a whole dwelling will be taken as a proportional commuted sum to be used towards affordable housing provision off-site (for example a 30 dwelling development would require and offsite commuted sum of 0.9 dwellings x £46,496 (Sidmouth /Coastal rate) = £41,846.40)

The tenure of the affordable dwellings should be as per policy with 70% for rent and 30% for shared ownership or similar route to home ownership. The housing needs survey supports this although the identified need is more heavily weighted to rented accommodation with 17 requiring rented properties and 4 being able to afford shard ownership. The tenure and mix will be secured via a S.106 agreement.

The application in 2016 was accompanied by a viability assessment from the developer which was independently assessed by the District Valuer. It was agreed that the site could afford a provision of 43.3% affordable housing and remain viable. The current application is not supported by a new viability assessment from the developer but instead an update from the original consultants and expressing a view that when costs and value changes since that time are taken into account, the position remains largely unchanged.

Upon request, the applicant has provided further information on what underpinned this view and that information has been shared with the Council's viability consultant for review. While not a full viability review the Council's consultant has advised that there has been no significant improvement in the key viability indicators between the assessment in 2016 and now which would be likely give rise to a greater level of affordable housing should the assessment be re-run. Furthermore we consider the approach taken by the District Valuer in 2016 is broadly compliant with updated Planning Practice Guidance and is in line with the East Devon District Council Whole Plan Viability study. It is therefore considered appropriate to rely on the viability assessment undertaken in 2016 when determining the current application, assuming the scale and nature of the development remains largely unchanged.

Strategy 34 states that an overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets. Provided that 43.3% affordable housing is secured along with the necessary overage clause, the development is acceptable in terms of delivering affordable housing.

#### Impact on the character and appearance of the area, wider landscape and AONB

Paragraph 172 of the NPPF states that planning permission for major development in the AONB should be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. The National Planning Practice Guidance advises that what constitutes major development in this context is a matter for the decision taker, taking into account the proposal in questions and the context.

An Inspector determined an appeal in an AONB in south Devon in 2018 for 28 houses adjacent to Frogmore (South Hams), ruling that it amounted to major development (APP/K1128/W/17/3185418). The appellants in that appeal referred to earlier appeal decisions including 32 dwellings near Kingsbridge (South Hams) and a proposal for a 39 home development at Tetbury in Gloucestershire where in each case Inspectors ruled that the proposals were not major development. However in the Frogmore decision the Inspector reasoned that the other settlements were far larger so the context for considering new development was materially different.

The villages of Frogmore and Beer are materially different in physical size. In addition, Beer Parish is considerably larger than Frogmore and Sherford Parish, Beer Parish having a population of around 1500 while Frogmore and Sherford has only 440 (2011 Census). The BNP reports that there are around 800 dwellings in the Parish and as it is a very rural parish it can be assumed that the majority of these will be located in the village itself. While consideration of what constitutes major development for the purposes of paragraph 172 of the NPPF is not necessarily limited to considerations of relative scale alone, in this particular case, on a site which has been allocated through the Neighbourhood Planning process, including examination, it is considered the proposal is not major development and the restrictions or tests this part of the framework do not apply in this instance. There is therefore no objection in principle to the application due to the location of the site in the AONB, although whether the effect of the development on the landscape is acceptable remains to be considered as a detailed matter.

The designation of the landscape in which the site lies an AONB confers the highest landscape protection, affording the same status as a National Park in this respect. Paragraph 172 of the National Planning Policy Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. Strategy 46 of the Local Plan reinforces this emphasis and specifies the need for all development to conserve and enhance the landscape character of the area.

Under Policy H3 of the BNP proposals must be supported by a detailed landscape and visual impact assessment (LVIA). It must also deliver high quality design reflecting local building styles and materials and retain existing vegetation surrounding the site with new tree and hedgerow planting incorporated into the scheme, in the interests of minimising impacts on the AONB.

The BNP acknowledges (as noted in its Strategic Environmental Assessment) that the allocation under Policy H3 would likely result in the whole of the BNP being graded as having minor negative effects against the Landscape, Townscape and Natural Environment Sustainability Appraisal theme. The Neighbourhood Plan Steering Group, in formulating the BNP, has considered a range of different sites for a development which would help deliver much needed affordable housing for the local community. Of four sites considered, a public consultation exercise in 2016 revealed that 51% of respondents preferred the Short Furlong site and while other sites were suggested, none of these alternatives were available. Therefore despite concerns over the landscape effect of the allocation this site was selected and is now adopted in policy.

A revised Landscape and Visual Impact Assessment has been provided which addressed concerns regarding the methodology used in the version originally submitted with the current planning application. The revisions to the LVIA address these concerns and the assessment shows that the proposals will have a high adverse landscape effect and visual effects for principal receptors ranging from high to low adverse, with views from Long Hill Road and New Road, the youth hostel and properties at Short Furlong being particularly affected. However, the landscape and visual effects are geographically limited to within 300-700m from the site and will be mitigated to some degree by site planning and appropriate native tree and hedgerow planting. The application suggests suitable vernacular materials to help mitigate visual effects although such matters will need to be agreed via any reserved matters application. Other factors such as street lighting and internal light-spill will also need careful consideration.

The landscape officer reports that the application (based on 30 dwellings) generates a requirement for the provision of 200m<sup>2</sup> of amenity open space which should be provided on-site. However the Council's S106 Officer has stated that the 2012 Open Spaces Study indicates that Beer has sufficient provision of amenity open space and that unless some is required for other reasons (landscaping or habitat mitigation) it is not required.

In summary, the proposals will likely have adverse landscape and visual effects. This will be limited to a relatively localised area. Appropriate landscaping, design and

planting may be able to soften some of these effects but overall, the development will be harmful in relation to the AONB.

### Effect on residential amenity

As the application is for outline permission only, the effect on the amenity of neighbouring dwellings is not certain. The site sits high above the existing properties on Townsend. Despite a reasonable amount of existing boundary vegetation it is presently possible to view the rear of some of those properties from the permissive footpath that runs along this boundary. It is considered likely therefore that proposed dwellings which will be built higher up the slope, particularly as they are likely to present at least a two-storey element to the rear due to the steep nature of the site (perhaps lending itself to split-level dwellings), will likely lead to overlooking of some of these properties and their rear windows. The nature of most of the village however is like this due to the steep slopes on which it sits, and such overlooking is therefore not uncommon. Measures to mitigate the worst effects should be secured through the reserved matters applications, by careful window design and placement, suitable boundary treatments and so forth. It does seem likely however that some loss of privacy to existing dwellings along Townsend will occur.

### Public Sector Equality Duty

One objector considers that the proposed access will prejudice her daughter who lives in one of the existing affordable homes at Short Furlong and has severe narcolepsy and cataplexy. It is suggested that the development will prevent her from leaving her house and that this amounts to indirect discrimination.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or "PSED"). Disability is one of the protected characteristics and the Council therefore has a duty to consider how the development will affect the person in this case with the protected characteristic.

'Due regard' is the regard which is appropriate in consideration of the circumstances of the particular case. The level of regard appropriate will depend on the importance of the decision for the lives of persons with the protected characteristic, the extent of the inequality and any countervailing factors. Where negative impacts are identified, potential ways to mitigate these should be considered. The principle of proportionality applies: the more serious the negative impact, the greater the requirement on the decision maker to consider the negative impact, justify the decision and consider mitigation.

Due regard requires the gathering of information to ensure that an informed decision as regards any negative impact of a decision is made. The duty is on the decision maker to obtain the necessary information and the amount of evidence required will depend on the level of regard needed. The case of *LDRA Ltd v SSCLG* [2016] EWHC 950 (Admin) confirms that a decision maker is under an obligation to seek out the relevant information required where it has not been provided by the parties. To take

a decision in accordance with the duty the Council must, having taken reasonable steps to inquire into the issues, understand the likely impact of the decision on the equality needs which are potentially affected by the decision.

In this particular instance it is considered that the written representation explains the issue sufficiently so that the potential effect of the development on the affected individual is understood. The objector states "Narcolepsy is a rare neurological condition that affects the brain and cataplexy is a related seizure-like condition that causes the patient to collapse when triggered by emotional responses such as surprise, fear, laughing or anger". The affected individual "...does not answer the phone or the door because doing so will cause cataplexy. She can only go out with supervision and with people who understand how to cope when she collapses. She will probably not be able to submit her own response to the proposed application because her narcolepsy causes her to fall asleep while trying to perform such activities or she will write total nonsense not being able to get her thoughts on paper."

The objector goes on - "The residents' car park is at the moment quite accessible for her. Friends can park there and go up to her house to help her down the steps and into their car mostly without incident as she usually knows the people she will encounter on the way. If the access is allowed it will mean that any visitor to the property will find parking near the steps difficult and having brought my daughter down to the car park she will not know how many vehicles will be going through and this will already have increased her anxiety level to the extent that she may collapse into the road while trying to get into the car. At the moment, when she collapses, most of the drivers know of her condition and will proceed accordingly. Thirty extra houses will increase the traffic flow through this quiet, safe place to an unacceptable amount."

The development will undoubtedly lead to a flow of additional traffic through the car park and into the proposed estate. As a result it could be expected that the circumstances referred to in the objection could arise, leading to the incidents described. Whether this would lead to the affected individual becoming housebound is not certain however. In her current accommodation there is not a total absence of risk of such incidents and nor could there ever be. For instance, if something unexpected occurred such as an increase in deliveries to neighbours by various different service providers or if neighbours have social events or move house, this has the potential to trigger an incident.

Over time as her environment and community have become more familiar this would logically lead to a reduced frequency of such risks. While the development would lead to a period of change, eventually that change will become more familiar. That is not to play down the seriousness of having to cope with such a change but the needs of affected individual have to also be balanced against the needs of the wider community in meeting its identified housing needs. The objection states that the affected individual "...can only go out with supervision and people who understand how to cope when she collapses." There appears therefore to be a mechanism in place already to provide assistance and there is no suggestion that this would stop as a result of the development.

Concern is raised that visitors who call on her will have difficulty in parking near the steps difficult due to the new access arrangements. She lives at number 4 Short

Furlong and the nearest steps to her house lead down to at turning head in the car park immediately opposite the proposed new access. If her own allocated car parking space were unavailable, which itself lies near the bottom of these steps, visitors could therefore conceivably park here while picking up and dropping her off. There is evidence from 'google streetview' that this space is used for picking up and dropping off already (though not necessarily her). This area would not be in direct conflict with traffic entering the new estate which would turn right.

The Council has had due regard to the PSED contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since an objector has raised concerns over how the development could affect a person with a disability, she is a person with a protected characteristic for the purposes of the PSED.

It does not follow from the PSED that the application should be refused. There would likely be a negative impact during construction and potentially for a period of time thereafter (which could be a substantial period considering the size of the development). However, from the evidence available it is apparent that support is already available for the affected individual. Furthermore, while considering where the affected person lives, where her allocated car parking space is located and the location of a potential area for use when visitors pick up/drop off, it is not considered likely that the proposed new access will lead to the harmful effects to the extent suggested. It is considered that in these circumstances the pressing housing needs of the wider community weigh more heavily in favour of granting permission.

#### The effect on biodiversity

The site sits in close proximity to a number of protected sites as identified earlier in the report. In addition to the assessment of the effects on on-site biodiversity it is also necessary to consider effects on these designated habitats.

Natural England advises that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves SAC and that a Bat Mitigation Strategy must be submitted and secured at outline stage. No concerns regarding any of the other designated sites were raised (i.e. the Sidmouth to West Bay and Lyme Bay and Torbay SACs).

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulations 2017 ("2017 Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations states the following:

"A competent Authority, before deciding to undertake, give any consent, permission or other authorisation for, a plan or project which:

a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives”.

The Council has carried out an Appropriate Assessment (appended to this report) as required, using the information supplied by the applicant's ecologist, and has identified a number of mitigation measures that are necessary. These will need to be secured, using both planning conditions and a S.106 agreement, in order for the integrity of the protected site to be maintained. These mitigation measures are detailed in the Appropriate Assessment but are summarised in the recommendation and conditions pertaining to this planning application report. Broadly speaking they involve a great deal of compensatory planting and improvements to bat foraging and commuting connectivity off the site (on land controlled by the applicant) and also planting, approval of a lighting scheme for the development and also 2m high fencing along the northern and western boundaries (to maintain dark corridors). This fencing is subject to ongoing discussions between the applicant, Natural England and the Council as a more visually appropriate means of mitigation would be preferred. The Appropriate Assessment has been sent to Natural England for consideration.

In terms of site specific ecological effects, given the history of the site, there is a good level of survey data underpinning the Ecological Appraisal with surveys dating from 2012, 2014, 2016 and now 2017.

The development would result in the loss of approximately 1ha of poor semi-improved/improved grassland. Poor semi-improved and improved grassland are considered widespread and common habitats of local value. It is therefore considered that this habitat loss would have a minor ecological impact at local level. Landscaping of the site with a mix of native trees and shrubs, together with more formal areas planted with a mix of native and non-native flowering nectar-rich species to encourage invertebrates will assist in maintaining and improving biodiversity. It is also recommended in the Ecological Appraisal that 10 bat tubes are incorporated into the buildings.

Other fauna (reptiles, dormice, nesting birds, badgers) may be affected by the proposals. Mitigation measures such as translocation, enhancement to existing hedgerows, nesting provision and timing of works, site walkovers and prevention of entrapment (of badgers) is recommended. All on-site mitigation will need to be secured with an appropriate condition.

With the mitigation secured as described above the proposals will meet the requirements of policy H3 of the BNP and Strategy 47 and Policy EN5 of the Local Plan.

### Highways

The application seeks approval for the means of access as the only reserved matter to be considered at this stage. While an illustrative layout is provided, matters relating to the provision of parking within the estate, the layout of the roads, pathways and so forth will be considered at the reserved matters stage.

Access to the site will be via the existing car park that serves the existing houses at Short Furlong.

While the Highway Authority expresses concern over the pedestrian access being primarily via Mare Lane (with the permissive path also enabling access to Townsend), in reality there is little other option due to the shape and position of the site. It would be possible to provide greater connectivity between the estate illustrated on the plans and the permissive footpath that runs along the northern boundary of the site. This would still lead to Mare Lane however and this path would need surfacing properly to become a reliable alternative pedestrian route.

Concerns is also expressed at the gradient for pedestrians at the access point, being 1 in 10 where 1 in 12 would be preferred.

No concern is expressed by the Highway Authority with regards to the suitability of the existing access from Mare Lane into the car park, nor in respect of the additional traffic that would be generated as a result of the proposed development

Concern is expressed by some objectors with regard to the loss of existing parking spaces to make room for the proposed new estate road. While the plans are illustrative in nature, additional off-street parking provision is indicated in close proximity to the entrance to the new estate. The exact numbers will be a matter for consideration at reserved matters stage.

The existing car park and its access are not part of the adopted highway at present (it is understood because the drainage arrangements were not sufficient) but the new development would seek to create an adopted highway and include this existing section within the adopted area.

The Highway Authority recommends a condition requiring details of the layout and construction of the access be submitted for approval. This is unusual and not normally necessary where the access already exists and where approval is being sought for the means of access as part of the application for outline planning permission. While no access details are provided, other than the site location plan, and although the proposed drainage strategy appears to indicate routing of drainage infrastructure in the area proposed for access, it is considered unnecessary to apply this condition. The Highway Authority has stated the access is suitable and so it is not necessary to have to agree further details.

### Surface Water Drainage and Flood Risk

BNP Policy H3 has a requirement that proposals should use adequate drainage promoting the use of Sustainable Drainage Systems (SUDS) and not increase flood risk elsewhere. Some of the objections raised by the public relate to the adequacy of the drainage system and the consequent related risks to neighbouring properties.

DCC's Flood Risk Management Team has been in discussions with the applicant and the County Highway Engineers during the application to discuss the potential for a suitable sustainable drainage system for the development, noting that all matters other than access are reserved at this stage.

While DCC has not objected to the proposals there is still much information to be gathered from site investigations which must be presented to demonstrate how the site can be adequately drained and to that end it has suggested a considerable number of pre-commencement conditions, all of which are considered necessary to make the development acceptable in principle.

Much data and several plans including a Drainage Strategy has been submitted for consideration. As the application is in outline form however and the location and amount of impermeable surfacing is therefore not known, these details will possibly need to be revised and re-submitted as part of any reserved matters application.

## **Conclusion**

The development is located mostly within a recently allocated site for housing. It will provide 43.3% of the housing as affordable housing on the site, with the potential for a small off-site commuted sum where that results in a non-whole number of affordable units. This will be secured via a S.106 agreement. This figure is the most the scheme can afford while remaining viable and falls within the acceptable range of provision under the BNP and Local Plan. The delivery of affordable housing in Beer is considered to weigh heavily in favour of approval, where there is a need for 21 affordable houses and where delivering such development is challenging due to the special qualities of the land in which it is located.

The development is located in a sensitive area, being in an AONB and in proximity to the Beer Quarry Caves SAC. The site has been allocated for the proposed development through the neighbourhood planning process after consideration of a number of alternative sites that were available. At the time of allocation no Landscape and Visual Impact Assessment or Habitat Regulations Assessment were carried out, these instead being deferred until application stage.

The LVIA submitted with the application demonstrates (as expected in the BNP) that there would be harmful landscape effects, but that these would be experienced in a relatively localised area. A high quality landscaping scheme (and design and appearance of buildings) will be required at reserved matters stage to limit the harm that will be caused although it will not be possible to remove all harmful effects altogether.

The HRA demonstrates that the development can take place without adversely affecting the integrity of the SAC but only if an extensive set of mitigation measures are secured and delivered. These mitigation measure are to be secured through planning conditions and a S.106 agreement.

The development of the site could lead to some harmful effects to the amenity of nearby dwellings but not to the extent that permission should be refused, once appropriate design and landscaping are taken into account. The development has the potential to cause temporary disruption to an existing resident with protected characteristics under the Equalities Act but having examine the issue under the PSED this is not considered to outweigh the benefits of the proposal.

The application seek permission for access as the only reserved matter and the Highway Authority has not raised any objection to the scheme in this respect, not to the effect of the access being provided via the existing car park serving the existing dwellings. The development will provide an opportunity for the adoption of this existing access way through the provision of a suitable drainage scheme.

A drainage strategy has been agreed in principle with the Lead Local Flood Authority. Further evidence is required to demonstrate that this will perform as suggested and this in part depends of the final design of the development. If evidence points towards a different solution being required, this will have to be agreed first under the conditions suggested.

On balance, while the development will be harmful to the AONB, these effects can be softened and this harm is not considered to outweigh the very great benefits in the provision of meeting a high need for affordable housing in the village, which has benefits in terms of the social and economic dimensions of meeting sustainable development objectives as described in the NPPF.

**RECOMMENDATION:**

- 1. That the Habitat Regulations Appropriate Assessment within this Committee report be adopted;**
  - 2. That the application be APPROVED subject to the following conditions and the completion of a Section 106 agreement to secure:**
    - a. The provision of 43.3% affordable housing (including the provision of an overage clause and also a commuted sum towards the delivery of affordable housing off-site for any non-whole units as a result of the final number of dwellings on site); and**
    - b. The provision of the off-site habitat mitigation measures identified in section 4 of the 'Statement to Inform an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017' (Richard Green Ecology January 2019).**
- 
1. Approval of the details of the layout, scale and appearance of the buildings 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.  
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)
  3. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.  
(Reason - The application is in outline with one or more matters reserved.)

4. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)

5. Prior to commencement of any part of the site the Planning Authority shall have received and approved in writing a Construction Management Plan (CMP) including:

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

(Reason: A pre-commencement condition is required to ensure that adequate facilities are available for construction and other traffic attracted to the site in accordance with Policy TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)

6. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections

indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

(Reasons: To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policy TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)

7. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.  
(Reason: The details are required prior to commencement to ensure that they fit efficiently within the site layout, protect water quality and minimise flood risk in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the Adopted East Devon Local Plan 2013-2031 and the guidance contained with the National Planning Policy Framework.)
  
8. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.  
(Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible. Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it will affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.)
  
9. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Drainage Strategy (Ref. Short Furlong, Beer; Drainage Strategy; Rev. V9; dated 23rd January 2019).  
(Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems. Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream. Advice: Refer to Devon County Council's Sustainable Drainage Guidance.)

10. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Drainage Strategy (Ref. Short Furlong, Beer; Drainage Strategy; Rev. V9; dated 23rd January 2019).

(Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems. Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream. Advice: Refer to Devon County Council's Sustainable Drainage Guidance.)
11. No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

(Reason: To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed. Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it could affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.)
12. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

(Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure. Advice: Refer to Devon County Council's Sustainable Drainage Guidance.)

13. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)
14. No development shall take place until details of proposed groundworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the following:  
o Plans showing the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform.  
o Sections showing the proposed grading and mounding of land areas including the levels to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Each section shall include the existing site levels as a red dashed line.  
Development shall be carried out in accordance with the approved details prior to the occupation of the development.  
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) and Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031. These details are required prior to the beginning of construction as groundworks will take place at the start.)
15. No construction of any building above foundation level shall commence until details of fencing, walling or any other hard or soft landscape boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Any walls and/or fences shall be erected in accordance with the approved details within the curtilage of the dwelling house before it is first occupied.  
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), these walls and/or fences shall not thereafter be altered, removed or replaced without the prior written approval of the Local Planning Authority.  
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D1 (Design and Local

Distinctiveness) and Policy D2 (Landscape Requirements) of the East Devon Local Plan.)

16. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to any development above foundation level. The proposals shall be carried out as approved for the full duration of the plan.

(Reason - To ensure that the details are considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted New East Devon Local Plan 2013-2031.)

17. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme shall include the following:

- o A Green infrastructure statement describing the various types of proposed planting and features, and how they tie into the local landscape character and other elements of the proposed development.

- o Detailed layouts providing the following information:

- Planting within any public realm

- On plot soft landscape proposals facing street frontage or any other public realm areas

- Hard or soft plot boundary treatments

- Hard surface treatment for public realm areas and areas facing the street frontage

- Proposed site levels

- o Soft landscape proposals shall be accompanied by a specification detailing the proposed species, their planting size, the density at which they will be planted, any specific planting matrices, the number of plants of each species and notes describing how the scheme will be implemented.

- o Hard landscape proposals shall be accompanied by a material specification.

- o If the scheme has significant level changes, a section shall be provided showing how the proposed development will integrate into the existing context.

- o Construction details of any proposed walls, fences and other boundary treatments

- o The various tree pits and/or Devon bank construction details.

The landscaping scheme shall be carried out in the first planting season after completion of the groundworks and the building construction works or prior to first occupation whichever is the earliest unless otherwise agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local

Distinctiveness) and Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

18. No development shall commence until a lighting scheme for the development, for both the duration of the construction of the development and following its occupation in perpetuity, has been submitted to, and approved in writing by, the Local Planning Authority. Such a scheme shall be designed to avoid light spill over the site's boundary hedges, such that there would be no increase above background levels, or a maximum of 0.5 lux where bats fly around the application site. No external lighting shall be installed on the site other than in accordance with the agreed scheme.

(Reason- In the interests of maintaining the suitability of the site for bats, to maintain the integrity of the Beer Quarry Caves Special Area of Conservation, in accordance with policy H3 (Site Allocation: Land at Short Furlong) of the Beer Neighbourhood Plan, Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2033 and paragraph 170 of the National Planning Policy Framework. This is a pre-commencement condition as it seeks to regulate how the site is to be illuminated during construction of the development.)

19. The mitigation measure identified in section 4 of the 'Ecological Appraisal' (Richard Green Ecology August 2018), section 4 of the 'Statement to Inform an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017' (Richard Green Ecology January 2019) and in the email from Bell Cornwall dated 15.04.19 shall be implemented in full and in accordance with an Ecological Mitigation and Enhancement Strategy (EMES) (including a detailed planting scheme, an ecological management plan and a timetable for the delivery of the mitigation measures), which shall have been submitted to, and approved in writing by, the Local Planning Authority prior to any development commencing. Written confirmation of the delivery of each of the mitigation measure shall be provided in writing to the Local Planning Authority by a suitably qualified ecologist within one month of each measure being delivered.

(Reason- In the interests of maintaining the suitability of the site for bats and other protected species, to maintain the integrity of the Beer Quarry Caves Special Area of Conservation, in accordance with policy H3 (Site Allocation: Land at Short Furlong) of the Beer Neighbourhood Plan, Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2033 and paragraph 170 of the National Planning Policy Framework. This is a pre-commencement condition as it seeks to regulate how the site is to be illuminated during construction of the development.)

20. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the District Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.)

Plans relating to this application:

13707_L01_01	Location Plan	20.08.18
Rev I		

List of Background Papers

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

## Appropriate Assessment

### The Conservation of Habitats and Species Regulations 2017, Section (63)

Application Reference	18/1957/MOUT
Brief description of proposal	<b>Construction of up to 30 new dwellings (including affordable housing provision) outline application with all matters apart from access reserved</b>
Location	<b>Land Adjacent Short Furlong, Beer, Devon</b>
Site is:	<p>Within 500 metres of the Beer Quarry &amp; Caves Special Area of Conservation (SAC)</p> <p>Within 500 metres of the Beer Quarry &amp; Caves Site of Special Scientific Interest (SSSI)</p> <p>Within 600 metres of the Jurassic Coast World Heritage Site</p> <p>Within 600 metres of the Sidmouth to Beer SSSI</p> <p>Within 600 metres of the Sidmouth to West Bay SAC</p> <p>(See Appendix 1 for list of interest features of the SPA/SAC)</p>
<b>Step 1 Screening for Likely Significant Effect on Beer Quarry Caves SAC</b>	
<b>Risk Assessment</b>	
Could the Qualifying Features of the European site be affected by the proposal?  Consider both construction and operational stages.	<p><b>N.B.</b> This assessment is based on the information provided in the 'Statement to Inform and Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017' prepared by Richard Green Ecology (January 2019). All references to figures, tables, appendices/annexes, sections are made with respect to those contained therein.</p> <p>Yes</p> <p>The 2014 and 2017 bat surveys of the Application Site identified greater and lesser horseshoe bat and Myotis species bat activity along the northern, north western and south western boundaries of the Application Site, and along hedges outside of the Application Site. It is likely that the horseshoe bats recorded may hibernate in the caves and be part of local breeding populations. Similarly, the Myotis bats recorded may have included Bechstein's bat, however it is notoriously difficult to confirm species identification of Myotis bats using only echolocation calls. For the purposes of this assessment, it is assumed that Bechstein's bats forage in the area, including around the Application Site.</p>

Therefore, there could be adverse population effects on the qualifying bat species using the SAC.

### **Impacts on bats**

The development would result in the loss of 0.99 ha of poor semi-improved/improved cattle grazed pasture, a foraging habitat of greater and lesser horseshoe bats, and would introduce artificial light, which could disturb habitat features used by commuting or foraging bats, resulting in disruption of flight lines.

The Application Site is approximately 600 m away from the boundary of Beer Quarry and Caves SAC and so is within the likely winter foraging range of all three qualifying species (refer to Figure 2). However, Bechstein's bats do not tend to forage over pasture, lesser horseshoe bats are less likely to forage over pasture when livestock are not present during the winter, and greater horseshoe bats favour woodland habitats over grassland in the winter. The value of the pasture on the Application Site is therefore likely to be diminished as a winter foraging habitat, compared to its value during the spring and summer.

The Application Site lies approximately 2 km to the east of a greater horseshoe maternity roost in Branscombe and approximately 4.5 km to the south-east of a greater horseshoe maternity roost in Southleigh. It is generally accepted that greater horseshoe bats have a Core Sustenance Zone (CSZ) around maternity roots of 3 km (Collins et al., 2016); however, because of the proximity to the coast of the Branscombe roost, and the subsequent absence of suitable foraging habitat over the sea in this zone, the CSZ of the Branscombe roost is likely to be larger, i.e., up to 4 km from the roost.

The Application Site is within the CSZ of the Branscombe roost but outside of that for the Southleigh roost, although there is some connection between these roosts, with individual bats being radio-tracked using both roots on the same night by Fiona Mathews in 2010.

The existing boundaries, including hedges, would be retained apart from some individual low-growing ornamental shrubs at the Application Site entrance, where a short section (approx. 6 m) would be cleared to provide access to the Application Site. This area is also lit by street lighting in Short Furlong and so is unlikely to be used by the qualifying bat species. Therefore, there would be no severance of bat habitat connectivity.

The management of land under Higher Level Stewardship agreement (refer to section 2.2.7) is likely to have had a positive effect on bat populations using Beer Quarry and Caves SAC, particularly greater horseshoe bats, which are a target species of the agreements and management. This management is likely to have contributed to the continuing increase in the greater horseshoe population at the SAC, increasing the resilience of the population and the integrity of the SAC against other factors, such as loss of habitat elsewhere.

### **Impacts on Conservation Objectives**

The Favourable Conservation Status of the three qualifying species could be adversely affected, as the following aspects of the Conservation Objectives would not be maintained or restored:

- *The extent and distribution of the habitats of qualifying species.* The extent of foraging habitat, i.e., grazed pasture, used in particular by breeding and juvenile greater horseshoe bats, would be reduced by 0.99 ha. Using Corine land cover 2012 data for the UK (the best available habitat/land cover data set, available from data.gov.uk) this would be approx. 0.2% of available pasture habitat (469.43 ha) within the 4 km radius CSZ (core sustenance zone) of Tula Barn greater horseshoe bat maternity roost in 2012 (refer to Figure 4). However, the Corine data set is at a macro scale and does not include a lot of pasture habitat within the area, as can clearly be seen by looking at an aerial photograph of the area. Clinton Devon Estates has also since reverted some arable land to pasture, so the actual percentage will be even smaller. Therefore, using the Corine data this is likely to be a gross under-estimation of available pasture habitat within 4 km of Tula Barn and the percentage loss of available habitat is likely to be considerably smaller than 0.2%;

- *The structure and function of the habitats of qualifying species.* The function of boundary features around the Application Site, along which bats fly, could be affected by lighting disturbing bats and causing them to avoid the features; and

- *The populations of qualifying species.* Species populations could be affected by loss of foraging habitat (horseshoe bats only) and disturbance to bat foraging and commuting habitat;

The following aspects of the Conservation Objectives would be maintained or restored, i.e., not adversely affecting the Favourable Conservation Status of the three qualifying species:

- *The supporting processes on which the habitats of qualifying species rely.* These will not be affected, as foraging habitat will be lost over the Application Site (refer to *Extent of habitats* above) and the proposed development will not affect processes outside of the Application Site; and

- *The distribution of qualifying species within the site.* This will not be affected, as the proposal is outside of Beer Quarry and Caves SAC and will have no influence over distribution of species within the SAC.

### **Summary of effects without mitigation**

0.99 ha of cattle grazed poor semi-improved pasture would be lost during construction; and boundary features, along which bats fly, may be disturbed by lighting both during construction and occupation of houses.

It is therefore considered that in the absence of mitigation, there could be an adverse effect on the integrity of Beer Quarry and Caves SAC, as the ability of the site to maintain the populations of qualifying bat species at their current level could be affected.

<b>Conclusion of Screening</b>		
Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?	<p>East Devon District Council concludes that there <b>would be</b> Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the proposal at Land Adjacent Short Furlong, Beer in the absence of mitigation</p> <p>An <b>Appropriate Assessment</b> of the plan or proposal <b>is necessary</b>.</p>	
Local Authority Officer	J Ebdon	Date: 3 April 2019
<b>Step 2 Appropriate Assessment</b>		
<p>NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.</p>		
<b>In-combination Effects</b>		
Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.	<p>East Devon Local Plan 2013-2031 (adopted 2016) – not likely to result in in-combination effects</p> <p>Beer Neighbourhood Plan 2014-2031 - not likely to result in in-combination effects</p> <p>No other projects specifically likely to affect the Beer Quarry Caves SAC.</p>	
Mitigation of in-combination effects.	No in-combination effects likely.	
<b>Assessment of Impacts with Mitigation Measures</b>		
Mitigation measures	<i>Pre-construction &amp; construction phase</i>	

<p>included in the proposal.</p>	<p>(a) Habitat loss – loss of foraging habitat  Habitat loss will be largely limited to grassland only. The vast majority of existing hedges, trees and shrubs around the Application Site will be retained, apart from a very small area of ornamental shrubs around existing car parking at Short Furlong, which will be removed to create the site access (refer to Section 3.4 and Annex A); and one ash tree on the bank to the north-east of the Application Site, which will be affected by the proposed drainage and has been recommended for removal by Aspect Tree Consultancy (refer to Aspect Tree Consultancy’s Arboricultural Impact Assessment Report (AIA) dated 08/08/2018).</p> <p>To mitigate for this loss of bat foraging habitat a number of mitigation measures are proposed, which ideally would be implemented before construction work starts, so that new habitats become established and provide value for bats before the grassland habitat on the Application Site is destroyed. Refer to Figures 5 &amp; 6 for locations, Table 4.1 for total lengths/areas and Annex C for mitigation planting species mixes.</p> <ul style="list-style-type: none"> <li>i. New species-rich native hedges, with standard trees approx. every 15 m, to be planted around the Application Site, including filling in gaps in the hedge to the west of the Application Site (Figure 6 includes the number of standard trees to be planted in each hedge). These will provide additional bat foraging habitat, reinforced commuting routes and screening from light spill once the hedges have become established, benefitting all of the qualifying bat species.</li> <li>ii. New species-rich native hedges, with standard trees approx. every 15 m, to be planted in the following locations off the Application Site, to provide additional bat foraging habitat and new commuting routes between Beer Quarry and Caves SAC and surrounding areas of bat foraging habitat (Figure 5 includes the number of standard trees to be planted in each hedge): <ul style="list-style-type: none"> <li>a) Along an existing stock fence line, approx. 90 m in length, approx. 260 m to the south-west of the Application Site, to the west of Pecorama overspill car park. This will provide a connection between good bat foraging habitat to the north, made up of a series of small fields with tall, thick hedges and blocks of trees, to a ‘green lane’ to the south, lined on both sides with hedges, that provides sheltered foraging along it and connection with other habitats to the west and south.</li> <li>b) Along an existing post and rail fence line, approx. 30 m in length approx. 200 m to the south-west of the Application Site, between Pecorama coach park and overspill car park. This will provide another connection similar to a. above;</li> <li>c) Along an existing stock fence line, approx. 110 m in length, approximately 1 km to the west of the Application Site, to the west of Beer Quarry and Caves SAC. This will provide a connection between to a lane to the west, lined on both sides with hedges, that provides sheltered foraging along it and connection with other habitats to the north and south. The existing hedge at the west end of the fence line will also have standard trees planted within it to the north to increase its foraging and commuting value (refer to iv. below).</li> <li>d) In three gaps in hedges to the east of Beer Quarry and Caves SAC. This will provide a connection from Beer Quarry and Caves SAC to hedges to the east, which in turn connect with foraging habitats to the north and east.</li> </ul> </li> <li>iii. New native woodland planting in a field of poor semi-improved grazed pasture to the north-west of the Application Site, approx. 1,180 m<sup>2</sup> in area,</li> </ul>
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and in part of another field of improved grazed pasture approx. 330 m to the west of the Application Site, approx. 4,790 m<sup>2</sup> in area<sup>7</sup>. This will increase the value of foraging habitat close to Beer Quarry and Caves SAC for all qualifying bat species, as woodland habitat is considered to be a more valuable habitat overall, particularly during winter for greater horseshoe bats, when they will be present at the SAC (refer to Sections 2.2.3, 2.2.4, 2.2.5, 3.5, 3.6 & 3.7).

- iv. Planting of standard trees, at approx. 15 m spacing, in eighteen existing hedges radiating out from Beer Quarry and Caves SAC that have no or few trees within them (Figure 5 includes the number of standard trees to be planted in each hedge). This will enhance the bat foraging value of these hedges by providing additional structure and shelter from prevailing winds, increasing invertebrate abundance and diversity along the hedges, as well as providing feeding perches for greater horseshoe bats and more effective bat corridors for all qualifying bat species linking to good foraging habitats, including wooded valleys around Beer Quarry and Caves SAC.

<sup>7</sup> These two areas are currently in Higher Level Stewardship agreements until November 2023 and Clinton Devon Estates currently receive payment from Natural England for management, including ‘supplement for small fields’; ‘grazing supplement’; ‘permanent grassland with low inputs’; ‘maintenance of grassland for target species’ (greater horseshoe bat); and ‘permanent grassland for Article 13’ (non-payment option) for the 1,180 m<sup>2</sup> site, and ‘management of hedges of very high environmental value’ (one side only); and ‘creation of grassland for target species’ (greater horseshoe bat) for the 4,790 m<sup>2</sup> site. If the mitigation planting is required before the end of November 2023, when the agreement ends, these two areas would have to be re-assessed under the HLS agreement and Clinton Devon Estates may have to return payments received to Natural England, which is something they are willing to do if required.

**Table 4.1: Total lengths, areas and number of standard trees to be planted as part of proposed mitigation measures**

Mitigation planting measure	Total length of hedge planted/trees added to; or total area of woodland	Total number of standard trees planted
Hedges planted with trees every 15 m	838 m	56
Trees planted every 15 m in existing hedges	3.42 km	228
Woodland planting	0.6 ha	567 <sup>8</sup>

**(b) Disturbance to bat foraging and commuting habitat**

Boundary features around the Application Site, along which bats fly, may be disturbed by lighting both during construction and occupation of houses.

The final design and layout of houses and any street lighting would be detailed as reserved matters. The design (including internal and external lighting and window size and placement) and layout would incorporate measures to avoid light spill over boundary hedges, such that there would be no increase above background levels or a maximum of 0.5 lux where bats might fly around the Application Site. A detailed lighting scheme and assessment, including design and assessment for bats, should be requested as a reserved matter.

A condition should also be applied to any permission stating that there should be no night-time working and no lighting of bat foraging and commuting habitats around the site during construction, e.g., by security flood lighting.

In addition to the proposed hedge planting in Section (a)i, a minimum 2m high close-boarded timber fence would be installed on the inside of planted and existing hedges on the north and west sides of the Application Site (refer to Figure 6). The fence should be installed before any external lighting on the site becomes operational and before houses are occupied. The fence would prevent light spill behind the fence, retaining a dark corridor for bats to fly around the Application Site. The fence would also prevent householders from interfering with the planted hedge, e.g., by removing or cutting it too short. The hedge should be managed by a management company, along with other green spaces on the Application Site that are not in private ownership.

To the north of the Application Site and the adjacent footpath the land drops away steeply and is vegetated with trees and shrubs (refer to photographs in Annex A). This provides additional habitat for bats to fly around the Application Site to the north, which would also be screened from any light spill by the close-boarded fence.

### **Post-construction phase**

#### **(a) Habitat loss – loss of foraging habitat**

There would be no further habitat loss post-construction.

Hedges, trees and the close-boarded fence around the Application Site would be maintained indefinitely by a management company. Because of the proximity to the footpath to the north of the Application Site, the northern hedge would probably have to be cut annually once it is mature. Hedges away from public access areas would be managed on a less frequent basis if possible, e.g., once every two to three years, allowing the hedges to become taller and thicker.

Hedges, trees and woodland planted outside of the Application Site would be managed indefinitely by Clinton Devon Estates, as part of their estate management. Following planting, weed control measures would be used to reduce competition with trees and shrubs. Trees in hedges and woodland would be replaced if they fail in the first three years after planting and then left to mature. Once mature, hedgerow management would be on a two to three-year rotational basis.

#### **(b) Disturbance to bat foraging and commuting habitat**

	<p>Following sensitive design and layout of houses and street lighting, and erection of a minimum 2 m high close-boarded fence around part of the Application Site (refer to Section 4.2(b)) there would be no light spill onto adjacent bat foraging and commuting habitats. As stated in Section 4.3(a), the fence around the Application Site would be maintained indefinitely by a management company.</p> <p><b>Assessment of residual effects</b></p> <p>Following implementation of mitigation measures set out in Sections 4.2 and 4.3, to be secured by way of planning conditions where necessary, it is considered that there would be no net loss of foraging habitat for qualifying bat species and no significant disturbance of bat foraging and commuting habitat, and that there would be no adverse effect on the integrity of Beer Quarry and Caves SAC, either alone or in combination with other plans or projects.</p>
<p>Are the proposed mitigation measures sufficient to overcome the likely significant effects?</p>	<p>Yes – these will need to be secured via planning conditions and/or a Section 106 agreement.</p>
<b>Conclusion</b>	
<p>List of mitigation measures and safeguards</p>	<p>Before construction work starts:</p> <ul style="list-style-type: none"> <li>i. New species-rich native hedges, with standard trees approx. every 15 m, to be planted around the Application Site, including filling in gaps in the hedge to the west of the Application Site (Figure 6 includes the number of standard trees to be planted in each hedge).</li> <li>ii. New species-rich native hedges, with standard trees approx. every 15 m, to be planted in the following locations off the Application Site, to provide additional bat foraging habitat and new commuting routes between Beer Quarry and Caves SAC and surrounding areas of bat foraging habitat (Figure 5 includes the number of standard trees to be planted in each hedge): <ul style="list-style-type: none"> <li>e) Along an existing stock fence line, approx. 90 m in length, approx. 260 m to the south-west of the Application Site, to the west of Pecorama overspill car park. Along an existing post and rail fence line, approx. 30 m in length approx. 200 m to the south-west of the Application Site, between Pecorama coach park and overspill car park.</li> <li>f) Along an existing stock fence line, approx. 110 m in length, approximately 1 km to the west of the Application Site, to the west of Beer Quarry and Caves SAC.</li> <li>g) In three gaps in hedges to the east of Beer Quarry and Caves SAC.</li> </ul> </li> <li>iii. New native woodland planting in a field of poor semi-improved grazed pasture to the north-west of the Application Site, approx. 1,180 m<sup>2</sup> in area,</li> </ul>

- and in part of another field of improved grazed pasture approx. 330 m to the west of the Application Site, approx. 4,790 m<sup>2</sup> in area.
- iv. Planting of standard trees, at approx. 15 m spacing, in eighteen existing hedges radiating out from Beer Quarry and Caves SAC that have no or few trees within them (Figure 5 includes the number of standard trees to be planted in each hedge).

**Table 4.1: Total lengths, areas and number of standard trees to be planted as part of proposed mitigation measures**

Mitigation planting measure	Total length of hedge planted/trees added to; or total area of woodland	Total number of standard trees planted
Hedges planted with trees every 15 m	838 m	56
Trees planted every 15 m in existing hedges	3.42 km	228
Woodland planting	0.6 ha	567 <sup>8</sup>

(b) Disturbance to bat foraging and commuting habitat

Boundary features around the Application Site, along which bats fly, may be disturbed by lighting both during construction and occupation of houses.

The design and layout of the houses (including internal and external lighting and window size and placement) would incorporate measures to avoid light spill over boundary hedges, such that there would be no increase above background levels or a maximum of 0.5 lux where bats might fly around the Application Site. A detailed lighting scheme and assessment, including design and assessment for bats, should be requested as a reserved matter.

A condition should also be applied to any permission stating that there should be no night-time working and no lighting of bat foraging and commuting habitats around the site during construction, e.g., by security flood lighting.

A minimum 2m high close-boarded timber fence would be installed on the inside of planted and existing hedges on the north and west sides of the Application Site (refer to Figure 6). The fence should be installed before any external lighting on the site becomes operational and before houses are occupied. The hedge should be managed by a management company, along with other green spaces on the Application Site that are not in private ownership.

- Mitigation measures must be in place and functional ready for the time that development impacts commence. To achieve this, there will need to be advance planting of landscaping bat mitigation features. Therefore we recommend that trees and hedgerows are planted at least **two years prior to the commencement of development.**

	<ul style="list-style-type: none"> <li>• <b>All</b> the off-site mitigation areas must be shown within a blue line on application documents to allow these to be secured via a S106/unilateral undertaking or other suitable legal agreement.</li> <li>• Hedgerows should be <b>double</b> rows of species-rich native species and managed to be tall and thick (minimum height and width 3 metres by year 3).</li> <li>• With permanent loss of habitat, the mitigation measures will need to be secured '<b>in-perpetuity</b>'.</li> <li>• <b>Monitoring</b> of tree and hedgerow planting success, replacement of failures and ongoing management in-perpetuity is proposed.</li> </ul> <p><b>Post-construction phase</b></p> <p>Hedges, trees and the close-boarded fence around the Application Site would be maintained indefinitely by a management company in accordance with the final bullet point above.</p> <p>Hedges, trees and woodland planted outside of the Application Site would be managed indefinitely by Clinton Devon Estates, as part of their estate management. Following planting, weed control measures would be used to reduce competition with trees and shrubs. Trees in hedges and woodland would be replaced if they fail in the first three years after planting and then left to mature. Once mature, hedgerow management would be on a two to three-year rotational basis.</p>
The Integrity Test	<p>Whether the proposal would have an adverse effect on the integrity of Beer Quarry and Caves SAC has been determined by assessing whether, following the implementation of the mitigation measures identified in this document, it would affect the achievement of one or more conservation objectives of the European Site considered. As stated above, the proposal (with appropriate mitigation) would not affect the achievement of any of the conservation objectives set for Beer Quarry and Caves SAC, and it can be considered beyond reasonable scientific doubt that there would be no impact on the site's integrity, assuming appropriate mitigation is provided.</p> <p>Under Regulation 70(2) the competent authority may, if it considers that any adverse effects of the plan or project on the integrity of a European site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission, or, as the case may be, take action which results in planning permission being granted or deemed to be granted, subject to those conditions or limitations.</p> <p>Therefore, for the purposes of Regulation 63 of the Conservation of Habitats and Species Regulations 2017, it is concluded that outline planning permission can be granted with appropriate conditions so that there would not be an adverse effect on the integrity of Beer Quarry and Caves SAC.</p>
Conclusion of	East Devon District Council concludes that there would be <b>NO</b> adverse effect on integrity of Beer Quarry Caves SAC <b>provided</b> the mitigation measures are secured as above.

Appropriate Assessment		
Local Authority Officer		Date:
21 day consultation to be sent to Natural England Hub on completion of this form.		