

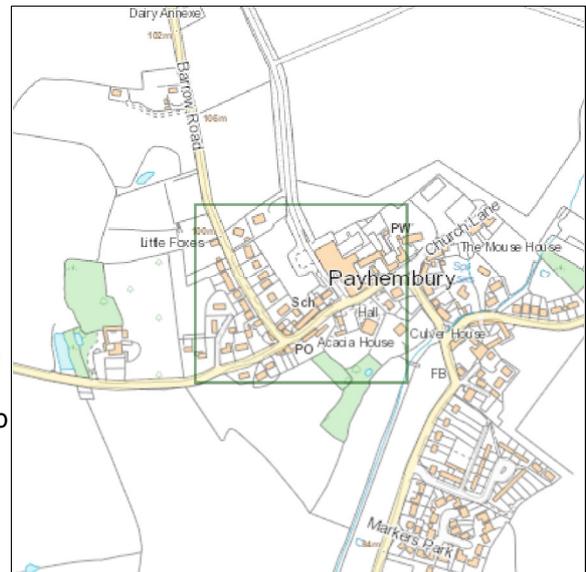
**Ward** Tale Vale

**Reference** 20/0550/MOUT

**Applicant** Mr R Leach

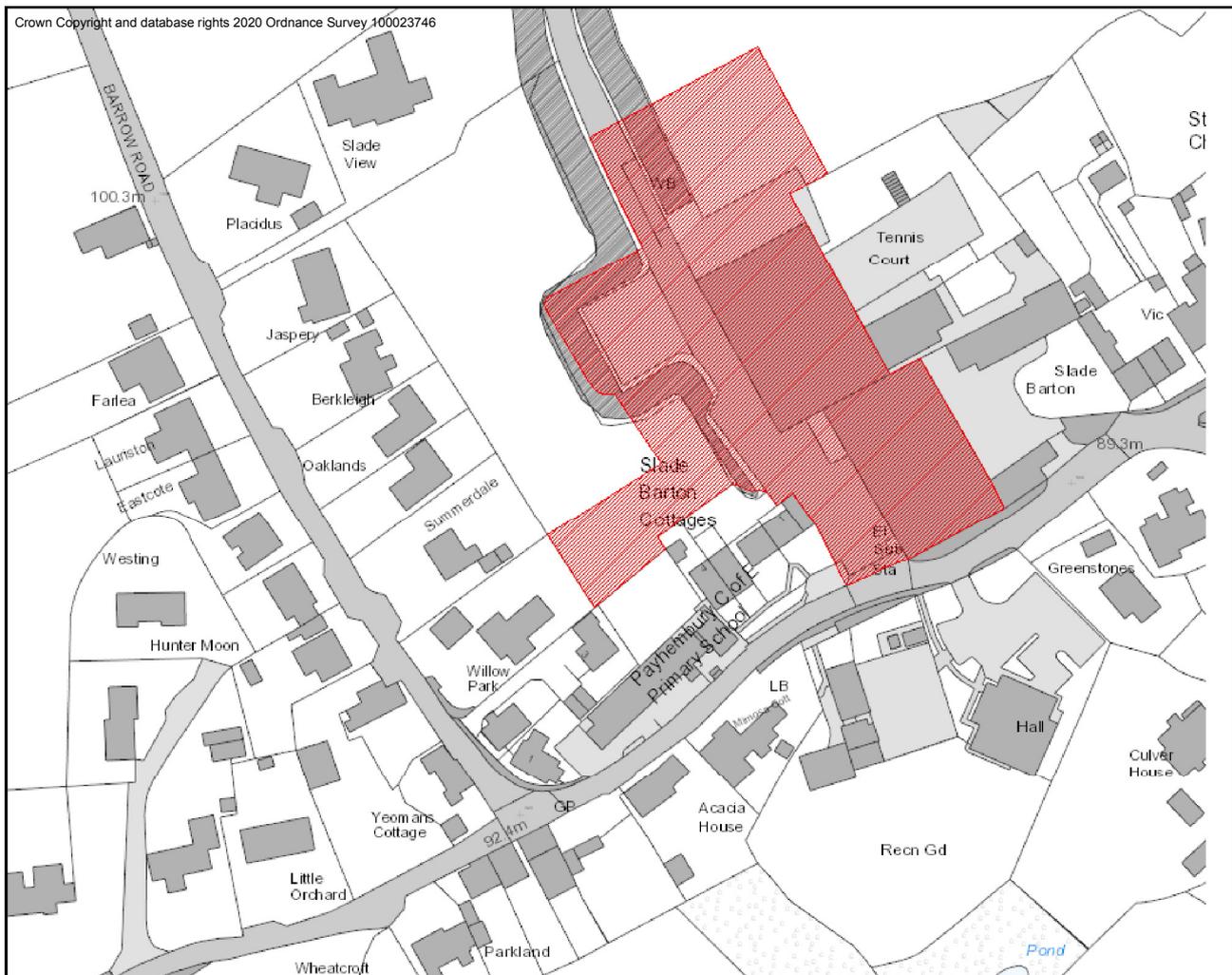
**Location** Slade Barton Payhembury Honiton EX14 3HR

**Proposal** Outline planning application with all matters reserved for redevelopment of the existing farmyard and business units to provide: up to 9 dwellings, 480 sq metres B1(a) and B2 floor space and farm office, meeting room, workshop and garage; village car park and parking for existing dwellings; and associated infrastructure



**RECOMMENDATION:**

1. That the Habitat Regulations Appropriate Assessment forming part of the Committee Report be adopted;
2. REFUSE the planning application.



		<b>Committee Date: 29<sup>th</sup> July 2020</b>
<b>Tale Vale (Payhembury)</b>	<b>20/0550/MOUT</b>	<b>Target Date: 19.06.2020</b>
<b>Applicant:</b>	<b>Mr R Leach</b>	
<b>Location:</b>	<b>Slade Barton Payhembury</b>	
<b>Proposal:</b>	<b>Outline planning application with all matters reserved for redevelopment of the existing farmyard and business units to provide: up to 9 dwellings, 480 sq metres B1(a) and B2 floor space and farm office, meeting room, workshop and garage; village car park and parking for existing dwellings; and associated infrastructure</b>	

**RECOMMENDATION:**

1. That the Habitat Regulations Appropriate Assessment forming part of the Committee Report be adopted;
2. REFUSE the planning application.

**EXECUTIVE SUMMARY**

The application is before Members as the officer recommendation differs from the view of the Parish Council.

The proposal seeks outline planning consent for the demolition of existing buildings and replacement with up to 9 dwellings, employment units, parking areas and a new access at Slade Barton, a complex of farm and industrial buildings in the centre of Payhembury village. The proposal also takes place close to a number of listed buildings.

The proposal includes the construction of 8 new dwellings and a new farmhouse. A recent housing needs survey for the village did not identify a need for affordable housing, and therefore none of these dwellings are to be made available for that purpose. A financial contribution is offered towards affordable housing elsewhere in the District.

In addition to the housing, the proposal seeks the retention of employment through new buildings to replace the existing commercial uses on site, including a vehicle repair garage. In addition, a new car park for the village to enable users of the many facilities to park safely is proposed.

**Whilst listed buildings are close to the site, it is not considered that the proposed scheme would be detrimental to their setting. In addition, trees within the site are not proposed for removal and could be protected by condition in the event that development proceeds.**

**The scheme is supported by the Parish Council, who state that it is in accordance with their neighbourhood plan.**

**However, due to its lack of affordable housing within the site the proposal is contrary both to the Local Plan Strategy 35 and the Neighbourhood Plan policy PNP1 representing an open market housing development outside of the built up area boundary as defined in the Neighbourhood Plan. Strategy 35 and Policy PNP1 states that development should only happen where it conforms with Strategy 35 of the Local Plan and the proposal is not proposing any affordable housing and is contrary to the criteria to Strategy 35 and as such does not meet the criteria as an exception site.**

**There are a number of factors which weigh in favour of the scheme. These include the removal of unsightly buildings at the sight entrance and the consequent improvement to highway visibility, and the creation of additional off road parking.**

**However, these benefits are not considered to outweigh the fundamental policy objections to the proposal in terms of the provision of open market dwellings in an unsustainable location without on-site affordable housing and therefore it is considered that the application should be refused.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish Council 11.05.20**

Payhembury Parish Council support this outline planning application, with the following comments:

- 1) the proposed development supports the Payhembury Neighbourhood Plan with regard to housing requirements.
- 2) the use of a greenfield site as part of the development is a concern.
- 3) improved traffic calming measures will be needed for the village, together with improved availability of safe routes for pedestrians, horse-riders and cyclists.
- 4) the layout of the parking behind Slade Barton Cottages should be discussed further with the residents of those cottages to find the best solution.

Further comments received 03.06.20:

As requested by yourself, the Parish Council would like to clarify the comment they made on their initial submission with regard to the planning application supporting the Neighbourhood Plan as follows:

The Neighbourhood Plan for Payhembury was developed with the support of the community. The original plan that was taken to public consultation showed the

brownfield site covering the Slade Barton farm within the settlement area and it was this site that was identified by the community survey as the preferred site for any future development. EDDC were the only people who raised objections to the inclusion of the brownfield site in the settlement area and it was due to their veto that the area had to be removed before the Neighbourhood Plan went to referendum. However, the reference to this brownfield site remains within the Neighbourhood Plan (paragraph 3.17) as the preferred site for development.

Paragraph 3.23 of the Neighbourhood Plan requires development to be small scale 1, 2 or 3 bedroom properties and therefore the proposed development supports the Neighbourhood Plan. All of the new properties except the new farmhouse are within the brownfield site. Paragraph 3.25 of the Neighbourhood Plan requires that sufficient off-street parking be provided for any new development - the proposed development includes the required level of parking. Paragraph 3.20 refers to the increased dangers caused by on-street parking - this proposal helps to reduce on-street parking by the provision of additional parking for the existing village facilities.

As stated above the brownfield site now lies outside the Neighbourhood Plan settlement area, and would therefore need to conform to Strategy 35 to include affordable housing development to enable the proposed development to be approved. However the recent independent Housing Needs survey requested by EDDC has shown no current need for affordable housing in the parish. An affordable home payment is included in the proposal in lieu of actual houses and this would be greatly beneficial in supporting the identified affordable housing need in the neighbouring parish of Broadhembury.

The Parish Council believes that despite lying outside the settlement boundary as modified, the application complies with policy PNP1 in that this site was envisaged by the Parish as the most suitable location for a low level of housing growth within the village and delivers on the policy intent.

The application also supports the Neighbourhood Plan on policy PNP2 - the transfer of the current employment facilities further back onto the site will enhance the village centre and will have a positive impact on the appearance and character of the area whilst maintaining and potentially improving employment potential.

The application also supports the Neighbourhood Plan on Policy PNP6 - the narrowing of the entrance to the site, improved visibility by the removal of the high-sided barn adjacent to the road and the removal of the need for larger agricultural vehicles to enter the village to access the farm will all improve pedestrian safety. The additional car parking will also remove parked cars from the entrance area which lies adjacent to the two parts of the school, the Parish Hall and the community shop. The improvements to safety in this area support PNP6. CIL payments attached to this development could also be used to deliver other improvements in safety for pedestrians, cyclists and horse-riders within the village.

I hope that provides sufficient explanation for the comment.

Payhembury Parish Council support this outline planning application, with the following comments:

- 1) the proposed development supports the Payhembury Neighbourhood Plan with regard to housing requirements.
- 2) the use of a greenfield site as part of the development is a concern.
- 3) improved traffic calming measures will be needed for the village, together with improved availability of safe routes for pedestrians, horse-riders and cyclists.
- 4) the layout of the parking behind Slade Barton Cottages should be discussed further with the residents of those cottages to find the best solution.

Further comments:

The Parish Council has no additional comments to make with regard to the amendments proposed on 2nd June

### **Technical Consultations**

#### **South West Water**

I refer to the above application and would advise that South West Water has no objection.

#### **Housing Strategy Officer Melissa Wall**

Payhembury does not have a built up area boundary and therefore this site is within the open countryside. The Payhembury Neighbourhood Plan has defined a settlement boundary and this site sits outside of but adjacent to this settlement boundary. In-fill development is permitted within the boundary and outside of the boundary any development must comply with Strategy 35 ' Exception mixed market and affordable housing. This application is not being brought forward under Strategy 35 as an exception site and is therefore a departure from local plan policy.

A housing needs survey was carried out in October 2019 and no affordable housing need was identified. This is very unusual, and a first in East Devon. 281 surveys were sent out to all households in the Parish and the response rate was good at 41%. Those registered on Devon Home Choice with a Payhembury address (8 applicants) were also contact but did not respond.

Under the local plan Payhembury is grouped with Broadhembury, Awliscombe and Plymtree for assessing housing need. Of those only Awliscombe has a current housing needs survey and this identified a need for 3. Planning permission has recently been granted (subject to the S106 agreement) on a site which includes 3 affordable units. Broadhembury had a survey completed in 2014 which identified a need for 5 units over 5 years. This survey is now out of date however there has not been any affordable housing delivered over this period in the village. There may still be some unmet need in Broadhembury but without doing another survey we cannot be sure due to the time that has passed.

The applicant is proposing to provide a commuted sum towards affordable housing in order to meet policy requirements under strategy 34 of 50% affordable housing. This would amount to £28,958 x 9 = £260,622.

The applicant is making a case based on the lack of housing need in the village that a commuted sum would meet policy under strategy 34 rather than provide it on-site where there is no need for it.

### EDDC Trees

There are no arboricultural objections to the principle of development of this site. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a tree survey and report to include a Tree Protection Plan (TPP) and Arboricultural Method Statements (AMS) for the protection of all retained trees, hedges and shrubs on or adjacent to the site, shall be submitted to and approved in writing by the Planning Authority.

The layout and design of the development shall be informed by and take account of the constraints identified in the survey and report.

The tree survey and report shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. The development shall be carried out in accordance with the approved details

Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS.

The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

Reason: To ensure the continued wellbeing of retained trees in the interests of the amenity of the locality.

### Natural England

This development falls within the 'zone of influence' for the East Devon Pebblebed Heaths SAC, and East Devon Heaths SPA as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured. Natural England's advice is that this proposed development, and the application of these 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 in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

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 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

#### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w).

Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI.

#### Environmental Health

We have now discussed the various matters raised by Environmental Health with the applicant. Some suggestions have been put forward regarding ways in which the potential for conflict between uses can be resolved, and we have taken into account the current use of the site and the proposals to move the grain dryer to a different location which will benefit residents in this area. We therefore have no outstanding objections to the application in principle and would recommend that the following conditions are included in any approval:

No machinery shall be operated, no processes carried out and no deliveries accepted or despatched except between the hours of 8am and 6pm Monday to Friday, or 8am and 1pm on Saturdays, and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of local residents from noise.

and

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

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

## Noise control

The application proposes new residential premises within close proximity of proposed (general) industrial and business use. It is not clear how the layout of the development, allied to other suitable and practical planning control, could prevent significant noise impact to proposed and existing residential property:-

- o Both indicative layouts illustrate a removal of existing noise protection to residential property to the east of the site.
- o Furthermore, in each of the illustrative examples, access to the industrial unit or garage in the centre of the site (likely to be through the eastern face of the building) would allow noise breakout to the proposed dwellings nearby, and existing residential property.
- o The illustrated layout of the employment site at the northern area of the site has the benefit of providing some noise protection from that part of the development to nearby housing. However, excessive transport noise, from HGV movement through the narrow vehicular access within the site, to the proposed residential use in particular, is also of significant concern.
- o Given its location and existing limitations, including intimate proximity with existing and proposed residential property, the site is not appropriate for mixed residential and general B2 use. Specific B2 uses would be expected to require further environmental controls, which themselves might require alterations to the layout or further planning applications to deal with specific, significant adverse impacts. It is not possible therefore to propose suitable and sufficient controls on adverse impacts from the information provided in the application.

## Further matters

Should the Planning Authority be minded to grant permission for B1 and residential use only, then suitable restrictions are likely to be necessary to control noise due to:-

- o business activity outside the proposed buildings
- o operating times
- o vehicular access
- o plant and machinery

We also anticipate that there may be impacts from light intrusion (and potentially dust and odour), which would need to be addressed by the applicant. In this case, the detail of those controls are likely to be influenced by the details of such a proposal, in particular its layout.

We would be pleased to comment further in due course if the applicant submits reports referring to all the matters outlined above and how concerns will be suitably addressed. In the absence of that further information we would not support approval of this application in its current form.

## Conservation

GRADE: Adj II's & I APPLICATION NO: 20/0550/MOUT

CONSERVATION AREA: None

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

This outline proposal is for a redevelopment of a site that is central to the village of Payhembury. At present the allocated site contains mostly industrial buildings that

appear to have little to no historic merit, although there may be some local materials used in places. It is surrounded by residential dwellings some of which are listed. The listed buildings are either side of the main site entrance on the South-West and North-East axis. These are grade II listed, however, consideration should be taken to the setting and its significant views of the grade I listed church which is immediately to the North-East of the site. It creates a strong boundary to the main route through, with strong views into the site and its surrounds. It sits outside, but abuts the historic settlement boundary.

It is misleading that the address site is Slade Barton where it does not actually include this farmhouse as part of the intended proposal. Care should be taken to retain the historic and rural setting of this historic farmhouse and its relationship to the village character.

Slade Barton - the existing industrial, building groups form a cluster around Slade Barton farmhouse, whilst also creating the Western and Southern edge to the associated farmyard. These can clearly be seen from the main road. The proposal would interrupt this farmyard grouping, however, great care should be taken with proposed replacement making good or new boundary treatment.

New farmhouse - as with the entire development it is important to consider ridge heights, this one in particular as it has an uninterrupted line to the listed church and is one of the largest buildings proposed. Important views to and from the heritage assets should form part of the design and massing concept.

New houses on front road - in principle this is supported. The design has responded to initial comments made, creating a clear, visual break and sheltered, public meeting space to the village shop. The low retaining walls are characteristic of the area and reflect local distinctiveness. Subject to detailing, coping detail and materials.

Hard landscaping - it seems excessive, with too many materials. The distinctive character of the area is interspersed with green spaces and high level planting. It is suggested to soften the impact of the hard landscaping with a more shared surface solution with permeable surfaces and planting.

Views - as mentioned before, these are important for the existing buildings, including the listed buildings. It is suggested that important viewpoints are identified from within the site (this might be glimpsed views through at lower level or from the level of the proposed farmhouse and its gardens), and the impact it may or may not have on the setting of the grade I listed church.

Ridge heights - care should be taken with regards to overbearing ridge heights and how they may impact and relate to views/historic buildings. The topography of the slope will help with this too.

Materials - should reflect the local vernacular and be of good quality with sympathetic finishes (e.g. lime mortar in the stone walls etc.). It is suggested that early submission of the materials proposed would be more efficient with any future application submission.

Public realm - -perhaps there are small, but considered opportunities for social interaction. Street lighting should be thoroughly considered with regards to impact on light spill and into dwellings.

Concept design - this has not been clearly established at this stage, however, it is noted that there was some ideas offered during the public consultation that is included on page 26 of the design and access document. There remains great concern regarding the "vertical" impact of all of the boundary treatments, as this site, to some degree has a very varied range of building uses in close proximity to the village heart as well as its heritage assets.

There may be scope for renewable energy, however, solar panels on the front of buildings is not necessarily supported despite the existing examples. There is plenty of scope to fit panels to areas, at ground level or other, instead of on the roofs of dwellings. The lower they are reduces installation costs, ease of maintenance and cleaning and an opportunity to mitigate against increased structural loading.

## Conclusion

Overall this is supported in principle. As with most design it should reflect the local character and the quality of its materials. Care should be taken with regards impact on the listed buildings and the continual relationship of how this central site remains integral to the centre of this historic village.

## PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

### Historic England

Thank you for your letter of 26 March 2020 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

### DCC Flood Risk Management Team

LOCATION: Slade Barton Payhembury Honiton EX14 3HR

Recommendation:

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

Observations:

The applicant has proposed a betterment of 30% in terms of proposed discharge rates compared to the existing rates. Ideally, brownfield sites should still have discharge rates restricted back to greenfield rates unless it can be robustly demonstrated that

this is not feasible. In this case, the rates should mimic greenfield rates as close to greenfield as is viable.

The applicant should confirm that South West Water are acceptable in principle to the proposed drainage strategy.

The Micro Drainage modelling indicates 4 m<sup>3</sup> of flooding at MH2/ pipe 1.001 during the design flood event.

The applicant should provide information on how this flood volume will be safely managed at the site.

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

### Devon County Archaeologist

The proposed development occupies a large area within the historic core of Payhembury and in proximity to the parish church. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the early settlement at Payhembury. The impact of development upon the archaeological resource 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 with 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 (2019) 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 Local 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 Local 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 (2019), 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 monitoring and recording of all groundworks in previously undisturbed parts of the site 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/>.

#### Other Representations

In addition to comments from consultees, 25 representations to the proposal have been received. These comprise 16 comments in support, 7 objections and 2 neutral comments.

Those in support refer to the following:

- The proposal removes unsightly buildings in the centre of the village
- It provides new properties for people to live in
- It improves road safety
- It provides parking for the users of the swimming pool
- It helps maintain the village services, particularly the shop and school
- It improves access
- It will provide improved/new business premises and security for the future of A E Auto Engineers

Objectors make the following comments:

- The infrastructure in the village (sewerage, medical care) cannot cope with additional development
- The car park is welcomed but is still insufficient to deal with the numbers using the pool
- Concern over large vehicles using the site
- Concern over construction traffic
- Loss of green areas to the rear of existing housing
- The scale of development is excessive merely in order to remove the unsightly buildings

#### **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 7 (Development in the Countryside)

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

Strategy 35 (Exception Mixed market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries)

Strategy 49 (The Historic Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN8 (Significance of Heritage Assets and their setting)

EN14 (Control of Pollution)

E5 (Small Scale Economic Development in Rural Areas)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Payhembury Neighbourhood Plan (Made)

PNP1 Payhembury Village Settlement Boundary

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

### **Site Location and Description**

The application site is within the village of Payhembury. The site is part of a larger farmstead which extends some 264 hectares; the site itself is approximately 0.8 hectares and comprises a range of modern steel framed agricultural buildings, some containing commercial enterprises, a weighbridge, parking areas and some grazing land. It borders residential properties, including Slade Barton itself, and a village shop. The site is close to the village primary school, church and public house. Access to the

site is from the main road through the village, onto a wide apron. The site falls from North to South.

## **Proposal**

The proposal is wide ranging, but principally consists of the demolition of the existing buildings on site to create the following:

- 8 new homes, comprising a street facing terrace of three homes, a further terrace of three within the site and two semi-detached homes further back. A new 5 bedroomed farmhouse will also be created, linked to a workshop and meeting room;
- A new commercial building will be provided to replace the facilities lost by demolition, including the commercial garage;
- A parking area would be created close to the entrance to serve a number of the village's needs, for example the school, shop and swimming pool uses close to the site. The access itself will be remodelled and would be narrower but with improved forward visibility due to the removal of existing buildings;
- Four dwellings adjoining the site will be provided with increased garden areas;
- The site will be landscaped with existing areas of hardstanding replaced with vegetation where appropriate.

## **ANALYSIS**

This is an outline application with all matters reserved and therefore the assessment of the application will be limited to the following: principle of development, affordable housing, access and parking, impact of listed buildings and habitat mitigation.

### **Principle of development**

Payhembury does not have a built up area boundary and therefore the site is considered to be within the open countryside for the purposes of the Local Plan. Strategy 1 of the Plan sets out the spatial strategy for the District and Strategy 7 states that development in locations deemed to be within the open 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. Policies which permit new housing development are restricted to 'exception sites' under Strategy 35 or 'community led development' under Strategy 27.

Payhembury has been identified in the Local Plan as a settlement without the full range of accessible services and facilities to meet many of the everyday needs of local residents and as such the local plan strategy is not to direct new open market housing to this location to reduce the reliance upon the use of the car.

This approach is reflected within the 'made' Payhembury Neighbourhood Plan under Policy PNP1. The Neighbourhood Plan draws a settlement boundary around Payhembury supporting infill housing of 1, 2 or 3 bed dwellings within this boundary. The policy goes on to state the following:

*'Residential development adjacent to this boundary will be supported provided they are in conformity with Strategy 35 of East Devon District Council's Local Plan and with the maximum internal space standard set out above.'*

In light of Policy PNP1, residential development of the site is acceptable in principle as long as it complies with Strategy 35 (Exception Mixed Market and Affordable Housing At Villages, Small Towns and Outside Built-up Area Boundaries) of the Local Plan. This is assessed below.

With respect to the employment provision, the proposal is to replace existing commercial floorspace with a similar amount and this is supported and weighs in favour of the proposal. Whilst changing the relationship of these buildings to new residential dwellings may give rise to issues relating to noise and unneighbourly uses, in principle this approach is supported in planning policy terms. These improvements, and subsequent benefits to the businesses would be supported in isolation of the housing development.

For clarity, the Parish Council state that Policy PNP2 of the Neighbourhood Plan supports the redevelopment of the employment site and provision of increased car parking. Whilst this policy supports changes of use of residential buildings to business use and requires additional car parking with any such change of use applications, the policy does not relate to the application site or require additional on-site car parking to serve the settlement.

### **Affordable Housing**

In terms of housing, the application proposes 9 dwellings, all of which would be 'open market' dwellings. No affordable housing is proposed as part of the development. As such the proposal does not comply with Strategy 35 of the Local Plan as this requires at least 66% of the dwellings to be affordable housing and provided on-site.

In addition to requiring at least 66% of the units to be affordable, Strategy 35 requires there to be a need for affordable housing in the area demonstrated via an up to date housing needs survey.

A housing needs survey commissioned by the agent in 2019 stated that there is no affordable housing need within Payhembury. The proposal is therefore contrary to Strategy 35 as there is no affordable housing need in the settlement to justify the proposal. Although Payhembury is grouped with Awliscombe, Broadhembury and Plymtree in terms of housing need and distribution, as confirmed by the Councils Housing Officer, there is no up to date evidence of the need for affordable housing in these areas that is not already being met.

Although the applicant is not proposing any affordable units on site, which is the requirement of Strategy 35 to ensure that local needs are proposed on development sites, the applicant has submitted a unilateral undertaking for a commuted sum (£260,622) towards the provision of off-site affordable housing. In the event of the application being permitted, this sum would go towards affordable housing in other parts of the District.

Whilst any potential contribution is preferable to no contribution, this would be contrary to Strategy 35 of the local plan, which only permits development in villages without built up area boundaries on 'exception sites' which include elements of affordable housing on site to meet any identified need. The requirement for on-site provision ensures that the development is justified and provides any needed affordable housing on site rather than a contribution being paid and the Council having to find further sites (if there are any) and approve more development within the countryside

The Parish Council state that within the adopted Neighbourhood Plan (NP) for Payhembury this site has been identified as a housing site which meets the needs of the village. However, PNP1 of this plan only allows 100% open market housing development within the settlement boundary indicated in the Plan and this does not include the application site. The neighbourhood plan policy further states that residential development adjacent to this boundary (therefore the application site) must be in line with Strategy 35 of the East Devon Local Plan, therefore an exception site containing 66% affordable housing. Paragraph 3.24 of the Neighbourhood Plan stating *'Planning applications for any residential development outside of the identified settlement boundary will only be supported if it fully complies with EDDC Strategy 35 for the development of exception sites.'*

Further comments of the Parish Council (PC) are outlined above, however whilst it may be the desire of the PC to see this site as a housing site, it is not considered that its development for open market housing alone complies with the relevant policies of the NP or Local Plan. Furthermore, PNP1 states that dwellings should be 'small, maximum of 93 m<sup>2</sup> and containing 1, 2 or 3 bedroom properties.' The indicative scheme proposes only two dwellings less than 93 m<sup>2</sup>, and includes three 4-bedroomed homes.

The Parish Council state that the proposal as a whole would improve the area visually and remove parked cars from the heart of the village. These are factors which must be weighed in favour of the proposal as it is clear from the Neighbourhood Plan that these are concerns and objectives. However, the provision of improved parking for the village could be achieved through an employment re-development of the site and as such this does not outweigh the harm caused through the location of 9 large dwellings in an unsustainable location contrary to the local plan and neighbourhood plan.

### Access and parking

The existing access to the site is substantial in width, although visibility when exiting onto the village street is compromised by the presence of large industrial buildings which are adjacent to the road.

The proposal is to narrow this access, but to ensure that there are no buildings adjacent to the road which would compromise visibility. The highway authority are content that this would result in an improvement on the current situation. This weighs in favour of the proposal but as these improvements could be made through a policy compliant employment re-development of the site, they are afforded limited weight.

In addition to proposed parking for the residential and employment units, the scheme proposes an additional 13 parking spaces to form a new village car park and additional

parking for the residents of Slade Barton Cottages. These are benefits to the proposal, although it cannot be guaranteed that these spaces will be used by visitors to the shop, school or village hall and as they are not required to mitigate any impacts from the proposal, this parking could not be legally secured as part of any planning permission. As such, and given that this could be provided as part of an employment re-development of the site, this benefits is also afforded limited weight.

### Impact on listed buildings

There are no listed buildings within the site. The old part of Payhembury School is close to the boundary of the site to the South West, and is a Grade II listed building, as are two cottages situated to the east. St Marys Church is a Grade I listed building situated further to the east.

The application is in outline with all matters reserved, and no objection has been raised by the Conservation Officer. The area closest to the school building is proposed as a parking area, therefore any impact on its setting is likely to be minimal. Other listed buildings are further from the site and without detailed design it is not possible to say whether the particular design of any new development will impact on their setting, particularly when compared to any impacts resulting from the existing large agricultural buildings which dominate the frontage, and which will be removed.

However, it is considered that a well-design development of the site could be provided without harm to heritage assets or their setting.

### Other matters

There were initial concerns raised regarding the proximity of the employment unit and proposed workshop/ garage to the residential properties. A revised indicative layout was then submitted which shows the garage sited further away from the dwellings, with openings facing north, rather than east towards the dwellings. This would minimise any impacts of noise from the source towards the habitable dwellings. The Environmental Health Officer is happy with this arrangement.

There are a number of trees within the site on the boundary which are proposed to be retained. They are situated close to where the employment units are proposed, and therefore it would be necessary to agree and approve a further tree survey and report prior to any subsequent reserved matters application.

### Habitat mitigation and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal.

In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a

detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible.

This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

## **CONCLUSION AND PLANNING BALANCE**

It is considered that for the reasons outlined within the report, the proposal conflicts with the development plan, both in terms of the Local Plan (Strategy 7 and Strategy 35) and the Neighbourhood Plan (PNP1). The National Planning Policy Framework states that the development plan is the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

There are matters which could be considered to be material which weigh in favour of the development. Most significantly, the proposal includes the removal of large industrial and agricultural buildings at the entrance to the site, and are therefore prominent within the village. It is agreed that these buildings are not aesthetically pleasing and their removal may result in the immediate area appearing more attractive. Nevertheless, these buildings have been part of the village for a number of years and it has not been demonstrated that it is necessary to develop the site in the way proposed in order to achieve the improvements required. Such improvements could be achieved through an employment re-development of the site.

Also weighing in favour of the proposal is the provision of a parking area, which would serve many of the facilities surrounding the development. Notwithstanding the concern raised by one objector that this would still be insufficient to serve the needs of the swimming pool, it is clear that this would benefit the immediate area by the removal of vehicles on the main road through the village, which currently have nowhere else to park. However, this parking area could be provided as part of a policy compliant employment re-development of the site and is given limited weight in the planning balance as it is not required to mitigate the impact of the development, or required by a specific planning policy, and as such could not be secured as part of any approval of planning permission.

There are also benefits in the provision of nine new dwellings and employment units in providing some local employment during construction, and in the longer term contributing towards village services such as supporting the school or shop.

However, the introduction of nine new properties (a number of which indicatively are too large to comply with the Neighbourhood Plan requirement for 1, 2 and 3-bed dwellings), with no affordable housing, is a significant departure from the development strategy of the District which seeks to only permit housing outside of built up area boundaries/settlements in exceptional circumstances. It is also considered that the proposal does not accord with the adopted neighbourhood plan for the village, by not providing for any affordable properties, and furthermore for not ensuring that the properties comply with the specification for smaller properties as outlined in their adopted policy PNP1. This lack of policy support and provision of 9 open market dwellings in an unsustainable location weighs heavily against the proposal despite the offer of a financial contribution, which itself is contrary to Strategy 35 of the Local Plan.

It is therefore considered that aspects which support the proposed development do not outweigh the policy objections to the scheme, and therefore the application should be refused on that basis.

### **RECOMMENDATION**

- 1. That the Habitat Regulations Appropriate Assessment forming part of the Committee Report be adopted;**
- 2. REFUSE the planning application for the following reason:**

1. The site is in a village without a Built-up Area Boundary. The proposal is for up to 9 new houses with no affordable housing proposed. Strategy 35 of the Adopted East Devon Local Plan permits an exception to the policy of development restraint for housing schemes which contain at least 66% affordable housing. In the absence of any affordable housing, and in the absence of any identified local affordable housing need or suitable other benefits to outweigh this harm, the scheme does not comply with this policy and it is not considered that there are any other policies within the Plan which allow for development of open market housing in this location. As such the proposal is contrary to the overall development strategy set out in Strategy 1 and development within the countryside set out in Strategy 7 and Policy TC2 of the Plan resulting in unjustified open market housing in a location where people would be reliant upon the use of the car for their everyday needs.

In addition, the proposal is also contrary to the Neighbourhood Plan for Payhembury which states in Policy PNP1 that residential development adjacent to the settlement boundary shall be in conformity with Strategy 35 of the Local Plan. In addition, the proposed indicative housing development is not in conformity with the maximum internal space standards set out within the policy.

### **NOTE FOR APPLICANT**

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the

application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

Plans relating to this application:

P1731:01	Location Plan	09.03.20
BD1731:06 : illustrative site layout analysis	Layout	09.03.20
BD:1731:05 Rev A	Layout	13.05.20
19245-D01-B	Other Plans	18.05.20
D01 rev A : drainage strategy layout	Other Plans	09.03.20
BD1731:08 (plan A)	Location Plan	20.03.20
BD1731:09	Tree Protection Plan	20.03.20

List of Background Papers

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