

# Agenda for Development Management Committee Tuesday, 3 March 2015; 2.00pm



## [Members of the Committee](#)

**Venue:** Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

**Contact:** [Hannah Whitfield](#)

01395 517542, Issued 19 February 2015

East Devon District Council

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**Please note that there are new speaking arrangements for this Committee.**

## [Speaking on planning applications](#)

In order to speak on an application being considered by the Development Management Committee you must have submitted written comments during the consultation stage of the application. Those that have commented on an application being considered by the Committee will receive a letter or email (approximately 9 working days before the meeting) detailing the date and time of the meeting and instructions on how to register to speak. The letter/email will have a reference number, which you will need to provide in order to register. Speakers will have 3 minutes to make their representation. **Please note there is no longer the ability to register to speak on the day of the meeting.**

The number of people that can speak on each application is limited to:

- Major applications – parish/town council representative, 5 supporters, 5 objectors and the applicant or agent
- Minor/Other applications – parish/town council representative, 2 supporters, 2 objectors and the applicant or agent

The day before the meeting a revised running order for the applications being considered by the Committee will be posted on the council's website

(<http://new.eastdevon.gov.uk/council-and-democracy/committees-and-meetings/development-management-committee/agendas>). Applications with registered speakers will be taken first.

**Parish and town council representatives wishing to speak on an application are also required to pre-register in advance of the meeting.** One representative can be registered to speak on behalf of the Council from 10am on Monday 23 February up until 12 noon on Thursday 26 February by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

## [Speaking on non-planning application items](#)

A maximum of two speakers from the public are allowed to speak on agenda items that are not planning applications on which the Committee is making a decision (items on which you can register to speak will be highlighted on the agenda). Speakers will have 3 minutes to make their representation. You can register to speak on these items up until 12 noon, 3 working days before the meeting by emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk) or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

The Committee will break for 15 minutes at approximately 4.30pm, if required.

- 1 Minutes for 10 February 2015 (page 4 - 11)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#)
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are **no** items that officers recommend should be dealt with in this way.
  
- 6 **Planning appeal statistics** (page 12 - 13)  
Principal Planning Officer
  
- 7 **Mid Devon local plan review proposed submission consultation** (page 14 - 19)  
Planning Policy Manager
  
- 8 **Briefing report on rural sustainability** (page 20 - 25)  
Service Lead - Planning

**Please note that the order in which applications will be taken is subject to change.**

Applications for determination:

**14/2955/VAR (Minor)** (page 26 - 36)

Axminster Rural

Land adjacent to Hawkchurch Primary School, Hawkchurch EX13 5XD

**14/2635/FUL (Minor)** (page 37 - 43)

Axminster Town

19 St Georges, Chard Street, Axminster EX13 5DL

**15/0087/FUL (Major)** (page 44 - 51)

Beer and Branscombe

Duckys Beer Ltd, Beer Beach

**14/2030/FUL (Minor)** (page 52 - 63)

Clyst Valley

Friends Provident, Winslade Park, Clyst St Mary EX5 1DS

**14/2755/FUL (Minor)** (page 64 - 72)

Exmouth Town

1A, South Street, Exmouth EX8 2SX

**14/2898/FUL (Minor)** (page 73 - 81)

Honiton St Michaels

Stout Farm, Honiton EX14 9TS

**14/3032/RES (Minor)** (page 82 - 92)

Ottery St Mary Rural

Land adjacent to Highlands, West Hill Road, West Hill

**13/0496/MFUL & 13/0497/LBC (Major)** (page 93 - 118)

Ottery St Mary Town

Salston Manor Hotel, Ottery St Mary EX11 1RQ

**15/0075/FUL (Minor)** (page 119 - 124)

Seaton

Colyford Common (land NE of Seaton Cemetery), Colyford Road, Seaton

**14/3019/FUL (Minor)** (page 125 - 135)

Sidmouth Sidford

Playing Field, Byes Lane, Sidford

**Please note:**

This meeting is being audio recorded by EDDC for subsequent publication on the Council's website.

Under the Openness of Local Government Bodies Regulations 2014, members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

[Decision making and equalities](#)

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## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Development Management Committee held at Knowle, Sidmouth on 10 February 2015**

#### **Attendance list at end of document**

The meeting started at 2.00pm and ended at 7.01pm.

#### **\*52 Minutes**

The minutes of the Development Management Committee meeting held on 20 January were confirmed and signed as a true record.

#### **\*53 Declarations of interest**

Cllr Geoff Chamberlain; 14/2310/FUL; Personal Interest (remained in the Chamber during the debate and vote); A member of the public registered to speak in support of the application is the son of a friend.

Cllr Peter Burrows; 14/1897/FUL & 14/2829/COU; Personal Interest (remained in the Chamber during the debate and vote); Member of Seaton Town Council.

Cllr Alan Dent; 14/2779/FUL; Personal Interest (remained in the Chamber during the debate and vote); Member of Budleigh Salterton Town Council.

Cllr Peter Sullivan; 14/2604/FUL, 14/2783/FUL, 14/2742/FUL & 14/1987/FUL; Personal Interest (remained in the Chamber during the debate and vote); Member of Sidmouth Town Council.

#### **\*54 Planning appeal statistics**

The Committee received and noted the Service Lead – Planning’s report setting out appeals recently lodged and six appeal decisions notified, of which three had been dismissed. The Principal Planning Officer, Gavin Spiller, drew Members’ attention to the three appeal decisions allowed and the Inspector’s conclusions.

The ward members for Woodbury and Lypstone spoke against the appeal decision allowed for the prior approval of a proposed change of use of an agricultural building to a dwellinghouse and associated operational development on land south of Courtlands Lane, Exmouth. Neither considered the site sustainable due to it not being easily accessible to local facilities and services, and both were concerned that it would encourage similar applications. In response, the Principal Planning Officer commented there had been in excess of 40 appeal decisions countrywide for prior approvals and most had followed the Council’s stance of considering sustainability.

#### **\*55 Adoption of the Devon Waste Plan and proposed Waste Management and Infrastructure – Supplementary Planning Document**

The Committee considered the Planning Policy Manager’s report setting out proposed responses to a Devon County Council consultation on a scoping document for a Supplementary Planning Document (SPD) on Waste Management and Infrastructure.

The County Council, as Waste Planning Authority, had adopted the Devon Waste Plan, which set out policies and proposals for the management of waste in Devon. Of specific relevance to East Devon were policy references to further development and capacity at Hill Barton and Greendale Barton – the adopted Waste Plan now included the District Council’s recommendations for lower capacities for these two sites. Following the adoption of the Waste Plan the County Council were now proposing to produce an SPD. They had issued a scoping document for the SPD and were inviting comment on the content.

The Committee was advised that the scope for the SPD as drafted was encouraging others (which would specifically include local planning authorities) to consider waste issues and collection/management in their work. Officers recommended that the SPD scope should be widened to address matters relating to both the operations of other bodies as they might relate to and improve waste management and the full implementation of the overall policies of the Waste Plan.

During discussion about the proposed responses, the ward member for Clyst Valley asked that, in light of the comments made by the Inspector during the examination of the Plan, the Council's proposed response be extended to cover transport and highways issues relating to the operation of the waste facilities at Greendale and Hill Barton. Concerns were particularly about the impacts of vehicle movements from the A3052/A376 from Greendale/Hill Barton through to Junction 30 of the M5 motorway.

**RESOLVED:**

that the proposed responses to the questions, as detailed in the Committee report, be submitted to Devon County Council as the Council's response to the consultation on the scope for the Waste Management and Infrastructure Supplementary Planning Document, subject to inclusion that it should also address transport and highways issues relating to the operation of the waste facilities at Greendale and Hill Barton.

**\*56 Applications for Planning Permission and matters for determination**

**RESOLVED:**

that the applications before the Committee be determined as set out in Schedule 10 – 2014/2015.

**Attendance list**

**Present:**

Committee Members

Councillors:

Helen Parr (Chairman)

David Key (Vice Chairman)

David Atkins

Roger Boote

Peter Burrows

Bob Buxton

Geoff Chamberlain

Alan Dent

Vivien Duval Steer

Martin Gammell

Mike Howe

Ben Ingham

Geoff Pook

Peter Sullivan

Mark Williamson

Officers

James Brown, Principal Planning Officer  
Matt Dickins, Planning Policy Manager  
Henry Gordon Lennox, Principal Solicitor  
Alison Hayward, Economy & Regeneration Manager  
Gavin Spiller, Principal Planning Officer  
Janet Wallace, Principal Environmental Health Officer  
Hannah Whitfield, Democratic Services Officer

Also present

Councillors:

Ray Bloxham  
Susie Bond  
Steve Hall  
Tony Howard  
Douglas Hull  
Graham Godbeer  
Andrew Moulding  
Chris Wale  
Tom Wright

**Apologies:**

Committee Members

Councillor Mike Allen

Non-committee members

Councillors:

Steve Gazzard  
Stephanie Jones

Chairman .....

Date.....

**EAST DEVON DISTRICT COUNCIL**  
**Development Management Committee**  
**Tuesday 10 February 2015; Schedule number 10 – 2014/2015**

**Applications determined by the Committee**

Committee reports, including recommendations, can be viewed at:  
<http://new.eastdevon.gov.uk/media/765023/100215-combined-dmc-agenda.pdf>

Axminster Town  
(AXMINSTER)

14/2634/FUL

Applicant: Mr Ivor Dare On Behalf Of Mrs S Chubb

Location: Ivor Chubb Motorcycle Engineers, Castle Street, Axminster

Proposal: Demolition of cycle shop and creation of 3 no. terraced houses and refurbishment of former storage building to provide 1 bedroom flat

**RESOLVED:** REFUSED as per recommendation.

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Budleigh Salterton  
(BUDLEIGH  
SALTERTON)

14/2779/FUL

Applicant: Mr and Mrs Carr

Location: 12 Leas Road, Budleigh Salterton

Proposal: Construction of detached dwelling and formation of new vehicular access and parking area.

**RESOLVED:** APPROVED with conditions as per recommendation.

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Feniton & Buckerell  
(FENITON)  
&  
Ottery St Mary Rural  
(OTTERY ST MARY)

14/2882/MFUL

Applicant: East Devon District Council

Location: Land North & South of Lyndale, Station Road, Feniton

Proposal: Flood alleviation works comprising the construction of channels, culverts and swales and mitigation works to individual properties including flood defences and by pass channel.

**RESOLVED:** APPROVED with conditions as per recommendation.

Honiton St Michaels  
(HONITON)

14/2175/FUL

Applicant: Mrs Helen Hunt

Location: Stout Farm, Honiton

Proposal: Construction of agricultural building and raising of ground levels

**RESOLVED:** APPROVED with conditions as per recommendation and subject to an additional condition ensuring that the building is used for agricultural purposes only.

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Raleigh  
(COLATON  
RALEIGH)

14/2310/FUL

Applicant: RSPB

Location: R S P B Hawkerland Brake Barn, Exmouth Road, Aylesbeare

Proposal: Siting of a log cabin for residential education and training for volunteers (Class C2) with office and meeting room and associated parking, sewage treatment plant and biomass boiler

**RESOLVED:** INSPECT  
Reason: To consider the access arrangements. (Devon County Council Highways to attend the site visit).

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Seaton  
(SEATON)

14/1897/FUL

Applicant: Alison Hayward (East Devon District Council)

Location: Seaton Seafront, Seaton

Proposal: Erection of 2no. sculptured waves and 2 no. interpretive pillars

**RESOLVED:** DEFERRED to allow for consultation with the consultants working on the seafront enhancement scheme to ensure the design accords with their vision.



Seaton  
(SEATON) 14/2829/COU

Applicant: Mr Christian Joseph

Location: Unit 14 Riverside Workshops, Seaton

Proposal: Change of use to use class B2 (General Industry) for the maintenance and repair of vehicles

**RESOLVED:** APPROVED with conditions as per recommendation.

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Sidmouth Rural  
(SIDMOUTH) 14/1783/VAR

Applicant: Dunscombe Manor Ltd

Location: Dunscombe Manor Caravan Park, Salcombe Regis, Sidmouth

Proposal: Variation of condition 2 of permission 13/0924/COU (for the stationing of 11no caravans) to regularise a revised layout including the addition of an internal road.

**RESOLVED:** APPROVED with conditions as per recommendation.

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Sidmouth Rural  
(SIDMOUTH) 14/1987/FUL

Applicant: Mrs H Monro Higgs

Location: Mincombe Post Farm, Mincombe Post, Sidbury

Proposal: Replacement garage

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Service Lead – Planning to impose appropriate conditions. Conditions to included securing the materials to be used, the use as a garage/storage us, ancillary to the main dwelling; materials; and the building to be no larger than the footprint of the existing garage. Members considered that the evidence provided by the applicant together with the concrete base was sufficient to demonstrate a lawful building.

Sidmouth Rural  
(SIDMOUTH)

14/2783/FUL

Applicant: Mr R Heard

Location: Sidbury Chapel, Greenhead, Sidbury

Proposal: Proposed parking, layby, pedestrian access and re-grading of bank.

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Service Lead – Planning to impose appropriate conditions, with the grading of the bank to be agreed in consultation with the Ward Member.  
Members considered that the benefits of brining a heritage asset back into use, together with the provision of safer pedestrian area, outweighed highway safety concerns and any potential impact on the setting of the listed building and the character and appearance of the conservation area.

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Sidmouth Sidford  
(SIDMOUTH)

14/2604/FUL

Applicant: Mr Coleman

Location: The Annexe 12 Brook Lane, Sidford

Proposal: Change of use of annexe to allow flexible use as holiday accommodation and residential annexe (retrospective) and proposed relocation of door and window

**RESOLVED:** APPROVED with conditions as per recommendation.

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Sidmouth Sidford  
(SIDMOUTH)

14/2742/FUL

Applicant: Mrs S Pratt

Location: 14 Summerfield, Sidmouth

Proposal: Demolition of existing dwelling and construction of five chalet bungalows with associated garden sheds

**RESOLVED:** APPROVED with conditions as per recommendation.

Woodbury  
and  
Lympstone  
(WOODBURY)

14/2927/OUT

Applicant: Mr A M J Douglas

Location: Hills Venmore, Woodbury

Proposal: Outline application with all matters reserved for the construction of a detached dwelling and garage off the existing access

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Service Lead – Planning to impose appropriate conditions.  
Members considered that the site was sustainable as it was close to the Built up Area Boundary, would be viewed in the context of other development around Woodbury and was accessible to nearby local services.

East Devon District Council  
List of Planning Appeals Lodged

**Ref:** 14/0829/FUL                      **Date Received** 27.01.2015  
**Appellant:** Mr R Hancock  
**Appeal Site:** The Last Resort Green Lane Exton EX3 0PW  
**Proposal:** Construction of new dwelling, new access road and  
associated works  
**Planning** APP/U1105/W/15/3003548  
**Inspectorate**  
**Ref:**

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East Devon District Council  
List of Planning Appeals Decided

**Ref:** 14/2040/PMB                      **Appeal Ref:** 14/00070/REF  
**Appellant:** Mr P J & Mrs S A Glanvill  
**Appeal Site:** Little Westcott Farm Rockbeare Exeter EX5 2LU  
**Proposal:** Prior approval of proposed change of use of agricultural building to a dwellinghouse  
**Decision:** **Appeal Dismissed**                      **Date:** 26.01.2015  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, sustainability reasons upheld.  
**BVPI 204:** **No**  
**Planning Inspectorate Ref:** APP/U1105/A/14/2228233

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**Ref:** 14/0613/FUL                      **Appeal Ref:** 14/00068/REF  
**Appellant:** Mr Johnson  
**Appeal Site:** Treblehayes Farm Membury Axminster EX13 7UA  
**Proposal:** Erection of 11kw wind turbine (hub height 18.4m and 24.9m to blade tip)  
**Decision:** **Appeal Dismissed**                      **Date:** 27.01.2015  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, landscape and listed building conservation reasons upheld (EDLP Policies EN1 & EN9).  
**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/A/14/2227768

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Report to: **Development Management Committee**

Date of Meeting: 03 March 2014

Public Document: Yes

Exemption: None

Review date for release: None



Agenda item: 7

Subject: **Mid Devon Local Plan Review Proposed Submission Consultation**

**Purpose of report:** Mid Devon District Council is consulting on the latest version of their new local plan – the ‘Proposed Submission Consultation’. This follows on from the local plan review options consultation, which this Authority made representations on in March 2014. This report sets out proposed comments of this Council on the Mid Devon proposals.

**Recommendation:** **East Devon District Council recognises the importance of production of a new plan for Mid Devon. Given the high levels of growth specifically proposed for Cullompton this Council would stress the importance of the following considerations in respect of advancement of Policy S11 for Cullompton (and related policies to this) and potential implementation:**

- 1. That cross-boundary impacts of development are fully and objectively assessed and to this end East Devon District Council would welcome the opportunity to work more closely with Mid Devon;**
- 2. That housing need considerations, as evidenced through the joint Exeter Strategic Housing Market Assessment, are fully taken into account;**
- 3. That specific attention is paid to infrastructure considerations and the need to provide for potential future residents whilst noting potential impacts on, and maximising potential beneficial opportunities for, residents of surrounding area;**
- 4. That the potential impacts on the wider highway network, including in respect of junction capacity implications, are fully considered recognising that proposals may require that improvement works are put into place.**
- 5. That potential commuting patterns, especially for work purposes, of the future residents of Cullompton are accurately assessed. This is especially significant noting the ease of car travel from Cullompton to the strategic employment sites in the West End of East Devon (e.g. a drive time of 11 minutes from M5 Junction 28 to the Science Park).**

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<b>Reason for recommendation:</b>	To help meet our duty to co-operate and to ensure that the interests of East Devon are recognised in the Mid Devon planning process.
<b>Officer:</b>	Matthew Dickins, Planning Policy manager, <a href="mailto:mdickins@eastdevon.gov.uk">mdickins@eastdevon.gov.uk</a> (01395 – 571540)
<b>Financial implications:</b>	No financial implications have been identified.
<b>Legal implications:</b>	Legal implications are set out within the report.
<b>Equalities impact:</b>	Low Impact No specific equalities issues are identified.
<b>Risk:</b>	Low Risk No specific risks are noted though there is a legal duty to co-operate on strategic issues that affect more than one area.
<b>Links to background information:</b>	<ul style="list-style-type: none"> <li>• The Mid Devon consultation documents can be found at <a href="http://www.middevon.gov.uk/index.aspx?articleid=9842">http://www.middevon.gov.uk/index.aspx?articleid=9842</a></li> <li>• The report presented to this Committee on 4<sup>th</sup> March 2014 may be viewed at <a href="http://new.eastdevon.gov.uk/media/196772/combined-dmc-agenda-040314.pdf">http://new.eastdevon.gov.uk/media/196772/combined-dmc-agenda-040314.pdf</a></li> </ul>
<b>Link to Council Plan:</b>	Living in this Outstanding Place.

## **1 The Mid Devon Local Plan Review Proposed Submission Consultation February 2015**

1.1 Mid Devon District Council is consulting on a local plan to replace their adopted:

- Core Strategy,
- Allocations and Infrastructure DPD and
- Development Management Policies.

1.2 On their website at: <http://www.middevon.gov.uk/localplanreview>

Mid Devon District Council advise:

### ***“Proposed Submission Consultation***

*A third stage of consultation on the Local Plan Review is being held 9 Feb - 30 Mar. The Local Plan Review will guide development in the district over the next 20 years and is reaching the final stages in its preparation and development. It aims to make sure that new homes, jobs and services required by communities are located in the most sustainable places. It will also help deliver the infrastructure, facilities and other development needed to make this possible.*

*Two previous consultations were held on the Local Plan Review. The first was held in Jul - Aug 2013 on the scope of the new Local Plan which set out the broad issues facing the district and invited people to put forward ideas and aspirations for how Mid Devon should develop over the coming years. Following this, a second consultation was held in Jan - Mar 2014 which invited people to look at the possible options available to meet the aspirations identified following the first consultation.*

*This consultation invites people to provide comments on the Local Plan Review Proposed Submission. Any representations at this stage will be submitted to the Secretary of State along with the Local Plan and other relevant documents. An independent inspector will then hold an examination on the Local Plan which will take into account public and other opinion when judging whether the plan is sound.”*

- 1.3 The previous consultation on ‘Local Plan Options’ was published in January 2014 and set out two alternative spatial strategies. Option 1 was to concentrate development in the main Mid Devon towns of Tiverton, Cullompton and Crediton as a continuation of the previous planning strategy where Tiverton had been the main focus for growth. Option 2 proposed a concentration of development in the main towns during the first part of the plan period, but the development of a new community later in the plan period. This would be located either adjacent to Junction 27 of the M5 Motorway or close to Junction 28 as an expansion to Cullompton.
- 1.4 This Committee considered the options consultation on 4<sup>th</sup> March 2014 and supported Option 1 (subject to evidence on commercial and housing figures). It was further resolved to object to the scale of commercial development proposed at J27 and to request that, if Option 2 was preferred, work on the plan review was suspended to assess strategic options at the sub regional level. The concerns of the Committee in respect of Option 2 focussed on the large scale development being considered at J27 and the potential impact this could have on commuting, shopping and leisure patterns.

## **2 Mid Devon Plan Proposals**

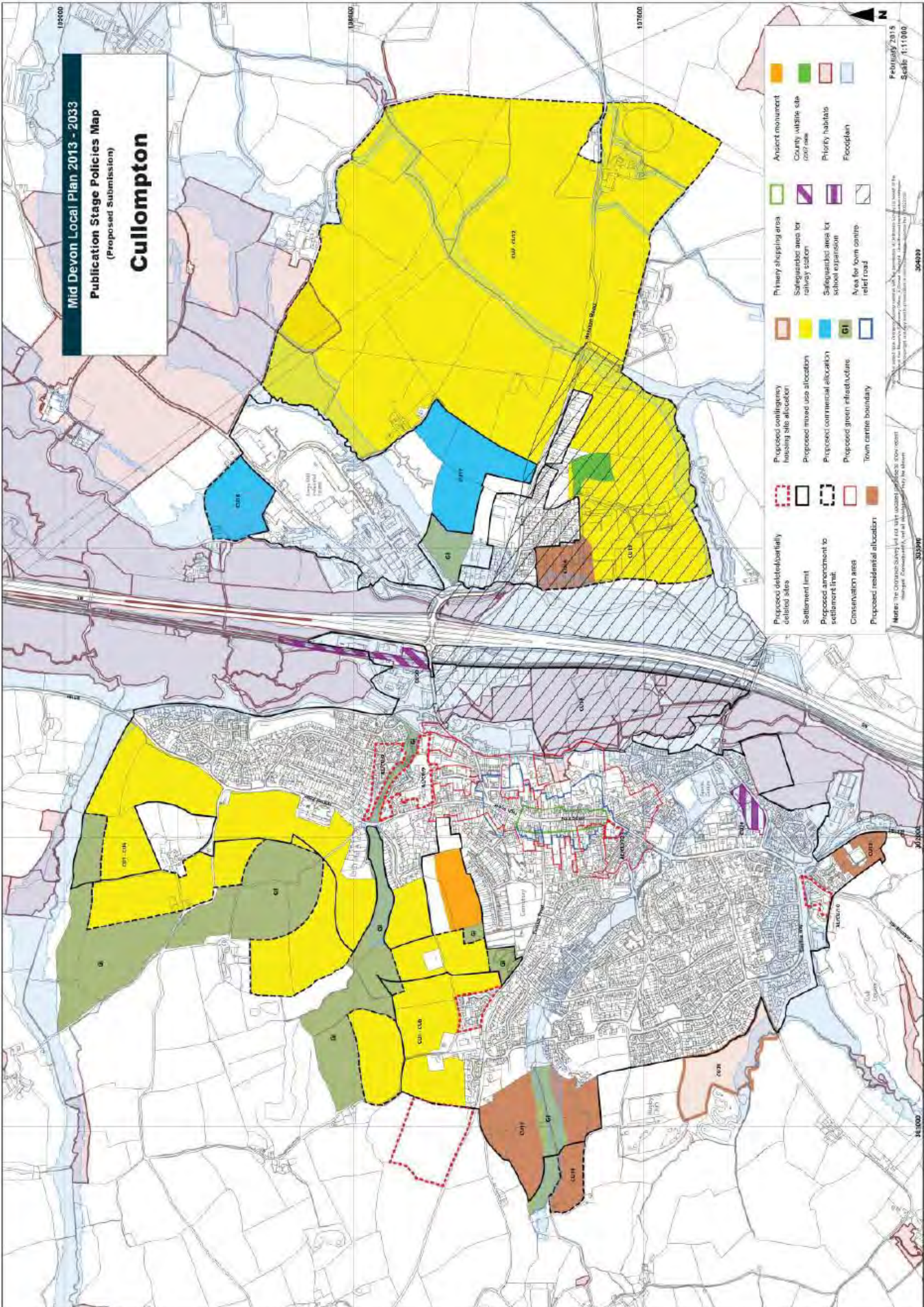
- 2.1 The current consultation does not pursue large scale development at Junction 27, but it does represent a change to the existing planning strategy of focusing growth at Tiverton. Short to medium term growth would be directed to Tiverton, but the focus for longer term growth would be at Cullompton. This change of approach is justified by a lack of available and suitable land in Tiverton towards the end of the plan period and the support of the local community for growth in Cullompton. Crediton and the rural areas would accommodate growth *‘proportionate to their circumstances and environmental constraints’*. The proposed distribution of housing development is 50% in Cullompton; 30% in Tiverton; 10% in Crediton and 10% in the rural areas.
- 2.2 In terms of overall housing numbers the Mid Devon plan is based on delivering 360 dwellings per year. In terms of commercial development (which includes retail and other commercial uses in addition to standard employment uses) the plan includes an ‘over provision’ of 20% to give some flexibility. There is ‘extra’ provision of 628 dwellings in the



form of windfalls and contingency sites that could be brought forward if there was a shortage of five year land supply.

- 2.3 East Devon District Council has a duty to co-operate with Mid Devon on cross boundary strategic issues and talks on the emerging plan have continued over the last year. Discussions have focused on potential significant commercial and recreation developments at Junction 27 and the absence of these proposals in the latest plan is considered appropriate. The main issue of relevance to East Devon, now raised by the Mid Devon proposals, is the scale of development at Cullompton and its potential cross boundary impacts.
- 2.4 The draft plan proposes two strategic allocations at Cullompton with a total of 3,600 dwellings and 77,000 gross square meters of commercial development. A contingency site for 100 dwellings is also included. In terms of retail development this is to be directed to the existing town centre to aid regeneration initiatives. The existing strategic allocation to the north west of Cullompton is to be continued and projected to be delivered during the first part of the plan period. A very large extension is proposed to the East of Cullompton (across the M5) to deliver 2,100 homes in the plan period and at least 500 after 2033. The map over is extracted from the Mid Devon plan consultation material.
- 2.5 The map illustrates the very substantial proposed scale of development at Cullompton. Yellow areas (or pale toned areas on black and white maps) to the east of the motorway and north-west of the town (west of the motorway) form the key substantial mixed use development areas. The proposed development at Cullompton would approximately double the extent of the built areas of the town.
- 2.6 To support the strategic allocations a phasing strategy is proposed to deliver infrastructure, including highway improvements for the whole town and a railway station for the town (for which a site is safeguarded although this is not a prerequisite for the development).

Mid Devon Local Plan 2013 - 2033  
 Publication Stage Policies Map  
 (Proposed Submission)  
**Cullompton**



- Project monument
- County wildlife site
- Priority habitats
- Floodplain
- Primary shopping area
- Safeguarded area for railway station
- Safeguarded area for school expansion
- Area for town centre redevelopment
- Proposed co-tenancy housing site allocation
- Proposed mixed use allocation
- Proposed commercial allocation
- Proposed green infrastructure
- Town centre boundary
- Proposed delineated/officially defined sites
- Settlement limit
- Proposed amendment to settlement limit
- Conservation areas
- Proposed residential allocation

February 2015  
 Scale: 1:11,000

Notes: The proposed sites for development are shown in yellow and orange. Other sites shown in green, purple, cyan, and brown are also shown. The map is for information only and does not constitute a commitment. It is subject to change without notice. The map is for information only and does not constitute a commitment. It is subject to change without notice.

- 2.7 Limited discussions have taken place around the cross boundary implications of this scale of development at Cullompton and further work needs to be undertaken to assess impacts on East Devon. Although Cullompton is very close to the East Devon boundary (the boundary of the Eastern expansion area at its closest point is 1km (0.62 miles) of the East Devon boundary) there are no major East Devon centers of population (or larger villages) close by. Honiton lies around 15 kilometers (9 miles) to the south east of the proposed eastern expansion of Cullompton and the two towns are joined by the A373. This road is narrow in places and it would seem inevitable that development would place extra vehicle pressure on this highway.
- 2.8 Potentially of more significance in terms of vehicle movements will be the impacts that the overall development will have on the M5 motorway and Junctions 28 and 29. Junction 28 lies approximately 16 kilometers (10 miles) from Junction 29 which forms the main motorway access point into the City of Exeter and much more importantly into East Devon and our West End. On a clear run Google mapping shows an eleven minute drive time between Junction 28 and the East Devon based Exeter Science Park. It would be expected that Mid Devon would seek and expect increased levels of job provision in Cullompton in associated with new residential development. There are though already substantial numbers of out commuting workers from Mid Devon travelling to other areas and any new residential development would provide opportunities for car based commuters to be within very easy car driving distances and times of strategic employment sites in the West End of East Devon. Amongst other impacts any extra car based commuting would put extra pressure on the motorway and motorway junctions. Travel distances into Exeter are similar but because of congestion issues travel times will frequently be much higher for some parts of the City (including the City Center). Public transport provision from Cullompton is far less good.

### **3 Conclusions**

- 3.1 Overall it is seen that the Mid Devon proposals, specifically those for Cullompton, could have impacts on East Devon, some negative and some potentially positive. In recognition of the potential for impacts it is, at this stage, deemed relevant to highlight key areas of concern in response by this Council to the Mid Devon proposals.



**Report to:** **Development Management Committee**

**Date of Meeting:** 3 March 2015

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** 8

**Subject:** **Briefing Report on Rural Sustainability**

**Purpose of report:** The purpose of this report is to brief Members on the issues associated with rural development and sustainability discussed at a recent all Member Think Tank particularly with regard to residential development. The report will highlight the key points raised in the meeting and how changes in government policy and guidance combined with appeal inspectors decisions have changed officer's stance on rural development issues and how this should shape policy development and decision making in the future.

**Recommendation:** **That Members note the report.**

**Reason for recommendation:** To ensure that Members are appraised of current issues and guidance relating to sustainable development issues in rural areas.

**Officer:** Ed Freeman – Service Lead – Planning Tel: 01395 517519, e-mail: efreeman@eastdevon.gov.uk

**Financial implications:** No financial implications have been identified.

**Legal implications:** This report sets out some general considerations and guidance to help ensure consistency in decision making. Other than to note the contents there are no legal implications arising.

**Equalities impact:** Low Impact

**Risk:** Low Risk

**Links to background information:**

**Link to Council Plan:** Living in/working in/enjoying this outstanding place

### Background

An all Member think tank on rural sustainability was held on the 2<sup>nd</sup> February 2015 and chaired by Councillor Ray Bloxham. The think tank was convened because of increasing concerns by some Members regarding decision making on rural development issues and in particular the level of consistency in the approach that has been taken.

## Definitions of Rural Sustainability

The government defines 'rural' as those communities with populations under 10,000 with larger rural communities being those with a population of between 3,000 and 10,000 and smaller rural communities being those with a population of less than 3,000. On this basis the majority of East Devon is rural with only Exmouth, Honiton and Sidmouth being classed as urban. The majority of the villages would then be classed as smaller rural communities.

Sustainability is however much harder to define. At the think tank it quickly became apparent that it means different things to different people. Some of the main definitions that can be used include:

"Meeting the needs of the present without compromising the ability of future generations to meet their own needs." (Resolution 42/187 of United Nations General Assembly (Brundtland Report))

"living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly." (UK Sustainable Development Strategy – Securing the Future)

The National Planning Policy Framework also identifies 3 dimensions of sustainable development which are defined as:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

The NPPF goes on to state that "Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):

- Making it easier for jobs to be created in cities, towns and villages;
- Moving from a net loss of bio-diversity to achieving net gains for nature;
- Replacing poor design with better design;
- Improving the conditions in which people live, work, travel and take leisure; and
- Widening the choice of high quality homes."

It then states a need to take local circumstances into account and states a presumption in favour of sustainable development.

There was concern as to whether such definitions really encapsulate what sustainability means in East Devon and how they can actually be used in practice. In reality planning inspectors have tended to look at whether developments would have access to key services and facilities that are required to enable everyday life and enable social integration within a community. These core services and facilities generally include:

- Post office
- General convenience store
- Primary school
- Doctors surgery
- Public transport

The assessment of sustainability against a criteria of core services and facilities was most notably adopted by the inspector in an appeal decision for 4 houses at Offwell where he stated:

“The Council’s contends that Offwell is one of East Devon’s least sustainable settlements with a built-up boundary, as it has a very limited range of services and facilities. The appellant disagrees, and I was shown the facilities that the village has to offer, including the church, primary school, voluntary-run community shop/post office point and recreational/community facilities.

Whilst these facilities assist in reducing to a limited extent the need to travel outside the village to services and facilities, they do not substantially negate the need for such travel, which would inevitably need to take place by car given the village’s poor public transport accessibility. I do not therefore consider the site to be as sustainably located as the appellant suggests.”

The inspector proceeded to dismiss the appeal on the basis of it being unsustainable for this and a number of other reasons.

The Offwell decision however is far from the only case where having basic services and facilities within walking distance has been considered indeed recent appeal decisions at Clyst Hydon, Newton Poppleford, Talaton and West Hill have all considered this approach. There have also been a number of decisions that have used this approach in assessing applications under the new permitted development rights for the conversion of barns to dwellings. It is now well established through appeal decisions that the issue of sustainability is a material consideration on these applications and must be considered albeit with regard also being given to the benefits of converting an existing redundant building.

At the heart of this approach is an intention to reduce the need to travel by private car which follows the guidance set by paragraph 34 of the NPPF which states that “plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised”. That is not to say that this approach is solely focused on the environmental dimension of sustainable development since in order to have a socially sustainable community there is a need for facilities where people can meet and interact with each other.

At the Members Think Tank some concern was expressed that too much weight is given to the provision of public transport when many residents will choose to use their car regardless of what public transport is available. To some extent this may be the case but it is also important to consider the needs of those who cannot drive whether that is because of age, disability, cost or for other reasons. Equally we should be promoting sustainable alternatives to the private car according to the guidance in the NPPF to reduce emissions.

It is important to remember that the provision of core services and facilities is important to making a place sustainable for new housing development, however it is a measure of accessibility that must inform a judgement over whether a specific development is sustainable development. The judgement over whether a development is sustainable must also be informed by a wider assessment of such as the landscape impact, ecological impact, jobs created, design etc which all have to be balanced.

### Refining a Criteria for residential development

Clearly it is not simply a case of directing development to settlements that have the core services and facilities identified above there is also a need to refine the criteria to ensure that those services are accessible and offer a reasonable level of provision. In the case of facilities such as a convenience store or primary school these should be within walking distance of any new dwellings and it should be possible to walk to them in a safe manner. Department of Transport guidance suggests that a default walking distance of up to 400m should be used however clearly some flexibility is needed and regard needs to be had to whether the distance to be walked is along a safe footpath that is well lit or involves walking along a road with no footpath that has high numbers of vehicle movements with vehicles travelling at speed.

In terms of public transport provision it is also important to consider the frequency of services and the places that can be accessed by public transport. Does the frequency and direction of the service enable commuting to employment or higher education institutions for example?

With regard to a primary school it is important to consider not just access to that school but whether the school has capacity to accommodate the additional children that may be generated by any new development in that locality. Clearly even if a primary school is within 400m of the proposed development where there are no spaces at the local school then children would need to be bused or driven to the nearest school with capacity thereby affecting the sustainability of that development.

A further consideration is the scale of development proposed. A settlement may have a suitable level of services a facilities to accommodate some small scale development but larger scale developments may have impacts on the social sustainability of a settlement or put excessive pressure on the limited services available. Equally there may be an argument for allowing a greater level of development where this would enable services and facilities to be provided that would make the settlement sustainable. However it is likely that this would require substantial development of a strategic scale that should be addressed through planning policy.

### Other Services and Facilities

The core services and facilities provide a basic level of infrastructure that should be available to new dwellings in rural areas, however clearly there are other services and facilities that would add to the sustainability of a location beyond these core facilities. Access to a public house, community hall, place of worship, library and/or leisure centre would complement the core facilities and improve the social sustainability of a location. Similarly access to employment opportunities of a business park or town centre location would add to the economic sustainability of a locality. A location within an AONB or close to a SSSI, SAC or other designated area may be less environmentally sustainable for new development if that development would have an impact on

the designated area. It is important to note however that while these wider facilities are important it is not considered to be essential for these to be readily available within the settlement provided public transport provision is adequate to provide sustainable access to them in neighbouring settlements.

### The Policy Position

Historically we have drawn Built-up Area Boundaries (BUAB's) around settlements as a policy tool to show that development within those boundaries is in-principle acceptable while development outside of those boundaries is fundamentally unacceptable. These boundaries were drawn with some consideration to access to services and facilities and the sustainability credentials of the settlement, however equally some of them simply reflect the existing built form. The presumption in favour of sustainable development included in the NPPF would suggest that such BUAB's should only be drawn around sustainable locations as otherwise we would be endorsing in-principle development in fundamentally unsustainable locations. This was one of the fundamental concerns raised by the local plan inspector in his letter following the hearings in to the local plan where he raised concerns with the proposed Strategy 27 and its alignment with the NPPF. Some of the settlements that currently have a BUAB do not have many of the core services and facilities and therefore should not potentially be regarded as sustainable locations for new development. As a result it is necessary to review the services and facilities available in each of the villages and consider whether they are sustainable locations and therefore whether development is fundamentally acceptable within that village or not. This is something that the Planning policy team have been doing over recent months and it is intended to bring this work to Members along with revisions to the local plan shortly. The likely result of this approach is that development would be focused on those villages which benefit from having the core services and facilities identified. In adopting this approach it would be possible to support those services and facilities and ensure as much as possible that these remain viable into the future by increasing demand for them.

In the meantime and in the absence of an up to date local plan applications will have to be considered on their own merits with regard to whether residents of the proposed development would have sufficient access to the core services and facilities. The BUAB themselves cannot carry significant weight in the absence of a 5 year housing land supply and as has already been mentioned they do not necessarily reflect what is sustainable in any event. It is therefore important to consider each developments relationship to services and facilities on a case by case basis using the criteria outlined above as a measure to ensure consistency.

### Neighbourhood Planning

“Living Working Countryside – The Taylor Review of Rural Economy and Affordable Housing” from 2008 highlights the importance of supporting smaller rural communities and enabling some development to ensure that they can survive. The report highlights how important it is to ensure that smaller villages and communities are not forgotten in this process. While the report pre-dates the NPPF and neighbourhood planning it does make some interesting points about rural sustainability and highlights the fact that these small rural communities still need to be able to develop and survive albeit they may not be suitable locations for general market housing due to the lack of core services and facilities. This does not mean that they should not be able to accommodate development to meet the identified local needs of those who live and work in these communities. These needs will often be for affordable housing due to the gap between wages and house prices. There may for example be residents who wish to down size within their existing community or young people wanting to get onto the property ladder but stay close to friends and family within their existing community. The Taylor Review encourages local authorities to work



with communities to enable them to meet their needs and the subsequent introduction of neighbourhood planning has put in place a mechanism to enable this to happen. We are currently looking at ways that local plan policy can accommodate the needs of smaller villages but it may not be appropriate for the local plan to look at this level of detail. Small villages may only need a very small number of new dwellings to meet their needs and as such making allocations in a local plan may not be appropriate. Where there are specific local needs that a community agrees should be met within a village it may be more appropriate for them to be met through a neighbourhood plan. While neighbourhood plans clearly still have to be based on the planning principles of the NPPF the examiners of such plans appear to be giving great scope to communities to promote development that they want and will meet their own needs even where these may not fully align with sustainable development objectives. It may therefore be that this would be the best means for smaller villages to meet their own development needs.

## Conclusion

While policy will ultimately be set by the new Local Plan it is accepted that there is a need for some criteria to consider application by with regard to issues of rural sustainability. This report identifies the core facilities and services that should be available and some of the qualitative assessments of those facilities that may need to be considered as well as some of the wider services and facilities that should be accessible at least to some degree by public transport. While this approach cannot in itself form policy it is supported by the NPPF and inspectors decisions and therefore forms a robust approach.

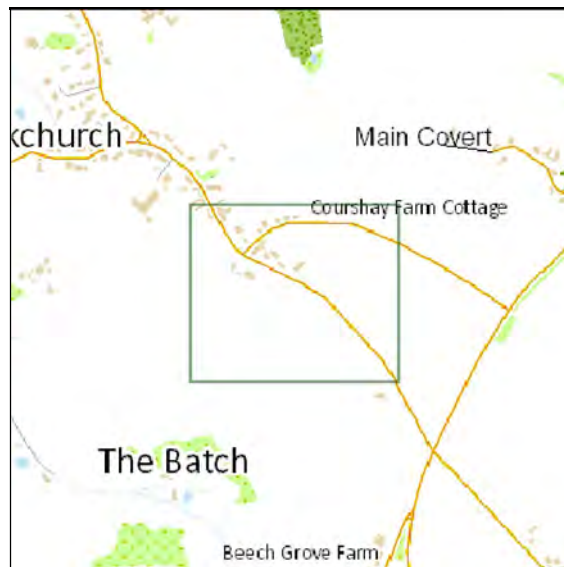
**Ward** Axminster Rural

**Reference** 14/2955/VAR

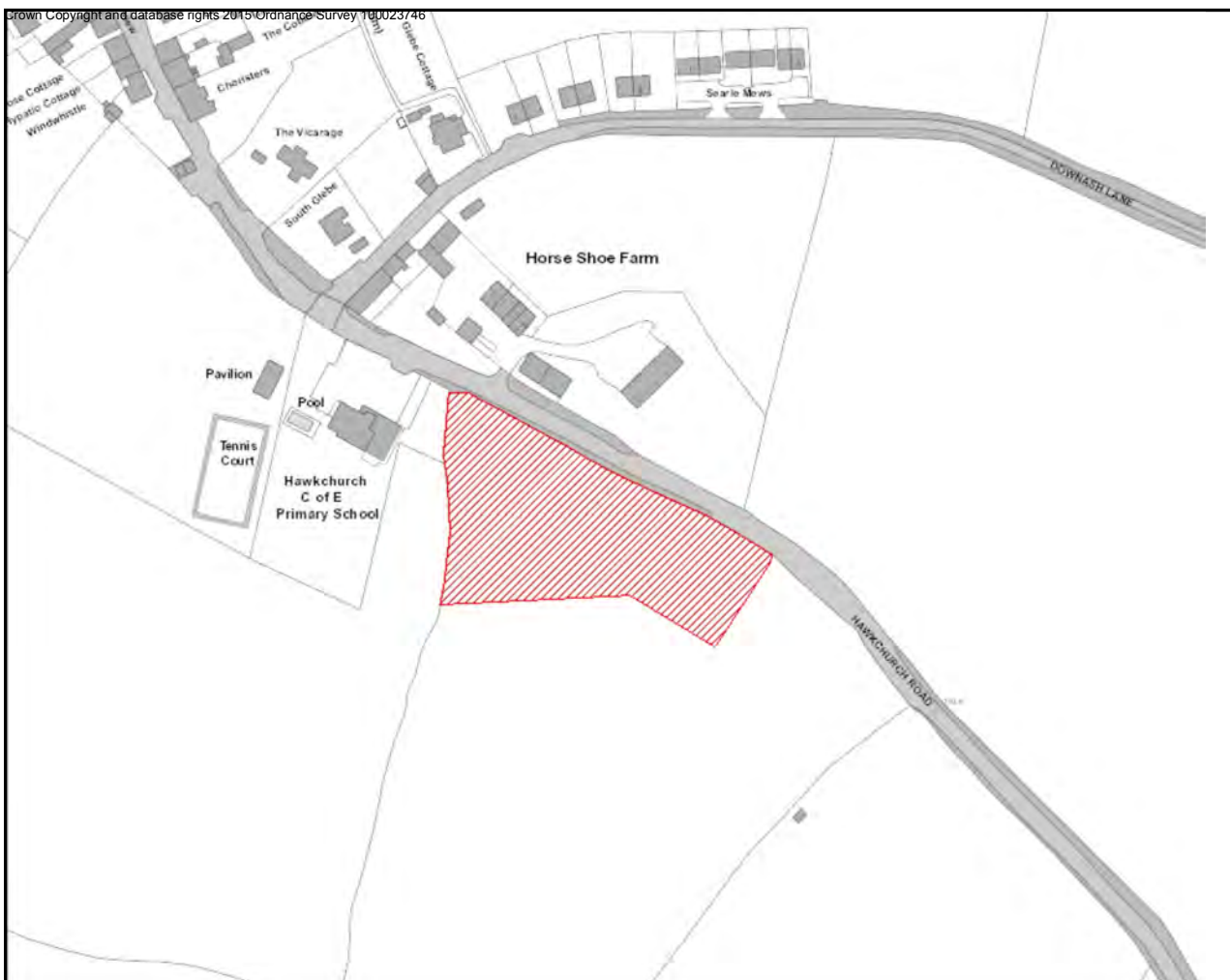
**Applicant** C G Fry & Sons (Mr P Hoffmann)

**Location** Land Adjacent To Hawkchurch Primary School Hawkchurch Axminster EX13 5XD

**Proposal** Variation of condition 2 of planning application 13/2056/FUL to amend the layout, orientation and size of some of the approved plots



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 03.03.2015</b>
<b>Axminster Rural (HAWKCHURCH)</b>	<b>14/2955/VAR</b>	<b>Target Date: 19.02.2015</b>
<b>Applicant:</b>	<b>C G Fry &amp; Sons (Mr P Hoffmann)</b>	
<b>Location:</b>	<b>Land Adjacent To Hawkchurch Primary School Hawkchurch</b>	
<b>Proposal:</b>	<b>Variation of condition 2 of planning application 13/2056/FUL to amend the layout, orientation and size of some of the approved plots</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is referred to the Development Management Committee as it represents a departure from the Local Plan.

The site lies in the open countryside adjacent to the built up area boundary of Hawkchurch on its approach from the south east Axminster direction. It currently comprises part of a larger agricultural field bounded to the south and east by open countryside, to the north by a public highway serving the village and to the west by Hawkchurch Primary School. There is an existing vehicular access from the public highway in the north western corner of the field comprising of an agricultural field gate. The land is relatively flat sloping gently down from south east to north west.

The development proposed is a full application for 9 dwellings, 6 of which would be for affordable occupation in accordance with the Housing Needs Survey undertaken in August 2011.

The application site lies outside the built-up area boundary of Hawkchurch as defined within the East Devon Local Plan 1995-2011. It is therefore considered that the proposed development is contrary to Policy S5 of the East Devon Local Plan which limits development in the countryside to that which accords with a specific Local Plan policy; in this instance there is no policy that would support a mix of open market and affordable houses in this location. However, in 2009 the Council approved an Interim Mixed Affordable and Market Housing Position Statement for schemes in rural areas, due to the lack of affordable housing in the District and the low levels of affordable housing constructed in recent years.

When considering the three dimensions of sustainable as set out in the

**Framework, the proposal would clearly provide a social role and secure significant benefits in that regard by the provision of a mix of different dwelling sizes coupled with a majority proportion of affordable housing. The latter element of the proposal takes account of the Interim Mixed Affordable and Market Housing position statement for schemes in rural areas**

**The amended application seeks minor changes to the design and layout of the approved scheme (13/2056/FUL) which are not considered to detrimentally impact on their surroundings.**

## **CONSULTATIONS**

### **Local Consultations**

#### Axminster Rural - Cllr H Jeffery

Support. I have no problem with the variation.

In the event my recommendation and that of the planning officer differs, I wish the application to be referred to Development Control Committee

### **Technical Consultations**

#### County Highway Authority

Does not wish to comment

#### Natural England

Thank you for your consultation dated 17 December 2014 and received on 17 December 2014.

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

Natural England currently has no comment to make on the variation of condition 2. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

#### Housing Strategy Officer Paul Lowe

As the proposed changes do not adversely impact on the affordable homes I haven't any comments to make.

#### South West Water

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

#### Other Representations

No third party representations received

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
13/2056/FUL	Erection of 9 dwellings (including 6 affordable) and formation of access and car park	Approval with conditions	19.09.2014

## **POLICIES**

### New East Devon Local Plan Policies

Strategy 7 (Development in the Countryside)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

H2 (Range and Mix of New Housing Development)

TC7 (Adequacy of Road Network and Site Access)

### Adopted East Devon Local Plan Policies

S5 (Countryside Protection)

D1 (Design and Local Distinctiveness)

D2 (Sustainable Construction)

D5 (Trees on Development Sites)

H4 (Affordable Housing)

EN6 (Wildlife Habitats and Features)

RE3 (Open Space Provision in New Housing Developments)

TA7 (Adequacy of Road Network and Site Access)

### Government Planning Documents

NPPF (National Planning Policy Framework)

## Site Location and Description

The site lies in the open countryside adjacent to the built up area boundary of Hawkchurch on its approach from the south east Axminster direction. It currently comprises part of a larger agricultural field bounded to the south and east by open countryside, to the north by a public highway serving the village and to the west by Hawkchurch Primary School. There is an existing vehicular access from the public highway in the north western corner of the field comprising of an agricultural field gate. The land is relatively flat sloping gently down from south east to north west.

## ANALYSIS

### Proposed Development

This application seeks full planning permission for material minor amendments to the size, layout and orientation of some of the plots approved under planning application 13/2056/FUL and therefore seeks to vary condition 2 (approved plans) of the aforementioned permission.

The overall scale and form of development would remain as approved for the erection of 9 dwellings, 6 no. of which would be affordable and 3 no. of which would be open market.

The affordable houses would comprise:

- 2 no. two bed units for social rent;
- 2 no. two bed units for affordable rent;
- 1 no. two bed unit for shared ownership; and
- 1 no. three bed unit for shared ownership.

A new access from the public highway would serve the 9 dwellings and provide additional visitor parking which could be used informally during school drop off and collection times.

The specific amendments will be addressed in the considerations section of the report.

### **Considerations**

There is an extant planning permission on this site (13/2056/FUL) for the same quantum of development as is proposed in this amendment application, therefore this report will act as an update to the previous report. The previous report is available at <http://new.eastdevon.gov.uk/media/196739/combined-dmc-agenda-101213.pdf>

### **Proposed amendments**

The proposed amendments can be summarised as follows:

- Air source heat pumps added to all properties

- Garden to plot 1 increased extending to behind the parking spaces
- Window on ground floor side elevation of Plot 4 removed
- First floor window on Plot 4 relocated
- Brick detailing on Plots 5 and 6 changed to render
- The garden area of Plots 5 and 6 have been amended and slightly decreased
- Side window added to Plot 7
- Plot 7 siting amended to sit level with Plot 8
- Garages for Plot 7 moved forward from boundary
- Garden area for Plots 7 and 8 increased
- Plinth of Plot 9 changed from brick to render
- Window styles on Plot 9 changed.

The amendments to the plot design features are all fairly subtle and are not considered to detract from the overall character or appearance of the development as previously approved; however, cumulatively they are considered to represent an improvement to the development especially in terms of the streetscene with the amended siting of Plot 7 in line with Plot 8. The site area remains the same and as some dwellings' garden areas have increased others have decreased but the all garden area are considered of an adequate size to serve the dwelling they are attached to. Air source heat pumps have been added as there is no gas supply in the area.

Therefore it is considered that the proposed amendments would not detrimentally impact upon the surroundings having no more impact than the extant permission granted last year.

The section 106 secured on the previous permission would transfer with the same terms onto this application should it be approved.

Details that were previously requested by condition on the previous application have been submitted in order to satisfy the requirements of the condition with this application. Where the details are acceptable the conditions have been updated accordingly at the end of this report.

### **Planning obligations**

1. Provision of Affordable Housing as follows:-

(a) 67% (6) units of Affordable Housing will be provided by the Developer as part of the development of 9 units in total.

(b) The 6 Affordable Units will be either 2 or 3 Bedroom units and will be transferred as Affordable Housing to a Registered Provider that manages Affordable Housing in East Devon.

(c) The housing mix and Tenure basis will be in accordance with the following Schedule of House Types;

	Social Rent	Affordable Rent	Shared Ownership	Sub Total
2 Bed House	2	2	1	5
3 Bed House	0	0	1	1
Totals	2	2	2	6

All Affordable Homes will be constructed to Code for Sustainable Homes Level 3 and The Homes and Communities Agency Design and Quality Standards.

Nominations for the Affordable Housing will be sought via the Common Housing Registers.

2. Contributions:

(a) Education:

A contribution of £6,224.85 will be made towards the transportation of pupils to the Axe Valley Community College.

(b) Open Space:

A contribution of £21,288.84 towards wider open space within the district

(c) Monitoring fee to cover the cost of monitoring the requirements of the S106 agreement in a sum to be agreed.

### **RECOMMENDATION**

APPROVE subject to the prior signing of a legal agreement and subject to the following conditions:

1. The development hereby permitted shall be begun before the 19th September 2017 and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Development shall proceed in accordance with the mitigation and enhancement recommendations set out in the Dormice survey report dated December 2012.  
(Reason - In the interests of the continued protection of protected species and biodiversity enhancement and in accordance with policy EN6 (Wildlife Habitat and Features) of the East Devon Local Plan.)



4. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - 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 D4 (Landscape Requirements) of the East Devon Local Plan)
  
5. Development shall proceed in accordance with the following restrictions:
  - a. There shall be no burning of any kind on site during construction, demolition or site preparation works.
  - b. No construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays.
  - c. Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance .
  - d. No high frequency audible reversing alarms shall be permitted to be used on any vehicle working on the site.  
(Reason - To protect the amenities of residents in the vicinity of the site from noise, air, water and light pollution in accordance with policy EN15 (Control of Pollution) of the East Devon Local Plan.)
  
6. Development shall proceed in strict accordance with the construction method statement received on 5th February 2015.  
(Reason - To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)
  
7. 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 drawing number 14204-001 Rev G received on 15th December 2014.  
(Reason - To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan)
  
8. No part of the development hereby approved shall be commenced until:
  - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway
  - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out

- c) The footway on the public highway frontage and alteration to the traffic calming feature required by this permission has been constructed up to base course level
  - d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority  
(Reason - To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan)
9. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
- a) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - b) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - c) The cul-de-sac visibility splays have been laid out to their final level;
  - d) The street lighting for the cul-de-sac and footpaths has been erected and is operational;
  - e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
  - f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;  
(Reason - To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan)
10. When once constructed and provided in accordance with condition 9 above, the carriageway and vehicle turning head shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting (where appropriate) and nameplates maintained to the satisfaction of the Local Planning Authority
11. The development shall be carried out in accordance with drawing number 03846 TPPrevC 11.12.2014 identifying the tree protection measures which shall be installed prior to commencement of any development on site. In any event, the following restrictions shall be strictly observed:
- (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
  - (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning,

Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - To ensure retention and protection of trees on the site 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), D4 (Landscape Requirements) and D5 (Trees on Development Sites) of the East Devon Local Plan.)

12. The boundary details shall be carried out in accordance with Drawing No. PP-15 Rev A received on 4th February 2015 and shall be installed prior to occupation of the dwelling they serve.

(Reason - 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 D4 (Landscape Requirements) of the East Devon Local Plan)

Plans relating to this application:

14204-001G	Other Plans	15.12.14
PP-01	Location Plan	15.12.14
7-BR-020	Proposed Elevation	15.12.14
PP-12	Proposed Elevation	15.12.14
S-1 TO S-4 BR-020	Proposed Elevation	15.12.14
S5_S6-BR-020	Proposed Elevation	15.12.14
14204-350B	Other Plans	15.12.14
PP-08	Proposed Elevation	15.12.14
PP-10	Proposed Elevation	15.12.14
9-BR-020	Proposed Elevation	15.12.14
PP-04	Proposed Elevation	15.12.14
PP-06	Proposed Elevation	15.12.14
PP-02	Proposed Site Plan	15.12.14
DAIKIN TECH.	Specifications/technical data	15.12.14

SP-001 C                      Proposed Site Plan                      29.01.15

List of Background Papers

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

**Ward** Axminster Town

**Reference** 14/2635/FUL

**Applicant** St Georges Properties Axminster Ltd

**Location** 19 St Georges Chard Street  
Axminster EX13 5DL

**Proposal** Change of use of ground floor  
(former dentist) and part 1st floor to  
house of multiple occupancy (HMO)



**RECOMMENDATION: Refusal**



		<b>Committee Date: 03.03.2015</b>
<b>Axminster Town (AXMINSTER)</b>	<b>14/2635/FUL</b>	<b>Target Date: 02.02.2015</b>
<b>Applicant:</b>	<b>St Georges Properties Axminster Ltd</b>	
<b>Location:</b>	<b>19 St Georges Chard Street</b>	
<b>Proposal:</b>	<b>Change of use of ground floor (former dentist) and part 1st floor to house of multiple occupancy (HMO)</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

The application is before Members as the view of the Ward Member differs from the Officer's recommendation.

The proposal seeks a change of use of a ground floor former dentist to a house of multiple occupancy (HMO), which would include part of the 1<sup>st</sup> floor. The proposal is considered to take place within a sustainable location close to the services and facilities on offer within Axminster. The proposal is not considered to harm the conservation area and the majority of the development would be the change in use of the building rather than physical alterations. There has been concern raised with regard to the potential for anti social behaviour but this is not considered to weigh against the scheme. The proposal would result in the habitable use of a first floor room which has two existing windows that facing the opposite flat in close proximity. This would result in an unacceptable level of overlooking. Despite officers suggesting a redesign to overcome this issue the applicant considers the relationship to be acceptable.

Therefore a recommendation of refusal is made.

#### **CONSULTATIONS**

##### **Local Consultations**

Axminster Town - Cllr A Moulding

I recommend that this application is approved

I agree that there may be a degree of overlooking, but probably no different to other properties within the St Georges complex.

Parish/Town Council

Revised comments:

The building footprint outlined in red on the site plan does not appear to correspond to the footprint of the larger scale maps.

The presentation of the plans/elevations is confusion. Town councillors deplore the fact that this is a retrospective application as the work has already stated. Otherwise, they welcome this type of accommodation in Axminster.

**Technical Consultations**

County Highway Authority

Does not wish to comment

Environmental Health

I have considered this application and do not have any pollution concerns, however I have forwarded the application to private sector housing for comments who license HMO's

Other Representations

5 letters of objection have been received to date. In summary;

- A HMO is not in keeping with the complex and could add a further 10 people.
- Health and safety risk of attracting vermin.
- Bins already at full capacity
- No proper fire escape.
- Potential for anti social behaviour.
- Potential for drainage /sewage problems
- Concern for resulting noise and distance

**PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
99/P0291	Convert residential property into dental surgery	Approved	14.07.1999
94/P0291	Change of use to one two bedroom apartment	Approved	11.04.1994

**POLICIES**

New East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

EN10 (Preservation and Enhancement of Conservation Areas)

## Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

EN11 (Preservation and Enhancement of Conservation Areas)

SH1 (Town Centre Shopping Areas)

S4 (Development Within Built-up Area Boundaries)

## Government Planning Documents

NPPF (National Planning Policy Framework 2012)

NPPG (National Planning Practice Guidance 2013)

## Site Location and Description

The property known as 19 St Georges concerns, for the most part, a ground floor flat. This ground floor flat was previously used as a dentist but is currently in the process of converting to a HMO. The building itself is positioned behind the main road fronting facade and is entered via a pedestrian entrance way which leads to a courtyard. The building in the past has several permissions relating to use of an office to dental surgery and the use of the building as private flats. Directly above the ground floor are other flats in different ownerships. The site lies within the Axminster conservation area.

## Proposed Development

The proposal seeks planning permission to change the use of a ground floor dentist and part of the first floor of the building to a house of multiple occupation. In terms of external changes this would consist of alteration to some courtyard elevations to fenestration detailing. In total the building would contain 5 bedrooms with a communal living area. The intended occupants according to the planning statement are local youngsters who find it difficult to leave the parental home and set up independent lives. However, there is no mechanism to secure who would actually occupy the proposed HMO and as such the officer view is that this would be left to the open market.

## ANALYSIS

The main issues concerning this planning application are:

- the impact on the amenity of the adjacent properties;
- the design of the alterations and impact on the conservation area;
- the impact on the vitality and viability of the town centre location; and
- the potential for anti social behaviour.

## **Amenity**

It was noted that there is a tightly knit arrangement in this locality due to the position of the proposed house of multiple occupancy and surrounding buildings relatively to each other. Such a tight relationship is not uncommon within town centres of market



towns. Due weight must be given to the planning history of the site; in 1994 consent was granted for a two bed apartment with the plans indicating that this affecting the ground floor only. In 1999 planning consent was granted for the ground floor again but this time to turn the residential accommodation back into a dentist. Considering this planning history, the already tight knit grain of development and lack of overlooking windows on the ground floor there is no harmful impact on amenity arising from the ground floor of the proposal.

However, bedroom 4 (positioned above bedroom 3) introduces a first floor element of the HMO. It is understood that this room was used as a treatment room as part of the former dentist use and features two windows facing in a westerly direction directly toward the flat (number 18) opposite. It is understood that these two windows of the adjacent flat belong to the kitchen and lounge. The window to window distance is between approximately 2 - 3 metres. Although views are slightly off set this relationship would nevertheless be uncomfortable for either party, as views from the proposal would result in an unacceptable level of overlooking. Again the planning history has to be taken into account. The use of room (bedroom 4) a dentist would have also shared an uncomfortable relationship. However, this would have been only during operating hours, whereas with living accommodation any harm would be constant. The planning consent which granted use of the dentist did not include any details for use of this first floor room (indeed no stairs were shown), so it is by no means clear that this aspect benefited from planning consent in the first instance.

This concern has been raised with the applicant. In such circumstances a condition could ensure that obscure glazing is used and the window fixed shut. However, in this instance these are the only windows serving the room and the potential loss of light and potential fire escape issue means that such a condition could not be complied with under building regs. The applicant considers the window to window relationship to be acceptable and has sought determination on this basis.

The proposal would result in unacceptable levels of overlooking. The neighbouring property has objected to the proposal and their concerns are given significant weight. The proposal would conflict with policy D1 which seeks to ensure that development does not adversely affect the amenity of occupiers of adjoining residential properties and contrary to the core planning principle to secure a good standard of amenity with the National Planning Policy Framework.

### **Design and impact on conservation area.**

The external changes are minor in nature and would be mostly hidden from the street scene. The fenestration changes do not harm the visual appearance of the building overall and are reasonably needed to accommodate this change of use. The proposed development by reason of its sympathetic design and materials is considered to conserve the historic character of the designated conservation area.

### **Impact on vitality and viability of the town centre**

The site lies within the town centre shopping area as defined by local plan policy. Policy SH1 states that development should avoid uses that would undermine the shopping character and visual amenity, vitality and viability of the town centre. This

policy aims to protect uses classes A1 (Retail), A2 (Financial and Professional Services) and A3 (Restaurants and Cafes). However, in this instance the last lawful recognised use of the building was as a dentist falling within the D1 use class. Therefore the alterations from a D1 use class to C4 use class would not harm the viability, as the office and retail use of the building had already been lost.

### **Potential for anti social behaviour**

Concern has been raised by neighbouring properties with regard to antisocial behaviour and security risk resulting from the intended occupiers of the building. There are two main issues to consider in this respect – firstly, whether this perceived harm is a material consideration and secondly, the weight that can be attributed to it.

It is accepted that antisocial behaviour is capable of being a material consideration, since it could affect local residents in the enjoyment of their homes and their use of the pedestrian highway. The close knit nature would mean that any antisocial issues could be keenly felt and it is understandable why adjacent properties would wish for their amenity to be safeguarded. However, there is no evidence submitted to substantiate the claims or evidence why occupiers of an HMO would bring about a rise in antisocial issues, over and above that of any other occupiers (for example use of the building as a single flat). There is a large degree of uncertainty as to who would be the intended occupants given there is no mechanism to secure this. Therefore any concern regarding anti social behaviour could not be founded as this aspect of the development remains uncertain. The lack of evidence to substantiate these antisocial claims diminishes the weight that can be attributed to them.

In their role as consultee on the planning application Environmental Health have not raised any noise issues, pollution or other issues.

### **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposed development, by reason of changing the use of a room into habitable accommodation in bedroom 4 (as illustrated on Dwg - 1916R1), would result in significant and unacceptable levels of overlooking into the habitable rooms of the flat opposite - number 18 St Georges, to the detriment of the occupiers private amenity. Therefore the proposal conflicts with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and guidance within the National Planning Policy Framework.

### **NOTE FOR APPLICANT**

Informative:

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 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:

1916 R1	Proposed Combined Plans	03.11.14
1916 SK1	Proposed Combined Plans	03.11.14
	Location Plan	03.11.14
	Proposed Block Plan	10.02.15

List of Background Papers

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

**Ward** Beer And Branscombe

**Reference** 15/0087/FUL

**Applicant** Mr Ross Maddocks

**Location** Duckys Beer Ltd Beer Beach Sea Hill Beer

**Proposal** Construction of extension to provide secure store



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 03.03.2015</b>
<b>Beer And Branscombe (BEER)</b>	<b>15/0087/FUL</b>	<b>Target Date: 09.03.2015</b>
<b>Applicant:</b>	<b>Mr Ross Maddocks</b>	
<b>Location:</b>	<b>Duckys Beer Ltd Beer Beach</b>	
<b>Proposal:</b>	<b>Construction of extension to provide secure store</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

The application is before committee as the site is in the ownership of East Devon District Council.

This application relates to an existing beach cafe to the west side of Beer beach. It seeks permission to construct a small extension to infill an existing corner of the building in order to provide an enlarged storage area. The proposed extension would be finished to match the existing building.

The site is subject to a number of constraints falling as it does within a high risk flood zone, a Site of Special Scientific Interest (SSSI) a Special Area of Conservation (SAC), The Coastal Preservation Area, World Heritage Jurassic Coast and on the edge of the Beer Conservation Area. Despite the presence of these designations the small scale nature of the proposal is considered to be acceptable and would not have any significant effect on any of these designations.

The proposal is considered to be acceptable and is recommended for approval subject to the conditions set out at the end of the report.

### **CONSULTATIONS**

#### **Local Consultations**

Cllr. G Pook

No comments received a time of writing

Beer Parish Council

No comments received at time of writing

Other Representations

None

**Technical Consultations**

Environment Agency

Thank you for consulting us on the above proposal.

Please refer to our flood risk standing advice for the appropriate comment for this application.

<https://www.gov.uk/flood-risk-standing-advice-frsa-for-local-planning-authorities>

County Highway Authority

Does not wish to comment

Natural England

Thank you for your consultation on the above dated 14 January 2015 which was received by Natural England on 14 January 2015.

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

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

The National Park and Access to the Countryside Act 1949

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

This application is in close proximity to the Sidmouth to Beer Coast Site of Special Scientific Interest (SSSI). This SSSI forms part of the Sidmouth to West Bay Special Area of Conservation (SAC).

Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Sidmouth to West Bay has been classified. Natural England therefore advises that your Authority is not required to undertake an

Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.<sup>1</sup>

In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Sidmouth to Beer Coast SSSI has been notified. We therefore advise your authority that this 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(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

<sup>1</sup> This reply comprises our statutory consultation response under provisions of Article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, Regulation 61 (3) of the Conservation of Habitats and Species Regulations 2010 (as amended), (The Habitat Regulations) and Section 28(l) of the Wildlife and Countryside Act 1981 (as amended).

#### Protected landscapes

Having reviewed the application Natural England does not wish to comment on this development proposal. The development, however, relates to the East Devon AONB. We therefore advise you to seek the advice of the AONB Partnership. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB management plan.

#### 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 habitat decision tree 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, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

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 [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

#### Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006

The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

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

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

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

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
00/P2092	Replacement Cafe	Approval with conditions	07.12.2000

### **POLICIES**

#### New East Devon Local Plan Policies

Strategy 46 (Landscape Conservation and Enhancement and AONBs)



Strategy 44 (Undeveloped Coast and Coastal Preservation Area)

Strategy 45 (Coastal Erosion)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

EN6 (Wildlife Habitats and Features)

EN11 (Preservation and Enhancement of Conservation Areas)

EN4 (Nationally Important Sites including Sites of Special Scientific Interest)

TA2 (Traffic Management Schemes)

TA7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Government Planning Documents

National Planning Practice Guidance

**SITE LOCATION AND DESCRIPTION**

The application site relates to an existing single storey blockwork construction building with timber clad elevations under a flat roof. The building is sited to the west side of the beach against the foot of the cliff. The building provides a serving, cooking and storage area for a beach cafe that operates from it and the adjoining beach area. There is a line of beach huts atop the flat roof of the building and a further series of beach huts run to the southwest of the building along the foot of the cliff.

The site falls within a designated high risk flood zone, an Area of Outstanding Natural Beauty, Sidmouth to West Bay Special Area of Conservation, Sidmouth to Beer Coast Site of Special Scientific Interest and forms part of the Jurassic Coast World Heritage Site. The Beer Conservation Area adjoins the site.

## **PROPOSED DEVELOPMENT**

The application seeks permission for the construction of a minor extension off the southwest corner of the building to provide for a secure storage area. The extension would measure 6.1 metres by 1.1 metres and would be the same height as the existing building. The flat roof over the existing building would be extended to cover this area.

## **BACKGROUND**

Planning permission was granted for a replacement cafe building in 2000 under reference 00/P2092.

The site is in the ownership of East Devon District Council and hence the need for the application to be considered by Development Management Committee.

## **ANALYSIS**

The primary considerations in the determination of the application are:

- The design and visual impact of the proposal
- Its impact on designations relating to the site
- Other Issues

The proposal is for a small scale extension to the building to infill an existing corner of it and project slightly forward of the current front elevation. The materials proposed would match those used on the existing building and are considered to be appropriate in this exposed seaside location. The corner of the building where development is proposed is currently partially occupied by a timber shed that provides some of the storage requirements for the business. This area is also largely screened from views by a number of beach huts at the end of a line of such structures.

The site lies within a designated high risk flood zone as defined by the Environment Agency, the development is for a minor non-domestic extension and the application demonstrates that the floor levels within the proposed development would be set no lower than existing. It is not considered, given the nature of the development, as a secure storage area, that there are any additional flood proofing measures that could be demonstrated.

The small scale nature of the development in relation to the existing building is such that it is not considered that the proposal would result in any material increase in impact on the site's Coastal Preservation Area or World Heritage Coast designations.

The site also lies within close proximity to the Sidmouth to Beer Coast Site of Special Scientific Interest (SSSI), which itself forms part of the Sidmouth to West Bay Special Area of Conservation (SAC).

Natural England has advised however that provided the development proceeds strictly in accordance with the submitted details that it is not likely to have a significant effect on the interest features for which Sidmouth to West Bay has been classified and that as such there would be no requirement to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives. They have further advised that the SSSI does not represent a constraint in determining this application.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those of the existing building.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the existing building in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

## NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 East Devon District Council works proactively with applicants to resolve all relevant planning concerns, however in this case the application was deemed acceptable as submitted.

### Plans relating to this application:

1 OF 1	Proposed Combined Plans	09.01.15
	Location Plan	09.01.15
ATTACHMENT 1	Combined Plans	28.01.15

### List of Background Papers

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

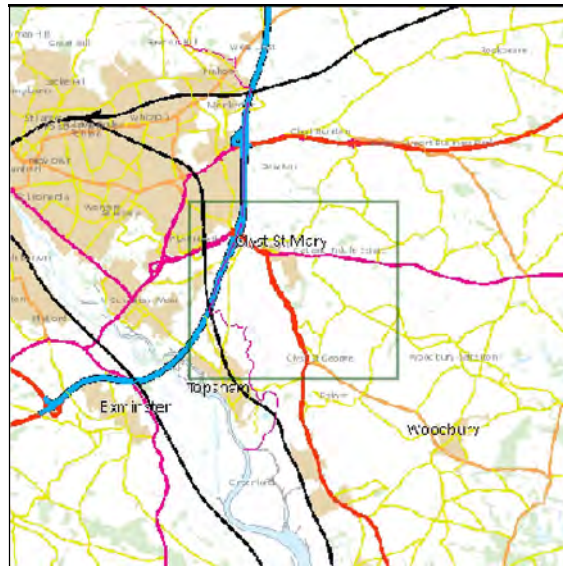
**Ward** Clyst Valley

**Reference** 14/2030/FUL

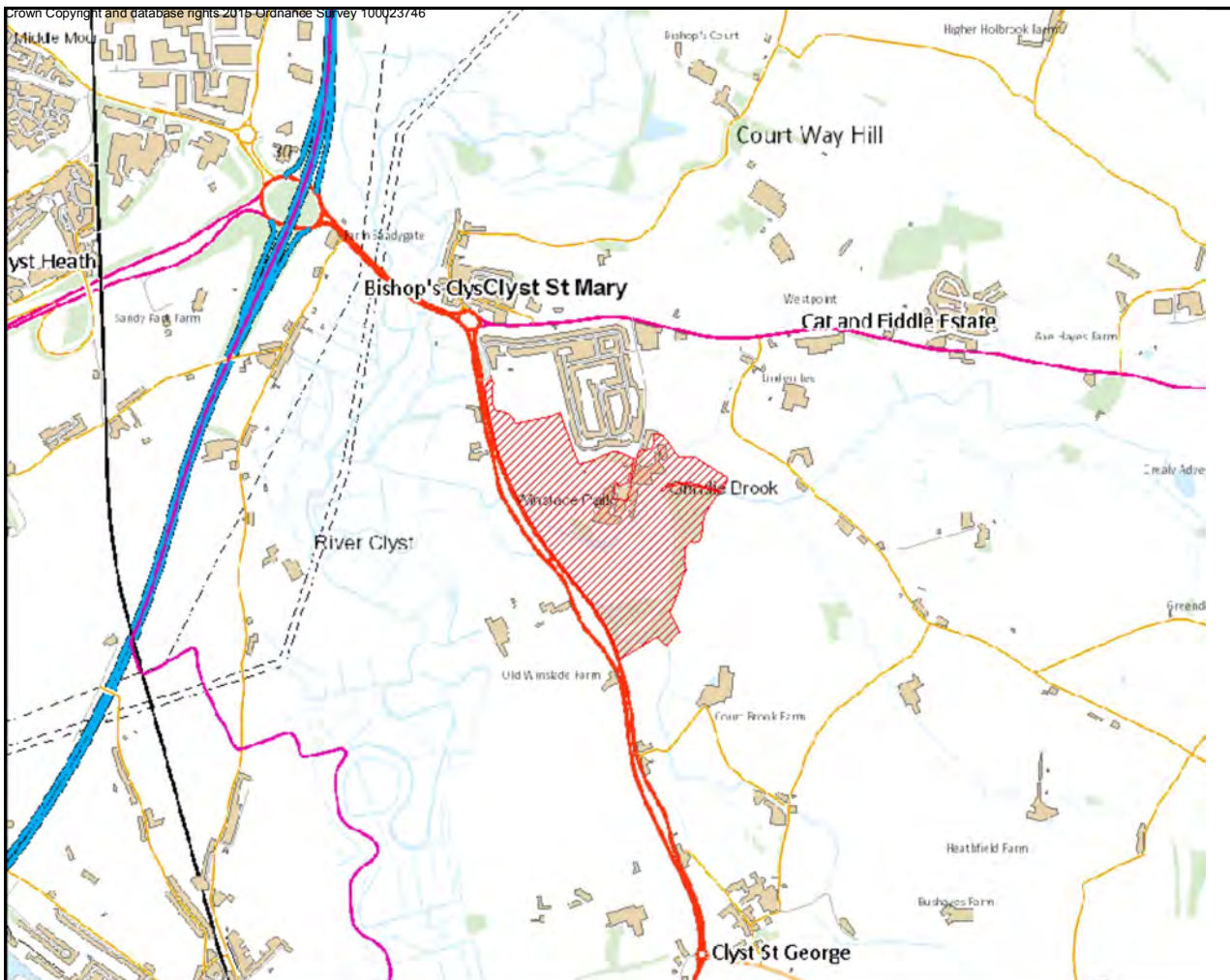
**Applicant** F & C (on Behalf Of Friends Life)

**Location** Friends Provident Winslade Park  
Clyst St Mary Exeter EX5 1DS

**Proposal** Installation of security fencing to boundaries



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 03/03/2015</b>
<b>Clyst Valley (CLYST ST MARY)</b>	<b>14/2030/FUL</b>	<b>Target Date: 16.10.2014</b>
<b>Applicant:</b>	<b>F &amp; C (on Behalf Of Friends Life)</b>	
<b>Location:</b>	<b>Friends Provident Winslade Park</b>	
<b>Proposal:</b>	<b>Installation of security fencing to boundaries</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

**This application is before Committee as the view of the Ward Member is contrary to the Officer's recommendation.**

**Planning permission for the installation of security fencing around the perimeter of the site is sought for a temporary period of three years. It is accepted that the fencing has been designed to serve a purpose, mainly for security and safety of the site once it becomes vacant later this year. The fencing by reason of its site coverage and its utilitarian design would have an impact on the visual amenity and character of the site and its parkland setting and on the setting of grade II and grade II\* listed buildings within the site. However whilst this is the case, it is important to note that the fencing is required only on a temporary basis and therefore its impact would be reversible.**

**In addition it has been demonstrated that the fencing could be installed without causing significant harm to the health and well being of retained and protected trees within the site. On balance, it is considered that whilst the security fencing would not be aesthetically pleasing and would have a degree of impact on the character and appearance of the immediate area, the setting of heritage assets and to a small extent on the amenities of the occupiers of surrounding residential properties, the benefits to be derived from securing the site and protecting heritage assets when the site is vacant outweighs the reversible and limited harm that would be caused. The application is therefore recommended for temporary approval for three years.**

### **CONSULTATIONS**

#### **Local Consultations**

**Clyst Valley - Cllr M Howe**

MEMBER'S CONSULTATION RESPONSE FORM

FROM COUNCILLOR: Mike Howe

PLANNING APPLICATION NO: 14/2030/FUL

ADDRESS: Security fencing Friends Provident Winslade Park

Following an initial review of the above application I recommend the following:

Support the application	No
Object to the application	Yes
In the event my recommendation and that of the Planning Officer differs, I wish the application to be referred to Development Control Committee	Yes

Relevant planning observations on the planning application to support my recommendation above:

I appreciate the changes made to this application but still do not fully agree that this amount of fencing is warranted in this context, and the damage to the Heritage assets that this does, in this regard I refer to APP/U1105/A/14/2227768

13."The introduction of the proposed development into this landscape would, for the reasons set out under my first main issue, cause harm to the setting of the heritage assets. While I consider that the harm would be 'less than substantial' in the terms set out in Framework paragraphs 128 to 134, the courts have held that, in this context, 'preserving' means doing no harm. The wording of saved LP policy EN9 states, among other things, that development affecting the setting of a listed building will only be permitted if it preserves its setting.

Having regard to that wording, which is not inconsistent with the policy approach of the Framework, I conclude that the appeal proposal would conflict with LP policy EN9."

Disclaimer Clause: In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

Parish/Town Council

The Council support these plans, providing the sole purpose of this application is temporary and a Health and Safety issue and for the protection of local residents on a non-secured site with a possible dangerous building (Winslade Manor).

We obviously have concerns with a tall fence being placed at the end of some gardens but appreciate that green plastic coated chain link will blend in with the green hedges behind.

## **Technical Consultations**

### Conservation

#### BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The proposed works will have various degrees of impact upon the setting of three principal heritage assets; Winslade Park (II\*), The Terrace Walk (II), St Mary's and Grindle House (II).

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

The application proposing significant lengths of boundary fencing is not supported by any form of heritage or statement of significance. I understand that this is presently being prepared for the potential redevelopment of the site. However, this document is required for any works that would affect the significance of heritage assets on the site; these being Winslade house, St Mary's church to the north-east, the Terrace walk and Grindle House.

From preliminary discussions with the conservation consultants on site it has become apparent that the setting of the principal grade II\* building contributes highly to its significance and therefore the assessment being undertaken on this significance needs to form part of any application affecting the setting of heritage assets. I cannot therefore support any proposals until the impact has been fully assessed.

It would seem that the application is proposing a more permanent fencing rather than temporary security to the site. I would certainly be unwilling to support a permanent fence. Many lengths of the proposed fencing would sit parallel to existing boundaries consisting of hedges, walls and existing fences. I would therefore advocate that there is insufficient justification for certain sections of the proposed fence and that the proposals are excessive and would have an unnecessary impact upon the park and setting of Winslade House and its associated heritage assets. Some sections of the proposed fencing would be particularly damaging; most notably the proposed section along the Terrace Walk. This is a significant part of the planned landscape and follows the re-routed River Clyst. Another prominent section would be that following the southern boundary to Grindle House.

In order to progress this application I would advise that the nature of the fencing is reconsidered on more than a temporary basis. The nature of the proposed fencing is by no means more robust than some existing boundary treatments and would not necessarily deter trespassers from entering the site once vacated. I would advise that a site meeting is set up to walk the route of the site boundary with the agent and to provide a solution that limits the impact while providing an appropriate degree of

security. I also note that similar concerns have been expressed by English Heritage, and therefore a representative at any future site meeting would be useful.

As it stands the proposals had not been adequately justified and the impact on heritage assets not properly assessed. I would therefore recommend refusal.

### Conservation

Additional comments 12 November 2014 on plans submitted 30th October 2014:

The amended plans are not entirely clear but seem to indicate that some proposed lengths of fencing double up existing boundaries on the site. As advocated before there is no justification offered for this. While the fencing is now to be a temporary structure it should only be erected where it is necessary. With this in mind I would offer the opportunity to walk the route of the fence and agree where it should be erected. There is no certainty at the moment when the site is going to be redeveloped and therefore a temporary permission may well result in further applications to extend the permission. As stands I still consider the amount of fencing to be excessive and would suggest a site meeting.

### County Highway Authority

The Highway Authority have no comments to make on this application amendments.

### English Heritage

On a recent visit to this site accompanied by officers from your Council, we noted the contribution the existing landscape makes to the setting (and thus the significance) of the Grade II\* listed Winslade Park complex. While we understand the applicant's desire to secure the site while plans are prepared for its long-term future, I am concerned at the permanent appearance of the proposed fencing. It will visually disconnect the office complex with the Grade II listed terrace walk, which will be left on an isolated strip of land between the river and the new fence. I am surprised a fence is considered necessary in this area when it would seem the river forms a natural means of preventing access to the site.

The proposals will result in harm to the aesthetic value of nationally-designated heritage assets. We are not able to support this application for permanent fencing, but would be sympathetic to temporary hoarding proposals to safeguard the site while it is vacant.

### Recommendation

We object to this application and recommend it is withdrawn to be replaced with an application for temporary fencing/hoardings. This should include a strategy for managing those parts of the site outside the secured perimeter.

Further comments on amended plans received 10<sup>th</sup> February 2015:



We do not wish to offer any additional comments on this occasion. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

### EDDC Trees

The provided methodology in Catherine Baddeley email of the 01/10/2014 addresses fully all the issues raised. Provided the methodology within this email is clearly referenced within the planning conditions associated with any planning approval I have no objections to the proposal on tree grounds.

### Other Representations

7 letters of objection have been received raising concerns which can be summarised as follows:

- Impact on listed buildings
- Visual impact of fencing
- No requirement for security
- Who will maintain the grounds?
- The height of the fencing is unnecessary
- Ensure no damage to properties and their boundaries
- Impact on protected birds and wildlife
- Who will maintain the culvert?
- Unattractive fencing and impact from public footpath
- Impact on protected and mature trees
- Fencing would not allow for maintenance of properties boundaries.

## **POLICIES**

### New East Devon Local Plan Policies

EN8 (Extension, Alteration or Change of Use of Buildings of Special Architectural and Historic Interest)

D3 (Trees and Development Sites)

D1 (Design and Local Distinctiveness)

Strategy 7 (Development in the Countryside)

### Adopted East Devon Local Plan Policies

S5 (Countryside Protection)

D1 (Design and Local Distinctiveness)

EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest)

D5 (Trees on Development Sites)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

### Site Location and Description:

The site refers to Winslade Park comprising approximately 35.5 ha of land located to the east of Exeter and the M5. The site comprises the Mansion House (Grade II\* listed) and more modern office buildings (Winslade House, Brook House and Clyst House) along with leisure uses and associated buildings. The site also comprises extensive areas of hard surfaced car parking, formal recreation land and open parkland to the south beyond the Grindle Brook. It has its own private access and driveway from the A376 and can also be accessed via Church Lane, as a secondary entrance and a public right of way (Clyst St Mary Footpath 2) which runs to the east of the site. The rear gardens of properties on Clyst Valley Road back onto the site. The site is located in open countryside, outside of the built-up area boundary of Clyst St Mary (as defined by the Adopted East Devon Local Plan).

### Planning History:

There is extensive planning history for the site relating to the lawful office use but is not considered to be relevant to the consideration of this application.

### Proposed Development:

Planning permission is sought for the installation of 2.2 metre high security fencing around the perimeter of the site. The proposed fence would be of plastic chain link construction, tensioned between wooden posts. The fencing is required to provide security of the site once it becomes vacant which it is understood is to be early 2015. During the course of the application the Agent has confirmed that they would be happy to accept planning permission for a temporary period of three years.

It should be noted that amended plans have been received during the course of the application following officer concerns that the location of the fence line appeared to follow an arbitrary line and was not therefore an entirely accurate representation of where the fence would be installed given the position of trees, hedgerows and other boundary features on the site. A full survey of the site has now been undertaken such that the amended plans now show the accurate position of the proposed security fencing. In addition, the fencing no longer extends along Church Lane or around the St Mary's church. It now runs along the northern, eastern and southern perimeter of the site and back along the southern side of the private driveway to the access point near the A376.

### Issues and Assessment:

The main issues to consider in determining this application are in terms of the design and siting of the security fencing and the impact it would have on the character and appearance of the area, the setting of the listed buildings, the mature trees on site

and the impact on the residential amenities of the occupiers of surrounding properties. The impacts of the security fencing needs to be carefully balanced against the justification and any benefits that this would bring to the safety and security of the site once it is vacant.

## ANALYSIS

### Justification:

The application is accompanied by a detailed justification statement which explains that the businesses at Winslade Park are due to close and vacate the buildings and the site in 2015. The requirement for security fencing is necessitated by this long term vacation of the site by Friends Life and Defra and the need to maintain a secure and safe environment within the site. The fencing is proposed to prevent criminal activity and damage to the buildings whilst allowing the applicant to take necessary measures regarding the control of access points to enable the continued use of the playing fields by local sports clubs for the 2014/ 2015 season.

Whilst the Council are currently considering a number of planning and listed building applications for re-development of the site, it is considered that when the site is vacant, given the fact that the existing boundaries are of varying materials and height and are not therefore secure, the need for security fencing around the perimeter of the site has been adequately justified on a temporary basis of three years.

### Character and Appearance:

It is accepted that the security fencing would have a negative impact on the visual amenity of the site owing to its utilitarian appearance and its functional requirement; that is to make the site secure. Whilst this would be the case, the chain link design would at least allow views into and out of the site which would be preferable over a fence of solid construction. The impact of the fencing would be limited to localised views, mainly from within the site, from the public footpath and from Church Lane. The need and justification for the security fencing to make the site secure is accepted and on the basis that the visual impact in terms of views from outside of the site would be limited, it is not considered that an objection could reasonably be sustained on these grounds. Furthermore, planning permission is sought only for a temporary period of three years, therefore it would not be a permanent feature of the site which would be considered to be inappropriate. A condition is recommended to ensure the fencing is only in situ for a maximum period of three years after which it shall be removed and the site restored to its former condition.

### Listed Building Impact:

It is accepted that because of the height, length of the fencing and its design that it would have various degrees of impact upon the setting of three principle heritage assets which include Winslade Park (II\*), the Terrace Walk (II), St Mary's Church (II) and Grindle House (II). Both the Council's Conservation Officer and English Heritage had raised concerns about the permanent appearance of the proposed fencing but have stated that they would be more sympathetic to temporary proposals to safeguard the site while it is vacant.

The Conservation Officer and English Heritage both note the contribution the existing landscape makes to the setting and thus the significance of the grade II\* listed Winslade Park complex and their concerns regarding the impact of any fencing are noted. In particular, English Heritage raised concerns over the position of the fencing on the southern side of the site which would disconnect the office complex with the grade II listed terrace walk which would be left on an isolated strip of land between the river and new fence. This issue was raised with the applicant's agent who advised that they do not consider that the river offers enough of a deterrent and as such the fence line has to be designed to fully encapsulate the site in order to secure it.

In addition, as the fencing is now required for a temporary period, the separation would only be short-term. It is also explained that the outline application for the wider redevelopment of the site which is currently under consideration, incorporates the terraced walk into the landscape and secures the historic asset for the future use of the community. The agent has advised that they would be prepared to accept a condition requiring the submission of a management strategy for those parts of the site that would be outside of the secured perimeter to ensure that they are not left unmanaged or unsecured.

Notwithstanding the impact that the fencing would have on heritage assets, it is considered that on the basis that the fencing is required for a temporary period that an objection could not reasonably be sustained on these grounds. Furthermore, the benefits of securing the site once it is vacant and thus safeguarding the heritage assets are considered to outweigh any temporary visual harm caused.

#### Arboricultural Impact:

The route of the fence line would pass a number of mature trees within the site some of which on the eastern side are protected by a TPO. These are trees considered to be of amenity value and therefore the impact of the fencing on the health and well being of the trees has been carefully considered. The Design and Access Statement outlines how the proposal has been developed in conjunction with the applicant's site Arboriculturalist to limit the impact upon any significant trees along the boundary.

The methodology is outlined which explains that the fencing would be installed using fence post anchors which require no digging or concreting to ensure minimal impact on root protection areas of trees and hedgerows. The Council's Arboricultural Officer required clarification over the extent of pruning and clearance works along the line of the fence and how this would be undertaken and how the location of the post anchors where close to RPA's of trees and what instruction will be given to the contractors to ensure avoidance and no severance to roots of trees and hedgerows.

The agent has responded by providing a method statement covering matters such as minimising tree pruning, avoidance and no severance of tree roots, careful manual excavation near mature trees and that the works are to be undertaken by an Arboricultural Association Approved Contractor.

The Council's Arboricultural Officer has advised that this methodology is acceptable and is satisfied that a suitably worded condition requiring the fence installation to be carried out in accordance with these details would ensure that the proposed fence construction does not result in any unsustainable damage to retained trees on site.

#### Residential Amenity:

Concerns of local residents are noted, particularly those properties on Clyst Valley Road whose rear gardens back onto the site. The boundaries of these properties are currently defined by hedgerows, chain link fencing and close boarded fencing, although a number have open views out onto the site.

The amended plans have adjusted the position of the fencing in relation to the rear boundaries such that there would now be a separation distance of 8.0 metres between them. Whilst it is accepted that a 2.2 metre high fence would have a degree of impact in terms of its physical impact and on outlook, given the distance between the properties and the fence line and the fact that the security fencing would be a chain link fence which is transparent, it is not considered that an objection could be sustained on the grounds that it would significantly harm the amenities of the occupiers of these properties.

Re-positioning the fence from the rear of Clyst Valley Road would also allow for future maintenance of the land between the fencing and the boundaries of these properties.

#### Flood Risk:

A small section of the fencing to the east of Clyst House would fall within the flood zone however given the chain link design of the fence, where flood water could travel through it, it is not considered that there would be any concerns from a flood risk aspect. The concerns raised by the residents with regards to access to a culvert on the eastern side of the site have been addressed through the insertion of an access gate which would allow for future maintenance which it is understood is a statutory duty by the owners of Winslade Park.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)

3. The security fencing hereby permitted and shown on drawing no ATP\_000 REV B shall be removed and the site restored to its former condition within three years of the date of this permission.  
(Reason - The permission is only justified for a limited period by the need to secure the site whilst it is vacant and the design and appearance of the fencing would be considered to be inappropriate on a permanent basis because of its impact on the character and appearance of the site and the setting of heritage assets in the interests of the rural character and appearance of the area in accordance with Policies S5 (Countryside Protection), D1 (Design and Local Distinctiveness) and EN9 (Extension, alteration or change of use of buildings of special architectural and historic interest) of the Adopted East Devon Local Plan and the guidance contained within the National Planning Policy Framework).
  
4. No development shall commence until a strategy for managing the Grade II listed terrace walk for the duration of the planning permission has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.  
(Reason: To ensure the future protection of heritage assets in accordance with Policy EN9 (Extension, alteration or change of use of buildings of special architectural and historic interest) of the Adopted East Devon Local Plan and the guidance contained within the National Planning Policy Framework).
  
5. The development hereby permitted shall be carried out in full accordance with the Arboricultural methodology contained within the email from Catherine Baddeley dated 1st October 2014.  
(Reason: To ensure the retention and protection of trees within the site in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D5 (Trees on Development Sites) of the Adopted East Devon Local Plan and Policy D3 (Trees on Development Sites) of the Draft Emerging Local Plan and the guidance contained within the National Planning Policy Framework).

Plans relating to this application:

ATP_000 REV B	Location Plan	06.02.15
ATP_018 REV A	Block Plan	06.02.15
EMAIL DATED 1/10/14	Arboriculturist Report	01.10.14
ATP_017	Fence Location Plan	20/01/15
ATP_016	Fence Location PLAN	20/01/15

List of Background Papers

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



**Ward** Exmouth Town

**Reference** 14/2755/FUL

**Applicant** Development Partnership Ltd

**Location** 1A South Street Exmouth EX8 2SX

**Proposal** Demolition of existing building and construction of 3 flats



**RECOMMENDATION: Refusal**





		<b>Committee Date: 3 March 2015</b>
<b>Exmouth Town (EXMOUTH)</b>	<b>14/2755/FUL</b>	<b>Target Date: 23.01.2015</b>
<b>Applicant:</b>	<b>Development Partnership Ltd</b>	
<b>Location:</b>	<b>1A South Street Exmouth</b>	
<b>Proposal:</b>	<b>Demolition of existing building and construction of 3 flats</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

**This application is before Committee as the view of the Ward Member is contrary to the Officer's recommendation.**

**Whilst there is considerable support for the application and some clear benefits of the scheme from bringing the site back into use and providing 3 additional dwellings in the area, these benefits need to be considered against harm that will be caused from overlooking of adjoining gardens and into the rear of residential units currently under construction. The proposed flats are proposed only 9.5m from the rear windows of new houses currently under construction and just over 1m from their rear gardens.**

**It is considered the circumstances as described would not meet one of the core planning principles of the NPPF to 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.**

**It is further considered the identified benefits would not overcome this concern and the application is recommended for refusal.**

### **CONSULTATIONS**

#### **Local Consultations**

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

**No Objection in principle to the development but preference to 2 flats as opposed to 3.**

Exmouth Town - Cllr S Gazzard

As one of the Ward members I support the application and would hope it would go to a Full DMC Meeting.

**Technical Consultations**

County Highway Authority

Highways Standing Advice

Natural England

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

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 19 November 2013.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal (planning reference 13/2446/FUL).

The proposed amendments to the original application relate largely to size, and are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Other Representations

6 letters in support of the proposal including a petition signed by 112 persons has been received citing the provision of smaller low cost homes and the removal of a derelict unsightly building.

2 letters of objection have been received concerned with the parking provision and the proposed use of different materials.

**POLICIES**

New East Devon Local Plan Policies

Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

Strategy 43 (Open Space Standards)

H2 (Range and Mix of New Housing Development)

TC7 (Adequacy of Road Network and Site Access)

Adopted East Devon Local Plan Policies

S2 (Built-up Area Boundaries for Area Centres and Local Centres)

S4 (Development Within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

EN6 (Wildlife Habitats and Features)

RE3 (Open Space Provision in New Housing Developments)

EN4 (Nationally Important Sites including Sites of Special Scientific Interest)

TA1 (Accessibility of New Development)

TA7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

ANALYSIS

Relevant Planning History

Planning Permission was granted for 5 new homes to the west of the site in 2013 under reference 13/2446/FUL; this is currently under construction. This application included work to number 1A but this element was withdrawn from that application given concerns about the close relationship of windows between 1A and the 5 new properties with subsequent loss of privacy.

An application (14/1729/FUL) to convert 1A (as well as a repeat of the scheme for the 5 homes approved in 2013) was refused in 2014 on the following ground:

“The proposed conversion, by virtue of the layout, and design and position of the proposed windows on the southern elevation would result in a significant and unacceptable loss of privacy and consequent residential amenity for the occupiers of the proposed dwellings fronting South Street, and would thus be contrary to Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan, Policy D1 (Design and Local Distinctiveness) of the new East Devon Local Plan, and the provisions of the National Planning Policy Framework, 2012.”

Site Location and Description

1A South Street is a 3 storey building set back from the street behind other buildings and forms part of a terrace with the part extending to the south having been

converted historically into homes. It is located adjacent to public parking areas and the shops and services in the town centre.

The building extends behind to the east into a commercial use; there are gardens to the north and dwellings fronting Church Street; the homes are being constructed to the west following the approval in 2013 - these will be two-storey with windows on the rear elevation as well as private courtyards behind a 1.5m high wall.

The area fronting South Street includes buildings of mixed size and age and which stand around the inside of angled bend in South Street. An 'L' shaped builders office with brick elevations and a mainly flat roof stands on the northern side of the site, with parking in front of it. A larger, older vacant building in a poor state of repair stands around the angled frontage of the site, to the south of the office building. This building is exposed on its southern side, where some demolition has taken place. It has a yard area behind it and further south is an access leading beneath an archway to another courtyard, containing a mixture of uses.

Apart from the modern three storey telephone exchange opposite, which is set back from the road within a compound, the general tone of the area is set by the established modest two storey residential terraced houses along South Street and in Pound and Church Streets. The building immediately to the north of the site has a mixed community and residential use. This building turns the corner of South Street with Church Street and has a rather bland red brick frontage to the pavement along the South Street and a part pitched, part flat roof, that is visible in views northwards past the application site.

To the north-east of the site lie the long rear gardens of properties that front the south side of Church Street. Abutting a wall that defines the southern boundary of the site is a vehicular access and driveway that extends under an arched opening between nos. 5 and 7 South Street to a courtyard at the rear. Attached to no. 5 to its north is a part stone, part rendered workshop building of the same height.

### Proposed Development

The application relates to 1A South Street only and seeks permission to demolish the existing building and replace it with a building in similar footprint, eaves and ridge height constructed of facing brick and brick banding, using fibre cement slates, and white coloured uPVC openings.

It is proposed to provide 1 apartment to each of the 3 floors with an internal staircase accessing the first and second floor flats sited within the frontage of the ground floor flat behind a shared entrance door. Externally areas for cycle, bin and recycling storage are shown to serve the 3 apartments.

### Consideration and Assessment

The main issues in the determination of this application are considered to be the principle of the development, any impact on the character and appearance of the area, residential amenity and highways and parking.

## Principle

There are no policy objections or to the proposal given that the site lies within the Built-Up Area Boundary of Exmouth, to which the provisions of Policy S4 of the adopted Local Plan apply. Similarly the site is not within a designated conservation area and no listed buildings are affected and as such no objections are raised to the demolition of any of the existing buildings on the site to accommodate a residential redevelopment.

## Character and Appearance

This proposal seeks to replace the existing building to the rear of the rear of the site as opposed to convert it as was considered on the previously refused application. As was considered then, though inevitably there will be some impact to the character of the area, with suitable materials and finishes it is considered the proposal would be carried out without significant harm.

Concern has been raised about the proposed replacement of the northern boundary wall in brick rather than stone, and these concerns are appreciated. However it is considered that subject to the use of an appropriate brick, together with some decorative banding or further detailing, the concerns are not so significant as to warrant a refusal on this basis. The only element requiring some change is the proposal to use a fibre cement tile. Whilst the site is not within a Conservation Area, it is considered that given the context of the area including the new homes under construction to the west the tile should be slate. This could be secured on any permission via a suitably worded condition.

## Residential Amenity

The buildings to the rear of the site are not presently occupied and have fallen into disrepair, and there are no windows on the northern elevation of the proposed new building from which views would be possible into the rear gardens of the properties to the north. This situation can be controlled in perpetuity by appropriate conditions on any new building.

The main concern arising from this revised proposal is still the relationship between the proposed residential use of the new building and the new frontage dwellings to the west. Given the orientation of the building and the existing surrounding development the conversion will have a single aspect which would be directly onto the rear of the dwellings to the frontage, particularly plots 4 & 5 as granted under application 13/2446/FUL. The rear of the new dwellings would be only 9.5m from the front of the proposed apartments. This distance is not considered to be sufficient to ensure reasonable levels of amenity for the occupants of the dwellings under construction to the west as they would be overlooked.

Whilst this new application proposes splitting the windows on the front elevation of each of the 3 apartments so that the north westerly facing section is fixed shut and obscure glazed and the south westerly section is clear glazed to allow light ingress, it is considered that the views still possible would be harmful to the amenity of these neighbouring properties to the west; particularly to the southernmost home under

construction and to a lesser extent the next adjoining new home to the north who will suffer from significant overlooking of their rear gardens (the external wall is only 1.5m high), and also their rear living / kitchen windows at ground floor level and bedroom windows above, resulting in a loss of privacy.

It is considered that visibility to the rear windows and garden of these of these two new homes to the west would be exacerbated with height i.e. views from the first floor and second floor apartments are considered more harmful given the greater range of views to the rear of the closest homes. The plans for the rear of plots 4 & 5 - the southernmost dwellings under construction to the front - show these areas to be a kitchen / dining area, and the front room of each of the apartments facing towards the rear of plots 4 & 5 is labelled as lounge / kitchen; as such these areas are likely to be intensively used. It is considered it would be unrealistic to expect the occupiers of plots 4 and 5 to have blinds or net curtains or some other solution in these rear windows and so not be overlooked from the windows proposed to the front of the flats to achieve a reasonable level of privacy. This may be a reasonable expectation to a street elevation but not for windows from the rear of a property.

A similar consideration would also exist for the rear gardens of plots 4 and 5 although it is acknowledged that there will always be an element of mutual overlooking.

It is also considered that by utilising obscure glazing to these single aspect properties, this would result in less than ideal living conditions for any potential occupier.

The proposed apartments are also very modest in size. They are, however, located within a town centre location and as was discussed in the previous application it is not considered that the limited floor area in itself is sufficient to warrant a refusal. When combined with the restricted outlook arising from the obscure glazing, the lack of any private amenity space and impact on the amenity of the approved frontage properties, in terms of overlooking and loss of privacy it is considered that the proposal for 3 apartments is unacceptable even taking into account the proposed window arrangements now put forward.

#### Highways/Parking

The proposal does not include any on-site car parking, as was the case on the two previous applications but given the location of the site close to the town centre, it was unreasonable to request such provision in this instance. The site lies within a highly accessible location, close to the town centre, services and public transport facilities. The location of the site within the town centre means that a car-free development is acceptable.

#### Other matters

Support for the application is considerable including a petition signed by over 100 persons. The support is based on the need to bring the site back into use and benefits from providing new homes both in the district and nationally. This is

understood and the desire to do something with the site and the fact that this application provides such an opportunity is acknowledged.

There are considered to be some clear benefits of the scheme from the provision of 3 new homes against the district's current 5 year housing land supply deficit, a sustainable location with easy access to services and shops, 3 smaller units to meet a perceived shortfall in this scale of unit, removal of a derelict and unsightly building. However these need to be considered against the harm of overlooking identified. There is no overlooking at present, the building subject of the application being vacant. It is considered the use of windows for a residential use is likely to be more than a business use given this would probably finish at 5pm and not carry on through a weekend. Use of the building for residential use could be full time.

Whilst it can be argued that the overlooking issue to the 3 northernmost dwellings under construction has been addressed by the split window format, unfortunately a solution hasn't been found to address the harm from overlooking identified in the reason for refusal in the previous application at least in regard to the southernmost and next adjoining home currently under construction. The distance between windows of the 3 flats and those of the rear of the building to the west is 9.5m with approximately 1m to the gardens. It is considered it would be unacceptable to foist these circumstances onto either a potential occupier of plots 4 and 5 and conversely to each of the 3 apartments in this proposal as there it would be possible to view across to each of the windows of the apartments across the 3 floors.

Bin storage, recycling, and cycle storage is proposed within this application which is welcomed, and would meet a need for the 3 apartments. These could be conditioned as part of any approval.

The application is accompanied by a Unilateral Undertaking offering a contribution of £2274 towards mitigating the impact of the development upon the Exe Estuary SPA.

The application is also accompanied by an Ecological Survey Report which confirms that no signs of bats were found during the preliminary appraisal and none were detected on or near the site during the emergence survey carried out in September 2013. There is potential for nesting birds to use the building and the report recommends that demolition works are timed between September and the end of February to avoid the nesting period.

Finally, a Flood Risk Assessment has also been submitted with the application, which the Environment Agency found acceptable on the previous proposal, provided that the development is carried out in accordance with the construction and layout details embodied in the Assessment.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposal by reason of the position of proposed windows on the front elevation of the apartments would result in a significant loss of privacy and

consequent residential amenity for the potential occupier of plot 5 and to a lesser extent plot 4 of the homes approved under application 13/2446/FUL fronting South Street, contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the emerging East Devon Local Plan and core planning principles of the National Planning Policy Framework 2012).

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved, however in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

##### Plans relating to this application:

6891-12 REV G	Proposed Combined Plans	18.11.14
6891-14 REV B	Proposed Site Plan	18.11.14

##### List of Background Papers

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



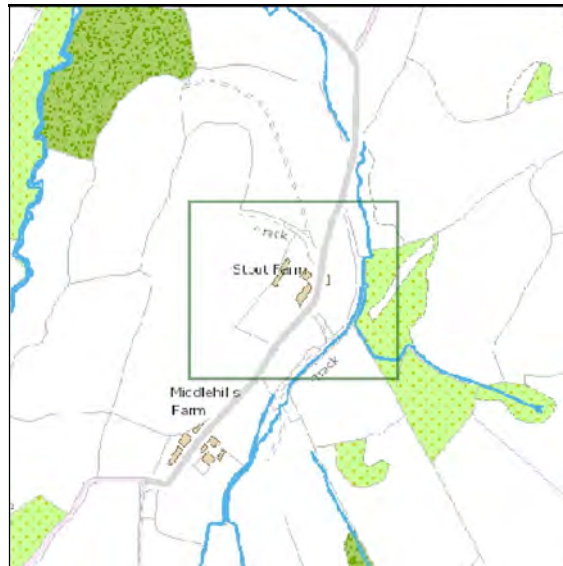
**Ward** Honiton St Michaels

**Reference** 14/2898/FUL

**Applicant** Mrs Helen Hunt

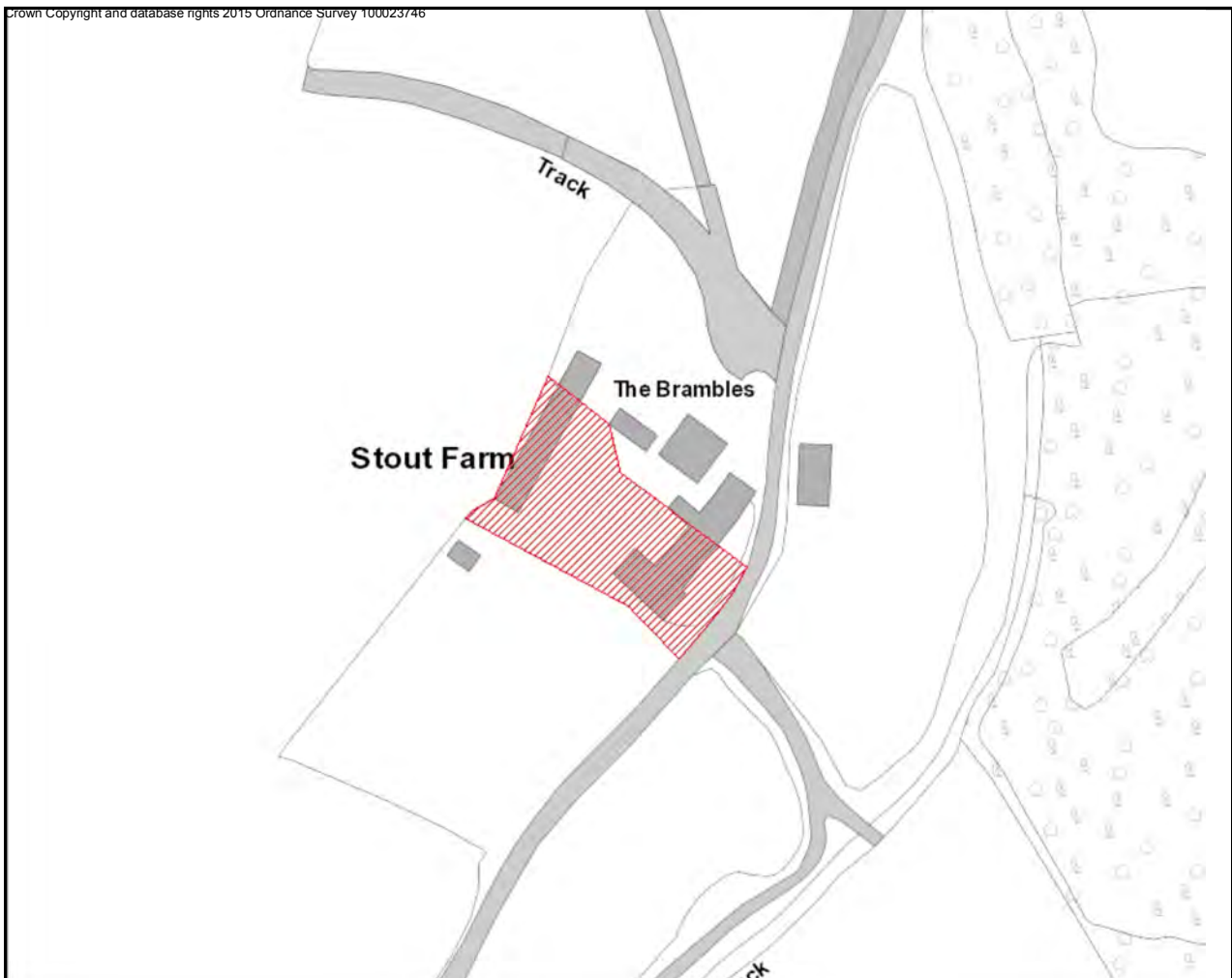
**Location** Stout Farm Honiton EX14 9TS

**Proposal** Conversion and extension of outbuilding to form ancillary annexe accommodation



**RECOMMENDATION: Approval with conditions**

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		<b>Committee Date: 03.03.2015</b>
<b>Honiton St Michaels (HONITON)</b>	<b>14/2898/FUL</b>	<b>Target Date: 16.02.2015</b>
<b>Applicant:</b>	<b>Mrs Helen Hunt</b>	
<b>Location:</b>	<b>Stout Farm Honiton</b>	
<b>Proposal:</b>	<b>Conversion and extension of outbuilding to form ancillary annexe accommodation</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

**This application is before Members has the view of the Ward Members is contrary to the Officer's recommendation.**

**Stout Farm is located in open countryside approximately 1km to the south of the built-up area boundary of Honiton and within the East Devon Area of Outstanding Natural Beauty. The farm is accessed by a narrow single track lane from the south which runs to the east side of the property. The application seeks the conversion of an existing single storey outbuilding at the rear of the main farmhouse to annexe accommodation. The building is located on higher land to both the farmhouse and adjoining neighbouring property and fronts onto existing the car parking/turning area. The design and method of conversion is considered to be acceptable and would have no discernible impact on the surrounding Area of Outstanding Natural Beauty. Amendments to the plans have reduced the potential for overlooking of and loss of privacy to the neighbouring property. The proposal does not seek an independent residential unit and a residential use ancillary to the main dwelling is considered to be acceptable subject to a condition restricting the use as such. Taking into account the policies of the Adopted East Devon Local Plan, those proposed in the New East Devon Local Plan and the framework provided by the NPPF the application is considered to be acceptable and is recommended for approval subject to the conditions set out at the end of the decision notice.**

### **CONSULTATIONS**

#### **Local Consultations**

Honiton St Michaels - Cllr M Allen

Please refer to DM

The revision appears only partially different than before with access, flooding and overdevelopment of site, but I will keep an open mind until DM assesses the development

Honiton St Michael - Cllr P Twiss

The site for application 14/2898/FUL is adjacent to an extended Devon longhouse situated in open country side within the East Devon AONB and seeks to provide ancillary accommodation unconnected to any employment or holiday use.

The existing building is unsubstantial and my concern is that "conversion" of an agricultural building of this type amounts to new development in a highly protected area situated in an arguably unsustainable location with no proven requirement or need for residential use as is envisaged in the Design and Access statement provided by the applicants.

For these reasons I am unable to support this application.

Honiton St Michael - Cllr P Twiss

I have nothing to add to previous comments regarding new development in the AONB and no planning evidence to support it

Parish/Town Council

The Town Council objects to this application on the following grounds:

- Overdevelopment in an already unsustainable location.
- Intrusion onto a neighbouring property.
- Conversion of an agricultural building which amounts to new development in the East Devon AONB.

Other Representations

2 letters of representation has been received. One letter is from an adjoining landowner in relation to land at the rear of the building and ownership of this. The second letter raises the following concerns:

- Excavation of soil to the rear of the building and potential impact of this.
- Surface water drainage implications relating to the development
- Impact on the amenity and privacy of adjoining residents
- Removal of trees
- Increased noise and activity relating to use of building

**Technical Consultations**

County Highway Authority

Does not wish to comment

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
06/2565/FUL	Proposed conversion of barn to bedroom & study. Extension to form utility, roof with dormer above	Approval with conditions	20.12.2006
89/P2548	Conversion Of Farm Buildings To Four Additional Dwellings.	Approval with conditions	07.02.1990
14/2175/FUL	Construction of agricultural building and raising of ground levels	Approval with conditions	12.02.2015

## **POLICIES**

### New East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D8 (Re-use of Rural Buildings Outside of Settlements)

TC7 (Adequacy of Road Network and Site Access)

TC2 (Accessibility of New Development)

### Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

S5 (Countryside Protection)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

D10 (Re-Use of Rural Buildings Outside Settlements)

TA1 (Accessibility of New Development)

TA7 (Adequacy of Road Network and Site Access)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

## **SITE LOCATION AND DESCRIPTION**

Stout Farm is a detached farmhouse occupying a relatively isolated rural location, albeit with one neighbouring property, 'The Brambles' to the immediate north. It is located approximately 1km to the south of the built-up area boundary of Honiton. The property fronts onto the local road past the site and the vehicular access to the southwest side of the property leads to a rear courtyard/parking area. Beyond the parking area the land slopes up to the west boundary. A detached single storey stable building is located on this boundary, approximately 2/3 of this lies within the application site the remainder within the adjoining property to the northeast's curtilage. The surrounding area is open countryside within the East Devon Area of Outstanding Natural Beauty.

## **PROPOSED DEVELOPMENT**

Planning permission is sought for the conversion of the outbuilding (at least that part which falls within the applicant's control) to residential annexe/ancillary accommodation, together with an extension to this at its south western end.

## **ANALYSIS**

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

- The principle of the proposed development
- Design and impact on the character and appearance of the area
- Ecological impacts
- Amenity Impact

## **THE PRINCIPLE OF THE PROPOSED DEVELOPMENT**

The provision of an annexe ancillary to the residential use of the main house is considered to be acceptable but the extent to which this can be considered to be ancillary is the issue that needs to be assessed in such cases. This is in order to avoid the potential for a separate unit of accommodation to be created which could result effectively in the formation of a separate dwelling in an unsustainable location and where new residential development would not normally be permitted.

It is recognised that the level of accommodation proposed would be capable of independent occupation. The proposals represent a well appointed unit comprising of: 1 no. bedroom, a living/dining room and kitchen, as well as a separate garden room. In addition the proposal would be physically detached from the main dwelling albeit served by the same vehicular access and sharing the parking/hard standing area to the rear of the main dwelling.

Case Law in relation to when an annexe can be considered to constitute a separate dwelling house is not particularly definitive, perhaps the most widely used interpretation is the Uttlesford DC v SoSE and White [1992] (Uttlesford) case. This

case considered whether a garage attached to a dwelling which had been converted to a 'granny annexe', had resulted in the creation of a separate planning unit. The court ruled that the fact that in that case the elderly occupier of the annexe had living facilities that enabled her to live independently from the rest of the family did not amount to the creation of a separate planning unit that required permission. The current application has similarities with that case albeit the accommodation consists of the conversion of a larger building and includes a new build extension to it. The applicants have applied for an annexe use and the red line indicates that the residential planning unit would remain as existing i.e. one unit.

Supporting information with the application explains that the accommodation is to enable one of the applicant's elderly parents to live close at hand and to allow care/supervision to be provided to them, one of which it is understood is suffering from advanced Parkinson's disease. Such relationships are not unusual and allow elderly relatives to retain a degree of independence with the reassurance of knowing that help/support is close at hand. In physical terms, whilst there would be a separate entrance to the annexe, it is physically in close proximity to the main house and would be served by the same access; there are also no proposals to subdivide or separate the area between the two buildings. There remain some concerns over the potential for future separation of this unit, as this is not a sustainable location where independent accommodation would normally be permitted. However, it is clear that the applicant's intention is to utilise the annexe as such and in association with the main house and that the application could and should be conditioned to ensure this remains the case.

## DESIGN AND IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

The proposed method of conversion is considered to be relatively sympathetic on the whole and although the building itself is of no particular merit it has a simple rural character mainly defined by its linear form and materials. The proposals look to respect the building's character keeping the simple linear form and re-cladding externally in timber. The extension at the south-western end of the building continues this form and despite a continuation of the main roof over it would have a relatively lightweight appearance. There are a number of new or extended openings in the front elevation with roof openings and additions kept to the less visible rear roof slope.

## THE WIDER LANDSCAPE IMPACT

The proposal would retain the original form of the building and would not seek to extend the curtilage or in any other way propose works which might have an impact on the wider designated landscape. Any views of the building in the wider landscape would continue to read it in relation to the existing group of buildings around Stout Farm.

## ECOLOGICAL IMPACTS

No survey has been submitted with the application but a visual inspection reveals that the building is open to the rafters with no enclosed spaces and no apparent gaps at eaves level or within the gable ends where access might be possible.

Nevertheless, building such as this have the potential to house smaller, crevice dwelling species of bat and an advisory note should be added to the applicant in this respect.

## AMENITY IMPACT

There is only one neighbouring property that could be impacted by the development and this lies at right angles to the application building at a lower level and to the immediate northeast. Amended plans have been submitted that remove the previously proposed openings closest to the boundary with the neighbouring property. With these windows removed the nearest window is now over 7 metres from the boundary with the nearest opening serving primary living accommodation (the kitchen) is approximately 13 metres from the boundary.

The relationship between Stout Farm and 'The Brambles' is already very intimate with windows in the rear elevation of Stout Farm already viewing over the rear amenity area of The Brambles at close quarters. The proposed conversion of the outbuilding has the potential to increase activity on the site and close to the neighbouring boundary but the relationship is not considered to alter the existing relationship between the properties to such an extent that any additional impact would warrant refusal of the application. The removal of the second bedroom removes the window opening closest to the boundary, with this end of the building remaining as a store. There is also a mature hedge along the boundary between the properties which would help to screen any views from the annexe.

## OTHER ISSUES

The adjoining land owner had originally objected to the application on the basis that the application site contained land they claimed was in their ownership. The applicant has subsequently amended their site plan to remove the area of land in question from the application.

A concern has been raised in relation to surface drainage resulting from the proposal; however, the roof/hard surfaced area of the building would not increase significantly and the conversion would need to meet building regulations in this respect and should therefore offer an improvement on the existing situation.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved. (Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.

(Reason - For the avoidance of doubt.)

3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)
4. The development hereby approved shall not be occupied at any other time other than for single family purposes as part of the main residential use of the dwelling known as Stout Farm. For the avoidance of doubt this permission does not grant planning permission for the use of the annexe as a separate residential unit.  
(Reason: The site lies in a rural area where the provision of an independent dwelling would be contrary to countryside protection policies in accordance with policy S5 (Countryside Protection) of the Adopted East Devon Local Plan 1995-2011 and sustainable development principles set out in the National Planning Policy Framework).
5. Notwithstanding the details indicated on the drawing no. 236\_L02.02 Rev. C, insofar as they relate to excavations to the rear northwest of the building to be converted, the permission hereby granted does not authorise such works, which fall outside of the defined application site.  
(Reason - For the avoidance of doubt and in order to define the permission)
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no window or door openings shall be inserted within the east elevation of the building, the subject of this application, other than those indicated on the approved drawings.  
(Reason - In the interests of the privacy and amenity of neighbouring occupiers in accordance with policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan.)

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 East Devon District Council works proactively with applicants to resolve all relevant planning concerns, however in this case the application was deemed acceptable as submitted.

The applicant is advised that caution should be taken in the conversion of the building to ensure that any protected species that might be using the building are not harmed. Should evidence of any such use be found work should cease immediately and independent advice be sought from a qualified ecologist as to how best to proceed.



Plans relating to this application:

236_L01.01C	Location Plan	12.01.15
236-L02.02 C	Proposed Combined Plans	29.01.15

List of Background Papers

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

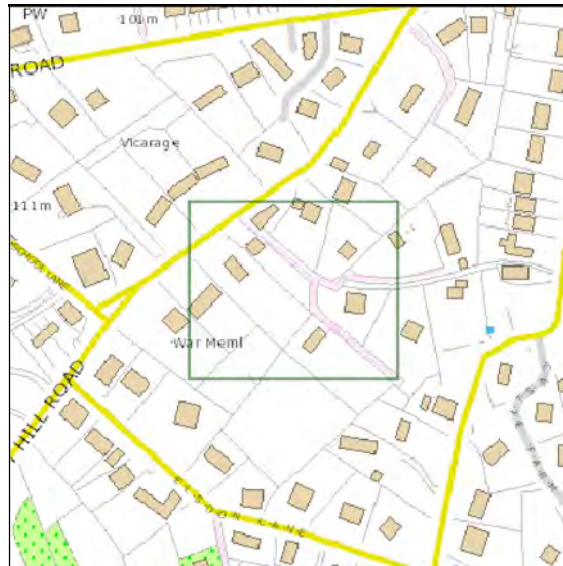
**Ward** Ottery St Mary Rural

**Reference** 14/3032/RES

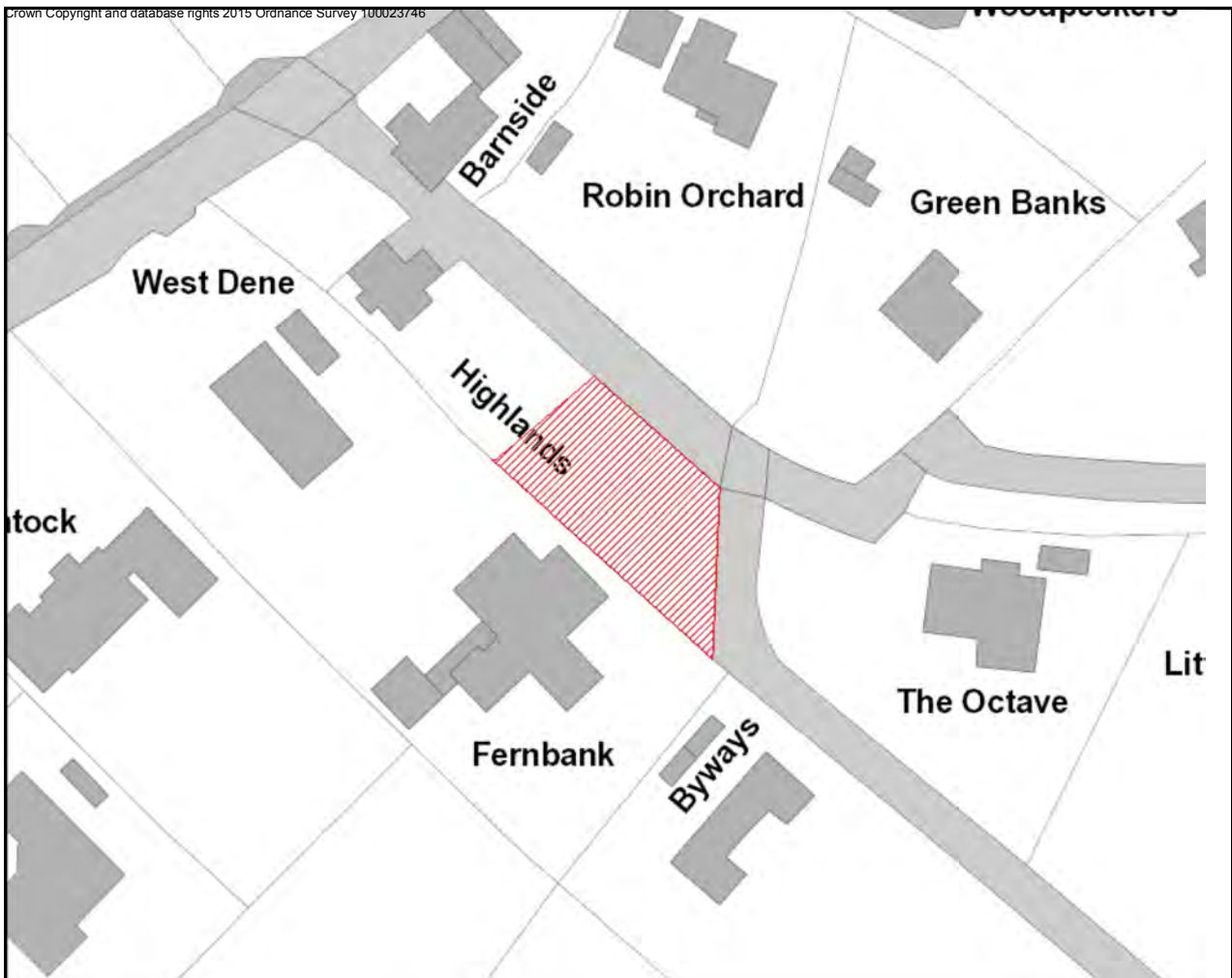
**Applicant** First House Ltd

**Location** Land Adjacent Highlands West Hill Road West Hill

**Proposal** Construction of dwelling - details of access, appearance, layout, scale and landscaping pursuant to outline permission 14/0191/OUT.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 03.03.2015</b>
<b>Ottery St Mary Rural (OTTERY ST MARY)</b>	<b>14/3032/RES</b>	<b>Target Date: 26.02.2015</b>
<b>Applicant:</b>	<b>First House Ltd</b>	
<b>Location:</b>	<b>Land Adjacent Highlands West Hill Road</b>	
<b>Proposal:</b>	<b>Construction of dwelling - details of access, appearance, layout, scale and landscaping pursuant to outline permission 14/0191/OUT.</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application for approval of reserved matters follows a grant of outline planning permission for a dwelling in May 2014. Details of a two storey dwelling located towards the south eastern end of the plot with an access at the north western end have now been submitted for approval. Owing to the mixed character of the area, the size and design of the proposed dwelling is considered to be compatible.**

**The main windows serving the first floor rooms would face north east and south east where there is a considerable distance to the neighbouring dwellings. The south west elevation would have rooflights but these would not intrude on the privacy of occupiers of either dwelling on that side. There would be no first floor windows facing north west. In view of these considerations, the relationship with the surrounding dwellings is considered acceptable.**

**The proposal is sustainable in arboricultural terms. Although two trees would be felled, they are not suitable for retention on the site whether a dwelling is built or not. Furthermore, the development would not harm the retained trees as long as suitable measures are put in place to protect them. These can be secured by condition.**

**A new access would be created through the hedgerow on the north east boundary of the site. This would provide access onto the lane and onwards to West Hill Road. In this case, owing to the low speeds and low vehicle numbers, the proposed access arrangements are considered acceptable.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Ottery St Mary Rural - Cllr C Wright**

I oppose this application on the grounds of overdevelopment and an unacceptable impact on neighbours.

There is also a threat to important trees of amenity. All these issues mean that the application is contrary to West Hill's Village Design statement.

I also have concerns about a further vehicular highways access on a difficult and potentially dangerous bend.

#### **Ottery St Mary Rural – Cllr T Howard**

I fully support the officer recommendation for approval with conditions.

The intended site is rather narrow when compared to some of the adjacent homes and gardens, but the site would be suited to a purpose-built smaller dwelling as intended.

The narrow lane already serves as an entrance/exit for nine dwellings and would not be stretched to accommodate one more dwelling. The entrance/exit onto West Hill road is wide enough to gauge a safe passage where there is a 20mph speed limit. Passing traffic is well spaced at most times of the day.

It is noted that any doubts concerning overlooking onto adjacent properties has been considered in the design of the intended dwelling windows.

#### **Town Council**

The Planning Committee does not support this application:

- 1 Overdevelopment of the site creating overlooking of neighbouring properties
- 2 Not a modest dwelling in accord with the permission granted by EDDC in the Outline application.
- 3 Visibility splay onto the main road
- 4 The removal of 2 important trees
- 5 Contrary to the West Hill Village Design Statement.

#### **Other Representations**

Letters have been received from five local residents raising the following concerns:

- Loss of privacy
- Dominance
- Out of character
- Impact on trees
- Flooding
- Poor access

A further letter of comment has been received from the former owner of the site.

## **Technical Consultations**

### EDDC Trees

I have reviewed the plans and revisited the site.

From an arboricultural perspective I consider the development to be sustainable.

The two Douglas Firs have been categorized as being of 'B' quality in the Arboricultural report. My own assessment finds them to be of 'C' quality. My reasons for this are that the larger dominant tree has lost apical dominance, either through storm damage, genetic form or damage by pests. The resultant form makes the tree prone to future failure of the upper trunk within the next 20 years. The smaller sub-dominant tree has grown with an asymmetric form its branches being confined to the southern side of the tree.

Douglas Fir as a species is a forest tree with the capacity to grow to heights in excess of 30m. One of the defence strategies of the species against uprooting in high winds is to shed branches. Thus, whilst Douglas Firs as a species make useful fast growing specimens if they are to be retained in the medium and long term they require large open or woodland settings.

The two Douglas Firs growing on the site, by virtue of their inappropriateness to their current location and poor form, should not be considered as constraints to the principle of development. The recently issued Tree Preservation Order 15/0007/TPO has not included these two trees for these reasons.

The other two significant trees on or adjacent to the site are a Yew (T1) growing close to the western boundary to the north- west of the proposed house and an Oak (T5) growing offsite to the South- East. Both these trees are protected by 15/0007/TPO

The proposed layout does not compromise the mature Oak T1, the development footprint lies outside of the Root Protection Area (RPA) of the tree and there is a separation of 7m between the canopy and the SE elevation of the house.

The Yew is an early mature tree with the capacity to double in size in open surroundings. However the close proximity of the property Fernbank already constricts the potential for future free growth of the tree. The current dimensions of the tree are reasonable for its location with some scope for another 1-2m growth. Yew as a species tolerates repeated pruning and it can be anticipated that this will be the likely management of the tree whether or not the new house is to be built. The proposed development encroaches slightly into the RPA of the tree. However, I have inspected the tree and found that the accurate measurement of the diameter of the lower trunk is compromised by the presence of numerous ascending small branches. I consider that the Arboricultural report has quite correctly erred on the side of caution and over-estimated the actual trunk diameter. Accordingly I consider the development footprint is unlikely to encroach into the actual RPA of this tree.

The Arboricultural Report suggests that the Yew is pruned back by 0.5m on the eastern side of the canopy in order to facilitate construction works. I can find no

reason for this work to be necessary as the indicated crown spread lies within the line of the protective fencing. Accordingly if consent is granted the Arboricultural Report should not be considered as part of the approved drawings/documents.

The Tree Protection Plan (TPP) and Arboricultural Report submitted with the application describe the tree protection and Arboricultural methods to be put in place to effectively protect the two trees during construction. The report describes the principles and if development consent is granted this will need to be conditional on further details being submitted.

I note that there is no information provided on the location of services and foul and surface water drains.

I consider that there are no arboricultural reasons to refuse the proposed development so long as the Arboricultural Report is not an approved document and the following conditions are applied.

#### Tree Protection Plan and Arboricultural Method Statement

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority.

The development shall be carried out in accordance with the approved details.

The TPP and AMS 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.

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 well being of retained trees in the interests of the amenity of the locality.

#### Service / Drainage layout

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed service and foul and surface water drainage layout shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals which may be required under any other Legislation). Such layout shall provide for the long term retention of the trees and shall avoid any damage to tree roots within the identified Root Protection Area of any retained trees. No development or other operations shall take place except in complete accordance with the approved service / drainage layout.

Reason: To ensure the continued well being of the trees in the interests of the amenity of the area.

#### Tree Pruning / Felling Specification

Prior to the commencement of any works on site (including demolition and site clearance or tree works) for all trees shown on the Tree Protection Plan Drawing No.1B a detailed tree felling / pruning specification that accords with the recommendations given in BS 3998:2010 - Recommendations for Tree Works, shall be submitted to and approved in writing by the Local Planning Authority. All tree felling and pruning works shall be carried out in full accordance with the approved specification.

Reason: To ensure the continued well being of the trees in the interests of the amenity of the area.

County Highway Authority  
Highways Standing Advice

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
14/0191/OUT	Outline application for a dwelling (all matters reserved)	Approval with conditions	12.05.2014

### **POLICIES**

#### New East Devon Local Plan Policies

Strategy 7 (Development in the Countryside)  
Strategy 48 (Local Distinctiveness in the Built Environment)  
D1 (Design and Local Distinctiveness)  
D2 (Landscape Requirements)  
D3 (Trees and Development Sites)  
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)  
EN22 (Surface Run-Off Implications of New Development)  
TC7 (Adequacy of Road Network and Site Access)  
TC9 (Parking Provision in New Development)

#### Adopted East Devon Local Plan Policies

S4 (Development Within Built-up Area Boundaries)  
D1 (Design and Local Distinctiveness)  
D4 (Landscape Requirements)  
D5 (Trees on Development Sites)  
TA7 (Adequacy of Road Network and Site Access)  
TA9 (Parking Provision in New Development)

## Site Location and Description

The application site comprises the south eastern section of the garden area formerly associated with Highlands, a detached two storey dwelling located to the north west of the plot. The garden is screened from the adjacent access lane and enclosed by a bank and hedge. Within the site there are three trees which are the subject of a provisional tree preservation order.

## ANALYSIS

The principle of a dwelling on this site has already been established with the grant of outline planning permission under reference 14/0191/OUT. All matters were reserved for future consideration and no restrictions were placed on the size or position of the dwelling.

This application for approval of reserved matters seeks permission for a two storey dwelling located towards the south eastern end of the plot with an access at the north western end. A detached garage is also proposed in the north east corner of the site.

The main issues to consider are: whether the dwelling would be compatible with others in the area; whether it would have an acceptable relationship with the occupiers of surrounding properties; and whether impact on the trees within and surrounding the site is acceptable.

### Character and appearance

Although some local residents who have commented on this proposal had anticipated a bungalow on this site when outline planning permission was granted, there was no such restriction imposed. Furthermore, there was no suggestion of that in the original application, other than the annotation 'proposed site for chalet bungalow' on the submitted drawing. Consequently, there is no objection in principle to a two-storey dwelling and detached garage.

The surrounding area is characterised by a mix of houses and bungalows, all of different designs and finished in a range of materials. In this context, the two storey dwelling, which would be finished in a combination of grey roof tiles over rendered walls with some weatherboarding, would not harm the character and appearance of the area.

### Living Conditions

The dwelling and garage would not result in a loss of amenity through dominance of neighbouring houses or gardens.

In considering the proposed dwelling, it is noted that the ground floor level windows would be screened from neighbouring properties by the existing boundary hedges and would not therefore result in a loss of privacy.



At first floor level the windows have been positioned to avoid any harmful impacts. The north west elevation would face Highlands and would have no first floor windows. The south west elevation would face Fernbank and obliquely towards West Dean. It would have rooflights serving a bedroom and dressing room but these would be about 6m from the boundary and would not intrude on the neighbours' privacy owing to the layout and proximity of these properties.

The north east elevation would have a dormer window serving a bedroom This would face over the access lane towards Robin Orchard and Green Banks. The window would be approximately 40 metres and 35 metres from these dwellings, respectively, and would not therefore result in a loss of privacy. The window would also have a view over the driveways and front gardens of these properties, but both have private rear gardens which would not be affected by the proposal.

The south east elevation would have first floor windows serving two bedrooms and a bathroom. These would face over the lane towards The Octave. The distance between windows would be in excess of 30 metres and although there would be views between them, the relationship would not be harmful. As with the north east elevation, the south eastern windows would have a view towards the driveway and front garden of The Octave but would not appear intrusive in other areas of the garden.

In view of these considerations, the relationship with the surrounding dwellings is considered acceptable.

## Trees

Three trees within the site are the subject of a 2014 provisional tree preservation order, along with another tree outside the site. However, two of the trees have subsequently been inspected and omitted from the latest provisional TPO. These trees, both Douglas Firs would be removed as part of this proposal. The yew tree within the site and the oak tree outside the site would both be retained.

The proposal has been reviewed by the arboricultural officer who has concluded that the proposal is sustainable in arboricultural terms. Although two trees would be felled, they are not suitable for retention on the site whether a dwelling is built or not. Furthermore, the development would not harm the retained trees as long as suitable measures are put in place to protect them. These can be secured by condition.

## Other matters

A new access would be created through the hedgerow on the north east boundary of the site. This would provide access onto the lane and onwards to West Hill Road. The principle of a dwelling on this site has already been accepted, along with the principle of additional vehicles accessing West Hill Road from the lane. The main consideration is therefore whether the access from the lane into the site is acceptable. In this case, owing to the low speeds and low vehicle numbers, the proposed access arrangements are considered acceptable.

Foul sewage from the site would be disposed of via a new connection to the main sewer in West Hill Road. Surface water would be disposed of via a soakaway within the site.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. East Devon District Council as Local Planning Authority HEREBY APPROVE THE FOLLOWING RESERVED MATTERS of the above described development proposed in the application numbered as shown above and in the plans and drawings attached thereto, relating to:-
  - (a) Appearance
  - (b) Landscaping
  - (c) Layout
  - (d) Scale
  - (e) Access

This Reserved Matters application numbered as shown above is made pursuant to the Outline Planning Permission (ref. No. 14/0191/OUT) granted on 12 May 2014.

The following reserved matters have yet to be approved:

None

The following Conditions attached to the Outline Planning Permission (ref 14/0191/OUT) referred to above are discharged.

None

The following Condition attached to the Outline Planning Permission (ref 14/0191/OUT) referred to above remains to be complied with:

3 – Submission of tree protection details (notwithstanding the Tree Report that accompanied the reserved matters application)

4 – Foul drainage connection

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed service and foul and surface water drainage layout shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals which may be required under any other Legislation). Such layout shall provide for the long term retention of the trees and shall avoid any damage to tree roots within the identified Root Protection Area of any retained trees. No development or other

operations shall take place except in complete accordance with the approved service / drainage layout.

(Reason - To ensure the continued well being of the trees in the interests of the amenity of the area in accordance with policy D5 (Trees on Development Sites) of the East Devon Local Plan.)

4. Prior to the commencement of any works on site (including demolition and site clearance or tree works), for all trees shown on the Tree Protection Plan (Drawing No.1B), a detailed tree felling / pruning specification that accords with the recommendations given in BS 3998:2010 - Recommendations for Tree Works, shall be submitted to and approved in writing by the Local Planning Authority. All tree felling and pruning works shall be carried out in full accordance with the approved specification.  
(Reason - To ensure the continued well being of the trees in the interests of the amenity of the area in accordance with policy D5 (Trees on Development Sites) of the East Devon Local Plan.)
5. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no upper floor windows, doors, rooflights or other openings other than those shown on the plans hereby permitted shall be formed in any elevation of the dwelling.  
(Reason - To protect the privacy of adjoining occupiers in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)
7. Notwithstanding the provisions of the Schedule Part 1 Classes A and E of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be enlarged, extended or altered and no sheds, other ancillary buildings, swimming or other pools shall be provided within the curtilage of the dwelling without the prior express consent of the Local Planning Authority.  
(Reason - To ensure that adequate outdoor amenity space is available for the occupiers of the dwelling and that adequate parking and turning space is available and in the interests of the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness) and TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

## NOTE FOR APPLICANT

### Informative:

In accordance with the aims of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 East Devon District Council works proactively with applicants to resolve all relevant planning concerns, however in this case the application was deemed acceptable as submitted.

### Plans relating to this application:

1619/01	Proposed Elevation	24.12.14
1619/02	Proposed Combined Plans	24.12.14
	Location Plan	24.12.14
1619/03	Combined Plans	24.12.14

### List of Background Papers

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

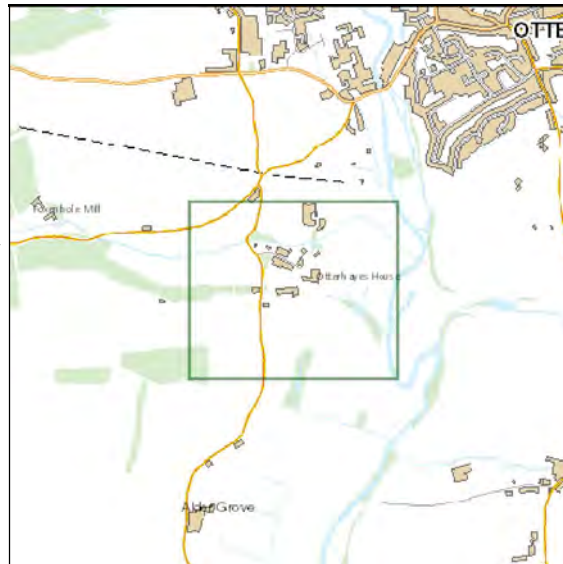
**Ward** Ottery St Mary Town

**Reference** 13/0496/MFUL &  
13/0497/LBC

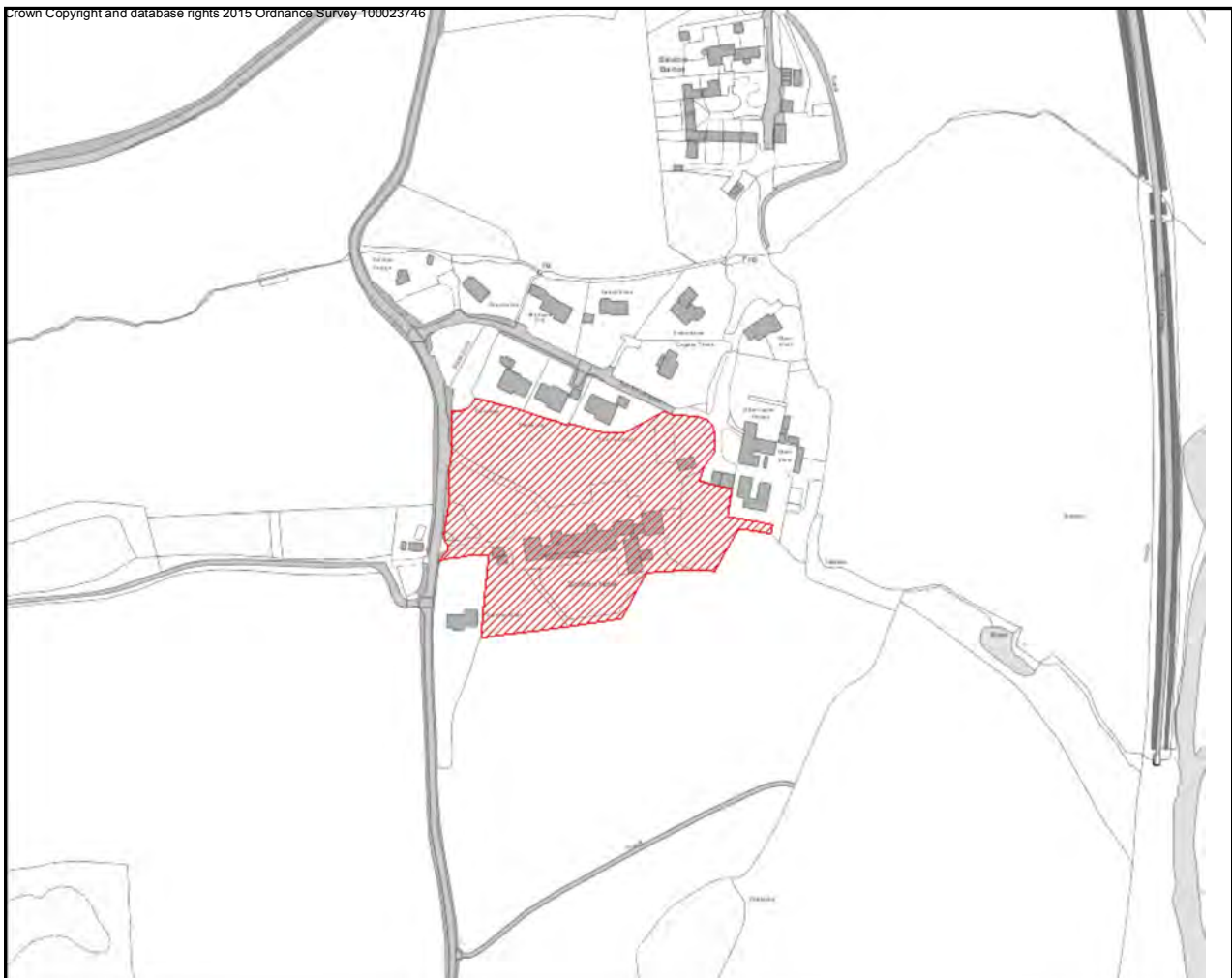
**Applicant** Mr Stephen Jones - Jirehouse  
Capital

**Location** Salston Manor Hotel Ottery St Mary  
EX11 1RQ

**Proposal** Proposed change of use, alteration  
and conversion of hotel and  
demolition and construction of side  
extension to provide 27no.  
residential flats and associated  
facilities and parking. (Revised  
proposal)



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 03.03.2015</b>
<b>Ottery St Mary Town (OTTERY ST MARY)</b>	<b>13/0496/MFUL &amp; 13/0497/LBC</b>	<b>Target Dates: 30.05.2013 &amp; 29.04.2013</b>
<b>Applicant:</b>	<b>Mr Stephen Jones - Jirehouse Capital</b>	
<b>Location:</b>	<b>Salston Manor Hotel Ottery St Mary</b>	
<b>Proposal:</b>	<b>Proposed change of use, alteration and conversion of hotel and demolition and construction of side extension to provide 27no. residential flats and associated facilities and parking. (Revised proposal)</b>	

**RECOMMENDATION: APPROVE** subject to a S106 legal agreement to ensure that all works to the grade II listed structures have been completed prior to the first occupation of the new build flats, overage being applied to the whole development and subject to planning conditions.

#### **EXECUTIVE SUMMARY**

The proposal seeks planning and listed building consent for the change of use of the former Salston Manor Hotel to 27 residential flats, with associated landscaping and infrastructure.

These applications were originally reported to Committee in December 2013 when the scheme sought permission for 25 flats since that time, and in trying to secure the necessary Section 106 agreement, the floor layout plans for the main Listed Buildings have been amended resulted in the addition of a further 2 flats. The proposals have therefore been re-advertised and are being returned to committee for redetermination.

The listed building remains in a now severe state of disrepair and the proposal would secure the future use of a heritage asset and would lead to an enhancement to the immediate setting. These are both special circumstances outlined within the National Planning Policy Framework that permit isolated homes within the countryside. The District Valuer has been appointed to reassess the viability of the scheme and has concluded that the redevelopment is likely to be the only viable method to enable much needed repairs to the listed building. Furthermore an despite the addition of a further 2 apartments, the District Valuer considers that S106 contributions would be unreasonable in this instance. As previously recognised and due to the proximity of the site in relation to a European designated site an Appropriate Assessment has been conducted which concludes that in this instance a mitigation contribution would be unreasonable. As there would not be landscape harm, harm to neighbours, trees or wildlife the proposal is recommended for approval.

## **CONSULTATIONS - Revised Proposal (27 flats)**

### **Local Consultations**

#### **Town Council**

The Planning Committee supports these amended plans

## **CONSULTATIONS - Original Proposal (25 flats)**

### **Local Consultations**

#### **Ottery St Mary Town - Cllr D Cox**

**26.11.2013** - Following receipt of the amended plans and further information, I now feel able to support the application and accordingly withdraw my objection dated 12th April 2013. However, in the event that it comes to Committee, I reserved position until I am in possession of all the relevant facts and arguments for and against

**12.04.2013** - Whilst I have no objection in principle to the redevelopment of the former Hotel (which is in a very poor state of repair) into residential apartments, I share many of the concerns expressed by the Conservation Officer particularly in relation to the size and extent of the proposed leisure facilities and the location of the tennis courts and 5 a side football pitch.

On balance therefore, I am inclined to the view that the application should be refused and in the event that it comes to Committee, I reserve my position until I am in possession of all the relevant facts and arguments for and against.

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

**11.10.2013** - Amended Plans - Support

**27.03.2013** - The Committee supported this application but

- raised concerns about the 5 a side football pitch adjacent to houses on Salston Ride
- the Committee felt a pedestrian access to the Town Centre could be considered

Amended Plans (14.08.2013) - The Committee supported the amendments to 13/0496/MFUL and 13/0497/LBC but would like to see a clear definition of the Section 106 statement to include recreational facilities for use by the public.

## **Technical Consultations**

### **County Highway Authority**

**27.09.2013** - (Amended Plans) No revision needed to our previous response from 25 March 2013

**25.03.2013** - Observations:

The proposed change of use does not alter the existing accesses and links to the local highway network which has been provided for its use as a hotel. All accesses provide excellent visibility for and of exiting vehicles and pedestrians. Therefore the County Highway Authority offers a response to the Local Planning of No Comments.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT.

### **Natural England**

**08.10.2013** – (Amended Plans) - Natural England has previously commented on this proposal and made comments to the authority in our letters dated 6 March 2013 and 12 August 2013.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application relate largely to design, and are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

**12.08.2013** – (Amended Plans) –

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

The Wildlife and Countryside Act 1981 (as amended)



The Conservation of Habitats and Species Regulations 2010 (as amended)  
Natural England has previously commented on this proposal and made comments to the authority in our letter dated 06 April 2013.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application relate largely to design, and are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural

environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation,

please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

**06.03.2013** - This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.

Natural England's advice is as follows:

We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.

The protected species survey has identified that bats, a European protected species may be affected by this application.

Our Standing Advice Species Sheet: Bats provides advice to planners on deciding if there is a 'reasonable likelihood' of bats being present. It also provides advice on survey and mitigation requirements.

The standing advice has been designed to enable planning officers to assess protected species surveys and mitigation strategies without needing to consult us on each individual application. The standing advice was issued in February 2011 and we recognise that it will take a little while for planners to become more comfortable with using it and so in the short-term will consider species surveys that affect European protected species against the standing advice ourselves, when asked for support by planners.

We have not assessed the survey for badgers, barn owls and breeding birds<sup>1</sup>, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this bat survey and mitigation strategy

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i) and came to the following conclusion:

Box (i) - Using Nature on the Map we determined that No, the application is not within/close to a SSSI or SAC notified for bats. This took us to Box (v).

Box (v) - We looked at the survey report and determined that Yes, it did highlight that there are suitable features for roosting within the application site (eg buildings, trees or other structures) that are to be impacted by the proposal. This took us to Box (iv).

Box (iv) - We determined that Yes, detailed visual inspections (internal and external where appropriate) had been undertaken and found evidence of a roost. This took us to Box (viii).

Box (viii) - We determined that Yes, the status of the roost is known (eg maternity/nursery/ feeding/ hibernation) and the species of bat to be affected reliably identified. This took us to Box (xi).

Box (xi) - Using table 6.1 (which is on page 38 out of 76) of the Bat Mitigation Guidelines we determined that the scale of impact is low and that mitigation has been provided which is appropriate and proportionate to the scale of impact, that is, like for like in terms of roost size, aspect, temperature etc, considering whether it includes appropriate landscaping, maintenance of commuting routes, foraging areas and management of lighting etc to prevent indirect impacts upon bats. This took us to box (xiii).

Box (xiii) - We determined that when the mitigation is taken into account, the proposals comply with Article 12(1) or would be licensable. This took us to Box (xiv).

Box (xiv) advises the authority that permission may be granted subject to appropriate conditions including a detailed mitigation and monitoring strategy for bats.

For future applications, or if further survey information is supplied, you should use our standing advice to decide if there is a 'reasonable likelihood' of protected species being present and whether survey and mitigation requirements have been met.

If you would like any advice or guidance on how to use our standing advice, or how we used the standing advice to reach a conclusion in this case, please contact us on the number above.

This advice is given to help the planning authority determine this planning application. It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive. If this is the case then the planning authority should consider whether the proposal would be likely to be granted a licence. Natural England is unable to provide advice on individual cases until licence applications are received since these applications generally involve a much greater level of detail than is provided in planning applications. We have however produced guidance on the high-level principles we apply when considering licence applications. It should also be noted that the advice

given at this stage by Natural England is not a guarantee that we will be able to issue a licence, since this will depend on the specific detail of the scheme submitted to us as part of the licence application.

1 Unless protected by Schedule 1 of the Wildlife & Countryside Act 1981 (as amended).

### English Heritage

**03.10.2013** (Amended Plans) - Thank you for your letter of 26 September 2013 notifying English Heritage of amendments to the application for listed building consent/planning permission relating to the above site. On the basis of the information provided, we do not consider that it is necessary for this application to be notified to English Heritage under the relevant statutory provisions, details of which are enclosed.

**11.03.2013** - On the basis of the information provided we do not consider that it is necessary for this application to be notified to English Heritage under the relevant statutory provisions, details of which are enclosed (see full scanned document).

Amended Plans (14.08.2013) - On the basis of the information provided we do not consider that it is necessary for this application to be notified to English Heritage under the relevant statutory provisions, details of which are enclosed (see full scanned document).

### Housing Strategy Officer Paul Lowe

**30.09.2013** – (Amended Plans)- My comments made on the 14 March 2013 still apply

**14.03.2013** - We note the comments within the Design and Access Statement that state 'This development will provide housing suitable for all ages and incomes and will support the existing community and local economy'.

Assuming the proposal satisfies planning requirements we expect a minimum of 40% (10) affordable homes be provided on site, with a tenure split of 70 / 30% in favour of rented accommodation the remainder as shared ownership. All nominations to come from the Common Housing Registers be available as affordable housing in perpetuity, with a nomination cascade in place giving preference to people who have a local connection to the parish, then cascading to named adjoining parishes and finally the district. Stair casing to be restricted to 80%.

All affordable housing will be transferred to and managed by a Registered Provider, and constructed to both the Registered Providers own design standards and to the Homes and Communities Agency Design and Quality Standards.

All affordable housing should be tenure blind, and meet the relevant Code level for Sustainable Homes.

## Devon County Council Education Dept

**12.03.13** - Further to your recent correspondence regarding the above planning application I write to inform you that a contribution towards education infrastructure via a section 106 agreement is sought.

Devon County Council will seek a contribution towards additional education infrastructure at local primary schools that serve the address of the proposed development and also a sum towards secondary school transportation costs due to the nearest secondary school being further than 3 miles from the proposed development.

The primary contribution sought is £71,009.38 (based on the current DfE extension rate for Devon) which will be used to provide education facilities for those living in the development.

In respect of Secondary provision, The Kings School, Ottery St Mary has written to East Devon and Devon County Council confirming they would not be able to expand unless a suitable site and capital funding could be made available. The school has also confirmed it is over capacity. Should additional land and capital resources to expand the school be secured, DCC would request £68,403.75 however if this is not achievable, a contribution towards the mitigation of potentially having to transport children who were unable to get into the local school from Ottery St Mary to the nearest Secondary School in Honiton totalling £10,526 would be sought.

The County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

Should you require any further information regarding the above please do not hesitate to contact me.

\*These contributions should be adjusted on the date of payment in accordance with any increase in Building Cost Information Service (BCIS) all in tender price index.

## Wales And West Utilities

**07.10.2013** – Wales and West Utilities have no objection to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss out requirements in detail. Should diversion works be required these will be fully chargeable.

## Royal Society For The Protection Of Birds

**08.04.2013** - I would like to apologise for the late submission of our comments and hope you will accept them at this late date. We are concerned that the increased population enabled by this proposal, in-combination with other developments coming

forward in Exeter City Council, East Devon District Council and Teignbridge District Council development plans, will cause harm to the protected wildlife of the Exe Estuary Special Protection Area (SPA) and Ramsar site, the East Devon Heaths SPA and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and the Dawlish Warren SAC.

There is an emerging body of evidence that the Exe Estuary and Dawlish Warren, and potentially the East Devon pebblebed heaths, have high levels of recreational activity, and that this is already affecting those sites' protected wildlife. There is a risk that future residents of this proposal, in combination with other development proposals and allocations, will increase recreational use of these sites and increase disturbance to their protected wildlife, to the extent that it cannot be concluded that this proposal, in combination with other relevant plans or projects, will not adversely affect the integrity of those sites.

To avoid such a conclusion, this proposal needs to mitigate, i.e. avoid or reduce, its effects to an acceptable level, such as through providing long-term visitor management or Suitable Alternative Natural Green Spaces (SANGS). In our view it may be possible to mitigate by making a financial contribution to measures that are being coordinated and implemented in the Joint Interim Approach adopted by Exeter City Council, Teignbridge District Council and East Devon District Council.

We recommend that there are no new footpaths or cycleways created that link this development to the protected wildlife sites and that the protected wildlife sites should not be promoted as part of this development proposal. It is important that each dwelling contributes to payments to mitigate for the likely increased recreational disturbance to the protected wildlife sites.

I hope you will take our comments into account and look forward to hearing from you.

### Other Representations

2 letters of objection and 1 letter of representation have been received to date. In summary;

- Noise pollution from sport facilities within the grounds.
- Absence of pedestrian access to the town centre.
- Dangerous highway links for cyclist and pedestrians.
- Concern regarding position of service road.
- Concern as to the future of trees along the east boundary of the site.

### **PLANNING HISTORY**

<b>Application No./Year</b>	<b>Proposal</b>	<b>Decision</b>
08/3224/LBC	Change of use and conversion of care home, demolition of modern extensions to listed building on west, east and south elevations and erection of a three storey	Approved 07.05.2009

	extension on the east elevation	
08/3223/MFUL	Change of use and conversion of care home, demolition of modern extensions to listed building on west, east and south elevations and erection of a three storey extension on the east elevation	Approved 07.05.2009
92/0079	Replacement of defective rendering	Withdrawn 26.02.1992
92/0078	Repair/replacement of selected windows	Withdrawn 26.02.1992
92/0077	Roof re-cladding and repairs (selected areas)	Withdrawn 26.02.1992
92/0076	Repair/re-instatement and reduction of flues on chimney clusters	Withdrawn 26.02.1992
92/0075	Repair/re-instatement of chimney clusters	Withdrawn 26.02.1992
92/0074	Recladding roof (four storey section)	Withdrawn 26.02.1992
85/P2208	Re-positioning of theatre workshop	Approved 11.02.1986
83//P0716	Bungalow	Approved 07.06.1983
83/P0107	Erection of bungalow and garage	Approved 08.03.1983
82/P0073	Three holiday cottages	Approved 20.04.1982
81/P0872	Construction of conference room	Approved 12.05.1981
81/P0528	Conference room	Approved 28.04.1981
79/C1567	Tennis Court	Approved 20.11.1979
79/C1472	Extension to hotel	Approved 03.01.1980
77/C1554	Extension to hotel	Approved 09.02.1978
77/C0939	Construction of drive	Approved 06.10.1977
77/C0814	Extension to hotel	Refused 06.09.1977
77/C0157	Construction of bar in existing cellar	Approved 05.05.1977
75/C1133	2 squash courts and changing rooms	Approved 08.06.1976

## **POLICIES**

### Adopted East Devon Local Plan Policies

- S5 (Countryside Protection)
- S7 (Infrastructure Related to New Development)
- D1 (Design and Local Distinctiveness)
- D2 (Sustainable Construction)
- D3 (Access for the Disabled)
- D4 (Landscape Requirements)
- D5 (Trees on Development Sites)
- RE1 (Retention of Land for Sport and Recreation)
- RE3 (Open Space Provision in New Housing Developments)
- EN1 (Developments Affecting Areas of Outstanding Natural Beauty)
- EN4 (Nationally Important Sites including Sites of Special Scientific Interest)
- EN5 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)
- EN6 (Wildlife Habitats and Features)
- EN8 (Proposals Affecting Sites Which May be of Archaeological Importance)

EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest)  
TA1 (Accessibility of New Development)  
TA3 (Transport Assessments /Travel Plans)  
TA4 (Footpaths, Bridleways and Cycleways)  
TA7 (Adequacy of Road Network and Site Access)  
TA9 (Parking Provision in New Development)  
H1 (Residential Land Provision)  
H2 (Residential Land Allocation)  
H3 (Range and Mix of New Housing Development)  
H4 (Affordable Housing)

### New East Devon Local Plan Policies

Strategy 3 – Sustainable Development  
Strategy 5 – Environment  
Strategy 5b – Sustainable Transport  
Strategy 7 – Development in the Countryside  
Strategy 34 – District Wide Affordable Housing Provision Targets  
Strategy 38 – Sustainable Design and Construction  
Strategy 43 – Open Space Standards  
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  
EN8 – Extension, Alteration or Change of Use of Buildings of Special Architectural and Historic Interest  
H2 – Range and Mix of New Housing Development  
H3 – Conversion of Existing Dwellings and Other Buildings to Flats  
TC2 – Accessibility of New Development  
TC4 – Footpaths, Bridleways and Cycleways  
TC7 – Adequacy of Road Network and Site Access  
TC9 – Parking Provision in New Development

### Government Advice;

NPPF (National Planning Policy Framework 2012)  
NPPG

### Site Location and Description

The Salston Manor Hotel is a Grade II Listed Building, standing in gardens of approximately 2 hectares, in the open countryside to the south west of Ottery St Mary. The building is of traditional construction with brick walls under a pitched slate roof.

The site lies within Landscape Character Type 3B of the Landscape Management Guidelines – “*lower rolling farmed and settled slopes*”. The building comprises the core of an C18th farmhouse, to which extensions were added in the early, mid and late C19<sup>th</sup> to imitate an Elizabethan red brick mansion, used as a country residence. More modern additions of the late C20<sup>th</sup> (squash courts, conference room and additional bedrooms, swimming pool) project from the linear form of the “traditional” components of the building. The interior of the building retains some fine detailing, including staircases, marble pillars and a c16th carved stone fireplace (originally in the King's School). The building ceased to be used as a hotel in December 2007, since which time it has been vacant.

Although a number of necessary emergency repairs have been carried out to the building, predominantly to deal with water damage, the former hotel requires an alternative use to be found for it and substantial repairs to structural and decorative elements.

The gardens of the former house are laid mainly to lawn, with individual tree specimens and groups of trees subject of TPOs. A petanque court and pavilion, used by a local club, are located at the north eastern corner of the site. The remnants of an overgrown sunken garden fill the remainder of the eastern part of the site, on land that falls rapidly away from the level of the main building, towards other residential properties to the west served by Salston Ride.

The site is mainly level (excepting the now well-treed former sunken garden), and is perched on the lip of the wide Otter Valley to its south. Uninterrupted agricultural land adjoins the hedged boundary on this southern edge, affording wide-ranging views from the site across and along the valley floor.

### Background

A resolution to grant planning permission and Listed Building Consent was obtained from the Development Management Committee in December 2013 which was subject to a suitable Section 106 agreement to secure phasing and overage for the development. Owing to a number of difficulties, most particularly around funding and the borrowing costs for the development, the agreement could not be finalised. Rather than proceed with the original scheme and the resolution that it received they have amended the proposals, creating an additional two flats in the building conversion. This has necessitated a re-consultation on the amended plans and a further referral to committee. Essentially the original resolution has been lost owing to the amendments made although Members will need to consider whether the changes made are sufficient to arrive at an alternative conclusion.

### Proposed Development

Full planning permission and listed building consent is now sought for a mixed conversion/newbuild scheme resulting in a total of 27 residential flats (10 refurbished and 17 new build). The 17 new build residential units would be created within a substantial extension on the east elevation of the listed building, which would require excavation and landscaping. It should be noted that the shape and scale of this extension is similar to the previously approved extension as part of the 2009



planning consent for the residential care home. Internally there would be communal aspects such as a conference room, squash court and general lounge area.

A circular parking configuration is proposed to the north of the main building.

## **Analysis**

The main planning considerations relevant to this proposal and which remain as previously reported are:

- the principle of the proposed use of the site;
- the viability of the proposal;
- the impact on the heritage asset;
- the impact on the character of the landscape;
- the impact on ecology;
- the impact on the amenity of the area and of nearby residents;
- the impact on protected trees; and
- traffic, parking and access issues.

### Principle of the development

Policy S5 (Countryside Protection) of the Local Plan recognises that development in the countryside will only be permitted in accordance with a specific local plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and local environment. The intention of the policy is to ensure that the majority of new development is situated within established settlements in order to promote sustainable patterns of land use.

The proposal, situated on land outside of the built up area boundary, steps away from this strategic approach and although the NPPF is less prescriptive about the location of new housing, the overarching objective remains to achieve sustainable patterns of land use. Para 32 of the NPPF states that, amongst other aspects decisions should take account of whether safe and suitable access to the site can be achieved for all people. Local Plan policy TA1 (Accessibility of New Development) requires development to be located so as to be accessible by pedestrians, cyclists and public transport and to minimise the need to travel by car.

In terms of connectivity there is a footpath to the north which provides access to the land adjacent to the Bowling Club. It should be noted that if the development on Island Farm is carried out then this could provide an additional link towards the town centre of Ottery St Mary thereby improving its connectivity credentials.

On the face of it the creation of open market dwellings within the open countryside flies in the face of rural restrictive policies. However, there are specific circumstances in this instance that can outweigh this presumption against such development. The main guidance is contained within the National Planning Policy Framework (NPPF).

Paragraph 55 of the NPPF aims to promote sustainable development in rural areas. This states that Local Planning Authorities should avoid isolated homes in the countryside unless there are special circumstances such as;

- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

It is considered that both of the above circumstances are applicable to the development.

### Viability

The grade II listed building is currently empty and in increasing need of vital repairs. Without a suitable alternative use for the building there is no way of generating the substantial funding that these repairs would cost.

The hotel function, which was the established use of the building, would have contributed to the local economy. It brought revenue to the area from beyond the locality and provided job opportunities. However, this use has ceased for a number of years now. In 2009 planning consent was secured for a residential care home use of the site, which like the hotel use would have also attracted employment. However, under the current application the economic benefits would be more short term and mostly derived from the construction/conversion work for the scheme. This economic argument can only be attributed limited weight. Continuation of the hotel use was unviable and as the residential care home consent was never implemented (and has since lapsed) this too raises viability questions over this function. Therefore it is now claimed that residential use is the optimal viable use of this heritage asset in line with paragraph 55 of the NPPF.

Accompanying the planning application is a viability report and valuation for the repair/refurbishment of the main listed building and the creation of the new flats, including anticipated sale prices. It is claimed that the residential development is an enabling driver of the repair work to the listed building.

The Local Planning Authority has sought an updated independent appraisal from the District Valuer for the submitted financial information. This is to ensure that the development proposed is reasonably necessary to enable the restoration of the listed building and to seek assurances that S106 contributions could not be sought without threatening the viability of the project.

Specifically the Planning Authority sought assessment on the following;

1. Reasonable Costs of the Work.
2. Appropriately predicted sales receipts.
3. Requested S106 contributions would be unreasonable.
4. Confirmation that cross subsidy from the new build is genuinely required
5. Use of overage clauses.

In terms of a S106 Contributions the following would usually be requested for the development.

- 40% affordable housing (of the total number of units provided) either on or off site.
- Education contribution of Primary School and Secondary School transport cost.
- Open space provision & legal fee (financial contribution to offsite provision).
- Contribution towards Habitat Mitigation of European designated site – subject to the development generating a likely significant effect without such mitigation

The report from the District Valuer establishes that S106 contributions would not be reasonable in this instance as it would threaten viability (and therefore the enabling repair works) of the scheme. In pure viability terms the development cannot support the provision of affordable homes, either on-site or through off-site financial contributions. Project phasing is suggested to ensure that all works to the grade II listed structures have been completed prior to first occupation of the new build flats. In respect of overage clause the District Valuer also considered that this could be unreasonable although was a previous request by Members as part of the original resolution.

It has remained the view of the District Valuer that due to chronic viability issues for the proposal, 17 new build units may be an insufficient incentive for the developer to proceed with the scheme. However it recognised that the applicants have historic sunk costs within the site and therefore wish to try and recoup some of these. Importantly the scheme before Members is currently for 17 new build apartments and therefore further speculation as to the numbers that may be needed does not form part of this application. If further proposals were to be submitted these would need to be subject to further financial appraisals and assessment against the relevant policy at the time.

#### Heritage Asset

A listed building application has also been submitted against which the impact of the proposal on the historic fabric of the listed building needs to be assessed. Throughout the course of the application discussion to obtain suitable surveys/reports have taken place as well as negotiations on the design which at the time lead to significant delays. However, it was considered expedient to continue negotiations considering the ongoing damage to the listed building and the importance of trying to secure a successful scheme for the asset. The extent of the damage to the building is extensive and this situation has been made worse due to thefts of building materials from the roof. Water ingress in the building has caused a considerable amount of damage to plastered ceilings and walls. The building remains on the Council's buildings at risk register.

The 2009 planning consents secured a strong design concept which centred on a curricular motif which was included in both the significant extension to the listed building and the surrounding landscape and parking areas. The large extension currently proposed is on a similar footprint and its relationship with the main building is again acceptable in terms of its scale and bulk.

The conversion works would include internal alterations that would impact upon the significance of the listed building and are considered to weigh against the proposal. However it is accepted that these can be offset to some extent by some conservation gain achieved elsewhere on the building following the removal of previous unsympathetic alterations.

The kitchen and modern accommodation block are clearly incongruous to 3 aspects of the listed building, and their removal is welcomed. The lapsed approval for the care home development also removed these aspects of the existing building and it is accepted that such a change would better reveal the significance of the heritage asset as prescribed in government and English Heritage guidance.

Negotiations over the 'linking' part of the building to the rear of the proposed extension have reduced the scale and design similar to that of the previously approved scheme. The awkward sloping roof over the previously proposed swimming pool has also been omitted and the overall massing sits more comfortably on the site.

Generally the submitted elevations are devoid of detail and every threshold will need to be carefully considered and conditioned. There is now evidence of dry rot and the integrity of the interior of the building is becoming severely compromised. Although the Local Planning Authority are in receipt of a structural survey it is acknowledged that further investigative work of the full extent of the damage is required as the construction proceeds. This would need to be monitored as the development progressed.

Originally the scheme included the retention of an unsightly late 20<sup>th</sup> Century extension, football pitch and tennis courts within its grounds – all of which are clearly incongruous with the setting of the listed building. Over a series of amendments these elements have all been removed from the scheme.

On balance it is considered that the proposal and the development would enhance the immediate setting of the historic building. The heritage asset represents an irreplaceable resource and granting consent for a use consistent with its conservation should be encouraged. In this regard the proposal is considered to comply with paragraph 55 of the NPPF.

## Landscape

Immediate views of the site are possible through the entrance gates towards the main building. Views of the extended part of the building would be largely oblique and not prominent from this vantage point. The grounds are to be largely undisturbed as a result of the works with the main excavation and ground changes being positioned in the north east corner of the site, which would not be highly visible from immediate vantage points. Due to the lack of public vantage points the mid distance views of the site are largely precluded. Long range views of the extended part could be seen, but as the extension is considered to be appropriate in terms of scale and size there is no material harm to the wider landscape.

Various landscaping schemes have been submitted with the proposal but none contain the level of detail expected for such a proposal (for example species mix, planting details, spacing and long term management) or provide suitable screening which in particular is required around the extension. In the event of permission being granted a detailed landscaping scheme would need to be secured via condition.

## Ecology

The Royal Society for the Protection of Birds (RSPB) have commented on the proposal and consider that the recreational use of the site would increase disturbance to protected wildlife, to the extent that it cannot be concluded that this proposal, in combination with other relevant plans or projects, will not adversely affect the integrity of those sites.

The application is situated in relative proximity of the East Devon Pebbled Heaths Special Areas of Conservation (SAC), Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI). An Appropriate Assessment under the Habitat Regulation is required by the competent Authority – East Devon District Council – as the proposal would be likely to have an effect on a European Site.

In considering the European sites it is recognised that these represent a substantial percentage of what is now a fairly scarce environment. Their long term protection and habitat conservation is therefore an important requirement when assessing ecological impacts from any development – such an approach forms an important element that has to be made regarding sustainable development.

Covering the habitats/environments which have received such European designations is a set of Regulations, enshrined in law and which must be observed. The Conservation of Species and Habitats Regulations 2010 (as amended)(more commonly known as the Habitats Regulations) clearly set out the step by step process for considering projects that are likely to have a significant effect on the SAC and SPA. Regulation 61(1) of the Habitats Regulations requires this Authority (as the competent Authority) to make an appropriate assessment of the implications for the SAC and SPA in view of their conservation objectives. Regulations 61(5) and (6) further require the Authority to consider whether it can be ascertained that the project will not, alone or in combination with other plans or projects, adversely affect the integrity of the SPA and SAC, having regard to the manner in which it is proposed to be carried out, and any conditions or restrictions subject to which that authorisation might be given. The net result of the Regulations is that the Authority must only agree to the proposals when satisfied that they will not adversely affect the integrity of the SAC and SPA, alone or in combination with other plans or projects.

The likely effects of the proposal, on the international nature conservation interests for which the site was designated may be summarised as:

Impacts on the resource arising from (in part nutrient increase):

- Changes in species composition with a marked decline in heather
- Increased risk of heather beetle attacks on *Calluna vulgaris*, encouraged by higher N levels in foliage.

- Initial N stimulated growth for Calluna, increased litter, N return and mineralization.
- Negative effects on ericoid mycorrhiza and increase in drought sensitivity.
- Impacts linked to increased attractiveness to insect pests, and opening up of the canopy due to frost.
- Increased recreational use of and associated erosion rates

To avoid a conclusion that the development has a significant effect the RSPB suggest that this proposal needs to mitigate, i.e. avoid or reduce, its effects to an acceptable level, such as through providing long-term visitor management or Suitable Alternative Natural Green Spaces (SANGS). In the view of the RSPB it may be possible to mitigate by making a financial contribution to measures that are being coordinated and implemented under the Joint Approach arising from South East Devon European Mitigation Strategy (Footprint Ecology) report.

To understand the likely impact of the proposed development it is necessary to consider the previous use of the building as a hotel. This former use arguably generated a significant number of visitors to the Pebblebed Heaths which would have been an attractive and local recreation resource for the guests notwithstanding the spacious grounds that existed. The main harm that would arise appears to be related to walkers on the European designated sites causing erosion and disturbance as well as dog faeces altering soil conditions/nutrient composition. If converted to flats the spacious grounds which would be retained could provide significant on site amenity space associated with the residential properties. It could be argued that visitors residing within the hotel are more likely to make more frequent trips (and for these to be offset less by the parkland grounds) than permanent residents living in the proposed flats. As such it is considered that the trip generation would be less likely from permanent occupiers and more likely to be offset by the retained grounds.

In any event and as previously acknowledged by the District Valuer contributions would worsen the viability situation and make the enabling development less likely to proceed. The Habitats Regulation provides an avenue to agreement of a project that has an overriding public interest and in this instance there would be a public and social benefit in bringing back a listed building (which is currently at risk).

It is considered that the mitigation that forms part of this application is sufficient to offset any likely significant effect that may arise from the development (whilst recognising the site's history) and therefore negates the need for a more detailed appropriate assessment.

With regard to the site specific impact on protected species an Ecological Impact Assessment has been conducted which has confirmed that Natter's and Brown long-eared bats breed and that brown long-eared and common Pipistrelle Bats hibernate in the lofts of the manor. This report therefore suggests mitigation measures and enhancements to ensure that these are protected. These shall be secured via condition in line with local plan policy EN6 (Wildlife Habitats and Features).

The above site specific surveys appear to have been carried out in accordance with standing advice of Natural England. In the event of an approval the mitigation measures and recommendation would be secured via condition.

#### Impact on amenity

The proposal avoids overlooking of adjacent properties due to the distances involved and the retention of existing tree cover which provides screening. The proposal is considered acceptable under policy D1 (Design and Local Distinctiveness) of the local plan.

#### Trees

The applicant considers that the proposed layouts could be achieved without conflict with sufficient space between the development and the nearest trees. An Arboricultural Impact Assessment has been conducted that has identified which trees would be lost and accommodate suitable protection measures elsewhere. Although there would be the loss of some trees these have not been categorised as worthy of retention and the proposal would not affect the main protected copse to the east of the main building. However, an Arboricultural Method Statement (AMS) needs to be secured via condition requesting further details of protection and to ensure that the development is constructed to the British Standard.

#### Access and Transport

A Transport Statement has been submitted with the planning application has demonstrated that a change of use from the previously consented 76 bed residential care home to 25 residential development would result in a significantly reduced vehicle trip rate.

The proposed change of use does not alter the existing accesses and links to the local highway network which has been provided for its use as a hotel. All accesses provide excellent visibility for and of exiting vehicles and pedestrians and as such there are no highway objections raised by Devon County Council Highway Officers.

#### Planning balance

Paragraph 7 of the NPPF states there are three dimensions to sustainable development that must be weighed when determining applications. Taking each dimension in turn:

**Economic** - The NPPF focuses attention towards the delivery of housing, both to aid the local and national economy particularly in the form of jobs associated with house building. This development has the potential to create jobs in the local economy through the construction works involved.

**Social** – The proposal would contribute to the 5 year housing supply deficit that exists within the District. Against this wider benefit is that the position of the

proposed site is not considered to be well related to the facilities and services within Ottery St Mary, with a resulting dependence on private vehicles. However, the NPPF provides special circumstances for new isolated homes where development would secure the future of heritage assets or re-use disused buildings where there would be an enhancement to the immediate setting. The proposed repair works are a necessity and would enhance the historic fabric of the listed building, which is at risk. The extended part is adequately designed and has an appropriate size and scale which respects the listed building. The proposal, after lengthy negotiations, provides a suitable scheme which is considered to accord with these circumstances specified in paragraph 55 of the NPPF.

Environmental – Whilst remote from services and facilities the harm arising in this respect does not outweigh the social and economic benefits from the proposal. In addition the improvements to the setting of the site and restoration of the heritage asset itself both act as an environmental benefits. The proposal also has an acceptable visual impact on the landscape and provides mitigation measures for onsite ecology. On balance the environmental dimension is considered to be met.

### **RECOMMENDATION 1**

The Appropriate Assessment under regulation 61 of the Conservation of Habitats and Species Regulations 2010 included within this report be adopted

### **RECOMMENDATION 2**

**13/0496/MFUL** - That the and the planning application be **APPROVED** subject to a S106 legal agreement to ensure that all works to the grade II listed structures have been completed prior to the sale of the new build flats and subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. No development shall take place on the site, including works of demolition, until details of a full landscaping scheme and landscape management plan shall



have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of all hard and soft landscaping, including plant locations, species, size and planting densities, and materials and construction methods for all hard surfaces, boundary or retaining structures, statuary and other objects. The landscape management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, and a mechanism for the annual review of the plan, including the preparation of a monitoring report on its progress that shall be made available on request to the Local Planning Authority. The approved landscaping proposals shall be completed within the first planting season following the first occupation of the dwellings hereby permitted, and shall be maintained thereafter. Any plants that, within 5 years of planting, are removed, are damaged, become diseased or die, shall be replaced with plants of similar size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason – To secure an appropriate appearance for development within this open countryside location, and to preserve and enhance the setting of the Grade II Listed Building on the site, in accordance with policies D1 (Design and Local Distinctiveness), D4 (Landscape Requirements) and EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan).

4. The development shall be carried out in accordance with the findings, recommendations and mitigation measures of the submitted Ecological Impact Assessment, dated November 2012 and conducted by Richard Green Ecology. (Reason - To prevent harm to protected species and to comply with policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan).
5. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved AMS. The AMS shall include full details of the following:
  - a) Implementation, supervision and monitoring of the approved Tree Protection Scheme
  - b) Implementation, supervision and monitoring of the approved Tree Work Specification
  - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
  - d) Timing and phasing of Arboricultural works in relation to the approved development.

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 well being of the trees in the interests of the amenity of the locality, in accordance with policy D5 (Trees on Development Sites) of the East Devon Local Plan).

6. Development shall be carried out in accordance with the Tree Protection Statement prepared by evolve tree consultancy dated 21<sup>st</sup> August 2013, or any subsequent statement that may be prepared by another accredited specialist and approved in writing by the local planning authority.

(Reason - To ensure the retention of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D5 (Trees on Development Sites) of the East Devon Local Plan.)

7. No development shall take place until full details, including samples if requested, of all materials to be used for the external finishes of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

(Reason - To secure an appropriate standard of materials for the development, in the interests of the character and appearance of the Grade II Listed Building on the site, and of the open countryside, in accordance with Policies D1 (Design and Local Distinctiveness) and EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan).

### **RECOMMENDATION 3**

**13/0497/LBC** - APPROVE subject to the following conditions:

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which this consent is granted.(Reason - To comply with Sections 18 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)

2. All new windows shall be timber only and shall match the existing in all respects, including sections, mouldings and profiles. Sections through casements, frames and glazing bars at 1:2/1:5 scale shall be submitted and approved in writing

by the Local Planning Authority prior to commencement of works, and details of finishes (including colour) shall be submitted to and agreed in writing with the Local Planning Authority. The works as agreed shall be implemented in full. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

3. The windows to be replaced shall be agreed on site with the Conservation Officer prior to the commencement of works. A full schedule of works to all windows shall subsequently be submitted to and agreed in writing with the Local Planning Authority. The works as agreed shall be implemented in full. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

4. The ceilings to be replaced shall be agreed on site with the Conservation Officer prior to the commencement of works. A full schedule of works to all ceilings shall subsequently be submitted to and agreed in writing with the Local Planning Authority. The works as agreed shall be implemented in full. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

5. Only exploratory works are to be carried out of the roof structure and floor construction before seeking consent of the Local Planning Authority for the completion of works. A full schedule of all repairs required as a result of the exploratory works and new timbers shall be submitted to and agreed in writing with the Local Planning Authority. The works as agreed shall be implemented in full. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

6. The chimney stacks to be replaced shall be agreed on site with the Conservation Officer prior to the commencement of works. A full schedule of works including method statement for the demolition and rebuilding of the stacks shall be submitted to and agreed in writing with the Local Planning Authority. The works as agreed shall be implemented in full. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

7. The chimney stacks shall be rebuilt using existing bricks and existing old pots shall be re-used unless otherwise agreed with the Local Planning Authority. Details of any bricks or pots required shall be submitted and approved in writing by the Local Planning Authority before their use on the building. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

8. Details of all fire and acoustic upgrading of walls, floors and ceilings including cross sections and details of materials and finishes shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. The works shall be carried out in accordance with the approved details. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

9. All external works of alterations in the existing fabric of the building shall be carried out in matching stonework and brickwork, as appropriate, and all work shall be made in matching stonework or brickwork. A trial area or a sample panel of a minimum 1 sq.m. shall be constructed on site for inspection and approval by the Local Planning Authority prior to commencement of the works. The works as agreed shall be carried out and completed in full in line with any specification or other written instructions from the Local Planning Authority. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

10. All stonework, brickwork, repointing and rendering shall be carried out using a lime based mix, the specification of which shall be approved in writing by the Local Planning Authority. The colour, texture, type of bond and joint, and finish shall match original work, and a small trial area shall be prepared in a non-prominent location for inspection and approval by the Local Planning Authority prior to commencement of the works. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

11. New lime based render shall be finished with limewash or a suitable microporous paint, the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to painting. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

12. There shall be no bell end render stops or metal beading to the proposed rendered areas. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

13. Samples of the proposed roofing materials including slates, tiles or ridge tiles shall be submitted to and approved in writing by the Local Planning Authority, and no other material shall be used without consent. The method of fixing of slates/tiles shall be agreed and approved in writing by the Local Planning Authority prior to commencement of works. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

14. Details of replacement and new rainwater goods including profiles, materials and finishes shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. The works shall be carried out in accordance with the approved details. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

15. Where partitions are to be removed, the work shall be made good to match the original. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy CO7 (Historic Settlements and Buildings) of the Devon Structure Plan and Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

16. Where new partitions are constructed they shall be scribed around (not cut into) existing cornices, skirtings or other features. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

17. Rooms with cornices, moulded skirtings etc which are to be divided, shall have new lengths of cornice, and skirtings to match existing unless otherwise agreed in writing by the Local Planning Authority. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

18. The fireplace and overmantel in the former ballroom shall be retained in situ and shall be protected during the whole period of alterations by a plywood box cover mounted on a timber frame, to the satisfaction of the Local Planning Authority. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

19. Any damage caused by or during the course of the carrying out of the works hereby permitted shall be made good after the works are complete in accordance with a specification to be submitted to approved in writing with the Local Planning Authority. (Reason - To safeguard the architectural and historic character of the building in accordance with Policy CO7 (Historic Settlements and Buildings) of the Devon Structure Plan and Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

#### NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

The applicant is advised to contact Wales and West Utilities on Tel; 02920 278912 regarding the construction works in relation to the apparatus of this utility provider.

Approved Plans

List of Background Papers

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

**Ward** Seaton

**Reference** 15/0075/FUL

**Applicant** East Devon District Council -  
Property Services

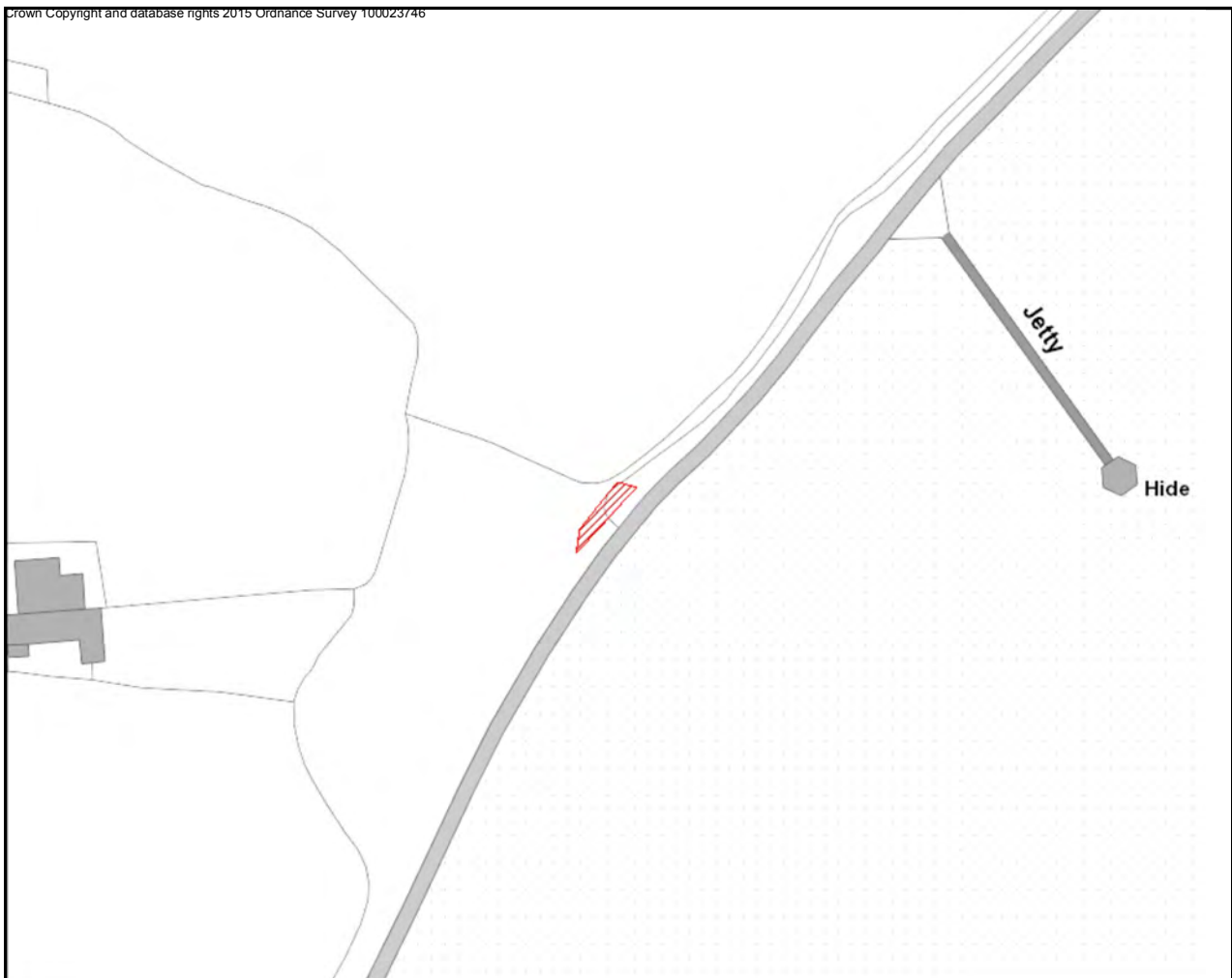
**Location** Colyford Common (land NE Of  
Seaton Cemetery) Colyford Road  
Seaton

**Proposal** Construction of information kiosk



**RECOMMENDATION: Approval with conditions**

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		<b>Committee Date: 03.03.2015</b>
<b>Seaton (SEATON)</b>	<b>15/0075/FUL</b>	<b>Target Date: 10.03.2015</b>
<b>Applicant:</b>	<b>East Devon District Council - Property Services</b>	
<b>Location:</b>	<b>Colyford Common (land NE Of Seaton Cemetery) Colyford Road</b>	
<b>Proposal:</b>	<b>Construction of information kiosk</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

**The application is before Members as the applicant is East Devon District Council.**

**The application proposes the construction of an information kiosk adjacent to the main access track that serves Black Hole Marsh. The building would be a simple timber clad structure under a metal clad roof and has been designed to reflect those already in situ elsewhere in the Wetlands area. It is considered that the proposal would have a minimal and acceptable visual impact.**

**The building would help in the promotion of the project and understanding and enjoyment of visitors to it. Although the site is within a designated high risk flood zone the development is for a water compatible use and no objections have been raised to it by the Environment Agency.**

**The development is considered to be acceptable and is recommended for approval subject to the conditions set out below.**

### **CONSULTATIONS**

#### **Local Consultations**

##### **Seaton - Cllr J Knight**

I fully support this application as an addition to what the wetlands have on site already.

##### **Seaton – Cllr S Jones**

I support this planning application for the construction of an information kiosk at Colyford Common 100%. The information kiosk will provide a facility which will be



much used by the many visitors to the Axe Estuary Wetlands. The proposed building will in keeping with other structures in the area and the habitat in which it will be situated

Other Representations

1 notification of support has been received. This offers support on the basis that the proposal would have a positive effect on the promotion of the wetlands project.

**Technical Consultations**

Environment Agency

We have no objections to this proposal.

County Highway Authority

Does not wish to comment

**PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
08/1971/FUL	Change of use to form a nature reserve of 7.1 hectares with engineering works to create a saline lagoon over 0.8 hectares	Approval with conditions	01.09.2008
10/0461/FUL	Change of use from agricultural land to cemetery and nature reserve, construction of carpark and 2 hides and excavation of reed bed and pond to create hedge banks.	Approval with conditions	07.05.2010

**POLICIES**

New East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

Strategy 7 (Development in the Countryside)

TC2 (Accessibility of New Development)

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

RC4 (Recreation Facilities in the Countryside and on the Coast)

E20 (Provision of Visitor Attractions)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

S5 (Countryside Protection)

TA1 (Accessibility of New Development)

EN5 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)

RE5 (Recreation Facilities in the Countryside and on the Coast)

TO6 (Provision of Visitor Attractions)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Government Planning Documents

NPPG (National Planning Practice Guidance 2013)

**SITE LOCATION AND DESCRIPTION**

Axe Estuary Wetlands is the collective term for a group of 3 no. Local Nature reserves managed by East Devon District Council and consisting of the reserves known as Seaton Marshes, Colyford Common and Blackhole Marsh. The application relates to BlackHole Marsh which is located between Colyford Common and Seaton Marshes to the west side of the Axe estuary and northeast of Seaton cemetery. It comprises a saline lagoon created in 2008 and surrounding land. The reserve can be reached by pedestrian links from both Seaton and Colyford and car parking provision is available adjacent to Seaton Cemetery and accessed from Colyford road. An access track runs to the west side of BlackHole Marsh linking to the north with Colyford Common. The proposal site lies adjacent to this track approximately halfway along the north western boundary.

**PROPOSED DEVELOPMENT**

The application seeks planning permission for the construction of an information kiosk to the west side of the access track that runs along the west side of Blackhole Marsh. The building would be constructed on a raised platform and accessed from the track by sloping walkways from the north and south. The elevations would be timber clad and roof of the building would be clad in profiled metal sheeting. There would be an open display area at the southern end of the building with an enclosed information kiosk taking up the remaining floor area.

The application is before the Development Management Committee as East Devon District Council is the applicant.

## **BACKGROUND**

Planning Permission was granted in 2008 for the principle of a reserve at Blackhole Marsh and work subsequently took place by EDDC Countryside Staff and the Environment Agency to form the lagoon and habitats within the site. Permission was later granted in 2010 (10/0461/FUL) for the creation of formal public access to the nature reserve, an extension to Seaton Cemetery to allow construction of a car park and the construction of 2 hides within the existing reserve area, together with other landscaping and associated works.

## **ANALYSIS**

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

- The principle of the proposed development
- Design and impact on the character and appearance of the area and wider landscape
- Flooding Issues

The application seeks to provide further visitor facilities to improve understanding and enjoyment of the Axe Estuary Wetlands, as part of the wider Wetlands project; there is no objection in principle to this.

In terms of the design of the building, this looks to reflect that of existing buildings on the site including the lagoon hide to the east of the site. The materials used are natural and in time will weather reducing further any impact. Any views of the site from further afield will see the development in context with the wider wetlands area, where similar buildings already exist, and against the backdrop of rising land to the west.

The whole of the Wetlands site, including the application site, fall within a designated high risk flood zone as functional flood plain. The site is vulnerable to fluvial flooding from the River Axe to the east and Stafford Brook to the north but also from tidal flooding. The site is classified as a 'Water Compatible' use in accordance with Flood Risk Vulnerability Classifications set out in National Planning Practice Guidance. In such areas water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

The nature of the use is such that clearly it would not be usable were the site to be flooded as access to it would be cut off but nor would it need to be used at such times as its use is purely recreational and in association with visitors to this part of the Wetlands. In respect of floodplain storage the elevated nature of the building would allow flood waters to continue to flow past and under the building and would not affect floodplain storage. The Environment Agency has been consulted on the design of the building and the submitted Flood Risk Assessment and has raised no objections to the proposal.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Development shall be carried out in accordance with the Submitted Flood Risk Assessment dated 19/12/14.  
(Reason - In the interests of flood prevention and to prevent the increased risk of flooding to the proposed development and offsite in accordance with National Planning Policy Framework and technical guidance relating to flooding contained in National Planning Policy Guidance.)

## NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 East Devon District Council works proactively with applicants to resolve all relevant planning concerns, however in this case the application was deemed acceptable as submitted.

### Plans relating to this application:

	Flood Risk Assessment	12.01.15
C/86/34/15/02	Proposed Elevation	12.01.15
C/86/34/15/01	Proposed Floor Plans	12.01.15
C/86/34/15/03	Proposed Block Plan	12.01.15
	Location Plan	12.01.15

### List of Background Papers

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

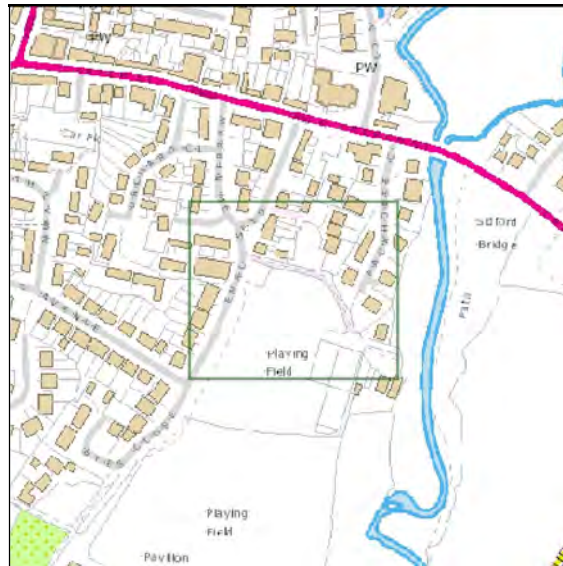
**Ward** Sidmouth Sidford

**Reference** 14/3019/FUL

**Applicant** Mrs Helen Harms

**Location** Playing Field Byes Lane Sidford

**Proposal** Change of use to create a wildlife and natural play garden, including construction of a viewing cabin and play equipment.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 03.03.2015</b>	
<b>Sidmouth Sidford (SIDMOUTH)</b>	<b>14/3019/FUL</b>	<b>Target</b>	<b>Date:</b>
		<b>24.02.2015</b>	
<b>Applicant:</b>	<b>Mrs Helen Harms</b>		
<b>Location:</b>	<b>Playing Field Byes Lane Sidford</b>		
<b>Proposal:</b>	<b>Change of use to create a wildlife and natural play garden, including construction of a viewing cabin and play equipment.</b>		

**RECOMMENDATION: Approval with conditions subject to consultation with the Secretary of State**

#### **EXECUTIVE SUMMARY**

**This application is brought before the Development Management Committee as the Council owns the Sidford playing field within which the site is located.**

**The application proposal involves the creation of a community wildlife and natural play garden together with ancillary development on a level parcel of land just under 0.1 hectares in area that forms part of the playing field to the east of Byes Lane. A football pitch is laid out within the field to the south of the site whilst five Silver Birch trees are positioned within the site close to its northern boundary. The majority of the site is located within flood zones 2 and 3. It also forms part of a larger area that is the subject of Special Policy LSI 2 (Land at the Byes) of the adopted Local Plan.**

**The proposed development would be acceptable in terms of its impact upon the character and appearance of the area and from the perspective of flood risk.**

**Whilst the objection to the development raised by Sport England is acknowledged, this is on the basis of a technical concern alone with regard to the loss of part of the playing field to recreation which is in contravention of its playing fields policy. However, it is considered that the proposal would in part satisfy one of its stated exceptions to the policy insofar as the portion of land that forms the site is not readily capable of forming a playing pitch and the development would not result in the loss, or inability to make use, of the existing adjacent football pitch or reduce its playing area.**

**Sport England has confirmed that it would not wish to contest any decision taken by the Authority contrary to its objection although if the Authority is minded to approve, consultation with the Secretary of State is then required**

prior to the issuing of any permission.

Furthermore, the land would be retained for recreational purposes and to this end would comply with the provisions of adopted and emerging Local Plan policies that seek to resist the loss of open space used for recreational, as well as playing field, purposes.

In these circumstances, together with the absence of any other sustainable grounds upon which to resist the application, the balance of considerations is considered to weigh in favour of the proposed development and approval is therefore recommended.

## **CONSULTATIONS**

### **Local Consultations**

Parish/Town Council  
Support

### **Technical Consultations**

County Highway Authority  
Does not wish to comment

### **EDDC Trees**

There are five 'A' category (BS5837) Birch trees growing within the area of the proposed wildlife garden and play area.

The submitted plan shows a path located within the RPA of the south western Birch trees. If constructed using traditional methods this will lead to root severance, negatively affecting the tree. The path needs to either constructed on top of the existing ground level or relocated outside of the trees RPA.

The story telling chair and junior stepping stones are located within the RPA of a number of the Birch trees. We will need a method statement detailing how these will be constructed avoiding damage to the trees rooting environment.

The viewing cabin is within the RPA of the north eastern Birch, however this is a minor incursion in to the RPA of this tree and not considered significant issue.

Whilst the principle of the development is considered acceptable and achievable in arboricultural terms. I was advised by the applicant that the garden will be built on a community volunteer day, without the use of heavy machinery. If this case, full tree protection measures in accordance with BS5837:2010 are not going to be necessary. However proposed details require modification to be considered acceptable and additional details are needed regarding minimising impact on trees as discussed above.

(No objections to amended site layout plan.)

### Sport England

Thank you for consulting Sport England on the above application.

Sport England objects on loss of playing field land.

It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184)

The consultation is therefore statutory and Sport England has considered the application in the light of the National Planning Policy Framework (in particular Par 74) and its policy to protect playing fields, 'A Sporting Future for the Playing Fields of England (see link below).

<http://www.sportengland.org/facilities-planning/planning-for-sport/development-management/planning-applications/playing-field-land/>

Essentially Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all/part of a playing field, unless one of 5 exceptions set out below applies.

The proposal is located on the playing field in close proximity of the football playing pitch. Sport England does not support the loss of playing field land for sport to a wildlife natural play garden. None of the 5 exceptions has been demonstrated by the applicant.

We have sought the views of the FA and RFU:

#### FA

1. The FA wish to raise a minor concern over the potential impact on the adjacent Adult football pitch - if this is not an issue then there is no objection from The FA.
2. The FA would wish to see that a minimum of a 3m safety runoff is maintained from all pitch perimeter lines.
3. Not likely to impact on future use as the area in question could not be used for a playing field - it could also not be used for rotation due to the location.

#### RFU

The RFU does not wish to object to this proposal, as it has no direct effect on rugby pitch provision.

In light of the above, Sport England objects to the proposal because is not considered to accord with any of the exceptions in Sport England's playing fields policy. If there is further information for Sport England to consider, the applicant is advised to forward this to the LPA so it can be considered.

Criteria:



Sport England opposes such developments in all but exceptional cases, whether the land is in public, private or educational use. It is our policy to oppose development on playing fields unless at least one of the five exceptions as set out in our policy are met:

E1

"A carefully quantified and documented assessment of current and future needs has demonstrated to the satisfaction of Sport England that there is an excess of playing field provision in the catchment, and the site has no special significance to the interests of sport."

E2

"The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use."

E3

"The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site."

E4

"The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of the development."

E5

"The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields."

#### Other Representations

No third party representations have been received in respect of the application proposal.

### **POLICIES**

#### New East Devon Local Plan Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN3 (Land at the Byes in Sidmouth)

RC1 (Retention of Land for Sport and Recreation)

## Adopted East Devon Local Plan Policies

S2 (Built-up Area Boundaries for Area Centres and Local Centres)  
S5 (Countryside Protection)  
D1 (Design and Local Distinctiveness)  
D5 (Trees on Development Sites)  
RE1 (Retention of Land for Sport and Recreation)  
LSI 2 (Land at the Byes)

## **ANALYSIS**

### Introduction

This application is brought before the Development Management Committee as the Council owns the playing field within which the site is located.

### Relevant Planning History

There is no previous history relating to the application site.

### Site Location and Description

The site comprises a level parcel of land just under 0.1 hectares in area that forms part of the playing field to the east of Byes Lane at Sidford. It is bound to the west by a children's play area within the north western corner of the field and to the north by an access lane that serves Sidford Tennis Club and Sidbury United Football Club.

A football pitch is laid out within the field to the south of the site whilst five Silver Birch trees are positioned within the site close to its northern boundary.

The majority of the site is located within flood zones 2 and 3. It also forms part of a larger area that is the subject of Special Policy LSI 2 (Land at the Byes) of the adopted Local Plan.

### Proposed Development

The application proposal involves the creation of a community wildlife and natural play garden within the site together with ancillary development principally comprising the construction of a wildlife viewing cabin/bird hide and the laying out of a nature trail including balance beams, log stepping stones, an animal climbing frame and a Willow dome and tunnel. A proposed wildlife observation area would also contain a fenced-off pond with a footbridge.

Areas within the site would be planted with wild flowers and shrubs and provided with feeding stations, bird baths, etc. Benches and picnic tables would also be laid out alongside a story telling chair with raised bed/sensory garden areas also being provided. Tree and bush planting would be carried out and the whole area screened by vertical timber boarded perimeter fencing with boarding cut to various heights (with a maximum height of just over 1 metre) in order to create a wavy-edged appearance. Inside of this a hedge would be planted.

A path would be laid out from a pedestrian entrance at the south western corner of the site and extend alongside the southern, eastern and part of the northern site

boundaries. It would be surfaced with a top layer of self-binding gravel. A pair of access gates for maintenance vehicles would also be positioned along the southern boundary.

The proposed viewing cabin/bird hide would measure 5 metres by 4.6 metres. It is designed with a monopitch turf roof of a maximum height of 3 metres dropping to 2.3 metres. Externally, the walls of the structure would be timber boarded using Western Red Cedar cladding.

It is envisaged that the site would be split between the natural play area and nature trail and the wildlife observation area with the viewing cabin/bird hide also performing an educational role for children in particular.

Although proposed as a community facility, the project has been initiated and is being managed by The Byes Pre-School which is based at the social hall on the opposite side of Byes Lane from the site. The costs of the project are being funded in part by a local trust fund. It is envisaged that the creation of the facility would be supported by the voluntary efforts of the community whilst, in terms of maintenance, it is intended that the garden would be supported by various voluntary groups within the community with a management committee set up to monitor and raise funds for ongoing maintenance. The playing field is currently maintained by Streetscene.

The site layout details have been amended by negotiation to ensure that the development avoids the root protection areas of the Birch trees on the site.

#### Considerations/Assessment

The main issues for consideration in this case relate to the acceptability (or otherwise) of the principle of the proposed development having regard principally to local plan policies relating to the area specifically and the retention of land for sport and recreation, the extent to which the scheme would result in the loss of playing field (with particular regard to the comments received from Sport England), the impact upon the character and appearance of the area and flood risk.

As stated above, the playing field lies within a designated area that mainly covers the Byes open space and amenity walks within which Policy LSI 2 of the adopted Local Plan applies. This policy states that the only development that will be permitted in this area is that which will not detract from its amenity, nature conservation and/or recreational value to the town, the objective being to protect its unspoilt character.

It is considered that the proposed development would be largely consistent with this purpose. The site is located where the facility would be well related to the existing equipped play area and would provide an area for general recreation for the benefit of the community as well as an educational resource for local schools. It would therefore be of recreational value and, as such, complementary to that provided by the field and the play area at present.

Moreover, it is not thought that the development would detract from the amenity value of this part of the much larger playing field. Although the introduction of perimeter fencing and planting would physically and visually enclose a part of the field that is currently entirely open it is not considered, given the comparatively

modest site area and its location on the edge of the playing field away from the marked football pitch, that it would detract unduly from its character, appearance or overall openness.

Neither the site nor the playing field as a whole are recognised for their nature conservation value. In the circumstances therefore, the proposal would not contravene this part of Policy LSI 2.

The objection raised by Sport England to the principle of the development is based upon its policy of opposing any development that would lead to the loss, or would prejudice the use of all or part, of playing field land for sport to another use unless one of five exceptions applies. These are as follows:

1. A carefully quantified and documented assessment of current and future needs has demonstrated to the satisfaction of Sport England that there is an excess of playing field provision in the catchment and the site has no special significance to the interests of sport.

2. The proposed development is ancillary to the principal use of the site as a playing field or playing fields and does not affect the quantity or quality of pitches or adversely affect their use.

3. The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.

4. The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of the development.

5. The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

It is accepted to some extent that exceptions nos. 1,2, 4 and 5 have not been robustly proven and would not be met by the proposed development. The assessment of current and future needs in terms of playing pitch provision is a matter to be determined through a playing pitch strategy for the area; however, this document is currently in draft form only. Equally the proposal does not relate to development that would be ancillary to the primary use of the site as part of the larger playing field (i.e. changing rooms, floodlighting, etc.), replace the area of the playing field that would be 'lost' to the development or involve the provision of a sports facility.

However it is thought that the proposal would, at least in part, meet exception no.3 insofar as the site would itself be incapable, on account of its area and configuration,

of forming a separate playing pitch, particularly the part in the vicinity of the trees. Furthermore, it would not result in any loss of or inability to make use of the existing playing pitch that is laid out to the south. The proposal would also maintain a distance from the perimeter of the pitch of more than the 3 metres minimum safety runoff required by the Football Association (F.A.).

Indeed, the views of the F.A. (as well as the Rugby Football Union) sought by Sport England in formulating its consultation response acknowledge that the development would not be likely to impact on the future use of this part of the playing field as the area in question could not be used for this purpose. Moreover, owing to its location it could not be used for pitch rotation.

In the circumstances therefore, notwithstanding the objection raised by Sport England to the proposal, it is thought that it would comply in part with one of the exceptions specified.

Moreover, on a more general level and notwithstanding the draft status only of the emerging playing pitch strategy, it is considered that it would be difficult to sustain an objection to the proposal on the basis that it would result in the loss of an area of open space since the development would arguably represent an alternative form of public open space. In this regard Policy RE1 (Retention of Land for Sport and Recreation) of the adopted Local Plan, which is largely reiterated in Policy RC1 of the emerging New Local Plan, relates expressly to open space that is used for recreation and/or sports uses in addition to play areas and playing fields. It is therefore considered that the proposal would retain the use of the site for recreational purposes in a manner that is consistent with the objectives of these policies.

Upon further discussion with Sport England with regard to its playing fields policy, it has been conceded that the nature of the objection raised is largely a technical one insofar as the use of this part of the site would be for recreation as opposed to sport. It has also been confirmed in writing that any decision to grant planning permission in this case contrary to its objection would not be contested.

Drawing together the above points therefore, it is maintained that the proposed development would be acceptable in principle and that it satisfactorily complies with local plan policy.

In terms of flood risk, the proposal comprises a water-compatible development under the provisions of the flood risk vulnerability classification contained within the Technical Guidance to the National Planning Policy Framework (NPPF). As such, in accordance with the associated flood risk vulnerability and flood zone 'compatibility' table, the development is appropriate for, and can be accommodated within, all flood zones. The location within flood zones 2 and 3 in this case is therefore acceptable from a flood risk perspective.

Furthermore, the development itself is designed in a manner that would not increase flood risk, either on the site or elsewhere where third parties could be affected. In line with advice received from the Environment Agency prior to the application submission, there are no proposals to raise ground levels. Accordingly, it is accepted

that the proposal would be appropriate to the degree of flood risk to which it would be exposed.

The site in part occupies an area of land identified as being potentially contaminated. Whilst there are no known contaminants that would justify the need for the submission of a survey report and/or a scheme for decontamination prior to the commencement of development, a precautionary condition is recommended requiring suspension of work in the event that any contamination is discovered to enable a method and procedure for addressing it to be agreed with the Authority.

Under Statutory direction (retained under the National Planning Practice Guidance), Planning Authorities are obliged to consult with the Secretary of State where they are minded to grant permission contrary to an objection from Sport England. This provides a minimum period of 21 days for the application to be Called In. While there is a risk that the application may be called in, with resulting delays and cost, this is considered unlikely following the acknowledgement by Sport England that they would not contest a grant of approval. In any event it is considered that the proposal remains acceptable.

### **RECOMMENDATION**

APPROVE subject to the following conditions and consultation with the Secretary of State:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. No development shall take place until satisfactory details of the landscaping scheme for the site have 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 include details of the proposed planting mix, including sizes, species and planting density, for the perimeter hedge shown on drawing no. SWG 2014 1B. The landscaping scheme shall be carried out as approved in the first planting season after commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - 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 D4 (Landscape Requirements) of the East Devon Local Plan.)

4. Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.  
(Reason - To ensure that any contamination existing and exposed during the development is identified and remediated and to comply with Policy EN16 (Contaminated Land) of the emerging New East Devon Local Plan and guidance contained in the National Planning Policy Framework.)

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

##### Plans relating to this application:

		Location Plan		19.12.14
SWG.2014.6		Combined Plans		19.12.14
SWG.2014.7		Combined Plans		19.12.14
SWG 2014 REVISED 20.01.15	1B	Proposed Block Plan		20.01.15
SWG 2014 REVISED 20.01.15	2	Proposed Plans	Combined	20.01.15
SWG 2014 AMENDED 19.01.2015	3	Other Plans		20.01.15

##### List of Background Papers

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