

Agenda for Development Management Committee Tuesday, 3 November 2015; 10am

[Members of the Committee](#)

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

[View directions](#)

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01395 517542, Issued 22 October 2015



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[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 26 October up until 12 noon on Thursday 29 October by leaving a message on 01395 517525 or emailing 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 or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

- 1 Minutes of the Development Management Committee meeting held on 6 October 2015 (page 5-8)
- 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 9-10)
Development Manager
- 7 **Consultation on the proposed criteria for defining Built-up Area Boundaries feedback** (page 11-14)
Planning Policy Manager
- 8 **Devon Mineral Plan pre-submission consultation** (page 15-18)
Planning Policy Manager
- 9 **Gypsy and Traveller DPD consultation feedback and methodology for site selection** (page 19-32)
Planning Policy Manager
(2 people can register to speak on this item)
- 10 **Local Plan update** (Verbal update)
Service Lead – Planning Strategy and Development Management
- 11 **Applications for determination - please note that the order in which applications will be taken is subject to change** - see the front of the agenda for when the revised order will be published.

Please note the following applications are all scheduled to be considered in the morning, however the order may change – please see the front of the agenda for when the revised order will be published.

15/0645/MFUL (Major) (page 33-65)

Axminster Rural

Land east of Wadbrook Farm (near Axe View Farm), Wadbrook, Axminster

15/1830/VAR (Major) (page 66-79)
Axminster Rural
Cloakham Lawn, Chard Road, Axminster EX13 5HW

15/0753/MOUT (Major) (page 80-128)
Exmouth Littleham
Land to rear of no's 62-82 Douglas Avenue, Exmouth EX8 2HG

15/2053/FUL (Minor) (page 129-133)
Exmouth Littleham
9 Rodney Close, Exmouth EX8 2RP

15/1897/FUL (Minor) (page 134-137)
Exmouth Town
Exmouth Leisure Centre, Royal Avenue, Exmouth EX8 1EN

15/1835/LBC (Minor) (page 138-144)
Trinity
1 The Gables, Rousdon, Lyme Regis DT7 3XZ

Lunch break - Lunch will be provided for Development Management
Committee members in the Members' Area

Afternoon Session – the applications below will not be considered before 1.30pm.

Please note the following applications are all scheduled to be considered in the afternoon, however the order may change – please see the front of the agenda for when the revised order will be published.

15/1609/FUL (Minor) (page 145-174)
Coly Valley
Three Horse Shoes Inn, Branscombe

15/1965/OUT (Minor) (page 175-189)
Coly Valley
Land south of Yaffles, Coly Road, Colyton

14/2852/FUL (Minor) (page 190-200)
Dunkeswell
Bowerhayes Farm, Dunkeswell, Honiton EX14 4RN

15/1746/OUT (Minor) (page 201-219)
Newbridges
Land at Pit Orchard, Bim Boom Lane,
Kilminster

15/1390/VAR (Minor) (page 220-227)
Ottery St Mary Rural
55 Village Way, Aylesbeare EX5 2BX

15/1424/FUL (Minor) (page 228-235)
Ottery St Mary Rural
North Cottage, Aylesbeare EX5 2DB

14/2994/FUL (Minor) (page 236-246)
Sidmouth Town
Land rear of 19-20 Fore Street, Sidmouth EX10 8AL

Please note:

Planning application details, including plans and representations received, can be viewed in full on the Council's [website](#).

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](#)

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Development Management Committee held at Knowle, Sidmouth on 6 October 2015

Attendance list at end of document

The meeting started at 2pm and ended at 5.11pm.

***34 Minutes**

The minutes of the Development Management Committee meeting held on 8 September 2015 were confirmed and signed as a true record.

***35 Declarations of interest**

Cllr Susie Bond; 15/1571/FUL; Personal interest; Acquaintance of the applicant's father
Cllr Paul Carter; 15/1081/COU, 15/1258/MFUL, 15/1486/FUL; Personal interest; Ottery St Mary Town Councillor

Cllr Paul Carter; 15/1486/FUL; Personal interest; Applicant had been an Ottery St Mary Town Councillor

Cllr Alison Greenhalgh; 15/1222/MFUL; Personal interest; Exmouth Town Councillor

Cllr Alan Dent; 15/1628/OUT; Personal interest; Budleigh Salterton Town Councillor

Cllr Mark Williamson; 15/1222/MFUL; Personal interest; Exmouth Town Councillor

Cllr Matt Coppell declared that he felt he was predetermined in respect of application 15/1258/MFUL and would abstain from the vote on the application.

***36 Matters of urgency**

The Chairman agreed for the Development Manager's report to be taken as an urgent item in order to update Members on an appeal by way of judicial review of the Committee's decision in relation to land east of Orchard Cottage, The Avenue, Exton (15/0239/FUL).

***37 Exclusion of the public**

RESOLVED:

that the classification given to the urgent report (minute *36) – LGA 1972 Schedule 12A Para 5 – information in respect of which a claim for legal professional privilege could be maintained in legal proceedings, be confirmed.

***38 Planning appeal statistics**

The Committee received and noted the Development Manager's report setting out appeals recently lodged and ten appeal decisions notified, of which seven had been dismissed.

The Development Manager drew Members' attention to an appeal allowed for the construction of 25 dwellings at land west of Woodbury Road, Clyst St George. The Inspector had considered that the proposal represented a sustainable form of development and that any slight adverse effects would not significantly outweigh the benefits. The outcome was disappointing for local residents who had put a lot of effort into fighting the appeals.

The Development Manager also highlighted two appeals on land at Weeks Farm, Talaton, one for the construction of 10 and the other for 25 dwellings. The Inspector had considered that the benefits in terms of delivering affordable housing weighed against the limited

services/facilities available in the village were balanced. However, the Inspector dismissed the appeal on the basis that the legal agreements did not provide adequate mitigation measures for the development. The Development Manager advised the Committee that there had been a subsequent appeal decision for a development in Talaton where an Inspector had concluded that Talaton was not sustainable village (this decision would be reported to the next Committee meeting).

***39 Cranbrook Plan Development Plan Document – feedback from scoping consultation**

The Service Lead – Strategic Planning and Development Management present to the Planning Policy Manager's report providing feedback to the Committee on an initial consultation on the potential future content of the Cranbrook Plan Development Plan Document (DPD). The DPD would be a formal policy document informed by the ongoing work and outputs of the ongoing Cranbrook master planning work.

The Committee noted that representations had been received from 23 individuals and organisations during the consultation. A summary of the comments received were appended to the committee report. The comments received covered a wide range of matters relating to both the potential form and issues the DPD might contain and also specific policy detail.

The report outlined the next stages of work relating the production of the DPD, which included the need for supporting technical assessments and at a later stage the Committee would be presented with an issues and options report relating to the expansion of Cranbrook. When adopted, after going through Examination, the DPD would be used as a key formal planning document for use in determining Cranbrook planning applications.

The Service Lead updated the Committee that there were no financial or legal implications arising from the report.

RESOLVED:

that the Development Management Committee notes the feedback received during the consultation on the scoping of the Cranbrook Development Plan Document in respect of the potential content of the Plan.

***40 Local Plan update**

At the previous meeting the Service Lead – Strategic Planning and Development Management had advised the Committee that the Local Plan Inspector had given those that attended the housing sessions of the last Hearing the opportunity to comment on the latest housing papers. The deadline for receiving comments had now passed and these had been collated and sent to the Inspector.

At the Inspector's request, the Council had prepared and sent a table of main modifications to the Plan, primarily since the last Hearing session. A response was expected from the Inspector later that week with the main modifications which would be consulted on for six weeks. It was still hoped that the Inspector's final report would be received by the end of the year and that the Plan would be adopted in early 2016.

***41 Applications for Planning Permission and matters for determination**

RESOLVED:

that the applications before the Committee be determined as set out in Schedule 7 – 2015/2016.

***42 Exclusion of the public**

RESOLVED:

that under Section 100(A) (4) of the Local Government Act 1972 and in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public (including the press) be excluded from the meeting as exempt and private information (as set out against each Part B agenda item and referenced at Minute 159 in respect of the urgent item), is likely to be disclosed and on balance the public interest is in discussing the items in private session (Part B)..

***43 Appeal by way of judicial review – 15/0239/FUL, Orchard Cottage, The Avenue, Exton**

Members considered the Development Manager's report advising of an appeal by way of judicial review received against a decision taken on 16 June 2015 by the Development Management Committee to grant permission for the erection of a new dwelling on land east of Orchard Cottage, The Avenue, Exton (15/0239/FUL).

RESOLVED:

that the recommendation as set out in the confidential Committee report be agreed.

Attendance list

Present:

Committee Members

Councillors:

Cllr David Key (Chairman)

Mike Howe (Vice Chairman)

Mike Allen

David Barratt

Susie Bond

Colin Brown

Peter Burrows

Paul Carter

Matt Coppell

Alan Dent

Alison Greenhalgh

Chris Pepper

Mark Williamson

Officers

Ed Freeman, Service Lead – Planning Strategy and Development Management

Alison Hayward, Regeneration & Economic Development Manager

Chris Rose, Development Manager

Shirley Shaw, Planning Barrister

Hannah Whitfield, Democratic Services Officer

Also present

- Councillors:
- Megan Armstrong
- Paul Diviani
- Peter Faithful
- Geoff Jung
- Steve Hall
- Rob Longhurst
- Andrew Moulding
- Philip Skinner
- Pauline Stott
- Tom Wright

Apologies:

Committee Members

- Councillors:
- Steve Gazzard
- Simon Grundy
- Ben Ingham

Chairman

Date.....

East Devon District Council
List of Planning Appeals Lodged

Ref: 15/1085/OUT **Date Received** 18.09.2015
Appellant: Mr Dobson
Appeal Site: Hale Close Farm Honiton EX14 9TQ
Proposal: Outline application with some matters reserved (access to be considered) for the construction of 2 no. holiday let units, and associated gym, games room and biomass boiler and store; garage/workshop for use with existing dwelling on footprint of existing (redundant) farm buildings
Planning Inspectorate Ref: APP/U1105/W/15/3134811

Ref: 15/1102/FUL **Date Received** 24.09.2015
Appellant: Mrs V Dennis
Appeal Site: Land West Of Solway Cottage Whitford
Proposal: Construction of dwelling
Planning Inspectorate Ref:

East Devon District Council
List of Planning Appeals Decided

Ref: 14/2540/FUL **Appeal Ref:** 15/00007/REF

Appellant: Mr & Mrs C Northcott
Appeal Site: 140 Harepath Road Seaton
Proposal: Construction of two dwellings with parking, with new access and parking for existing flats

Decision: **Appeal Allowed (with conditions)** **Date:** 18.09.2015

Procedure: Written representations
Remarks: Delegated refusal, amenity reasons overruled (EDLP Policy D1). The Inspector acknowledged that the site is in a prominent location and that the proposed building would inevitably be clearly visible when seen in approach from all directions. However, he was satisfied that the proposal would be well related to the context and mixed architecture of its surroundings and concluded that there would be no harm to the character or the appearance of the area.

BVPI 204: **Yes**
Planning Inspectorate Ref: APP/U1105/W/15/3006156

Ref: 14/1208/OUT **Appeal Ref:** 14/00081/REF

Appellant: Greendale Investments Ltd
Appeal Site: Land At Lees Farm Talaton
Proposal: Construction of up to 22 dwellings and change of use of agricultural land to public open space and extension to church graveyard. (Outline application discharging means of access only and reserving details of layout, appearance, scale and landscape.)

Decision: **Appeal Dismissed** **Date:** 28.09.2015

Procedure: Written representations
Remarks: Delegated refusal, sustainability reasons upheld (EDLP Policies S5 & TA1).

BVPI 204: **Yes**
Planning Inspectorate Ref: APP/U1105/W/14/3001269

Report to: **Development Management**

Committee

Date of Meeting: 3 November 2015

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 7

Subject: **Feedback on Consultation on Proposed Criteria for Defining Built-up Area Boundaries**

Purpose of report: This report provides feedback to members on the consultation undertaken on criteria for defining Built-up Area Boundaries.

Recommendation:

- 1. Development Management Committee notes the responses received to the recent consultation on proposed criteria for defining Built-up Area Boundaries as part of the East Devon Villages Plan.**
- 2. That further work on defining Built-up Area Boundaries is put on hold until publication of the Inspectors report at which time the issue will be reconsidered.**

Reason for recommendation: To keep members informed of responses to the consultation and seek agreement that further work be undertaken when there is more certainty regarding the local plan.

Officer: Linda Renshaw, Senior Planning Officer (Policy), lrenshaw@eastdevon.gov.uk (01395 – 571683)

Financial implications: There are no financial implications

Legal implications: There are no implications arising directly as a consequence of the report.

Equalities impact: Low Impact
No specific equalities issues are identified.

Risk: Medium Risk
Without agreed criteria for making consistent judgements, redefining Built-up Area Boundaries would be a subjective process and there is a risk that the DPD may be subsequently be found to be unsound.

Links to background information:

- The consultation document may be viewed at <http://eastdevon.gov.uk/media/1249785/buab-consult-doc-final-august-2015.pdf>

- Copies of all responses received may be viewed at [Consultation on proposed criteria for reviewing built-up area boundaries - East Devon](#).
- A table with responses to each of the five questions raised in the consultation is available at <http://eastdevon.gov.uk/planning-libraries/built-up-area-boundary-consult/tableofresponsestoquestionsbynumber.pdf>

Link to Council Plan: Living in this Outstanding Place.

Introduction

A consultation on proposed criteria for defining Built-up Area Boundaries as part of the East Devon Villages Plan was undertaken between 7th August 2015 and 21st September 2015. Around 162 individual responses were received with 69 of these being in the form of a 'standard' letter from residents of Clyst St. Mary. The consultation raised five questions and responses to each of these have been collated into a table for ease of reference (see links to background information). A 'flavour' of the representations received is given here, but for a definitive view please see the details of individual submissions on the web site.

Question 1. Are the criteria set out in Table 2 for defining Built-up Area Boundaries the correct ones?

- 1.1 There was a fairly even split between support for the criteria and objections to them. In response to this question parish councils and residents tended to support the effect of the proposed criteria of drawing boundaries fairly tightly around the main urban forms. Developer interests took a different view with many feeling that the consultation was premature in advance of a conclusion on the local plan and objecting to the principle of revised Strategy 27 of the local plan. Some respondents found the criteria difficult to interpret.
- 1.2 In submissions there was objection to the omission of the Greendale and Hill Barton Business Parks. Maps were included in the draft Villages Plan (Published January 2014) showing the extent of these business parks marked with a purple line which may have been mistaken for a BUAB (which is shown as a black line). Some respondents expressed concern that without a BUAB it would be difficult to control future development. The emerging local plan does include a policy relating to the extension of existing employment sites outside of BUAB's, but Hill Barton and Greendale Business Parks are now explicitly excluded from this in accordance with the resolution of the Council on 26th March 2015 (Policy E7). This consultation focussed on the proposed criteria for defining BUAB's only, but consideration can be given to the need for any further specific policies for Greendale and Hill Barton when a future draft plan is prepared.

Question 2. Are any additional criteria required to help define BUAB's?

- 2.1 Several respondents, representing both residents and developer interests thought that sustainability criteria should be included. There was also support for the inclusion of criteria relating to AONB's and for priority towards brownfield land for development. Other comments included that the criteria for assessing 'Strategy 27 villages' should be revised, gardens should be split/gardens should not be split, historic buildings should be protected and BUAB's are not needed at all.

Question 3. Are there any additional areas of land that should be considered for inclusion in the Built-up Area Boundaries for the settlements shown in Table 1? If so please explain how the site meets with the proposed criteria for inclusion or why and how the criteria should be amended to facilitate the site's inclusion within the BUAB.

- 3.1 Several parish councils wished to either retain their existing BUAB or define it through the neighbourhood planning process. Musbury Parish Council wished to include a small site that was included in the draft villages plan (January 2014) on the basis that it meets criteria B3 as it is functionally and physically related to the settlement and was chosen by residents. There were many responses to this question from developer interests, most of which included quite large parcels of land being proposed for residential development. These kinds of proposals are unlikely to be considered through amendments to BUAB's alone but rather as potential allocations of land should the need arise.

Question 4. Are there any additional areas of land that should be excluded from the BUAB's for the settlements shown in Table 1? If so please explain how the site meets the proposed criteria for exclusion or why and how the criteria should be amended to justify exclusion of the site from the BUAB.

- 4.1 There were fewer responses to this question than to question 3. Ottery Town Council and West Hill Residents Association asked for land at the southern end of Higher Broad Oak Road and Lower Broad Oak Road to be excluded on sustainability grounds. Whimble Parish Council emphasised the need to retain green wedges and Feniton Parish Council asked that the playing fields continue to be excluded and the boundary altered so that the car park and club house associated with the fields also be excluded. Musbury Parish Council requested that land within the BUAB around 'Mountfield' continue to be excluded on the grounds of historical importance to the conservation area. Chardstock Parish Council pointed out that they had challenged the inclusion of the village in Table 1 through representations to the local plan inspector.

Question 5. Do you have any other comments relevant to the villages plan?

- 5.1 Many general comments were made about the policy to restrict BUAB's to the settlements listed in Strategy 27 of the emerging local plan. This is a matter that will be considered through the local plan rather than the villages plan process, although it may also be relevant to neighbourhood planning. Supporters of development outside the current BUAB's of the 'Strategy 27 settlements' were mainly representing development interests but Broadhembury Parish Council, Membury Parish Council, Shute Parish Council, Councillor Grundy and some local residents also put forward arguments for additional development.
- 5.2 Several parish council and neighbourhood planning groups pointed out that work on neighbourhood planning was progressing and that planning permissions had been granted outside of existing BUAB's. Views expressed included that development should be tightly controlled; Chardstock and Dunkeswell should not be included; the consultation is premature pending the outcome of the local plan examination; the proposals will not support a sustainable rural economy and are contrary to Government policy and guidance; the BUAB for Broadhembury should be removed; a small enlargement of the Sidbury BUAB would be acceptable and that BUAB's should not be extended.

Next Steps

When the BUAB criteria consultation was considered by this Committee in June 2015 it was recognised that progress on the villages plan was linked to the outcome of the local plan. Uncertainty about what approach will be taken to development levels in the small towns and villages will continue at least until the publication of the Inspectors report. The consultation responses will be very useful when finalising a methodology and then defining Built-up Area Boundaries, but until there is more certainty on the direction of the Local Plan there is very little that can be done to progress the Villages Plan.

Report to: **Development Management Committee**

Date of Meeting: 3 November 2015

Public Document: Yes

Exemption: None

Review date for release: None



Agenda item: 8

Subject: **Devon Minerals Plan Pre-submission Consultation**

Purpose of report: This report summarises the publication Devon Minerals Plan and recommends formal comments be made on the consultation.

Recommendation: **That Development Management Committee consider the Pre-submission consultation of the Devon Minerals Plan and make the following formal comments:**

- 1. That East Devon District Council express concerns about the proposals for Straitgate Farm on the basis of potential impacts on landscape, flood risk and water table, Exeter Airport and the setting of heritage assets.**
- 2. That East Devon District Council question the effectiveness of the plan should the proposed development at Straitgate Farm be found to be unacceptable.**

Reason for recommendation: To make formal comments on the Pre-submission Devon Minerals Plan that will be considered by the appointed Inspector.

Officer: Matthew Dickins, Planning Policy manager, mdickins@eastdevon.gov.uk (01395 – 571540)

Financial implications: No financial implications have been identified

Legal implications: It is appropriate for the Council to make relevant observations on the Minerals plan (as a consultee) and the basis for the recommendations seems sound. Of course the competing consideration is the impact of not having a minerals plan on development that would be covered by it in the event it is found to be unsound for, in this specific case, ineffectiveness. Such considerations are for the Members to weigh up and decide upon. Other than to note this, there are no other legal implications arising.

Equalities impact: Low Impact
Whilst no specific equalities issues are identified.

Risk: Low Risk
This is not a Development Plan Document for which EDDC are responsible.

Links to background information:

- The Devon Minerals Plan consultation is available here <https://new.devon.gov.uk/haveyoursay/>

Link to Council Plan: Living in this Outstanding Place.

1. Background

- 1.1 Devon County Council has prepared a Minerals Plan to replace that adopted in 2004. On adoption, the new Devon Minerals Plan will provide the planning policy framework for minerals development until 2033. The plan has been published for consultation in advance of being submitted to the Secretary of State for Communities and Local Government and this consultation is the opportunity to comment on the plan, with scope to present evidence at oral examination hearings. The Minerals Plan is underpinned by an evidence base that includes environmental assessments and topic papers. The consultation closes at 5pm on Monday 16th November. Comments may be made on whether the plan is legally compliant and sound. Soundness of the Devon Minerals Plan should be assessed against the following criteria from paragraph 182 of the National Planning Policy Framework:
- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
 - Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 - Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

2. Summary of Plan highlighting issues of significance in East Devon

- 2.1 The need for aggregate mineral extraction is fuelled by a predicted increase in population in 'wider' Devon of 10% over the plan period. Some mineral resources have adequate reserves to last through the plan period but others, most notably for East Devon sand and gravel, require further provision to be made through the plan. Transport costs have major implications for the viability of sand and gravel extraction so quarries tend to be concentrated around the M5/A38 corridor. Devon is broadly self sufficient in aggregates, but there are low levels of building stone production and no current sources of local stone in large parts of the county.
- 2.2 The plan is structured into a vision that guides a spatial strategy which is divided into six objectives. These objectives are delivered through 27 policies. Policy M1 makes provision for the maintenance of strategic sand and gravel production from within the Pebble Beds (including land in Mid Devon and East Devon) outside of the AONB. The conservation of minerals is to be achieved through promoting alternatives to land won sources, encouraging extraction prior to other development (such as happened at Cranbrook) and through protecting resources from other forms of development. The new plan takes a more comprehensive approach to minerals safeguarding than previous plans, in line with current government advice. Policy M2 seeks to protect mineral

resources by defining mineral safeguarding areas. The main minerals safeguarding area in East Devon is for sand and gravel and runs north between Budleigh Salterton and Exmouth towards West Hill and up towards Kerswell. There are smaller areas safeguarded for chalk to the west of Seaton around Beer Quarry and to the east of Rousdon. There are no minerals of national importance identified in East Devon.

2.3 The plan seeks to make provision for a 7 year supply of land-won sand and gravel, in accordance with the NPPF. Devon County Council estimate that there is currently a 13 year supply and that this would dip below 7 years in 2020. There are limitations on the supply of sand and gravel in neighbouring counties so there are few opportunities outside of Devon to help meet the sub-regional supply. Provision therefore needs to be made for the extraction of additional resources in Devon within this plan.

2.4 The main source of sand and gravel in Devon (87% of Devon's supply in 2013) is in the Budleigh Salterton Pebblebeds (outcrops of which extend into Mid Devon). A large number of locations within this area were appraised as part of the plan making process and a significant proportion of the potential resources were found to be constrained by a range of impacts, notably on the water environment, landscape and highway network, with locations within the southern area of the Pebble Beds around Ottery St Mary being particularly sensitive. However, the higher crushable gravel content of resources in this southern area makes it an important resource. Policy M12 therefore provides for the supply of sand and gravel at Straitgate Farm, near Ottery St Mary, subject to extraction being limited to dry working above the maximum water table to avoid potentially adverse impacts on private water supplies and water-sensitive habitats. The allocation is made as a 'Specific Site' in recognition of the degree of evidence available on its potential impacts. There is currently a planning application relating to this development under consideration by the County Council. East Devon District Council has objected to the application raising concerns about issues including the cumulative landscape impacts, flood risk and impact on the water table and concerns about impacts on the setting of heritage assets.

2.5 The plan makes provision for small scale quarries to provide certain 'key' stones (including Beer stone), particularly for heritage use and to reinforce local characteristics. It is not anticipated that economic supplies of shale gas will be identified beneath Devon.

3. Comments on the plan

3.1 Minerals are a highly specialised planning area where expertise lies with the County Council. The draft minerals plan is clearly and logically set out and deals with complex issues in a coherent manner. The plan has reached an advanced stage of preparation and any comments made at this stage will be dealt with by the Inspector appointed to consider the legal compliance and 'soundness' of the plan. Any comments submitted objecting to the plan need to focus on whether the four tests of soundness have been met. These tests may be summarised as:

- Has the plan been positively prepared? Does it seek to meet objectively assessed needs where it is reasonable to do so and consistent with achieving sustainable development?

- Is the plan justified? Is it the most appropriate strategy when considered against reasonable alternatives? Overall the strategy is considered to be justified by the evidence provided.
- Is the plan effective and capable of delivery?
- Is the plan consistent with national policy and the delivery of sustainable development?

3.2 The key issues for East Devon are clearly the extent of the minerals safeguarding area and the proposed development of sand and gravel at Straitgate Farm. This Authority has already objected to the current planning application, not to the principle of the development, but to some of the issues raised including the impacts on landscape and heritage assets. There is less information on these aspects of the development in the plan than in the planning application due to the different levels of detail required through the plan making and development management processes. Whilst this issue may be resolved through the planning application, it would be inconsistent not to raise concerns about Straitgate Farm in the plan making process. In terms of the tests of soundness, potential problems with Straitgate Farm raise issues about the effectiveness of the plan and whether it is capable of delivery.

3.3 The issues surrounding this Straitgate site are, however, also compounded by the fact that processing of sand and gravel could be undertaken off-site and in the current planning application the applicants have proposed the use of Blackhill Quarry, close to Exmouth for this activity. The Devon Waste Plan only refers to Blackhill Quarry on Figure 5.2 (Map on page 58). However, Appendix C, Table C4 (on page 115), which summarises issues and constraints relevant to Straitgate Farm, refers to off-site processing and this appendix cross-references to plan policies that would be relevant in respect of any planning application for such processing. Constraining factors at Blackhill would include the fact that it falls within the East Devon AONB where processing of extracted materials would only be allowed in exceptional circumstances. It is considered that the plan could more usefully establish and set out policy links between the extraction process and subsequent processing of materials and might beneficially refer directly to Blackhill Quarry and its suitability or otherwise for continued use and indeed final restoration, including dates.

Report to: **Development Management Committee**

Date of Meeting: 3 November 2015

Public Document: Yes

Exemption: None

Review date for release: None



Agenda item: 9

Subject: **Gypsy and Traveller DPD consultation feedback and methodology for site selection**

Purpose of report: This report provides feedback to members on initial consultation on the potential future content of the Gypsy and Traveller Development Plan Document (DPD) and the methodology to be used for site selection.

Recommendation:

- 1. That Development Management Committee consider the feedback that has been received on the scoping of the gypsy and Traveller Plan DPD in respect of the potential content of the plan.**
- 2. That Development Management Committee approve the commencement of a 'call for sites'.**
- 3. That Development Management Committee approve the draft methodology for site selection for consultation, to be carried out concurrently with the call for sites**

Reason for recommendation: To keep members informed of ongoing work and gain approval to proceed with the next stages of work on securing accommodation for gypsies and travellers.

Officer: Claire Rodway, Senior Planning Officer (Policy), crodway@eastdevon.gov.uk (01395 – 571543)

Financial implications: There are no apparent financial implications at this stage

Legal implications: To the extent that there are any legal issues arising at this stage, they are appropriately addressed in the report

Equalities impact: High Impact
Gypsies and Travellers are a protected minority group, however the proposals in this report are intended to ensure that they do not suffer discrimination in the provision of accommodation

Risk: High Risk
Without setting out a work programme for accommodation provision it could impact on the ability to secure a sound local plan and gypsies and travellers are part of the East Devon community with specific

accommodation needs that warrant attention.

Links to background information:

- Devon Partnership Gypsy and Traveller Accommodation Assessment 2015 - <http://eastdevon.gov.uk/media/1072089/PSD2015o-DevonPartnership2015GTAA-Final-Report.pdf> This assessment forms the primary evidence establishing accommodation needs.

Methodology for Site Assessment

<http://eastdevon.gov.uk/planning/planning-policy/emerging-plans-and-policies/gypsy-and-travellers/>

Link to Council Plan: Living in this Outstanding Place.

1 Context

- 1.1 The Government requires Local Authorities to assess the need for gypsy and traveller pitches in their area and ensure that sufficient sites are available to meet the likely need for at least 5 years. These sites would usually be allocated through the Local Plan and failure to provide for gypsies and travellers through the plan carries a risk of it being found unsound. The timing of the Local Plan and needs assessment report were such that, whilst the numbers of sites needed could be included in Policy, there was insufficient time to identify sites to accommodate these numbers- hence the need for a separate, later, document. A recent legal judgement concluded that gypsies and travellers had been disadvantaged by delays in determining their planning applications compared to those of the settled community and subsequently Maldon District Council's Local Plan was advised to be non-sound as it failed to allocate sites or specify the level of need for pitches.
- 1.2 Members agreed in June that in order to meet these requirements, a Gypsy and Traveller Development Plan Document (DPD) should be produced for East Devon and should identify and allocate sites and this was endorsed by the Inspector at examination. This document is to be referred to as the Gypsy and Traveller Plan.
- 1.3 With partner local authorities in Devon the Council commissioned a Gypsy and Traveller accommodation needs study in 2014 and the final report was completed in Spring 2015. The report concluded that there are currently 36 permanent residential gypsy and traveller pitches in East Devon and 72 gypsy or traveller families living in bricks and mortar housing. There are pitches distributed throughout East Devon but they are mainly concentrated in western areas of the District, close to main travel routes. With the exceptions of a 5 pitch County Council run site on National Trust land at Broadclyst (which is occupied by an extended family group) and a privately run commercial site of 12 pitches at Hawkchurch, East Devon gypsy sites are small scale (1-3 pitches) and usually occupied long term by the families who own them.

1.4 The headline findings for East Devon from the needs assessment are as follows:

- A need for **37 additional gypsy and traveller pitches** between 2014 and 2034, **with 22 of these needed in the first 5 years**;
- A need for **3 new travelling showpeople pitches**, with **1** of these needed in the first 5 years;
- A need for **4-5 temporary/emergency stopping places**, each 4-5 pitches in the first 5 years (this applies across the study area as a whole. East Devon is not specifically mentioned, although Devon County Council state that East Devon has the highest level of unauthorised stops in the County, so it could be concluded that at least one of these temporary/emergency sites should be in East Devon); and
- A need for **23 houses** for gypsies and travellers (this would be met through the general housing stock).

1.5 Most of the immediate need arises from overcrowding of existing sites and from newly formed families on existing sites (usually children reaching maturity and having their own children) who wish to stay close to extended family. Most of the need is on the western side of the District, around the M5/A30 (with significant unauthorised short-term stops occurring in the Clyst Honiton/Broadclyst areas), so this would be the obvious area of search for new sites.

1.6 The needs assessment identifies a need to accommodate 4 families currently occupying unauthorised pitches, but this figure was difficult to quantify given the short term nature and high turnover of families on unauthorised land. There are several long-term encampments but most unauthorised stops are very short-term as families pass through the District.

1.7 It should be noted that the Government recently amended the definition of Gypsies and Travellers to read:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such” (to whom a separate definition applies)

1.8 The previous definition included those people who had permanently ceased travelling. The consultants who carried out the Needs Assessment have advised that this definition does not apply retrospectively and that the assessment does not require amendment in light of it.

2 The Gypsy and Traveller Plan Process

2.1 The Local Development Scheme establishes a timetable for production of the Gypsy and Traveller Plan, as follows:

Plan and Key Stages	Reg	2015							2016							2017			Notes						
		Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct		Nov	Dec	Jan	Feb	Mar	
Gypsy & Travellers Plan																									
Evidence Gathering		■																							Report to Committee – 16 June 2015
Preparation	18		■	■	■	■	■	■																	
Council Authority to Consult								■																	
Publication & Representations	19 & 20							■	■																
Collate Representations									■																
Council approval to Submit										■															
Submission and Examination	22 & 24										■	■	■	■											
Oral Hearing	24													■											
Inspectors Report	25																■								
Main Modification Consultation																		■	■						Assumes Modifications Consultation required
Adoption	26																					■			

2.2 The initial evidence gathering stage has commenced, with receipt of the needs assessment, the annual caravan count statistics and a review of responses received in respect of gypsies and traveller policy work on the Local Plan to date. Before work on preparing the draft Gypsy and Traveller Plan can commence we are required to formally consult potential interested parties in respect of the matters and issues that they regard as being appropriate for inclusion in it.

3 Comments on the Scoping Consultation

3.1 The initial ‘scoping consultation’ finished on 21st September 2015 and attracted comments from 29 individuals and organisations. Attached to this report is a feedback report from the consultation that includes an officer summary of comments received. The feedback report will go onto the Council web site. As can be seen from the schedule the comments received cover a wide range of matters relating both to the potential form and issues that the DPD may contain and also to specific matters of policy detail. Some respondents proposed specific policies to include in the DPD and some comments related to issues that go beyond plan making and into operational matters.

3.2 All of the comments received are to be welcomed as they assist in our wider understanding of the needs of Gypsies and Travellers in East Devon and how we should plan for their housing development and longer term operational matters.

- 3.3 In addition to comments on the scoping report, several requests were received from Gypsies and Travellers wishing to apply for an 'affordable' pitch when they become available. As there is currently no requirement/mechanism for this need to be recorded by a housing provider, the Policy Section are holding the details and have contacted Devon Home Choice to request that Gypsy and Traveller affordable housing requirements be considered by their Member authorities. Applicants are required to apply for affordable homes through Devon Home Choice but, unless Gypsies and Travellers are recognized as a distinct minority group, it will not be possible to identify them or offer them pitches when they become available.
- 3.4 Several sites were suggested by respondents as being potentially suitable for Gypsy and Traveller occupation. Where these were suggested by the owners, a record has been kept and the owners will be invited to respond through the 'call for sites'. Where a third party has suggested land, the site owners have been contacted to see whether it might be made available.

4 Next stages of work

- 4.1 Identifying possible site options for Gypsy and Traveller occupation will be a key function of the plan and this will necessitate establishing a range of potential site options to consider. To this end, the next stage of the process will be the issuing of a 'call for sites'. This will be promoted widely to landowners, Parish Councils, those involved in the development industry, the general public and organisations, to see if there is land that interested parties wish to promote for gypsy and traveller accommodation use. As well as letters and emails we will also promote the call for sites through press releases. It should be noted that several sites were suggested through the consultation and that these will be followed up by inviting landowners to formally confirm their availability for gypsy and traveller use.
- 4.2 To complement the wider call for sites, it is proposed that direct contact will be made with the existing Gypsy and Traveller community in East Devon. It is envisaged that this will need to take the form of visiting Gypsies and Travellers on their sites to specifically look at possible options for the expansion of existing sites. As much of the pressing need arises from the children of existing resident Gypsies and Travellers who are at the point of (or near to) setting up new households in their own right this is an option that must be considered.
- 4.3 To ensure that the site selection process is fair and transparent (and mirrors that of site selection for the settled population) a draft methodology has been produced which can be viewed here <http://eastdevon.gov.uk/planning/planning-policy/emerging-plans-and-policies/gypsy-and-travellers/> This process may seem complicated given the small number of sites likely to come forward. It is, however, based on the processes followed in the strategic housing land availability assessment, which are straightforward in practice. To save resources and time, it is proposed that this methodology be consulted on at the same time as sites are invited to come forward.
- 4.4 Once a range of alternative site options is available a draft Plan, incorporating sites which perform well against the site assessment criteria, can be produced and a further round of

consultation will be undertaken. The Gypsy and Traveller Plan will need to be supported by technical assessment. Key documents will include:

- a) Sustainability Appraisal (incorporating Strategic Environmental Assessment) – the Planning Policy section have appointed consultants to undertake this work on other DPD's and it is envisaged that Officers will carry out this work based on the processes followed for these. The process will start with scoping consultation.
- b) Habitat Regulations Assessment – depending on the location of the sites which come forward, the planning policy section will carry out an initial screening but may appoint consultants to assist with further work depending on technical complexity.
- c) Equalities Impact assessment – it is envisaged that this work will be undertaken by the Planning Policy section.

5 Plan Publication and formal public Consultation

- 5.1 In early 2016 the intent is (assuming the Local Plan proceeds in a timely manner) to come back to this Committee with a proposed publication draft of the plan and seek Committee endorsement for formal consultation. The consultation responses would be collated and authority would then be sought for submission of the plan, responses and background supporting reports to the planning Inspectorate. This is the Submission stage and plan examination formally starts on submission. In the run up to and through Examination the plan will carry some weight. When adopted it will be the key formal planning policy document for use in determining planning applications for gypsy and traveller accommodation.

Gypsy and Traveller Accommodation Development Plan Document

Summary of representations received relating to initial consultation (4 August- 21 September 2015)

Representor name or organisation	Brief summary of points raised	Officer Commentary
RSPB	Should include an 'ecological impacts/constraints' topic as significant parts of the District are unsuitable for residential use because of their ecological importance and sensitivity and strong legal protection as Special Protection Area and Special Area of Conservation	This will be incorporated into the draft methodology for site selection, to be consulted on shortly, as a major constraint.
Councillor Moulding	Welcomes intention to establish pitches particularly as this would reduce unauthorised encampments adjacent highways. The study should specifically address 'traveller' needs, not just those of gypsies and showpeople, and sites for these groups should be distinct from each other.	Comments are noted and will be taken into account in preparing the DPD.
Councillor Allen	Proposes that a former campsite on the Eastern edge of Honiton (which already has water and sewage disposal) be considered as a temporary stopping place. It was designated as allotments. It is important that the Turks Head tourism stopping site to the west of the town is not affected.	The site owners, Oaktree Parks, have been approached regarding this suggestion but, in a letter dated 25 th September 15, confirmed that the land is not available to be considered for gypsy and traveller pitches.
Cranbrook Town Council	Requires clarification on how the different needs of gypsies, travellers and showpeople will be met through separate sites as recommended by the needs assessment. Need arising from growing families should be addressed in the same way as for the settled community- ie extend or build subject to planning constraints. Capacity on the showman's site at Clyst St Mary should be explored.	Comments are noted and will be taken into account in preparing the DPD. The inclusion of Gypsy and/or Traveller pitches at Cranbrook was raised at the Local Plan Examination where it was discussed with the Inspector (supported by a written agreement with the East Devon New Community Partners) that a site/s for up to 30 pitches should be included within the future expansion of Cranbrook. The provision of pitches as part of

Representor name or organisation	Brief summary of points raised	Officer Commentary
	<p>Landowners should be asked to put sites forward and these should be consulted on. Suggested that the site at Daisymount (formerly proposed as a service station) on A30 should be considered if EDDC are looking to purchase a site.</p> <p>Travellers are unlikely to want a permanent site so DCC should identify 'negotiated stopping places'.</p> <p>Cranbrook is unsuitable as it is already subject to negotiated residential allocations. Consultation on these proposals should not detract from the popularity/commercial success of Cranbrook as a place to live and work.</p> <p>Villages around Cranbrook are already under pressure and are not suitable for new sites.</p> <p>The Local Plan commentary assumes a new site will be at or around Cranbrook. This is prejudicial to an objective assessment.</p>	<p>strategic allocations is a common approach in Local Plans (eg it is the approach taken in neighbouring authorities of Teignbridge and Mid-Devon).</p> <p>The owners of the Daisymount site have been contacted in writing and a response is awaited.</p>
Chardstock Parish Council	<p>Like any development sites they should be in sustainable locations</p> <p>As some 'travellers' are no longer nomadic, they should have access to everyday facilities</p> <p>Rural locations are not suitable due to poor infrastructure and lack of services, accessed by narrow lanes.</p> <p>Sites should be close to main roads-A30/A303/M5</p>	<p>Comments are noted and will be taken into account in preparing the DPD.</p>
Whimble Parish Council	<p>Whimble has 3 sites and is providing adequate facilities but Travellers are choosing instead to use roadside verges. No further sites are required and EDDC should encourage use of the designated sites.</p>	<p>Comments are noted and will be taken into account in preparing the DPD.</p>
Honiton Town Council	<p>The Town Council did not consider there to be any suitable sites within the Parish of Honiton.</p>	<p>Comments are noted and will be taken into account in preparing the DPD.</p>
Bishops Clyst Parish Council	<p>No Traveller sites are needed as Clyst St Mary</p>	<p>Comments are noted and will be taken into account in</p>

Representor name or organisation	Brief summary of points raised	Officer Commentary
	already has one	preparing the DPD. The site at Clyst St Mary is specifically for Travelling Showpeople, rather than Gypsies and Travellers though.
Colaton Raleigh Parish Council	<p>Support a policy restricting growth of Gypsy and Traveller sites particularly in AONB's, nature conservation areas and in or close to isolated communities or villages.</p> <p>The Parish has direct, negative, experience of unauthorised development/activity by Gypsies/Travellers, requiring legal action.</p> <p>Encouraging Travellers to the District may be detrimental to local businesses and residents who have previously had to meet clean up costs. The needs assessment should not take priority over the desires of the local community and environment.</p>	<p>Comments are noted and will be taken into account in preparing the DPD.</p> <p>Site selection criteria within the draft methodology do constrain development in particularly sensitive areas.</p>
Lympstone Parish Council	<p>Doesn't usually affect Lympstone. Sites should be located close to the M5/A30 as this area is popular with Gypsies and Travellers. Concern that general housing stock will be used to provide more permanent accommodation, in preference to people already on the waiting list with strong local connections. In all cases, normal selection criteria should be followed.</p>	<p>Comments are noted and will be taken into account in preparing the DPD. The needs of Gypsies and Travellers seeking houses rather than pitches has been taken into account in our housing numbers. Normal selection criteria would apply.</p>
Rockbeare Parish Council	<p>The village doesn't have a Built-up area Boundary and is unsuitable for further development, including gypsy sites. The area around Cranbrook is being targeted as East Devon seeks to solve development problems in the West end. Pitches could be located anywhere in the study area. Accommodating more pitches now will lead to even greater requirements in the future.</p> <p>The demands on Exeter are inappropriate given its</p>	

Representor name or organisation	Brief summary of points raised	Officer Commentary
	<p>size. Large sites are inappropriate, smaller sites are preferable.</p> <p>The size of the existing population should be taken into account so that sites are not disproportionate. Settled travellers should not be counted. this form of land use is excessively 'land hungry'.</p>	
Policy Section, Teignbridge District Council	Information provided referring to Teignbridge producing a guidance note on gypsies and travellers to be included in Affordable Housing SPD. Not a formal response at this stage.	Comments are noted and will be taken into account in preparing the DPD.
Policy Section, South Somerset District Council	Information provided regarding gypsy and traveller need in South Somerset and initiatives such as Council owned and run sites, the G and T forum and work being undertaken to identify transit sites.	Comments are noted and will be taken into account in preparing the DPD.
Planning section, Dorset County Council	<p>There is a need to manage the movement of travellers through the two counties and support allocation of a suitable site as a temporary/emergency stopping place as long as it is well located in terms of services and well screened.</p> <p>Travellers recently set up an unauthorised camp on the B3165 near the Devon/Dorset boundary. DCC is keen to find a temporary/transit site in west Dorset (around Dorchester/Weymouth) to replace the Piddlehinton temporary site and help meet the need for transit pitches.</p>	Comments are noted and will be taken into account in preparing the DPD.
Natural England	There should be no residential development within 400m of the East Devon Pebblebed Heaths SAC and SPA	This will be incorporated into the draft methodology for site selection, to be consulted on shortly, as a major constraint.
Exmouth Civic Society	<p>Pressure on land within Exmouth boundary and neighbouring parishes , and lack of infrastructure, makes new development unsustainable. This area has no spare land for this or any other use.</p> <p>Similarly, no such development should be allowed</p>	<p>This is noted but any sites which are put forward will be considered on their merits in accordance with the draft methodology.</p> <p>This will be incorporated into the draft methodology</p>

Representor name or organisation	Brief summary of points raised	Officer Commentary
	on the heathland commons of Woodbury or land between it and the Exe or Otter.	for site selection, to be consulted on shortly, as a major constraint.
P Smith	<p>Need to recognise that there are 3 distinct groups who constitute gypsies and travellers. A limited expansion of existing gypsy and traveller sites should be considered Could the travelling showman site be expanded? If a site is needed for transient travellers it should be</p> <ul style="list-style-type: none"> • limited to 10-12 pitches (ideally 2 sites of up to 6-7 pitches) • sited where all outside activities are visible to passers-by • managed 24/7 with adequate resources <p>Serious consideration should be given to the impact on businesses and the community where sites are located. The local authorities should adopt a very strict policy of enforcement and early removal of illegal site users</p>	Comments are noted and will be taken into account in preparing the DPD.
Elim Housing	<p>Information regarding sites developed by Elim Housing elsewhere in the country and slides from an HCA event explaining challenges and costs of developing a site. Guidance documents from DCLG also attached for information. Elim are unlikely to be interested in developing in Devon but will share their experience if needed.</p>	Comments are noted and will be taken into account in preparing the DPD.
S Beacham	<p>The success of Cranbrook is dependent on a buoyant housing market and sustained demand. Adverse publicity could jeopardise the prospects of the town. Provision of pitches should be made in a community with the infrastructure to support it. Cranbrook could be considered for long term provision once it is established.</p>	Comments are noted and will be taken into account in preparing the DPD.

Representor name or organisation	Brief summary of points raised	Officer Commentary
Aaron	Resident of Cranbrook objecting to traveller site on the basis that it would devalue and prevent house sales. The objector is concerned about antisocial behaviour which they have experienced previously.	Comments are noted and will be taken into account in preparing the DPD.
M Amor	Would be less controversial to put site away from established communities. Concern that tax payers money will fund sites that may not be used and costs won't be recouped as site users will refuse to pay. Observations on the requirements for houses for settled gypsies/travellers. Observations on the (in)effectiveness of Government and consultation.	Comments are noted and will be taken into account in preparing the DPD.
M Paisley	Objects to site at Cranbrook due to antisocial behaviour which he has experienced previously.	Comments are noted and will be taken into account in preparing the DPD.
J Ockleford	Objects to site at Cranbrook on the basis that it would devalue and prevent house sales. The objector feels that a travelling lifestyle should not require a permanent site and it is a waste of money.	Comments are noted and will be taken into account in preparing the DPD.
Oil Mill Lane Residents Association	Should be read in conjunction with Local Plan comments of 8 June 2014. This issue was addressed at the EiP of the Local Plan and by the DMC on 17 June, so this paper (DPD?) is largely irrelevant and out of date. Council should have regard to the redefinition of 'travellers'. Most need is said to come from overcrowding of existing sites but these weren't planned or enforced properly so shouldn't just be expanded or new sites located nearby. They are not sustainably located as required by the NPPF. West of the District shouldn't be the automatic area of search. Over last 10 years there have been lots of	Comments are noted and will be taken into account in preparing the DPD.

Representor name or organisation	Brief summary of points raised	Officer Commentary
	<p>complaints relating to unauthorised sites. Speculative purchase of a site by EDDC would create pressure to grant permission on it contrary to the plan led system. Sites should be identified, assess alternatives, assess their sustainability and then allocate in the Local Plan.</p> <p>The simplest and most sustainable approach would be to provide land within larger allocations. Clear policies are also needed re future unauthorised development.</p>	
Knowle Residents Association	<p>As most Gypsies and Travellers will be passing through the District then sites close to the A30 and M5 should be chosen. Sites away from any main urban areas will reduce the chance of residents objections.</p>	<p>Comments are noted and will be taken into account in preparing the DPD.</p>
Network Rail	<p>Traveller sites are considered in the same way as other residential sites. Adjacent to operational railways there is an increased risk of trespass due to increased numbers of young people using the railway as a shortcut. If a site next to a railway is selected, at least a 1.8m high trespass proof steel palisade fence must be provided at the developers cost and at least 2m must be left between the fence and any buildings/structures.</p> <p>Suggestion that a new policy should be included in the DPD addressing level crossing safety and the need to contact Network Rail on any applications affecting level crossings.</p>	<p>Comments are noted and will be taken into account in preparing the DPD. If sites adjacent to railways are allocate Network Rail will be contacted directly.</p>
David Lock Associates Ltd (representing East Devon New Community Partners)	<p>The need for a gypsy site at Cranbrook should be determined as part of the district wide DPD and not in isolation. Specifically it's scale and nature. Scale of need should be regularly reviewed to avoid over provision.</p> <p>Strategy 12 should be amended to either refer to</p>	<p>Comments are noted and will be taken into account in preparing the DPD. The inclusion of Gypsy and/or Traveller pitches at Cranbrook was raised at the Local Plan Examination where it was discussed with the Inspector (supported by a written agreement with the East Devon New Community Partners) that a</p>

Representor name or organisation	Brief summary of points raised	Officer Commentary
	<p>“a site or sites” or “up to 30 pitches” rather than just “sites” for gypsy provision.</p> <p>There is no basis for gypsy provision being required concurrent and in early years of delivery of “bricks and mortar” housing development which is also inappropriate.</p> <p>No maximum site size should be adopted.</p> <p>Provision should be limited to a site south of the A30 in a location associated with employment provision.</p>	<p>site/s for up to 30 pitches should be included within the future expansion of Cranbrook. The provision of pitches as part of strategic allocations is a common approach in Local Plans (eg it is the approach taken in neighbouring authorities of Teignbridge and Mid-Devon).</p>

No specific comments

Dunkeswell Parish Council

South West Water

Budleigh Salterton Town Council

One further site was suggested by a landowner, who was advised to submit this during the call for sites. Several requests for ‘affordable’ pitches were received from Gypsies/Travellers whose details have been recorded.

Ward Axminster Rural

Reference 15/0645/MFUL

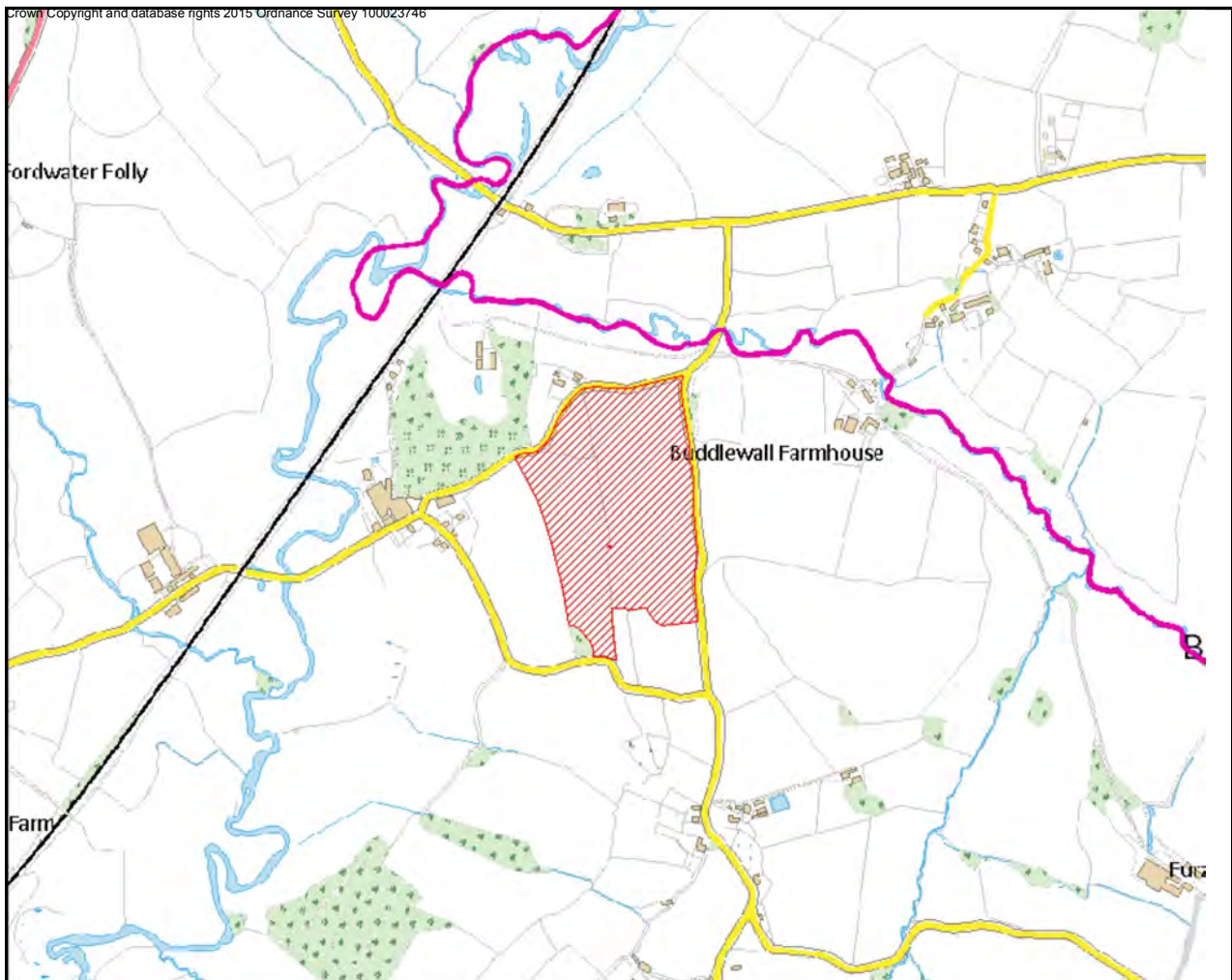
Applicant INGR Solar Parks Ltd

Location Land East Of Wadbrook Farm (nr
Axe View Farm) Wadbrook

Proposal Installation of ground mounted
photovoltaic solar arrays with
transformer stations, internal access
track, biodiversity enhancement,
landscaping, fencing, security
measures, access gate and
ancillary infrastructure



RECOMMENDATION: Approval with conditions



		Committee Date: 3 November 2015
Axminster Rural (HAWKCHURCH)	15/0645/MFUL	Target Date: 24.06.2015
Applicant:	INGR Solar Parks Ltd	
Location:	Land East Of Wadbrook Farm (nr Axe View Farm) Wadbrook	
Proposal:	Installation of ground mounted photovoltaic solar arrays with transformer stations, internal access track, biodiversity enhancement, landscaping, fencing, security measures, access gate and ancillary infrastructure	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

This application is for a field scale solar PV farm to generate electricity through a renewable energy source for supply direct to the national grid. Although the government's 2020 renewable energy generating capacity target of 15% has now been met, production of energy from renewable sources and the move towards a low carbon future remain important aspects of National Planning Policy and are reflected also at a local level. It is therefore considered that the scheme would provide significant benefits in terms of renewable energy production, producing enough energy to meet the demands of over 1000 homes.

On the other hand the application site is an undeveloped field in an attractive rural location and where the majority of the site (73%) is classed as BMV (Best and Most Versatile) agricultural land (Grade 3a). Recent government guidance has sought to raise the bar considerably in this respect requiring the 'most compelling evidence' to permit the use of BMV land. However, there is uncertainty over whether the application proposed constitutes 'large scale' solar development and therefore whether the specific Planning Practice Guidance for such developments is applicable. Nevertheless, the applicant has sought to demonstrate that land of lower agricultural value/non-agricultural land has been considered in preference and why no alternative site would be suitable to bring forward the development. A number of factors, other than agricultural land quality influence site selections including: landscape quality; ecological matters; flood risk; proximity to residential properties/heritage assets; existing land use; and availability of grid connection. The supporting information submitted with

the application suggests that there are no suitable alternative sites of lower grade agricultural land within the selected search area which has been defined by proximity to the secured grid connection. The difficulties in securing alternative grid connections elsewhere have also been confirmed by the network distributor, Western Power.

It is recognised that there is considerable local opposition to this scheme and that the parish of Hawkchurch already has at least 4 other similar schemes within or adjoining its boundary and it is further acknowledged that the proposal would be likely to cause some disturbance during the construction phase of development. However, the applicant has demonstrated that there are no suitable alternative sites that could serve the development and provide the identified benefits. Furthermore, the scheme would not result in the significant or permanent loss of BMV land. In all other respects including landscape impact, highway safety and ecological issues the proposal is, or can be made to be acceptable and it is not considered that there is sufficient justification to warrant refusal of the application. Therefore, taking into account both the negative impacts and the benefits of the proposal, on balance, it is considered acceptable and is recommended for approval subject to the conditions set out at the end of the report.

CONSULTATIONS

Local Consultations

Axminster Rural - Cllr I Hall

I declare a personal interest as I signed a petition against this development prior to the election. My comments from here on are with a clear and open mind.

I fully agree with Hawkchurch Parish council's comments.

The grading of land is 3a and 3b quality agricultural land. I do not think that the proposed use is the best option for the use of this land.

I am also concerned of the potential disruption to traffic in local narrow lanes and potential damage to hedgerows from large vehicles.

I do not feel this development would benefit the local community

The effect on the landscape would be considerable.

On these thoughts I oppose this planning application.

Parish/Town Council

There are serious concerns that this proposal lies in a very unspoilt rural part of East Devon. The land is considered by local farmers to be some of, if not the best, quality for farming in the Hawkchurch parish. We believe that this application, if granted would have a negative impact on the area.

The planning statement suggests that providing adequate screening is provided there would only be a minimal impact on the local environment. The landscaping provision would take many years to mature to such a level as to satisfy this provision, in the meantime we believe it will spoil the countryside in an area that relies very much on tourism. The statement suggests that there is a simile between wind turbines and solar panels, and that there should be a zero visual influence once the application has been erected. The parish council does not accept that statement.

Whilst a banksman system would be put into place at the site, controlling entry and exit, no provision would seem to have been made for the passing of the heavy vehicles in Broom Lane. Broom Lane is very narrow and the route includes a narrow bridge and a railway half-barrier automatic railway crossing (Broom Gates). Whilst it is appreciated that there will always be additional traffic and disruption on any development, the council feels that the traffic problems created by this proposal would be at an unacceptable level unless some form of one way traffic system could be brought into operation.

You will be aware that there are already a number of these solar panel sites in the Hawkchurch area, and whilst understanding that each application needs to be judged on its merit the latest planning guidance does take into account the cumulative impact. We would also question whether there is a need for this additional site in the area with so many already in place. We are now reaching the stage of being overloaded with such sites, which is indeed having an adverse effect on holiday visiting trade.

We note that CCTV masts will be provided, which will have a further negative impact on the environmental of this wonderful part of the countryside. There are also concerns regarding possible drainage and the effect on the landscape at the end of the twenty-five year life span of the project. We believe that this will have caused long term damage to the valuable farm land soil over that period.

For the above reasons Hawkchurch Parish Council is unable to support the application and recommends refusal of this application.

Other Representations

38 individual representations, including a representation from the CPRE, and a petition containing 115 signatures have been received all objecting to the proposed development and citing the following concerns:

- Lack of need for further development of this nature in this location which has already contributed significantly to renewable energy targets
- The proposal would result in land of high agricultural value that should not be lost from production
- Landscape impact
- Poor access to the site via narrow country lanes and construction traffic not properly considered
- Danger to other road users, particularly pedestrians and horse riders
- Would not be possible to effectively screen the development
- This form of electricity generation is inherently unreliable
- Alternative use of solar panels of building roofs is more appropriate

- No long term employment benefits arising from the panels
- The CO2 reductions would be limited due to the emissions involved in the manufacture and maintenance of the panels
- The Alternative Site Search area is too narrow and incorrectly uses grid connection as the primary determinant in selecting the area of search.
- Impact on the surrounding Area of Great Landscape Value where the site would be visible over a wide area.
- Cumulative impact of similar developments on the local community
- The classification of the development as 'small scale' as opposed to large is questioned.
- The southwest has already met and far exceeded its renewable energy capacity targets for 2020.
- There are currently around 147 acres of solar panels within the vicinity of Hawkchurch village this development would take the total to closer to 200 acres.
- The development will be a visual eyesore and further industrialisation of the countryside
- The proposal is not south facing which requires the panels to be angled differently and positioned closer together, creating greater impact.
- The proposed development of a further solar farm will have an adverse impact on the local tourism economy.
- The inverter stations will create noise pollution in the locality.
- The proposal can not be considered a temporary fixture.
- Impact on the condition and maintenance of the local highway network

Technical Consultations

Devon County Archaeologist

I refer to the above application. I have now received two further drawings from the applicant that demonstrate that the solar farm can be constructed in such a manner that the known archaeological deposits here can be preserved in situ. These documents are:

- i) Site Layout Plan - Drawing number PV-0171-01, and
- ii) Non-Intrusive installation method cross section - Drawing ref: PV-0171-07

As such, I would like to withdraw the previous advice made on the 30th July 2015 by my colleague Ann Marie Dick and recommend the following worded condition

'The development shall take place in accordance with (i) the site layout plan (Drawing number PV-0171-01) and (ii) Non-Intrusive installation method cross section (Drawing ref: PV-0171-07) that have been submitted to the Local Planning Authority.'

Reason - To ensure, in accordance with Policy EN7 of the Est Devon Local Plan, the preservation in situ of known archaeological sites (heritage assets with archaeological interest) within the development site.

Please do contact me if you need any additional information.

Environment Agency

Thank you for referring the above application which was received on 25th March 2015.

ENVIRONMENT AGENCY POSITION.

We have no objections to the proposal providing development proceeds in accordance with the submitted Flood Risk Assessment dated 15th March 2015 - V2.

County Highway Authority

Observations:

The proposed development is on a site that is located in a very rural part of Devon, close to the Dorset county border. The roads that serve this area are also rural in character and tend to be of narrow width and suffer from poor horizontal and vertical alignments with few formalised passing places. Although these roads are frequented at times by large agricultural vehicles, tractors with trailers and no doubt other larger farming related machinery during harvesting periods; however these vehicles tend not to be on the roads at peak traffic times.

In the pre-app the CHA advised that none of the roads accessing the site that are particularly suitable for large vehicles or increased traffic flows. Of those that emanate from the A358 (Chard Road), Broom Lane is perhaps the best in terms of its nearness to the site, but even this route will require care when negotiation its junction on the 'A' road, the various bends, the level crossing and the junction of the unnamed road to the north of the site. It should be noted at this point that this junction and the part of Broom Lane to the east of the level crossing and some of the unnamed road leading towards the site are actually in the neighbouring county of Dorset and they should ideally be consulted for comment on this section of their highway network. I will, by means of emailing this response to my counterpart in that authority, inform them of this application.

The attached Construction Traffic Management Plan (CTMP) puts forward the Broom Lane for access to the site and also lays out the proposed number of Heavy Goods Vehicle Movements during the construction period at worst number of vehicle movements case scenario (2 month build) to average 2 two way movements per day. It also restricts these movements to avoid school run times between 08:30 - 09:15 and 14:45 - 15:30. There will however be construction personnel movements with construction times between 08:00 - 19:00 Monday to Saturday, but predicts that the majority of these will be in minibuses to minimise the impact on the highway network.

The attached plan Figure 2.2 Revision B shows that the proposed access at the site entrance and the site compound turning area will be adequate for up to 15.4m arctic vehicles. Plan 3.1 shows that there is adequate visibility and vehicle tracking at the A358/Broom Lane junction.

Plan 3.2 shows that there is adequate room for for a 15.4m Arctic to turn right towards the site and left away from the site. The CTMP also contains Network Rail advice for drivers using level crossings. Because of the nature of roads on the proposed route to site, with narrow road width, poor alignments both horizontal and vertical, the CHA proposes that a survey report including photographs of the condition of the roads, verges hedges etc. involved is undertaken by the developer and the CHA prior to any construction and again at the end of the construction period. Any works that are identified required to make the road suitable for vehicles

to pass period. Any works that are identified required to make the road suitable for vehicles to pass each other in opposite direction or will be identified and completed prior to construction.

During the construction works and after the construction works any extraordinary damage to the roads, verges, hedges etc., will be made good by the developer in with the CHA.

Recommendation:

1. Off-Site Highway Works

No development shall take place on site until a report with photographic evidence has been undertaken and agreed by the CHA in writing for the proposed route from A358 to the site, any works that are identified to facilitate construction traffic that will be attracted to the site will be undertaken prior to construction.

REASON: To minimise the impact of the development on the highway network.

2. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram Figure 2.3

REASON: To provide adequate visibility from and of emerging vehicles.

3 A turning area, parking spaces and site compound shall be laid out and maintained for those purposes in accordance with the attached diagram PV-0171-01.

REASON: To ensure the provision of adequate facilities within the site for the traffic generated by the development

South West Water

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Please find enclosed a plan showing the approximate location of a public water main in the vicinity. Please note that no development will be permitted within 3 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 2020.

South West Water will only allow foul drainage to be connected to the public foul or combined sewer. Permission will not be granted for the surface water from this site to return to the public combined or foul sewerage network. We will request that investigations are carried out to remove the surface water using a Sustainable Urban Drainage System, such as a soakaway. If this is not a viable solution to remove the surface water, please contact the Developer Services Planning Team for further information.

From 1st October 2011 ownership of private sewers transferred to South West Water under the Private Sewer Transfer Regulations.

If you think that your proposed works will be over or within 3 metres of a public sewer, further information can be found on our website www.southwestwater.co.uk/privatesewers (Help and Advice) or by calling 0344 346 2020.

Should you require any further assistance, please contact the Developer Services Planning Team either via email developerservicesplanning@southwestwater.co.uk or direct line: 01392 443661

See scanned plan

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

For information I would point out that a public water main as shown on the attached plan runs along the eastern boundary, no structures will be permitted within 3 metres of this and neither should there be any planting or alterations to ground cover over it.

Blackdown Hills AONB Project Partnership

I can confirm that we do not wish to comment

East Devon AONB

Nearer to Dorset/BHAONBs do not intend to comment

Dorset AONB

Thank you for consulting the Dorset AONB Team in connection with the application detailed above.

I am writing to let you know that the Dorset AONB Team will not be commenting on the planning application.

The Team recommends that the decision-maker takes into account the following:

- The Dorset AONB Management Plan
- The Dorset AONB Landscape Character Assessment
- Other relevant information, such as our guidance on wind turbines and solar arrays and other relevant materials such as the Dorset Rural Roads Protocol

Network Rail

Thank you for consulting Network Rail with regard to the above planning application.

After reviewing the information provided in relation to the above planning application, Network Rail has no objection or further observations to make.

POLICIES

New East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

E4 (Rural Diversification)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN9 (Development Affecting a Designated Heritage Asset or Loss of a Building or Structure that makes a Positive Contribution to a Conservation Area)

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 47 (Nature Conservation and Geology)

Strategy 7 (Development in the Countryside)

TC7 (Adequacy of Road Network and Site Access)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

C6 (Renewable Energy)

D4 (Landscape Requirements)

D5 (Trees on Development Sites)

E5 (Rural Diversification)

EN15 (Control of Pollution)

EN6 (Wildlife Habitats and Features)

EN7 (Nationally and Locally Important Archaeological Sites)

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

S5 (Countryside Protection)

TA7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

SITE LOCATION AND DESCRIPTION

The site is formed of two main fields and one smaller field and extends in total to 9.5 hectares. The land on site slopes gently from south to north. The fields and indeed site boundaries are generally formed by hedgebanks and some screening is provided to the south by a small copse. The smaller triangular shaped field at the northern end of the site though is only marked by post and wire fence along its boundary with the local road. Local lanes bound the site on the north, east and southern sides with agricultural land to the west. There are a number of public footpaths in the surrounding area but none that cross the site itself. Residential dwellings are found within the vicinity of the site, the closest being 'Fortfield' to the north and the small group of dwellings that form the hamlet of Wadbrook to the west of the site. Three listed Buildings have been identified within the immediate vicinity, the closest being Wadbrook Farm 240m to the west of the site, in addition Buddlewell farm house lies approximately 350m to the east and Castle House 295m to the south.

The character of the area is defined by the agricultural land, made up of fields of varying size and generally defined with hedgebanks/hedges. The area sits within the Lower Rolling Farmed and Settled Slopes (3B) Landscape Character Type of the East Devon And Blackdown Hills Area of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management Guidelines, 2008. There are no international or national ecological designations on the site, but the Dorset Area of Outstanding Natural Beauty lies approximately 100m north of the site and Broom Gravel Pits SSSI is located less than 100 metres to the west of the site and The River Axe SAC (Special Area of Conservation) and SSSI (Site of Special Scientific Interest) is located over 300m west of the site. The Blackdown Hills Area of Outstanding Natural Beauty lies approximately 1.3 km further to the west.

PROPOSED DEVELOPMENT

The application seeks planning permission for a solar array sufficient to produce approximately 5MW of energy. The area of the site is approximately 19.5 ha of which approximately 8.9 ha would be covered by the arrays. The development consists of two elements; firstly the arrays and infrastructure to operate the facility; secondly the areas proposed for additional landscaping outside the areas for the arrays.

The infrastructure consists of the arrays themselves which are mounted on steel frames orientated at approximately 20 degrees from ground level, with a maximum height above ground level of 2.27m. The arrays themselves are of varying lengths generally reflecting the width of the field at that point. In addition 2 no. substations are proposed, one serving the network operator and the other the applicant, each would measure 7.2 m x 5.8 m with an overall height of approximately 4m. A further 6

no. combined inverter and transformer cabins are distributed across the site at various points, these would measure 5.8m x 2.4m with a height of 2.75m above ground level. Finally, it is proposed to erect 6 no. CCTV cameras mounted on poles around the perimeter of the site 5m in height.

Around the perimeter of the arrays a 2.0m high stock proof fence is proposed. Access through this fence is proposed by 4m wide steel gates.

The array is proposed to link by cable to the electricity grid at Axe View Farm. A Temporary site compound is proposed within the northeastern part of the main field which would consist of a store container, outside storage area, parking area for vehicles, portacabins for construction staff, w.c.s and a security hut, as well as HGV turning area within the site.

Access is proposed from the existing field access on the eastern site boundary, this would be widened to accommodate articulated vehicle turning. The initial section of the access track would be hard surfaced for 20 metres back from the road. An Internal access tracks is also proposed along the northern boundary of the arrays in the eastern field before turning to the south along the western boundary of the eastern field to serve the proposed inverter stations.

ANALYSIS

The matters to consider are the principle and policy context; 'sequential' test set in the new planning practice guidance and Government statements; consideration of the benefits of energy from renewable sources; consideration of the amenity of neighbouring properties; consideration of heritage assets; character of the area and wider landscape; impacts to trees in and around the site; highways, access and ongoing servicing; construction phase impacts; flooding and surface water mitigation; ecology and archaeology.

Principle and policy context

Adopted policy C6 (Renewable Energy) as well as emerging Strategy 39 (Renewable and Low Carbon Energy Projects) within the draft local plan support renewable energy projects subject to taking account of potential adverse impacts of environmental and heritage sensitivity, and careful consideration of location, scale, design and other measures and regard to the amenity of neighbouring homes. East Devon has no target or quota for the production of energy from renewable sources. Guidance within the NPPF encourages local authorities to be proactive in identifying potential sites, though again there is no target set either in area, Mw of production or in a temporal dimension.

Policy EN14 within the adopted plan was not saved at the time of the last policy review and therefore carries no weight. (Draft) Policy EN13 - Development on High Quality Agricultural Land states that Grades 1, 2 and 3a will be protected from non agricultural or forestry development, with only exceptional and overriding need identified where Grades 3b, 4 and 5 land are not available; and benefits of the development justify the loss of high quality agricultural land.

Within the NPPF at paragraphs 97 and 98 guidance on renewable energy is given as well as requirements for determining applications. Further at paragraphs 109 and 112 guidance is given on the economic value of agricultural land and that poorer quality land should be used in preference to that of a higher quality, where 'significant development' of agricultural land is demonstrated to be necessary. Essentially the guidance of the NPPF for renewable energy development is to approve applications if their impacts are acceptable or can be made to be so.

Additional guidance is set out in the National Planning Practice Guidance (NPPG) concerning environmental considerations and targets.

The National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them.

The UK has legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources. Whilst local authorities should design their policies to maximise renewable and low carbon energy development, there is no quota which the Local Plan has to deliver.

And particularly for 'large scale' solar farms which is quoted in full below:

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Particular factors a local planning authority will need to consider include:

- o encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;
- o where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- o that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- o the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;
- o the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- o the need for, and impact of, security measures such as lights and fencing;
- o great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be

given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;

- o the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;

- o the energy generating potential, which can vary for a number of reasons including, latitude and aspect.

The approach to assessing cumulative landscape and visual impact of large scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.

In relation to the proposed use of greenfield land the guidance makes specific reference to a speech by the Minister for Energy and Climate Change, the Rt. Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and a Written Ministerial Statement - Solar energy: protecting the local and global environment - made on 25 March 2015. The latter, written statement outlines the government's response to concerns raised over the impact of some insensitively located large-scale solar farms. The statement reiterates the need to consider lower grade agricultural land in preference to agricultural land and that, 'Protecting the global environment is not an excuse to trash the local environment'. The statement references the previous coalition government's comprehensive solar photovoltaic strategy and advises that government are generally encouraged by the impact of the guidance but recognise continuing concerns about the unjustified use of high quality agricultural land, it states,

"In light of these concerns we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence."

It has been suggested by the applicant's agent that the PPG considerations are not applicable in this case, as the proposed development is not a 'large scale' ground mounted solar farm. It is accepted that the guidance does not define 'large scale' in the context of planning applications and that elsewhere government documents refer to small scale as 5MW, or less, but this is in the context of Feed in Tariff. Elsewhere government documents make reference to large Scale solar PV generation being '*...in the main above 5MW but also down to 50kW*', 'UK solar PV strategy Part 1: Roadmap to a Brighter Future' (DECC - October 2013) pg.10. In Part 2 of the same strategy document and in the context of reporting on the energy generated through the deployment of large scale ground mounted PV the document includes generation from sites of between 1MW and 5MW (page 30).

In subsequent submissions the applicant has provided a legal view on the matter of what constitutes 'large scale'. This view makes reference to the Renewables Obligations Closure Order (Amendment) 2015/920 and OFGEM Feed-in Tariff Annual Report, whilst neither document is considering 'large scale' in a planning context, they do give an indication of how central government in general view the scale of renewable developments. In terms of appeal decisions which might cast some further light on the matter, there are a limited number of recent decisions. The

recent appeal at Clyst St. Mary (APP/U1105/W/15/3007994) and another more recent for a site at Silverton, nr. Exeter (APP/Y1138/W/15/3004976).

In the Clyst St. Mary appeal, which was for a development of 7.55MW generating capacity, the Inspector referred to PPG guidance and specifically to the 2013 and 2015 ministerial statements referred to in the guidance, However, the Inspector did not specifically address the issue of whether or not in that circumstance the proposal was considered to be large scale, although in that case it would be under the definition put forward by the current applicant. This appeal was dismissed on the basis of the unjustified loss of Grade 2 and 3a land.

In the Silverton appeal the Inspector did specifically discuss what might constitute 'significant' in the context of BMV agricultural land and although not definitive refers to the trigger of 20ha in the Town and Country Planning (Development Management Procedure) (England) Order 2015 as a consultation requirement for departure applications as being 'a very broad indication of significant development on BMV agricultural land.' That Inspector then went on to consider 'large scale' in the context of solar schemes and refers to other definitions (Renewable Obligations Closure (Amendment) Order 2015) but considers these to be of limited assistance in considering what might constitute significant development. In concluding on the matter he suggested an assessment of significance was dependent on the circumstances of the case. He then went on to consider the circumstances of the particular case before him (generating capacity of up to 4.45MW). Taking into account the small amount of BMV land that would be lost (in comparison to that in the district as a whole); the potential for some continued agricultural use and the existing way in which the land was farmed; the alternative site search assessment undertaken by the applicant, and; the requirement for grid connection and restrictions on this, he concluded in that case that the proposal would not result in a significant loss of BMV agricultural land.

Taking the above into account it is considered that there is no definitive view of what might constitute 'large scale' solar farm development although development above 5 MW is more likely to be considered as such. Similarly, in terms of what might constitute 'significant development' of agricultural land there is no clear cut definition but site area together with factors such as amount of land lost as a percentage of overall BMV land within a particular locality may aid consideration. Nevertheless, regardless of whether the site is considered to be large scale, or not, The Ministerial Statement referenced above does not restrict its comments to just 'large scale' proposals referring to, "...any proposal for a solar farm involving the best and most versatile agricultural land" . It is therefore considered the checks set out in adopted and draft policy, the NPPF and PPG supported by ministerial statements set a high bar to which the proposal is required to be tested.

Use of agricultural land

An agricultural assessment has been submitted to accompany the application. The site identifies that the land is identified as undifferentiated grade 3 agricultural land on the Agricultural Land Classification Map (1977). The purpose of the site specific assessment is to identify the appropriate sub grades 3a and 3b. The survey identified that the land on the site was sub-classified as grade 3a (73%) and grade

3b (27%), therefore the majority of the site is land falling within the definition of 'best and most versatile' (BMV), agricultural land as defined in the NPPF. The Inspector in the Silverton appeal appeared to give some consideration to the area of land in question in relation to BMV agricultural land as a whole across the district in determining whether the development would comprise significant development. In that case the development represented 0.08% of the districts grade 2 land and 0.01% of the BMV land as a whole. To put the current proposal into a similar context is difficult as there is no sub-division for 3a and 3b land in East Devon and the data available (taken from A CPRE briefing note and derived from Natural England Statistics) is somewhat dated and therefore do not necessarily take into account development over recent years. However, bearing this in mind the proposal would represent approximately 0.095% of grade 1 and 2 agricultural land in the district and 0.15% of the grade 1,2 and 3(undifferentiated) land. Consideration does of course need to be given to the cumulative impact from allowing a number of small losses to MBV land that together could result in a significant loss.

The submitted assessment however suggests that as the wider study area of which the site forms part is a mix of sub grade 3a and 3b that in practical terms the land is all farmed as if it were sub grade 3b. At present the site is farmed as a livestock enterprise comprising beef and dairy cattle and breeding ewes. The site is used for grazing and fodder production i.e. grass silage, maize silage and whole wheat crop. The assessment suggests that were the solar farm to proceed the applicant would be able to scale down the heifer rearing enterprise and would allow the farmer to reduce his hours to a more manageable level; would provide an additional source of income and would enhance the overall resilience and viability of the holding.

Whilst it is suggested that the field is currently not being farmed as BMV land i.e. it is all effectively farmed at sub grade 3B level, as it is farmed as part of a larger landholding, there is nothing to say that the farm enterprise will continue to operate in this manner, or that an alternative enterprise might not utilise the higher grade land more effectively. If the development were permitted the site would effectively be removed from agricultural production, albeit some limited agricultural use may continue to be possible the application does not indicate any intention in this respect. In any case any agricultural activities that could take place on the site while the solar panels are in-situ would not utilise the high quality soil resources available at the site.

Site selection

Following discussions with the applicant a further 'Alternative Site Search Assessment' (ASSA) document has been submitted (18th June); additionally to this further justification (in an email) has been put forward on the 7 August.

To summarise in simple terms the planning guidance tests for site selection of solar farm sites are:

- Use of previously developed and non agricultural land preferred

- Where that has been shown not to be possible using poorer quality land in preference to higher quality agricultural land

The submitted ASSA looks to provide an assessment of alternative sites that might be able to accommodate the proposed development. The assessment methodology employs a four stage alternative site selection process. The phased approach includes: Stage 1 - Development of Site selection criteria, reflecting planning policy guidance, operational and developer considerations and development requirements; Stage 2 - Review of previously developed land; Stage 3 - Review of non-agricultural land; Review of lower grade agricultural land; Stage 5 - Consideration of higher grade agricultural land.

At stage 1 the issues outlined that influence site selection these include inter alia: appropriate levels of sunlight; suitable grid connectivity; shape, orientation and size of site; topography; land availability; land classification; landscape and environmental designations; highway access; landscape impact and residential impact. In terms of defining the search area the document suggests that one of the biggest constraints is the availability of grid connection. It is stated that a 5MW site needs to be within approx. 2km of the point of grid connection to make it viable. The applicant it is understood has through discussions with the Distribution Network Operator (DNO) secured a connection to the grid at Axe View Farm and has therefore derived an area of search on a 5km radius from this point of connection (although it is suggested that the site should ideally be within 2km of the point of connection).

At this first stage of defining the search area it would appear that a number of assumptions have been made. The first of these seems to be that the connection point the applicant has secured should be the starting point. This would appear to discount any other grid connection points that may be available within the wider area, district or indeed region. Consultation with Western Power (the Network operator for the area) has however, confirmed that whilst they are obliged to consider new connection applications there is currently likely to be a delay (3-6 years) in permitting these as well as potentially high costs due to capacity issues on the network south of Bristol. In addition they have also confirmed that the generating capacity that would be taken by a secured connection point is non-transferrable. In other words a developer who has secured a grid connection for a 5MW scheme can not transfer this connection to an alternative site.

On a recent appeal for a similar development at Clyst St Mary (close to Crealy Adventure Park) the Inspector disagreed with the council's stance, that land outside the district could also be considered and felt that a search area of 30 miles around the site to be 'a not unreasonably constrained starting point'. An Inspector in more recent appeal at Silverton Nr.Exeter took a similar view. In both cases the Inspectors also accepted that grid connectivity was also a reasonable constraint to take into account. However, the Inspector in the Clyst St Mary appeal whilst accepting these points and that there were limited brownfield sites available was not convinced that the applicant had, in that case, fully considered all available land of lower agricultural value.

In the current case the applicant's have carried out a desk based assessment of alternative brownfield sites over 2 ha in area in the wider district and concluded that none such are available. This is not generally disputed, it is also acknowledged that unlike in the Clyst St. Mary appeal, where the Inspector considered that the applicant

had not considered the potential for lower grade (3) land in the whole of the district in favour of the predominantly grade 2 land, such a desk based assessment would not be possible in this instance as all of the grade 3 land is undifferentiated and therefore it would not be possible to narrow areas of search between 3a and 3b land without on site soil testing.

Notwithstanding the above, it would appear that the applicant's starting point for search selection has been the rather narrow area immediately around their secured point of connection. However, it is accepted that the availability of grid connection is a constraint in site selection and that the applicants secured connection capacity, at Axe Vale farm, is non-transferrable. The applicant's secured connection point to the grid therefore would allow the scheme benefits to be brought forward earlier than may be the case on alternative sites.

The second assumption made in the site selection criteria appears to be that the development needs to be on the scale proposed, rather than say a smaller scheme or a number of smaller schemes that might be accommodated on other land of lower value. This point was raised by the Inspector in the recent Crealy appeal where the Inspector stated,

"...I have no convincing evidence before me to indicate why the proposal needs to be the size proposed and this reduces my confidence in excluding the potential for all brownfield land in the area."

On this point the applicant suggests that several smaller schemes rather than one large scheme would prove unviable as there would be additional infrastructure costs (required at each site) as well as other costs involved with easements over land and grid connection. Whilst no evidence has been submitted in this respect it is accepted that the costs of several smaller schemes to generate the same electricity would be more expensive and that a larger 'field scale' scheme would prove to be more viable.

Setting aside the applicant's starting point, that being the area within a 5km radius of the secured connection point, the ASSA then looks at what alternative sites might be available within that search area.

The document considers that there is a general lack of brownfield sites within East Devon and that the requirement for large scale residential allocations on Greenfield sites reflects this. This lack of brownfield land and where this does exist the preference for this to be used for residential or commercial development is acknowledged and within the selected search area it is accepted that there is limited such land available.

Moving to non-agricultural land (which includes uses such as golf courses, parkland, public open space, recreation areas etc.). The ASSA identified a limited number of such sites including woodland and existing recreational areas but these were dismissed on the basis of their loss to accommodate solar PV development would be unacceptable in planning policy terms, this is not disputed.

The next stage of the ASSA considered agricultural land and most significantly whether there was other land of lower agricultural value within the site search area

that would be available. A number of sites of grade 4 quality land were identified, such sites were however discounted for varying reasons including: their use as woodland; being within designated landscapes (i.e. AONB) etc. or their prominent visual position. Three sites were identified that fell within this category of which one was in a high risk flood zone and visually prominent, one was adjacent an area of woodland and was dismissed as being unavailable to the developer and unviable (due presumably to the distance to the connection point) and the final site was dismissed on the basis of its likely visual prominence. The ASSA has considered these sites against a number of issues that the developer considers relevant in terms of site selection including: gird connection, size of site, topography, access, flood risk, sensitivity (in EIA terms), landscape, visual and heritage impacts. On the basis of this assessment the application site is assessed to be sequentially preferable. Of these alternative sites one, on land to the west of Hawkchurch, is lower grade agricultural land and not designated landscape, the applicant has been asked to provide further information on why this site is not suitable for the proposed development.

In response, A Landscape Comparative Site Appraisal (LCSA) has been submitted which compares the Landscape Character and Visual Amenity Impact of this alternative site against that of the application site, in order to determine which is more suitable for ground mounted solar development in landscape and visual terms. This supplemental document considers that in landscape terms both sites offer potential for solar development. Both are located within the context of a rural landscape character, and both are considered in the report to have no "detrimental effect on the overall character of Axminster". However, the assessment considers the application site to provide greater physical separation from the surrounding settlement of Wytch Green and Hawkchurch, due to its distance, intervening landform and vegetation within the wider landscape and that it would not extend the urban envelope of the village. On the other hand, the "Alternative Site" whilst still physically separated from the settlements of Hawkchurch and Wytch Green, is considered to be in closer proximity to a number of residential properties, on the edge of Wytch Green and Hawkchurch and more elevated and therefore to have potential to have a more significant adverse effect. In addition it is reported that development of the alternative site would also impact on views from three PRow (Public Rights of Way) which cut across it and other visual receptors including users of local roads and residents of properties that overlook the site. The assessment concludes that overall the application site is more significantly appropriate in landscape and visual terms for solar development.

In summary for this section it is considered that:

Taking into account recent planning policy contained in the NPPF and guidance contained in the Planning Practice Guidance that there is a need for the applicant to demonstrate that land of lower agricultural value has been considered prior to permitting development on the application site.

The applicant has provided information on the alternative site selection process carried out after considering brownfield sites in the district as a whole. The site selection has then been narrowed down to an area within a radius of 5km of the site,

based on what would be viable to connect to the grid at the secured connection point at Axe View Farm.

Previous appeal Inspectors have considered availability of grid connection to be a relevant factor and in this case the network distributor, Western Power, has confirmed that new connections in the area would be subject to considerable time delays and or additional costs. It is therefore accepted that the secured connection point is likely to be the only one available to serve the development.

Within the alternative site search area alternative sites on lower grade agricultural land (4 or 5) have been considered and dismissed on a number of issues including increased visual/landscape impact, flooding, woodland areas etc.

As grade 3 land is not differentiated (between grades 3a and 3b) on Agricultural land classification maps it is not possible to consider via desk based study sites which might be predominantly 3a or 3b, however a specific site survey of the site indicates it is predominantly grade 3a.

Whilst the site is predominantly 3a the submitted agricultural assessment argues that because it forms part of a larger area of sub grade 3b land that for practical purposes the whole of the site would be cropped at the lower sub grade level.

The agricultural assessment also advises on the existing farm practices, which include a flock of sheep and that the land could continue to be used for agricultural purposes for sheep grazing.

Benefits of energy from renewable sources

The applicant has indicated that energy from the proposal would be equivalent to power approximately 1515 households for a year. There is strong support for renewable energy at national levels and the scheme would accord with one of the core strategies of the NPPF to move to a low carbon future. There would be a clear important benefit from the scheme in the provision of energy from renewable sources.

It is however acknowledged that recent evidence put forward from the CPRE, identifies that the government's 2020 renewable energy generating capacity of 15% has now been met. The CPRE has further advised that the (now defunct) 2020 target for the south-west was an installed renewable electricity capacity of 847MW and that the latest data for installed capacity in the south west (given in the 'South West Renewable Energy Progress Report 2015' by RegenSW) is 2,206MW at the end of March 2015. However, as the Inspector in the recent Silverton appeal pointed out, there are no upper limits to provision of renewable energy and there is general support for it both at national level in the NPPF and PPG and at local level in both the existing and emerging Local Plans.

Amenity of neighbouring properties

There are a number of residential properties within the vicinity of the site but only Fortfield to the north of the site would lie immediately adjacent to the site. This

property sits on the opposite side of the local lane that runs across the northern boundary of the site. Whilst physically close to the site boundary the actual panels would be set further away (over 130 metres from the dwellinghouse) with new hedge planting proposed between the panels and the lane, as such the visual impact would be mitigated and any impact in this respect would diminish over time. Whilst this property and others within the immediate locality would experience some adverse impact from the proposal this would be largely confined to any construction phase associated with traffic movements, construction noise, and possibly lighting to allow safe working depending upon the time of year of construction.

Any decommissioning phase is likely to involve a similar level of impact. Efforts to minimise any such impacts can be controlled through the imposition of Construction and Environment Management Plans. This would seek to reduce the impact from any construction and decommissioning phase as far as possible whilst recognising that it would be difficult to reduce the impacts to the local environment completely.

However once any construction phase had finished, PV arrays are a benign type of renewable infrastructure as in this particular case the panels do not move to track the sun and therefore would not generate any noise, and in addition the inverters and substation are also not likely to be noisy to the extent that they would harm the amenity of the area or that of nearby residents.

Consideration as to visual impact is given separately below.

Affect to businesses

The concerns of some local tourism businesses are noted. It is accepted that some tourists may prefer not to have such development in their chosen place of stay but equally there may be others who are unaware of its presence. It would certainly be hard to quantify any such impact one way or the other or to justify refusal of an application on this basis. However, it is noted that Hawkchurch Country Park several kilometres to the southeast of the site is currently undergoing significant investment and upgrade in its facilities. This park lies immediately opposite one solar farm and within close proximity of two others.

Consideration of Heritage Assets (Including Archaeology)

The application as originally submitted was accompanied by a desk-based heritage assessment and an archaeological geo-physical survey, following comments from the County Archaeologist further archaeological survey work has been undertaken and is updated in a further Archeological Evaluation report.

The Desk-based heritage assessment identified over 50 designated assets within a 2km radius of the site (the majority grade II listed buildings) but considered most of these to be sufficiently distant from the site. An assessment of the potential effects of the proposed development on designated heritage assets within the wider surrounding area, including the grade II listed Wadbrook and Home Farmhouses considered that the impact of the development on the significance of these assets to be neutral. It is not considered that there is any reason to refute these conclusions.

In terms of or archaeological impact the Desk-based heritage assessment identified the potential for archaeological remains associated with later prehistoric and Romano-British activity on site, largely based on recordings of such activity elsewhere in the Axe Valley. A subsequent Geo-physical survey identified some further features of potential archaeological potential on the site and the County Archaeologist requested further work to be carried out to better understand the archaeological potential of the site, in the absence of which refusal of the application was recommended. The applicants therefore commissioned further work which consisted of the excavation of a number of trial trenches on the site and from which some Bronze age and Roman pottery was found. Whilst the further archaeological work undertaken has confirmed archaeological deposits on the site, The County Archaeologist has withdrawn their original objection on the basis that the applicant has demonstrate that the solar farm can be constructed in such a manner that the known archaeological deposits can be preserved in situ. As such and subject to a condition to ensure development proceeds in accordance with the required non-intrusive installation method there is no longer any objection in this respect.

Character, wider landscape, views and visual impact

The area around the site is part an agricultural landscape. It is described in the East Devon And Blackdown Hills Area of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management Guidelines, 2008, as: Lower Rolling Farmed and Settled Slopes (3B). The key characteristics of this landscape character type include: gently rolling land form; variable field sizes; with wide low boundaries; hedgerow trees and settled with buildings of varying age but wide use of stone as a material. These general characteristics are considered to be accurate for the site.

The application is accompanied by a Landscape and Visual Impact Assessment which considers the potential effect of the development on: landscape element and features; landscape character and visual amenity and what mitigation and enhancement might be necessary/appropriate. The LVIA considers the scale of the development to be 'medium' and therefore in scale with the character of the wider area. Whilst the report acknowledges the proximity to the boundary of the Dorset AONB it concludes that the scale of the proposals, their low lying nature and the screening effects provided by existing vegetation would mean there would be a negligible impact on the landscape character of the wider area and that in this respect any landscape character effect would be largely limited to the site and its immediate surroundings.

The Dorset AONB team have been consulted on the application but have chosen not to comment directly instead referring to the need to consider the development against relevant guidance in produced by Dorset County and the AONB partnership. This advice generally sets out the relevant issues for consideration in relation to field scale solar developments, the level of information expected to be submitted for developments in such area and reiterates the purpose of the AONB designations, whilst it does not preclude such development altogether it sets a very high benchmark. It is however recognised that the site does not lie within the Dorset AONB, rather some 100m distance form its boundary. In addition whilst the landscape within which the application sits has not changed its designation as Area

of Great Landscape Value can no longer be given weight following the revocation of the Devon County Structure Plan under which the landscape was so designated. The Zone of Visual Influence submitted as part of the LVIA also identifies that there are very limited potential views of the site from the direction of the Dorset AONB. It is not therefore considered that the proposal would have any specific impact on the adjoining AONB that would warrant refusal of the application; however the wider visual impact requires consideration.

In this regard note is taken of comments received in relation to the cumulative impact of such field scale developments elsewhere in the parish of Hawkchurch and adjoining parishes. There are to the southeast of the site a further 4 field scale solar developments focussed around the Woodcote electricity sub-station. These developments are adjoining in the case of two of them but all are in relative close proximity. Local residents have objected to the current scheme on the basis that these and the proposed development have had an adverse impact on the character of the area. Whilst it is acknowledged that the area has experienced a high number of such applications relative to other parts of the district this has been based on the availability of grid connection. Each of the consented schemes has been considered both individually and cumulatively with each other and all schemes have been subject to landscaping requirements. Although it is possible to view parts of these schemes from local roads and footpaths they are on the whole considered to be well landscaped and there are no extensive wide range views of these schemes either individually or cumulatively. It is accepted however that there are glimpsed localised views of these developments when driving through the immediate area which will have an effect on users experience of the area. The nearest of these developments is though located on considerably higher land and at nearly 3 km from the proposal site. The character of the area with narrow winding local roads, variable field sizes and the separation of the proposal site from existing similar developments leads to the consideration that any character impact would remain localised.

In terms of visual impact the development would be contained within the existing field boundaries which would be retained. The development also proposes additional landscaping works, particularly at the northern end of the site to reduce the impact from the local road and neighbouring residential property. Generally the site is well-screened from local roads surrounding and views are likely to be limited to those glimpsed from field entrances, other than from the north until such time as new planting establishes. The required widening of the existing field entrance to enable site access would increase visibility into the site however. Outside the immediate surroundings there would be some limited wider views of the site, these have been considered in the submitted LVIA where it is suggested that whilst the magnitude and effect of the change would vary between viewpoints that overall with the mitigation and enhancements proposed that the impact would be reduced to an acceptable level. The report suggests that the greatest visual effects would be on the neighbouring property of Fortfield to the north of the site, users of public footpaths in the vicinity and residential properties in the hamlets of Castle and Tytherleigh. However, from these viewpoints it is suggested that the development would only be partially visible and would become increasingly filtered as landscaping planting thickens.

To summarise on this issue it is considered that the proposal would have a limited impact on the character of the wider area and that although the magnitude and scale of visual impact would vary between different receptors - those to the north and closest to the site being likely to experience the most significant change - overall the impact of the development would not result in unacceptable harm in character or visual impact terms and any such harm could be reduced in the medium to long term through appropriate landscaping and landscape management. In reaching this conclusion consideration is given to the test in the NPPF, against which the application must be judged. This is found at para. 98 and states that when determining planning applications, Local Planning Authorities should:

"...approve the application if its impacts are (or can be made) acceptable."

In the case of this application the view is that the development can be made to be acceptable in the medium to long term through the provision of additional landscaping and as such although the concerns of various parties are noted it is not considered that refusal could be substantiated on the basis of landscape impact.

Impacts to trees in and around the site

There are no trees within the fields for the array, hedges and trees being along the boundaries of each of the fields. An arboricultural report has been submitted with the application this considers the quality of the trees against British Standard 5837:2012 and the potential impacts of development on these trees. The tree survey identifies 2 no. A category trees and 19 no. B category trees/hedgerows. Aside from the requirement to remove a short section of hedge adjacent to the site entrance all of the trees and hedgerow bounding the site is identified for retention. An Arboricultural Impact Assessment considers the potential impacts from the proposed development on tree and hedgerow features and advises that in the most part the site perimeter fencing would act as suitable tree protection measures if constructed prior to commencement of other development. There are however a number of areas, including the hedgerow between the two fields, where there would be a need for further specific tree protection measures and these are indicated on a draft Tree Protection Plan.

In terms of the position of the arrays these are set away from the field boundaries and would not in themselves affect trees or hedgerows on the field boundaries.

The recommendations of the Arboricultural impact assessment could be brought forward by general as well as specific conditions for management, monitoring and reporting during any phase of construction by a suitably qualified person attached to grant of permission, all other aspects being acceptable.

Highways and Site Access

There have been a number of objections to the scheme based on the nature of the approach roads serving the sites and their ability to safely accommodate traffic resulting from it. Traffic relating to developments of this nature tends to be largely concentrated to the construction and de-commissioning phases of development with only limited traffic movements required for maintenance and monitoring purposes

during the lifetime of the development. However, during the construction phase which is likely to take several months, if not longer, the site will generate significant HGV movements for delivery (a figure of 100 is suggested) as well as construction traffic. The application drawings indicate the provision of a construction compound within the northeast corner of the site with the site access via a widened field entrance onto the local road to the east.

The approach roads that serve the site are generally narrow, and winding and include a rail crossing to the west. The application is accompanied by a Construction Traffic Management Plan (CTMP) which considers vehicle routing during the construction phase of development for the level of movement and type of vehicle likely to be required. The proposed construction traffic route is from the A358 via Broom Lane to the north of the site and then an unnamed road to the site.

The County Highway Authority has commented on the application to the effect of the character and nature of the local roads and that whilst these local roads might be used by larger farm machinery that this would not generally be during peak traffic times. The Highways authority however acknowledge that the CTMP would restrict delivery movements to avoid school run times between 08:30 - 09:15 and 14:45 - 15:30, this would not however cover construction personnel movements with construction times between 08:00 - 19:00 Monday to Saturday, but predicts that the majority of these will be in minibuses to minimise the impact on the highway network. The county highways authority is however generally satisfied that the development can proceed and that adequate turning provision etc. can be provided within the site. A number of conditions have been suggested to ensure that a record is made of road conditions prior to commencement of development, that suitable visibility splays and turning provision is provided.

Construction phase impacts and on going servicing

Construction is likely to take several months when up to 50 workers may be present at peaks times.

A Construction Traffic Management Plan advises of the likely scale of traffic movements both during the construction and operational phases of the development.

During the construction phase a compound would be constructed to serve the development during this phase, this will remove any unnecessary parking from the highway, construction worker traffic is also envisaged to be limited by using minibuses where possible.

On the approach roads to serve the site and in particular at the junction of Broom Lane with the unnamed road to the north of the site the CTMP advises that banksmen will be used to guide construction traffic but with priority being given to non-construction associated traffic.

Once operational the site is not likely to be visited more than once a month and then by light van or 4 x 4 type vehicles although this assessment doesn't appear to include vehicles required for on-going landscaping, planting, maintenance, and monitoring of the landscaping and ecological aspects.

Flooding and surface water mitigation

No objection has been received from the Environment Agency in regard to the development and the flood risk aspect. The nearest watercourses to the site are the Blackwater River to the north and River Axe to the west both of these rivers are off site and their flood zones do not extend to the application site which lies entirely within flood zone 1.

The site slopes up from north to south on a gentle gradient with an overall increase in elevation of 12 m from the northwest to southeast corners. There is an open ditch that runs parallel to the central north-south hedgerow and which flows in a northerly direction. Whilst there is a small area of the site susceptible to surface water flooding this is understood to be shallow in depth and would not be affected by the development. Indeed the Flood Risk Assessment considers that surface water run-off from the development would decrease due to the way in which the site would be planted and managed during the course of the development which would improve soil infiltration.

The Environment Agency has raised no objection to the proposal from a Flood Risk Assessment aspect.

Ecology

The documents submitted with the application include an ecological survey based on a walkover survey of the site as well as desk based study. The report identified the presence or potential for protected species such as Badgers, bats, otters and dormouse within the general area of the proposal. Two badger setts were identified within the central hedgerow and a number of the trees on site were assessed to have the potential to support roosts. It also identifies hedgerow on the site as presenting ideal habitat for dormice. The site also has some potential to be used by Great Crested Newts although there are no ponds on the site and suitable habitat is restricted to the field margins. The ecological potential and primary habitat on the site is found within the hedgerow and field margins and it is proposed that these are retained and protected during the course of the development.

The report goes on to recommend the retention and protection of all hedgerows and provision of a 4m buffer zone between hedgerows and security fencing to protect the ecologically valuable habitat and species that might be using it. The report also makes further recommendations for mitigation and enhancement measures and for the requirement for a Construction Environmental Management Plan and Landscape and Environmental Management Plan to be submitted to secure the required enhancement and mitigation measures.

Natural England has not raised any objection to the proposals.

PLANNING BALANCE

This application brings forward benefits and circumstances where assessment of the individual consideration has not identified significant harm, as well as concerns. These may be summarised as follows:

Some positives:

The County Archaeologist has advised that the archaeological potential of the site can be addressed by a programme of works enabled by condition

No objection has been received from the Environment Agency in terms of flood risk and it is reported that the proposals would improve the filtration levels of the site and improve groundwater quality

No objection has been received from Natural England, and some ecological benefits have been identified to the immediate areas within the fields and around their boundaries which would also help to mitigate for view of the site within the landscape

The applicant suggests the proposal would produce renewable energy sufficient for 1515 homes.

The proposal would make a contribution to the amount of energy sourced from renewable sources and quoting para 98 of the NPPF recognising that even small scale projects provide a valuable contribution cumulatively to cutting greenhouse gas emissions

No significant harm has been identified from the development once up and running in terms of the amenity of nearby residential properties

The harm to the landscape is considered to be moderate in the short term, lessening over time as planting and landscaping becomes established

No significant harm sufficient to warrant an objection has been identified in terms of the setting of Listed Buildings within the locality.

The Highways Authority has confirmed that subject to conditions that there are no objections to the development in terms of access for construction traffic.

The proposal site would be capable of accommodating some continued agricultural activity i.e. sheep grazing

Some concerns:

There would be effects during the construction phase in terms of impacts on the amenity of the area and potentially some disruption due to traffic movements associated with the site.

There would be some landscape and visual impact in the short to medium term whilst the landscape and ecological mitigation establishes.

The proposal would involve the loss (or at least prevent the optimal use) of grade 3a agricultural land equating to 73% of the overall site, the remainder being lower grade 3b land.

CONCLUSIONS

Recent government guidance on solar farms has sought to significantly raise the bar in terms of justification for development of 'large scale' solar farms, with guidance quoting a written ministerial statement suggesting that, "...any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence." There is some ambiguity over what size of development physically constitutes 'large scale' and therefore whether the specific guidance on developments of this nature, set out in para. 13 of the Planning Practice Guidance Notes, are applicable to it, or not. However, even were the view to be taken that the guidance is applicable to this development, it is not considered to impose a veto on all such developments but instead a requirement, notwithstanding other material planning considerations, to fully justify the use of such land over other land of lower value.

Recent appeal decisions have provided some guidance in this respect but there is no clear interpretation of this element of policy. What is clear is that applicants would need to identify and justify an area of search (for alternative sites) and to then, within their justified area of search, examine whether there is any lower grade agricultural land that might be able to accommodate the proposed development. There are a number of factors that might influence the area of search amongst which is the availability of grid connection, but others include landscape impact, proximity to residential properties, flood risk etc. In this instance the applicant has secured a connection to the grid at Axe View Farm and has provided details of alternative sites that have been considered and the reasons why they have been dismissed, these matters are discussed in the body of the report. The proposal would prevent the land on site being farmed to its optimal level but would not prevent some agricultural use continuing. The applicant has also argued that the land being part of a larger area of lower grade land is already farmed as if it were all grade 3b land (i.e. not Best and Most Versatile agricultural land). It is also considered that the proposal would not result in 'a significant development' of agricultural land in terms of the requirements of para. 112 of the NPPF.

In addition the proposal would provide significant benefits in terms of production of renewable energy and to a lesser extent in improving the biodiversity of the site. Changes to the FiT (Feed in Tariff) - the subsidy paid to developers for the production of renewable energy to the grid - coupled with capacity issues on the grid system south of Bristol mean that in the short term at least, there are unlikely to be many other field scale schemes and therefore this adds further weight to the benefit of schemes such as this. The Planning Inspector at a recent appeal for a 'field scale' solar farm in mid-devon whilst dismissing the appeal on other grounds stated,

"I have found that considerable weight should be given to the benefits of the appeal scheme and it would not result in a significant loss of BMV agricultural land or harm

the agricultural industry. This could amount to the most compelling evidence for approving a solar farm on BMV agricultural land."

Given that the development is considered to be acceptable "...or can be made acceptable", (para.98 NPPF), in all other respects it is considered that on balance and subject to the conditions set out below that the proposal is acceptable and is recommended for approval.

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 proceed in accordance with the submitted Construction Method Statement (Construction Environmental Management Plan) prepared by Pegasus Group and dated March 2015.

(REASON: To ensure that the impacts of development are minimised and that adequate facilities are available for the traffic attracted to the site in accordance with policies EN15 (Control of Pollution) and TA7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan and policies EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the Emerging East Devon Local Plan.

4. Unless otherwise agreed in writing by the LPA development (including any site preparation and decommissioning works) shall be carried out 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 decommissioning 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.Reason: To protect the amenity of local residents from smoke, noise and dust in accordance with policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the Adopted East Devon Local Plan and policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the Emerging East Devon Local Plan.

5. No development shall take place on site until a report, with photographic evidence, has been undertaken and agreed by the CHA (County Highway Authority) in writing, for the proposed route from A358 to the site, any works that are identified to facilitate construction traffic that will be attracted to the site will be undertaken prior to construction.
(Reason - To minimise the impact of the development on the highway network in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the Emerging East Devon Local Plan.)
6. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with Figure 2.3 of the submitted Construction Management Plan.
(Reason - To provide adequate visibility from and of emerging vehicles in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the Emerging East Devon Local Plan.)
7. A turning area, parking spaces and site compound shall be laid out and maintained for those purposes in accordance with the approved Site Layout Plan (drawing no. PV-0171-01 rev. 14, dated stamped 01.09.15)
(Reason - To ensure the provision of adequate facilities within the site for the traffic generated by the development in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the Emerging East Devon Local Plan.)
8. Notwithstanding the details indicated on the plans hereby approved, no development in relation to the element of development to which the details relate shall be undertaken until the further details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - Details of the materials to be used for the external surfaces of the sub-stations shown on drawing no. PV-0171-06
 - Details of the finished colour for the approved inverter stations shown on drawing no. PV-0171-05
 - Typical scaled elevations of the CCTV installations (including support post)
 Thereafter, the development shall be undertaken in accordance with the agreed details.
(Reason - In the interests of the character and appearance of the area and in accordance with policy S5 (Countryside Protection) of the Adopted East Devon Local Plan and Strategy 7 (Development in the Countryside) of the Emerging East Devon Local Plan.)
9. Notwithstanding the details included within the submitted Arboricultural Report, prepared by Pegasus Group and dated March 2015 and prior to the commencement of any works on site (including demolition and site clearance or tree works), a revised 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 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 that adequate protection is in place prior to the commencement of development and that the continued well being of retained trees in the interests of the amenity of the locality and 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 Emerging East Devon Local Plan.)

10. Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no fencing or means of enclosure other than approved as part of this decision and detailed in the list of approved plans shall be erected around the site, unless details of such means of enclosure have been previously submitted to and approved in writing by the Local Planning Authority (LPA).
Reason: To ensure ancillary development is not harmful to the rural character of the area and in accordance with policies D1 (Design and Local Distinctiveness) and S5 (Countryside Protection) of the Adopted East Devon Local Plan and policies D1 (Design and Local Distinctiveness) and Strategy 7 (Development in the Countryside) of the Emerging East Devon Local Plan.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, replacing or re-enacting that Order), no fixed plant or machinery, buildings, structures and erections, or private ways shall be erected, extended, installed rearranged, replaced, repaired or altered at the site without prior planning permission from the Local Planning Authority.
Reason: To protect the landscape character of the area and in accordance with policies S5 (Countryside Protection) of the Adopted East Devon Local Plan and strategy 7 (Development in the Countryside) of the Emerging East Devon Local Plan.)
12. The Landscaping scheme hereby approved, as shown on Landscape Proposals Plan, prepared by Pegasus Environmental, date stamped 17th March 2015 and labelled 2A shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other

plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To protect and enhance the appearance of the site in the interests of visual amenity of the area in accordance with policies D4 (Landscape Requirements) and S5 (Countryside Protection) and of the Adopted East Devon Local Plan; Strategy 7 (Development in the Countryside) and Policy D2 (Landscape Requirements) of the Emerging East Devon Local Plan and the policy guidance in the National Planning Policy Framework.

13. Notwithstanding the requirements of the approved Landscaping scheme (as set out above) and prior to the commencement of development a Landscape and Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Such a plan shall include details of the method of protection of existing landscape features and habitats during construction, operation and decommissioning phases of development; details of habitat creation and a timetable for their implementation and ongoing management, and; a timetable for long term landscape management of the site. The development shall thereafter be implemented in full in accordance with the approved plan and shall be maintained as approved for the duration of the approved development. In the event of failure of any vegetation to become established and to prosper for a period of five years following the completion of the approved planting scheme, such vegetation shall be replaced on a like for like basis.

(Reason - To protect and improve the appearance of the site in the interests of visual amenity of the area and to provide biodiversity enhancement opportunities in accordance with policies D4 (Landscape Requirements), S5 (Countryside Protection) and EN6 (Wildlife Habitats and Features) of the Adopted East Devon Local Plan; Strategies 7 (Development in the Countryside), 47 (Nature Conservation and Geology) and Policies EN5 (Wildlife Habitats and Features) and D2 (Landscape requirements) of the Emerging East Devon Local Plan and the policy guidance in the National Planning Policy Framework.)

14. No external artificial lighting or other security measures shall be installed during the operational phase of the site as a solar PV facility without the prior written agreement of the LPA.

Reason: To minimise the potential for pollution and disturbance to local amenity and wildlife in accordance with policies S5 (Countryside Protection), EN6 (Wildlife Habitats and Features) and EN15 (Control of Pollution) of the Adopted East Devon Local Plan; Strategies 7 (Development in the Countryside), 47 (Nature Conservation and Geology) and Policies EN5 (Wildlife Habitats and Features) and EN15 (Control of Pollution) of the Emerging East Devon Local Plan and the policy guidance in the National Planning Policy Framework.)

15. Development shall be carried out in accordance with the submitted flood risk assessment prepared by Clive Onions Consulting Engineers and dated 15th March 2015 - V2, unless otherwise agreed in writing with the Local Planning Authority.

(Reason - In the interests of the prevention of flooding in accordance with guidance within the National Planning Policy Framework)

16. The development hereby approved shall be carried out strictly in accordance with (i) the approved site layout plan (Drawing number PV-0171-01, date stamped 1st September 2015), and (ii) Non-Intrusive installation method cross section (Drawing ref: PV-0171-07 rev. 2, dates stamped 21st August 2015), insofar as they relate to the areas of the site where non-intrusive installation is required. Reason - To ensure the preservation in situ of known archaeological sites (heritage assets with archaeological interest) within the development site in accordance with policy EN7 (Nationally and Locally Important Archaeological Sites) of the Adopted East Devon Local Plan and policy EN6 (Nationally and Locally Important Archaeological Sites) of the Emerging East Devon Local Plan.)
17. Within 25 years and six months following completion of construction of development, or within six months of the cessation of electricity generation by the solar PV facility, or within six months following a permanent cessation of construction works prior to the solar PV facility coming into operational use, whichever is the sooner, the solar PV panels, frames, foundations, inverter modules and all associated structures and fencing approved shall be dismantled and removed from the site. The developer shall notify the LPA in writing no later than five working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted and approved in writing by the LPA no later than three months following the cessation of power production. Note: for the purposes of this condition a permanent cessation shall be taken as a period of at least 24 months where no development has been carried out to any substantial extent anywhere on the site. (Reason - To ensure the achievement of satisfactory site restoration in the interests of the character and appearance of the area and in accordance with policy S5 (Countryside Protection) of the Adopted East Devon Local Plan and Strategy 7 (Development in the Countryside) of the Emerging East Devon Local Plan.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

PV-0171-01 - SITE LAYOUT	Proposed Site Plan	01.09.15
PV-0171-06	Sections	19.03.15

PV-0171-02 REV7	Location Plan	24.03.15
CONSTRUCTION METHOD STATEMENT	Method Statement	18.03.15
PV-0171-05	Sections	17.03.15
PV-0171-04	Combined Plans	17.03.15
PV-0171-03	Sections	17.03.15
2A - LANDSCAPE PROPOSALS PLAN	Landscaping	17.03.15
NON- INTRUSIVE INSTALLATION METHOD	Proposed Combined Plans	21.08.15

List of Background Papers

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

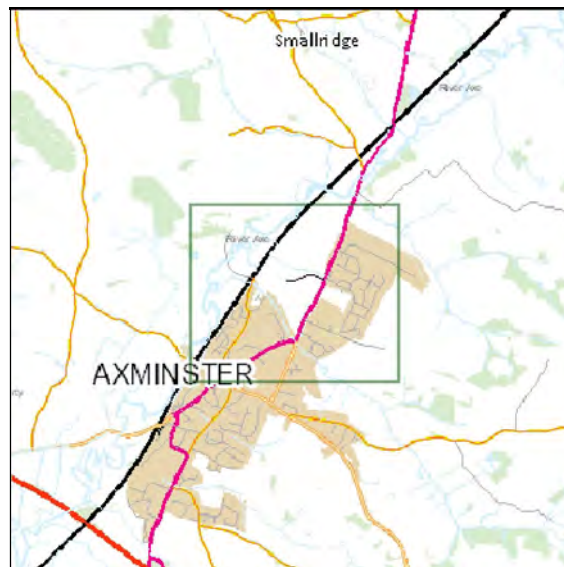
Ward Axminster Rural

Reference 15/1830/VAR

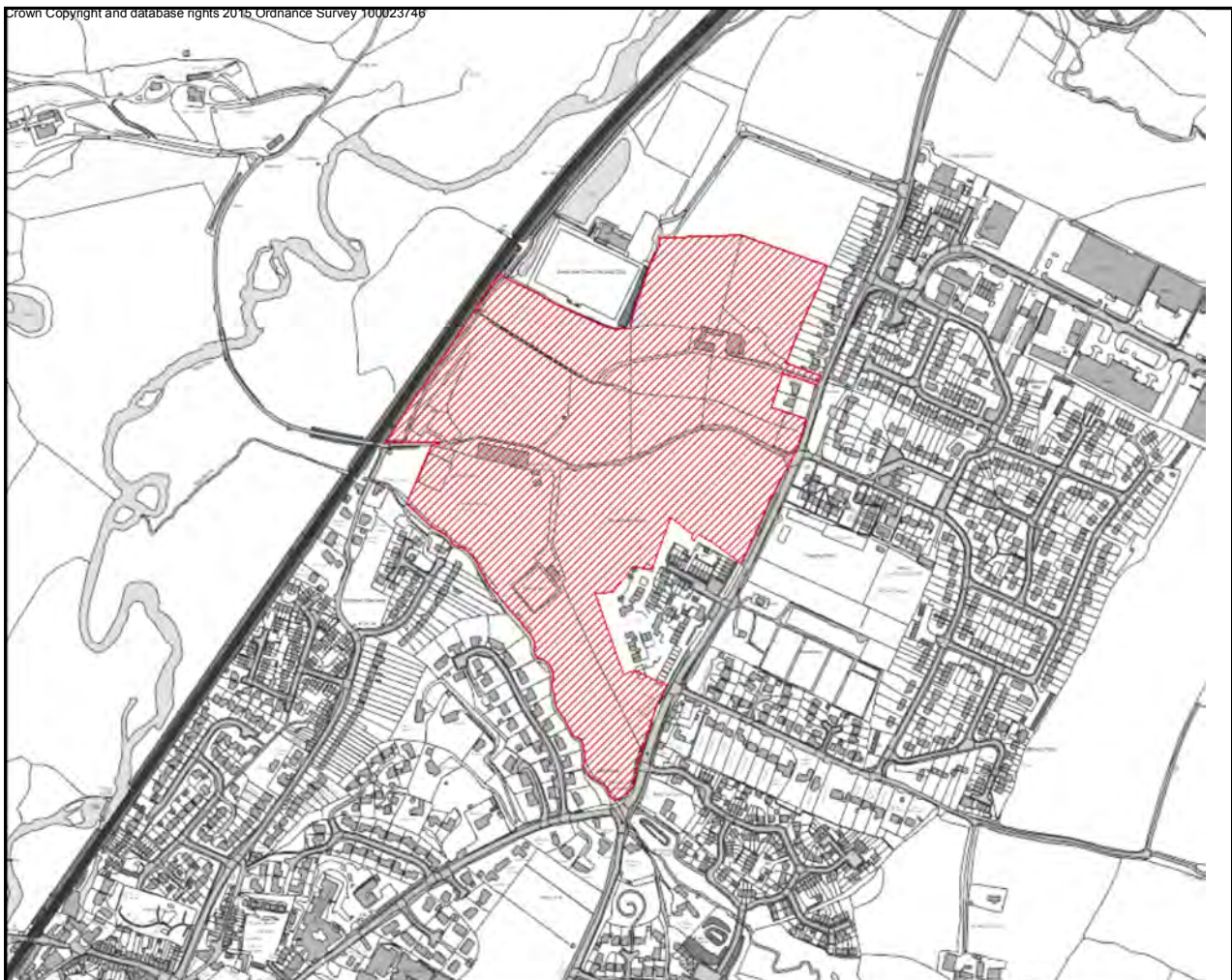
Applicant Mr Maxwell Rafferty

Location Cloakham Lawn Chard Road
Axminster EX13 5HW

Proposal Variation of condition 2 of
application 14/0774/MRES to vary
design and form of plot 82



RECOMMENDATION: Approval with conditions



		Committee Date: 3 November 2015
Axminster Rural (AXMINSTER)	15/1830/VAR	Target Date: 09.11.2015
Applicant:	Mr Maxwell Rafferty	
Location:	Cloakham Lawn Chard Road	
Proposal:	Variation of condition 2 of application 14/0774/MRES to vary design and form of plot 82	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members as the Officer recommendation is contrary to the view of the Town Council.

The site is currently being developed for residential development with reserved matters application 13/1489/MRES being implemented.

The next phase of development due to be implemented imminently was approved through reserved matters application 14/0774/MRES. That application proposed a 'coach house' on Plot 82 with access beneath to a rear parking courtyard. It has become apparent that the fire and rescue service require access beneath the 'coach house' for their appliances, but sufficient height as approved is not available and would not allow an appliance to pass beneath. Accordingly, permission is now being sought to vary the design of the plot to a house type that would allow vehicular access to its side; the house type would match that already approved on adjacent plots 83, 84 and 85.

The impact on the streetscene is considered acceptable not detracting from its rhythm or the character of the development as a whole. There will be no detrimental impact upon the surrounding dwellings.

Whilst the Town Council comments are noted, sufficient justification has been submitted on the application forms to assess the proposal.

Approval is recommended with only the plans relating to the development amended in line with the proposed development.

CONSULTATIONS

Local Consultations

Axminster Rural - Cllr I Hall

I will decline to comment on this application, as I have a personal interest as Chairman of Cloakham Lawn Sports Centre.

Parish/Town Council

Axminster Town Council objects to this proposal as no statement justifying the need for proposed changes was submitted.

Technical Consultations

County Highway Authority

Does not wish to comment

Other Representations

No third party representations received

PLANNING HISTORY

Reference	Description	Decision	Date
14/0774/MRES	Reserved matters application for the erection of 360 dwellings and employment development (approval of appearance, landscaping, layout and scale) pursuant to outline application 10/0816/MOUT	Approval with conditions	12.02.2015
10/0816/MOUT	Outline application for a mixed use urban extension to provide 400 dwellings (maximum), 10-12,000 sq ft of managed employment floor space, provision of public open space, retention of existing recreational facilities and access.	Approval with conditions	28.03.2011

14/2891/VAR	Variation of condition 3 of planning consent 14/1435/VAR to amend the house type and site layout relating to plot 50	Approval with conditions	19.02.2015
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POLICIES

New East Devon Local Plan Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 7 (Development in the Countryside)

Strategy 20 (Development at Axminster)

Strategy 38 (Sustainable Design and Construction)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

H2 (Range and Mix of New Housing Development)

TC7 (Adequacy of Road Network and Site Access)

Strategy 43 (Open Space Standards)

D3 (Trees and Development Sites)

D2 (Landscape Requirements)

H1 (Residential Land Provision)

Adopted East Devon Local Plan Policies

S5 (Countryside Protection)

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

D1 (Design and Local Distinctiveness)

D2 (Sustainable Construction)

D5 (Trees on Development Sites)

H4 (Affordable Housing)

EN6 (Wildlife Habitats and Features)

EN8 (Proposals Affecting Sites Which May be of Archaeological Importance)

RE3 (Open Space Provision in New Housing Developments)

TA7 (Adequacy of Road Network and Site Access)

Government Planning Documents
NPPF (National Planning Policy Framework 2012)

NPPG (National Planning Practice Guidance)

Site Location and Description

The site is located on the northern fringe of Axminster, approximately half a mile from the town centre. The site abuts the built up area boundary of Axminster as defined within the Local Plan along its south western and south eastern boundaries but the site itself is located outside this boundary.

The site has the benefit of outline permission comprising an area of 18.9 hectares, predominantly in use as rough agricultural grassland but does include the Cloakham Lawns Sports Centre towards the western half of the site which has a single track access running centrally through the site to the A358 Chard Road and which is also a public footpath. To the northern end of the site there are a group of agricultural buildings on a raised plateau with an access directly to the Chard Road. There is a small watercourse running east west across the site from the Chard Road (close to the point where First Avenue intersects with the A358) which drains down through the site towards the railway line. The southern boundary of the site is bounded by the Millbrook and its flood plain extends over part of the southern portion of the site. The western boundary is marked by the railway line and on the other side of this is the River Axe. To the north of the site is open agricultural land. Residential development abuts the south western and south eastern boundaries of the site. Along the south western boundary there is development backing on to the Millbrook principally from Millbrook Dale and North Street. The land to the east of the A358 Chard Road is principally residential and predominantly two storey but there is also a cemetery and playing fields together with an industrial estate further to the north east. There are also a series of residential properties forming a ribbon of development to the west side of the A358 Chard Road and abutting the north eastern boundary of the application site.

The application concerns the majority of the site save for the southernmost part of the site which extends to approximately 2.93 hectares encompassing the southern access onto Chard Road and part of the open space to the south west which has the benefit of planning permission (14/1435/VAR).

Proposed Development

The proposal seeks to vary the design of plot 82. As approved there was an underpass (with part of the next door dwelling above) which facilitated access to an off road parking area. However, it is understood that the accommodation above the underpass would prevent emergency vehicles from accessing this rear parking area and it is now proposed that this 'overhang' accommodation is removed to allow vehicles of any height to enter. There would not be a net increase or decrease in the number of residential units.

ANALYSIS

The principle of the proposed development and all other matters were dealt with under applications 10/0816/MOUT and 14/0774/MRES, therefore the main consideration in the determination of this application is the appropriateness of the amended design on the street scene.

Amended design and impact on the street scene

The removal of the coach house would not harm the proposed street scene and it is noted that the type of dwelling proposed (a traditional end of terrace two-storey dwelling) has been previously established within the residential development. Plot 82 would match the same dwelling type as plots 83, 84 and 85 and would therefore maintain the residential character. In terms of layout the impact would be minimal and the rhythm of the street scene would not be interrupted. There would be no detrimental impact upon the surrounding dwellings.

It is considered that there would be planning gain resulting for the increased access of emergency vehicles without any harm to the street scene. The change to the overall scheme is minor.

Town Council comments

The Town Council object to the proposed development due to the lack of justification for the amendments. However, the need for the amendment was listed in the appropriate box on the planning application form where it advises that ‘...reflect recent changes we have had to make to the design of the scheme to allow for fire access.’ The Town Council has been informed of this justification and asked to re-consider the application as a result but to date no further comments have been received.

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 listed at the end of this decision notice, relating to:-
 - a) Appearance
 - b) Landscaping (Subject to adherence to requirements of condition 5 on the outline planning permission)
 - c) Layout
 - d) Scale

This Reserved Matters application numbered as shown above is made pursuant to the Outline Planning Permission (ref. no. 10/0816/MOUT) granted on 28th March 2011.

The following Conditions attached to the Outline Planning Permission referred to above are discharged

- 1 (Submission of reserved matters within 3 years of the date of Outline approval)
- 2 (Approval of details of layout, scale and appearance of the building and landscaping)
- 3 (Materials)
- 4 (Adherence to the design and access statement and plan IMP/100F)
- 5 (Adherence to the design and access statement and plan IMP/103)
- 6 (Adherence to the design and access statement, general principles of landscape strategy and plan IMP/100F)
- 7 (Landscape management plan)
- 8 (Finished floor levels and sections)
- 9 (Contaminated land)
- 10 (Construction management plan)
- 11 (Travel plan)
- 12 (Road layout and gradient details)
- 13 (Flood risk assessment)
- 16 (Noise)
- 18 (Boundary treatment details)
- 19 (Construction management plan)
- 20 (Mitigation measures for protected species)
- 21 (Bird and owl boxes)
- 22 (Archaeology written scheme of investigation)

The following conditions attached to the Outline Planning Permission referred to above remain to be discharged insofar as the second phase of development is concerned:-

- 14 (Works to watercourse)

23 (Tree references and protection)

The following additional conditions are attached to this reserved matters approval:-

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 Flood Risk Assessment Addendum dated March 2014 and the Drainage Strategy Addendum report dated 26th March 2014.
(Reason - In the interests of flood risk and pollution control to accord with advice given in the National Planning Policy Framework and Policy EN15 (Control of Pollution) of the East Devon Local Plan.)
4. The landscaping scheme hereby approved 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.)

Plans relating to this application:

SF101 P1 REV A	Proposed Combined Plans	28.03.14
SF101 P2 REV A	Proposed Combined Plans	28.03.14
SH325 WF REV A	Proposed Combined Plans	28.03.14
SLB A	Proposed Combined Plans	28.03.14
SH421 REV A	Proposed Combined Plans	28.03.14
SLA A	Proposed Combined Plans	28.03.14
SF101 E REV A	Proposed Combined Plans	28.03.14
P307 T REV A	Proposed Combined Plans	28.03.14
P401 T REV B	Proposed Combined Plans	15.09.14
P202 T REV A	Proposed Combined Plans	28.03.14

P303 T REV A	Proposed Combined Plans	28.03.14
P403 C REV B	Proposed Combined Plans	28.03.14
P404 TB REV B	Proposed Combined Plans	15.09.14
AGS2 (PLANS) REV C	Other Plans	27.03.14
AGD2 (PLANS) REV A	Other Plans	27.03.14
AGS2 (ELEVS) REV B	Other Plans	27.03.14
P402 T REV A	Proposed Combined Plans	28.03.14
SH203 REV A	Proposed Combined Plans	28.03.14
SH309 REV A	Proposed Combined Plans	28.03.14
SH309 GF REV A	Proposed Combined Plans	28.03.14
P302 T REV A	Proposed Combined Plans	27.03.14
SF102 E 1 REV A	Proposed Elevation	28.03.14
SF102 E 2 REV A	Proposed Elevation	28.03.14
SF102 P 1 REV A	Proposed Floor Plans	28.03.14
SF102 P 2 REV A	Proposed Floor Plans	28.03.14
SF102 P 3 REV A	Proposed Floor Plans	28.03.14
E O, P 1 REV A	Proposed Floor Plans	28.03.14
E O P 2 REV A	Proposed Floor Plans	28.03.14
E O E 1 REV A	Proposed Elevation	28.03.14
E O E 2 REV A	Proposed Elevation	28.03.14
2501 T01 (SHEET 1)	Other Plans	27.03.14
2502 T01 (SHEET 2)	Other Plans	27.03.14
2503 T01 (SHEET	Other Plans	27.03.14

3)		
2504 T01 (SHEET 4)	Other Plans	27.03.14
2505 T01 (SHEET 5)	Other Plans	27.03.14
2506 T01 (SHEET 6)	Other Plans	27.03.14
2601 T01 (SHEET 1)	Other Plans	27.03.14
2602 T01 (SHEET 2)	Other Plans	27.03.14
2603 T01 (SHEET 3)	Other Plans	27.03.14
2611 T01 (SHEET 1)	Other Plans	27.03.14
2641 T01	Other Plans	27.03.14
2651 T01 (SHEET 1)	Other Plans	27.03.14
2652 T01 (SHEET 2)	Other Plans	27.03.14
2653 T01 (SHEET 3)	Other Plans	27.03.14
2661 T01 (SHEET 1)	Other Plans	27.03.14
2691 T01	Other Plans	27.03.14
0101-3003B	Landscaping	27.03.14
AGD2 (ELEVS 1) REV A	Other Plans	27.03.14
0076-2-252	Other Plans	27.03.14
0076-2-253	Other Plans	27.03.14
0076-2-251	Other Plans	27.03.14

0101-2-250	Other Plans	27.03.14
P401 C REV B	Proposed Combined Plans	15.09.14
P404 C REV B	Proposed Combined Plans	15.09.14
P202 C REV B	Proposed Combined Plans	10.08.15
P302 C REV B	Proposed Combined Plans	15.09.14
P303 C REV B	Proposed Combined Plans	15.09.14
P307 C REV B	Proposed Combined Plans	15.09.14
2_303 REV B	Street Scene	10.08.15
2_305 REV B	Street Scene	10.12.14
2_304 REV B	Street Scene	10.12.14
0101-2_702 REV A	Sections	10.12.14
SWF037 E SOUTH	Proposed Elevation	27.01.15
SWF037 E EAST/WEST	Proposed Elevation	27.01.15
SWF037 E NORTH	Proposed Elevation	27.01.15
SWF037 GROUND FLOOR	Proposed Floor Plans	10.12.14
SWF037 1ST FLOOR	Proposed Floor Plans	10.12.14
SWF037 2ND FLOOR	Proposed Floor Plans	10.12.14
SWF037 3RD FLOOR	Proposed Floor Plans	10.12.14
SWF035 V2 E1 REV D	Proposed Elevation	27.01.15
SWF035 V2 E2 REV D	Proposed Combined Plans	27.01.15

SWF035 V2 PLANS 1 REV D	Proposed Combined Plans	27.01.15
SWF035 V2 PLANS 2 REV C	Proposed Combined Plans	10.12.14
SWF035 V2 PLANS 3 REV C	Proposed Combined Plans	10.12.14
SW3043	Proposed Combined Plans	10.12.14
SW3042 E1 REV A	Proposed Combined Plans	10.12.14
SW3042 E2 REV A	Proposed Combined Plans	10.12.14
SW4052 ELEVATIONS 2	Proposed Elevation	10.12.14
ELEVATIONS 1	Proposed Combined Plans	10.12.14
P308 - ELEVATIONS 2	Proposed Combined Plans	10.12.14
P308 - ELEVATIONS 3	Proposed Combined Plans	10.12.14
P308 - ELEVATIONS 1	Proposed Combined Plans	10.12.14
SWF035 E+W ELEVATIONS	Proposed Elevation	10.12.14
SWF035 N+S ELEVATIONS	Proposed Elevation	10.12.14
SWF035 - GR FLOOR REV B	Proposed Floor Plans	10.12.14
SWF035 FIRST FL PLANS REV B	Proposed Floor Plans	10.12.14
SWF035 SECOND FL REV B	Proposed Floor Plans	10.12.14
2_302 REV B	Street Scene	10.12.14
0101_2_701 A	Location Plan	10.12.14

SWF901 REV D- ELEVATIONS	Proposed Elevation	27.01.15
SWF901 REV D - FLOOR PLANS 1	Proposed Floor Plans	27.01.15
SWF901 REV D - FLOOR PLANS 2	Proposed Floor Plans	27.01.15
AF05	Proposed Combined Plans	10.12.14
AF05A2 REV B PLOT 133 ONLY	Proposed Combined Plans	10.12.14
AF05A2-2 TRAD REV B	Proposed Combined Plans	10.12.14
0101-2-201 REVH	Proposed Site Plan	10.08.15
0101-2-203 REVF	Other Plans	27.01.15
0101-2-301 REVC	Street Scene	27.01.15
JBA 14/97-02 RECD	Landscaping	28.01.15
JBA 14/97-01 REVE	Landscaping	28.01.15
JBA 14/97-03 REVD	Landscaping	28.01.15
JBA 14/97-04 REVF	Landscaping	10.08.15
JBA 14/97-05 REVD	Landscaping	28.01.15
JBA 14/97-06 REVD	Landscaping	28.01.15
JBA 14/97-07 REVD	Landscaping	28.01.15
JBA 14/97-08 REVD	Landscaping	28.01.15
JBA 14/97-09 REVD	Landscaping	28.01.15

JBA 14/97-10 REVF	Landscaping	10.08.15
JBA 14/97-11 REVD	Landscaping	28.01.15
JBA 14/97-12	Landscaping	28.01.15
0_101	Location Plan	27.03.14
PLANS 1 REVA	Proposed Floor Plans	28.03.14

List of Background Papers

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

Ward Exmouth Littleham

Reference 15/0753/MOUT

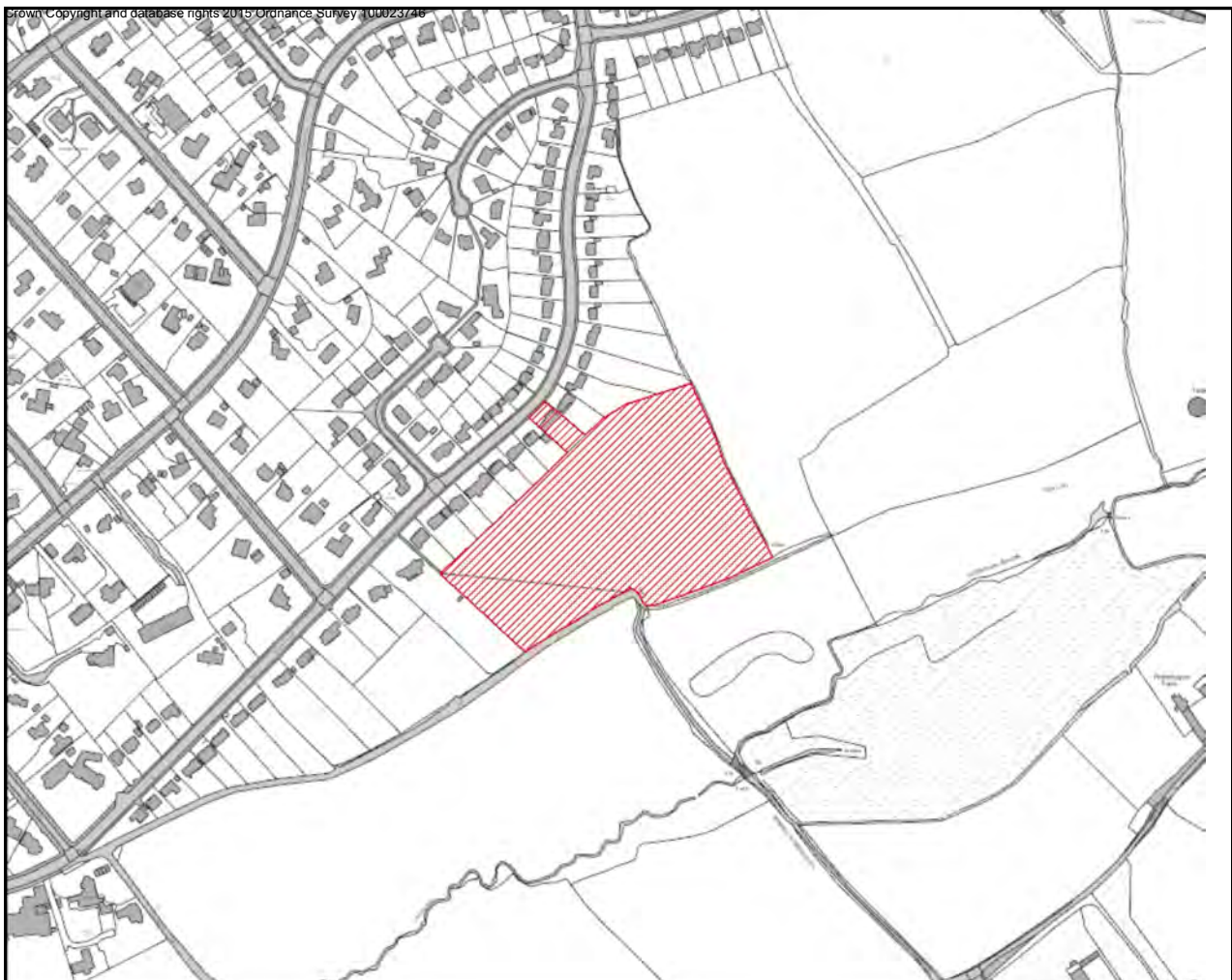
Applicant Littleham 2010 Ltd

Location Land To Rear Of No's 62-82
Douglas Avenue Exmouth EX8 2HG

Proposal Outline application seeking approval for access (matters of layout, scale, appearance and landscaping reserved) for up to 44 dwellings and demolition of 76 Douglas Avenue to create new vehicular access



RECOMMENDATION: Approval with conditions



		Committee Date: 3 November 2015
Exmouth Littleham (EXMOUTH)	15/0753/MOUT	Target Date: 25.06.2015
Applicant:	Littleham 2010 Ltd	
Location:	Land To Rear Of No's 62-82 Douglas Avenue Exmouth	
Proposal:	Outline application seeking approval for access (matters of layout, scale, appearance and landscaping reserved) for up to 44 dwellings and demolition of 76 Douglas Avenue to create new vehicular access	

RECOMMENDATION: APPROVE subject to the applicant entering into a S.106 Agreement and subject to conditions

EXECUTIVE SUMMARY

The site is located adjoining the built up boundary for Exmouth to its eastern boundary and is currently sloping agricultural land in the countryside adjacent to another area of farmland previously approved for housing development known as Plumb Park.

The application is made in outline and includes details for consideration of means of access only and proposes the construction of up to 44 dwellings (net 43 if including the house to be demolished to gain access) on a site area of 2.95ha. The application is accompanied by an indicative layout following some established design/layout principles.

A total of 71 representations have been received in opposition to the application.

Given the need for housing in the district, lack of significant constraints to development, highly sustainable location of the site and provision of 50% affordable housing, it is considered that the principle of development can be supported.

A single point of vehicular access is proposed through the demolition of 76 Douglas Avenue and County Highways are in agreement with the Transport Assessment submitted with the application and consider access from Douglas Avenue to be safe and suitable. Even though some impact upon the local highway network will result, this would not be considered by the Highway Authority to be severe enough to justify refusal of planning permission.

The indicative layout for the site shows how the development could integrate into the landscape and has been revised to overcome concerns raised during

the course of the application by the Landscape Officer. Any permission could be granted subject to the reserved matters application following the principles established on the indicative Masterplan layout and the Masterplan principles within the submitted Design and Access Statement.

Matters of flood risk, ecology, archaeology, noise, foul drainage and contamination can be adequately addressed through conditions.

The application is therefore recommended for approval subject to securing the appropriate obligations, including 50% affordable housing, through a Section 106 Agreement.

CONSULTATIONS

Local Consultations

Parish/Town Council

Meeting 20.04.15

OBJECTION - on the grounds that the proposed development was outside the emerging EDDC Local Plan. There had been no public consultation. The plan was contrary to policy TA7 of the Local Plan. The access point would be detrimental to safety as it was on a bend with a poor visibility splay. Demolition of a family home and loss of privacy and amenity to nearby properties. Development of a green field site, Maer Valley. There was a concern about the impact of flooding and inadequate sewerage infrastructure and no provision made for affordable housing. No provision made in respect of the impact of on health facilities arising as a consequence of the development.

Exmouth Littleham - Cllr J Humphreys

Response by Cllr John Humphreys to 15/0753/MOUT: The Clinton Devon Estate planning Application known as Douglas Gardens.

I DO NOT support this application and I RECOMMEND that it is REFUSED.

- 1) The massive increase in traffic generated by the development would be detrimental to those already living in the area. The road infrastructure is already hard pressed to cope.
- 2) Preservation of the existing landscape is a priority for local residents. There has been no consultation with them in shaping this development. This is in contradiction to one of the Core Planning Principles of the NPPF.
- 3) This application is for development on agricultural and green space land that has NOT been identified for development. It is NOT in the Emerging Local Plan and it was NOT identified in the SHLAA.
- 4) If CDE had consulted, they would know that Exmouth Town Council is committed to producing a neighbourhood Plan. One of the objectives already

identified for this plan is the conservation of the remaining green space in the parish boundary.

5) The application does not meet affordable housing criteria.

6) The application does not include any mention of a contribution to health facilities.

Exmouth Littleham - Cllr M Williamson

15/0753/MOUT Land to the rear of 62-82 Douglas Avenue, Exmouth, EX8. 2HG

I cannot support this application and recommend that it is REFUSED. My reasons are as follows:

1. This is not an allocated site in the Emerging Local Plan; nor was it identified in the SHLAA. If development is to be Plan-led opportunistic applications to build on non-identified green space/agricultural land should be refused.

2. The lack of a five year land supply can no longer be a reason to approve this application.

3. Exmouth Town Council is committed to producing a Neighbourhood Plan. One of its objectives will be to conserve the remaining green open space within the parish boundary. For a town of its size green space is in very short supply.

4. This application fails on its non-commitment to any affordable housing. The age restriction is in effect a further reason to refuse as there exist six large age restricted developments within a 2km radius. Furthermore no contribution towards Health facilities is being offered. This has become a matter of priority and concern for Development Management Committee in considering such applications.

5. The first two Core Planning Principles of the NPPF reinforce the importance of involving local people in shaping the places where they live. In this case there has been no consultation with the community, nor with elected Members. The application has been imposed on the community which, understandably, has organised itself to resist this development. A key priority for the local community of Littleham is to preserve the Maer Valley as landscape which contributes to the amenity and well-being of all who live around it. That is fundamentally why the adjacent development known as 'Plumb Park' had and still has virtually no support in the local community. The current application represents further build within a valued setting. It is therefore to the detriment of present and future residents.

Until this application comes to Committee I will reserve my final position on this application until I am in full possession of all the relevant facts and arguments both for and against.

Exmouth Littleham Ward Member – Cllr A Greenhalgh

I cannot support this application for outline planning permission for 44 homes on the farmland at the rear of 62-82 Douglas Avenue, referred to as Douglas Gardens. There are a number of reasons for objecting:

1. The plot is outside the Exmouth Built up Boundary and is considered by EDDC officers as a "countryside location." This is supported by the the 50% affordable housing allocation that has now been negotiated in the revised application.

2. The site is not identified in the emerging Local Plan for residential development.

4. The Development Management Committee were of the opinion at the DMC meeting of 8 September 2015 that the identified 5 year housing supply in the emerging Local Plan should carry reasonable weight in decision making, subject to constant review. An improvement on the previous position.

3. The 44 dwellings substantially adds to the 350 Plumb Park dwellings that now have outline planning permission and will put additional pressure on a range of services e.g. increased traffic on highways, health services and education. SWW does not support the development until Plumb Park is finished, with the completed £502,000 improvements to public sewage provision or the identification of an standalone sewerage improvement scheme for Douglas Gardens.

4. Despite the reassurances of a good landscaping scheme, which could take 15 years to mature, the development does encroach on the Maer Valley; an area of great value to the local community, with a public footpath used by many walkers. In addition the farmland is in close proximity to an area of Outstanding Natural Beauty.

5. The NPPF is quoted by the Planning Authority: "NPPF asks Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan. In this context East Devon Planning Authority state:

"great weight is attached to the offer of 22 affordable housing units that will provide social sustainability benefits. Similar importance is attached to the potential (net) 43 new homes where the 5 year housing land supply cannot be given full weight at this pony in time."

"It is considered that there are substantial social and economic benefits to development at Douglas Gardens."

I cannot agree with this Planning Balance and Conclusion, for the reasons outlined above.

Further comments received 14 October 2015:

I remain opposed to this development and wish to reiterate, amend and add to my earlier comments. I am pleased to note that, belatedly, the applicant has agreed to come in line with policy over affordable housing.

1. Planning should be plan-led. This site was not included in the SHLAA nor in the emerging Local Plan. It is outside the BUAB.

2. The argument on housing numbers can no longer be sustained. Indeed it would be entirely illogical for a planning authority to approve a development on grounds that it does not have a five year housing land supply while at the same time arguing before the Inspector that it can demonstrate 5.39 years, a surplus of 446 dwellings and, on adoption of the Local Plan, 5.86 years.

3. The application breaches the NPPF in two regards:

a). Para. 17. "Planning should be genuinely plan-led, empowering local people to shape their surroundings..."

b). Para. 67. "Applicants will be expected to work closely with those directly affected by their proposals..."

This application is a case study of non-involvement of the local community, those most affected and elected Members. It has been imposed upon a neighbourhood and community that believes it to be deeply damaging to the amenity of residents and the environment. I have yet to meet single resident who supports this application.

4. I remain of the view that this is an opportunistic development, taking advantage of the position of the LPA over the emerging Local Plan and Exmouth Town Council in respect of its Neighbourhood Plan. Although the latter is in an embryonic stage it can be stated without question that one of the objectives of the Exmouth Neighbourhood Plan will be to protect the town's few remaining green spaces, and the Maer Valley in particular, from further urbanisation.

5. The negative assessment of this application by CPRE is simply not answered in the officer's report. The assertion in the officer's report that the urbanising effect on this green space and the time it will take to obscure this development (15 years) through landscaping are of little consequence suggest that the value of rurality for health and well-being and recreation in a town setting can be compromised for short-term economic gain. That, I suggest, is not what the NPPF means by 'sustainability'. Indeed it is a distortion of the principles underlying the NPPF.

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 both for and against.

Former Exmouth Littleham Ward Member - Cllr T Wood

I write to agree with the comments put forward by Councillor Williamson.

The controversial Plumb Park development was put forward as a complete fulfillment of the proposed Local Plan requirement for 350 homes in this area. Revisions to the local plan proposals have not increased that requirement.

Furthermore I and others have repeatedly commented that the infrastructure requirements for the area are not being properly addressed as part of the Plumb Park development. Other developments are year by year making matters worse.

I, and others, are extremely saddened that these proposals have been put forward despite the controversy relating to the existing Plumb Park outline planning consent.

Technical Consultations

County Highway Authority

Observations:

Douglas Avenue is a wide residential road with excellent footways on either side of the road in a part of Exmouth that offers good connections to the town centre and amenities by sustainable means of transport via a number of routes.

The proposed access onto Douglas Avenue is designed with footways on both sides which is appropriate for the existing vernacular, but one would like to see the internal road designs to reflect contemporary design more akin to those put forward in Manual for Streets 1 & 2. This approach would place the emphasis on environment rather than the roads that serve the development. The application has shown that a large refuse vehicle can adequately access and egress at the proposed junction.

Pedestrian access is to utilise the new junction and the existing footpath to the south west of the site and a further pedestrian route is planned to the north east via Plumb Park, this will also offer an emergency vehicular route that will serve not only this development but also that of the adjacent Plumb Park.

There have been representations made to the Local Councillor from local residents in the form of the "Douglas Gardens Action Group", who have raised concerns which include, visibility splays, local accidents reports and existing vehicle speeds. I have met with the nominated chair of this group and the Councillor and I have advised them that visibility splays for the proposed access accord with the 30mph on Douglas Avenue; the submitted accident data was correct at the time of the application and that there is no inherent cause of the accidents, other than driver error, to give me concerns.

The Transport Statement which accompanies the application has looked at the peak hour traffic generations and how this will effect the existing local highway junctions at Littleham Cross, Littleham Rd/Cranford Ave, Cranford Ave/ Douglas Ave/Barnfield Ave and has proven to the CHA's satisfaction that the effect of the development will not severely impact on these junctions. Douglas Avenue is somewhat uniquely situated where although it is a residential minor road, it does offer through traffic access via a number of connecting roads to the B3178 Salterton Road and the wider highway network. Therefore should a problem occur at one junction, traffic would still be able to dissipate via alternative means.

Recommendation:

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

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram 14575/SKT01 Revision B where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4

metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

2. This permission shall not constitute an approval of the layout plan No. 14098_L01_02 submitted with the application, because it has been treated as being for illustrative purposes only

REASON: For the avoidance of doubt 3. No part of the development hereby approved shall be commenced until:

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 The ironwork has been set to base course level and the visibility splays required by this permission laid out 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

Environment Agency

ENVIRONMENT AGENCY POSITION.

We have no objections to the proposal, the conclusions of the submitted flood risk assessment (ref. Hyder) are supported.

The application is noted to be seeking outline approval for access to the development site. We would expect a condition to include on any granted planning permission, for either the access provision or development itself, requiring the detailed design of a surface water drainage system to be approved before any works commence on the site. Such a system should conform to a recognised SUDS scheme.

Environmental Health

I have assessed the application and recommend the following condition:

A Construction and Environment Management Plan must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution."

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.

CONSERVATION OF HABITAT AND SPECIES REGULATIONS 2010 (AS AMENDED) WILDLIFE & COUNTRYSIDE ACT 1981 (AS AMENDED)

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

Internationally and nationally designated sites - Further information required

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is within 4km of the East Devon Heaths SPA/East Devon Pebblebed Heaths Special Area of conservation (SAC). It is also within 1km of the Exe Estuary Special Protection Area (SPA) which is a European site. The site is also listed as a Ramsar site.² Both are notified at a national level as a Site of Special Scientific Interest (SSSI).

Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have³. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out.

Your own Local Plan Habitat Regulations Assessment and the South East Devon European Sites Mitigation Strategy (SEDESMS) have both concluded that housing within 10km of these sites will have an impact in the absence of mitigation and that housing within 400m of the East Devon Pebblebed Heaths SAC/SPA will not be permitted, since impacts of housing at that distance cannot be adequately mitigated. It appears from the application documents that the applicant anticipates the payment of £749 per dwelling towards mitigation of the impacts on these sites.

We therefore recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

1. Confirmation from the applicant regarding the financial contributions and/or provision of Suitable Alternative Natural Greenspace (SANGS) they intend to make

towards mitigation of recreational impacts upon the European sites which are in close proximity to the proposal.

2. If SANGS is to be delivered as part of the mitigation, whether by the applicant or your Authority, an area will need to be identified and confirmed as suitable. Occupancy of the dwellings should not be permitted until an appropriate SANGS has been provided.

SSSIs

Providing appropriate mitigation is secured to avoid impacts upon the European sites occurring there should be no additional impacts upon the SSSI interest features of these sites.

Landscape

The proposal is within 500m of the East Devon Area of Outstanding Natural Beauty (AONB). Having considered the information provided Natural England does not consider that it is likely to have significant impacts upon the AONB.

However, we recommend that you to seek the advice of the AONB Partnership. Their knowledge of the location and wider landscape setting of the development will help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able advise on whether the development accords with the aims and policies set out in the AONB management plan.

Local wildlife sites

The proposal site is adjacent to a local wildlife site, e.g. County Wildlife Site (CWS) so your authority should ensure it has sufficient information to fully understand the impact of the proposal on the CWS, and the importance of this in relation to development plan policies, before it determines the application.

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 with details at consultations@naturalengland.org.uk.

Additional matters

In accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England expects to be consulted on any additional matters, as determined by East Devon District Council, that may arise as a result of, or are related to, the present proposal. This includes alterations to the application that could affect its impact on the natural environment. Natural England retains its statutory discretion to modify its present advice or opinion in view of any and all such additional matters or any additional information related to this consultation that may come to our attention.

We have considered the proposal and have the following comments¹.

1 This reply comprises our statutory consultation response under the provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995, Section 28 of the Wildlife and Countryside Act 1981 (as amended), Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

2 Listed or proposed Ramsar sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

3 Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

Contaminated Land Officer

I have considered this application for housing developed on previously undeveloped agricultural land. I do not anticipate any contaminated land concerns but recommend that the following condition is included on any approval:

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.

Housing Strategy Officer Paul Lowe

At a recent planning appeal in the district the planning inspector and the Secretary of State have both advised that Strategy 34 of the emerging Local Plan can be given a

considerable degree of weight and is to be preferred to Local Plan Policy H4, which is out-of-date, when determining appropriate levels of affordable housing provision.

According to the applicant this proposal is the second phase of development for the adjoining site known as Plumb Park, which has outline planning consent. The applicants are not proposing to provide any affordable housing on this site as they state they are providing it within phase 1. The proposed development has a separate vehicular access and is to be linked to the adjoining site by a pedestrian access only. Therefore we do not consider it to be part of the consented site.

The application site does not appear to be allocated for residential development and falls outside the built up area boundary for Exmouth. On this basis and according to Strategy 34 we will be seeking 50% affordable housing (22 units) on the application site.

Any deviation from this amount of affordable housing must be evidenced by a viability assessment. Without submitting a viability assessment we will not be in a position to enter into discussions regarding the affordable housing element. In addition, an overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets.

We would expect to see a tenure mix of 70/30% in favour of rented accommodation, the remaining as shared ownership or similar affordable housing product as defined in the National Planning Policy Framework document or relevant policy at the time.

Housing needs evidence indicates a substantial need for affordable housing in Exmouth and in particular smaller homes. Consideration should be given to providing affordable one bedroom properties together with family sized accommodation.

All the affordable homes on site are to be built to the relevant local and national standards at the time of construction of the units, be tenure blind and dispersed throughout the development in small clusters. Once completed the affordable homes should be transferred to and managed by a preferred Registered Provider. All the affordable homes should be available in perpetuity.

The application site is located in a Designated Protected Area and therefore staircasing should be restricted to 80%.

We would also expect that a nomination agreement is in place that enables the Local Authority or a preferred Register Provider to nominate individuals from the Common Housing Register, preference going to those with a local connection to Exmouth.

After revised levels of affordable housing were offered at 40% -

Previous comments made on the 24 April 2015 regarding this application still apply. Namely, we believe that 50% affordable housing should be delivered on site.

CPRE

CPRE wish to object to this application.

Public Consultation

It is regrettable that, for an application of this size, there has been no public consultation exercise. One of the core principles of the NPPF is the importance of involving local people in shaping the places where they live. Many neighbouring residents only became aware of the application by reading an article in the local newspaper or by being contacted by other local residents. This is unacceptable.

Need

The primary planning consideration is need. The applicants have not adequately demonstrated the need for this development. The Planning Support Statement quotes Paragraph 47 of the NPPF, and reference is made to a lack of five year housing land supply. However, EDDC is now confident that it can demonstrate a five year supply, including a 20% buffer. Therefore paragraph 49 of the NPPF is not activated, and the relevant policies for the supply of housing will apply. For this development, the relevant policies are the adopted East Devon Local Plan Policies S2 (Built-up Area Boundaries for Area Centres and Local Centres), and S5 (Countryside Protection).

The application site is outside the BUAB for Exmouth and is therefore in the countryside. It does not form part of an allocation site in the emerging Local Plan. It does not meet the criteria for the Interim Mixed Affordable and Market Housing Position Statement, nor Strategy 35 of the Emerging Local Plan.

The applicant seeks to consider this application together with the already permitted outline application at Plumb Park (13/0297/MOUT) for up to 350 dwellings. It is claimed that in fact this development will achieve fewer dwellings (around 325) and that therefore the Douglas Avenue site is needed to provide extra capacity. However, as the reserved matters application for 13/0297/MOUT has not yet been submitted, let alone approved, it cannot be certain that a reduced number of dwellings will be built. Each application must be considered on its own merits, and what may or may not happen on an adjoining site is not a material planning consideration.

Affordable housing

The application does not offer any affordable housing. Again, the applicant seeks to link this application with the adjoining Plumb Park site (13/0297/MOUT) and claim that over the two sites combined there would be sufficient affordable housing provision. As the Housing Officer has commented, the application site is separated from the Plumb Park site with a separate vehicular access and only linked by a pedestrian access; therefore it is not part of the consented site.

Strategy 34 of the emerging Local Plan carries weight, and would require 50% affordable housing. There is proven substantial need for affordable housing in Exmouth, particularly smaller one and two bedroom dwellings.

The applicant claims a need for age-restricted dwellings, but produces no direct evidence for this. There are already several large age-restricted developments in the immediate area.

Access & Highways

Access is proposed by demolishing 76 Douglas Avenue. This is a very unsatisfactory access, on a hill and on a slight bend. Visibility is poor, and this is a section of road which has seen several accidents in recent years. Further assessment of this is required.

Highways England have commented on the impact on the SRN and J30 of the M5. However the main impact, which has not been addressed, is the impact on local roads, particularly around Littleham Cross. The cumulative impact from the adjoining Plumb Park site, also from additional holiday traffic to and from the Sandy Bay Holiday Parks must be assessed. Further information is required on this.

Landscape and Visual Impact

The application site is not in an area that has any landscape designation. However, the Maer Valley is greatly valued by local residents and visitors as a green open tranquil space and beautiful landscape. The application site has a public right of way along its south and west boundaries, and is used extensively by local residents, dog walkers and recreational walkers.

Exmouth Town Council is currently intending to start production of a Neighbourhood Plan, which also will place emphasis on conservation of the remaining green space in Exmouth.

The Exmouth Masterplan (2011) states in the Aims and Objectives:

"We want to protect and maximise benefit from the natural setting

Place the natural setting at the heart of the Exmouth experience and use it

to make the town centre truly memorable

Promote the collective appeal and use of the many diverse natural assets

(including the estuary, sea, beach, coastline, habitats, countryside, views, sunsets, wind, tide, etc)

Use the natural assets as a community resource, promoting well being, healthy living and recreation

Ensure that new development and proposals enable a greater appreciation of the natural assets

The LVIA correctly describes the site as being within Landscape Character Area 148 "Devon Redlands", and the Devon Character Area "Sidmouth and Lyme Bay Coastal Plateau Area", and Landscape Character Type (LCT) 1B "Open Coastal Plateau". It should be seen in context with LCT 1C "Pebble Bed Heaths" to the east.

EDDC's Landscape Architect commented on the Plumb Park site in the Exmouth Evaluation of Planned Strategic Allocations for the LDF in 2010, which applies equally to this application site:

- *The site has a moderate sensitivity to change due to its slightly elevated position on the southern edge of Exmouth.*
- *The site's position outside of the existing settlement boundary increases its sensitivity to change.*

- *Development of the site is likely to result in a moderate adverse impact on the visual amenity.*
- *Impact on landscape character of the surrounding countryside would be moderate to significant adverse due to the further intrusion of urban settlement into open countryside.*
- *Landscape Character Type (LCT) 1B Open Coastal Plateaux abuts directly with the urban framework of Exmouth and Littleham. The key characteristics of this landscape are currently preserved by a relatively short distance created by the agricultural fields to the south of the existing settlement boundary.*
- *If the special landscape characteristic of this area are to be preserved any development must be carefully sited and of an appropriate scale.*

In assessing the visual impact, the LVIA identifies several receptors with medium or high sensitivity, notably neighbouring residents, users of the Coastal Path, users of local public rights of way and local roads and tracks. The LVIA acknowledges major impacts for most groups of receptors during the construction phase. In general, the assessment underestimates the magnitude of impact, and hence the significance of the effect by Year 1 and at Year 15. The only groups where a significant effect is acknowledged are for Residents of the South side of Douglas Avenue and users of Prattshayes Farm. We believe this is unjustified and that the visual impact is greater. In summary, therefore, development on this site causes moderate to significant adverse impact on the landscape character, due to the further intrusion of urban settlement into open countryside. Development would lead to moderate, and therefore significant, adverse impact on visual amenity.

Heritage Assets

The Historic Environment Assessment correctly identifies the various listed buildings in the vicinity of the application site. The most relevant of these are Prattshayes & Green Farm. The effect on the setting of these listed buildings is important. Policy EN9 of the adopted Local Plan states that development affecting the setting of a listed building will only be permitted if it preserves its setting. This policy is consistent with paragraphs 128-134 of the NPPF.

When considering applications that may affect a listed building or its setting, section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *“special regard to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”* The NPPF notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.

Insufficient weight has been given to the effects on the setting of heritage assets. We do not agree that the impact of the development is “minor, negligible or no change”.

Habitats Regulation Assessment

As Natural England have commented, there is insufficient information to demonstrate that the requirements of Regulations 61 and 61 of the Habitats Regulations have been considered. Confirmation from the applicant is needed regarding the financial contributions and/or provision of SANGS they intend to make towards mitigation of

recreational impacts upon European sites which are in close proximity to the proposal. The applicants have, however, indicated in the Draft S106 Heads of Terms that this is to be negotiated.

Summary

- The proposed development is contrary to planning policy and need has not been shown.
- The site is outside the BUAB, and is contrary to Policies S2 & S5 of the adopted Local Plan.
- The lack of affordable housing is contrary to Strategy 34 of the emerging Local Plan, which a recent Secretary of State decision has stated should carry weight.
- Access to the site is dangerous.
- The effect on the local highways is unacceptable.
- There is significant adverse impact on landscape character
- There is significant adverse effect on visual impact.
- There is significant adverse effect on the setting of heritage assets.

We therefore consider that this application should be refused.

Highways England

M5 J30: Outline application seeking approval for access (matters of layout, scale, appearance and landscaping reserved) for up to 44 open market and tenure restricted (over 55's) dwellings demolition of 76 Douglas Avenue to create new vehicular access - land to the rear of no's 62-82 Douglas Avenue, Exmouth, Devon

Thank you for providing Highways England with the opportunity to comment on the above planning application. As you are aware, the Highways Agency became Highways England on 1 April. Although the policies and guidance related to planning applications and our involvement will change, the principles will remain the same. Our comments below reflect the current guidance contained within NPPF and DfT Circular 02/13 Planning and the Strategic Road Network (SRN).

The proposed site is intended as an eastern extension to the already consented development of up to 350 dwellings (planning ref 13/0297/MOUT) on an allocated site known as Plumb Park (land at Littleham). It is disappointing that the Agency weren't consulted on the earlier application, particularly in view of our concerns at the potential cumulative effect of development on the operation of the M5 junction 30 and the need for a robust transport evidence base.

However, although not addressed within the submitted transport assessment, we are satisfied that the scale, nature and location of this development is unlikely to have a severe impact on the SRN. We therefore have no objection to the proposal and I enclose a formal recommendation form to that effect. However, if you have any queries please don't hesitate to contact me.

EDDC Trees

No objection raised to this application on arboricultural grounds. Any planning approval should be subject to a condition requiring the submission of a TPP and AMS detailing how and when the trees will be protected and make provision for the ongoing monitoring tree protection measures.

South West Water

I refer to the above application and would advise that the public foul drainage network does not have capacity to support this development and therefore we cannot recommend approval.

As acknowledged in the flood risk assessment improvements to the public sewer network have been identified in relation to the adjoining Plumb Park proposal (planning ref 13/0297) which once in place would provide sufficient capacity to accommodate this proposal as well.

Should you be mindful to approve the application South West Water would be prepared to accept a planning condition being imposed preventing any development until such time as funding for the drainage improvements identified in relation to Plumb Park 13/0297 have been secured by means of their having entered into and concluded sewer requisition to be submitted under the terms of Section 98 of the Water Act.

In the event of the applicant wishing to progress this development in advance of Plumb Park it may be possible to identify a standalone sewerage improvements scheme to cater for this development in isolation which would however require prior investigations to be funded by the applicant before this can be confirmed.

Royal Society For The Protection Of Birds

Outline application seeking approval for access (matters of layout, scale, appearance and landscaping reserved) for up to 44 open market and tenure restricted (over 55's) dwellings demolition of 76 Douglas Avenue to create new vehicular access Land To Rear Of No's 62-82 Douglas Avenue Exmouth EX8 2HG

The RSPB welcomes the ecological mitigation measures proposed within this application, including the integral roost and nesting structures for birds and bats. However, we have concerns, set out below, that without secure avoidance and mitigation measures the development would impact on wintering curlew which are part of the waterbird assemblage for which the Exe Estuary Special Protection Area (SPA) and Ramsar site are listed, and that no detail on such measures is provided with the application.

The Douglas Gardens Ecology Mitigation and Enhancement Plan, Littleham 2010, Ltd (Code 7 Consulting Ltd, March 2015) (referred to in this response as the Mitigation Plan) states, at Table 2.2 Species Baseline, that:

The UK Priority Species and red listed Curlew *Numenius arquata*, which is also an Exe Estuary SPA feature, was not recorded within the red line boundary of the site during the winter surveys October 2014-February 2015. Flocks of between 52-55 were recorded on tow occasions foraging in some of the surrounding fields on two surveys visits. However, the numbers of winter Curlew using these fields were below

the level of significance for national or international importance and below the level (i.e.10% of the Devon wintering population - 3000 - Devon BAP 2009) of county level importance.

Consequently the area in general is considered to be of local or district value for Curlew. The site itself is subject to frequent and often high level of disturbance by walkers and/or dogs and consequently it is not considered to be key winter foraging resource for Curlew.

We disagree with this assessment of the site's importance, which neglects to take account of the strong likelihood, recognised implicitly elsewhere in the Mitigation Plan, eg. Section 3.6, that the curlews encountered in these surveys contribute to the waterbird assemblage for which the Exe Estuary SPA and Ramsar site are listed. As such, they should be attributed a higher level of significance than local or district value, and the proposal's impact on the SPA and Ramsar site (and the waterbird populations for which they are listed) needs to be properly assessed in accordance with Regulation 61, and potentially 62, of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations).

Table 2.4 of the Mitigation Plan recognises that the development phase has potential to disturb wintering curlew, and that in operation the development has potential for long-term disturbance of curlew from increased levels of recreation and use of the footpath network.

Impacts on wintering curlew are also discussed at section 3.2 Species Mitigation and Enhancement (iv) Wintering Birds. This section notes that none of the five 2014 survey visits identified curlew within the red line boundary. Anecdotally however we understand that curlew have regularly used the application site. It may be that the surveys coincided with recent ploughing of the nearby fields, creating a temporary glut of accessible soil invertebrates on which curlew preferentially fed. The loss of the foraging opportunities for curlew from the application site, as well as adjacent fields in which the Code 7 Consulting Ltd surveys identified them, should in our view be taken into account in the assessment of the proposal's impact, and in particular the Habitats Regulations Assessment, and in the design of any mitigation measures.

Section 3.6 of the Mitigation Plan considers the application under the Habitats Regulations, and recognises the relevance of the proposal's impacts on wintering curlew to this process. It refers to a proposed winter bird (curlew) strategy on Clinton Devon Estate's farms adjacent to the 2012 Plumb Park development. The Mitigation Plan goes on to propose that this proposed development is subsumed within this study and that any potential indirect impacts on winter curlew are mitigated for through this process.

I have discussed this matter with the applicant, and understand that the Winter Bird Strategy referred to is in train, and we hope to input to it. However as a necessary avoidance/mitigation measure (needed to avoid harm to the qualifying features of the SPA and Ramsar site) the information provided with this application is vague and in our view doesn't give the Council the necessary certainty that effective measures will be in place ahead of commencement of development, and that they will be delivered over the long term. Also that they are additional to the commitments already secured

relating to the Plumb Park development. Additional information is in our view needed from the applicant to enable the Council to have confidence in these measures and to be able to qualify any consent with a suitably specific condition.

National Trust

I write on behalf of the National Trust to comment on the above application. Prattshayes, which lies to the south-east of the site, was acquired by the National Trust in 1960 and includes the farm and Prattshayes House, a grade II listed building.

Prattshayes farm has operated, in part, as campsite with the benefit of planning permission since consent was given in 1996 [96/0779] for use of the field immediately south west of the farm complex for camping (20 tents) and touring caravans (10 units). In June 2010 consent was given for the use of a further field, immediately to the north of the farm complex, as an ancillary camping area, and for an increase in use of the existing site for up to 20 touring caravans (10/0498). In October 2014 consent was given for an expansion of the camping area to provide 30 additional tent spaces in the field to the west (14/1857).

The Trust supports a 'plan-led' system of land use planning and advocates development that is demonstrably sustainable when considered against all options. The Trust would like to see new allocations determined through the current East Devon local plan examination process. However, if the LPA consider the circumstances in this case are that they must accept the principle of the development, then the Trust would like to see more visual evidence that demonstrates the visual effects on the Users of Prattsahyes Farm, with mitigation planting, to support the assessment of a low magnitude of impact from year 1 (as indicated on Table 10 for VR15 on page 55).

Landscape Architect

13.07.15

INTRODUCTION

This report forms the EDDC's landscape response to the outline planning application for 44 dwellings and site access – nr. 15/0753/MOUT. The site is located on the south-east side of Exmouth and is situated close to the western edge of the East Devon AONB. Currently the site is wholly in agricultural use and is framed by established hedgerows and tree belts and is bordered on the south-eastern and south-western edges of the site by a public footpath. As part of the planning application the applicant, Littleham 2010 Ltd (part of Clinton Devon Estates), submitted a Landscape Visual Impact Assessment and Design and Access Statement. This report includes a review of the submitted LVIA and a review of the Illustrative layout and landscape strategy as set out within the DAS. The reviews should be read in conjunction with the submitted information. The review of the submitted landscape information is followed by a recommendation outlining the reasons for the recommendation based on adopted policy, guidance and professional judgment.

REVIEW OF THE LVIA

- The following policies should not have been included in the planning policies section of the LVIA due to being revoked in 2013:

- *Regional Planning Guidance for the South West*
- *Draft Revised Regional Spatial Strategy for the South West*
- *Devon Structure Plan 2001-2016*
- The planning policies section fails to include *the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management guidelines*, which sets out the different character types within the East Devon District. The site is partly located within LCT 1B Open Coastal Plateaux. Therefore the management guidelines for LCT 1B as set out in *the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management guidelines* apply to this section of the site. The following guidelines are relevant to the site and the proposed development:
 - *Boundaries: conserve and enhance by:*
 1. *Encouraging the appropriate maintenance of hedges, in particular to benefit elm hedgerows and ensure their survival in the face of Dutch Elm Disease.*
 2. *Encouraging the planting and maintenance of hedgerow trees, using exposure-tolerant locally indigenous species.*
 3. *Encouraging gapping up of hedges with locally indigenous species.*
 - *Semi-natural habitats: conserve by*
 1. *Managing chalk and coastal grassland, hedgerows, small copses and field margins for biodiversity interest.*
 2. *Encouraging the maintenance and management of shallow stream corridors and their associated wetland habitats.*
 - *Settlement and development: conserve by*
 1. *Discouraging development that extends to the edges of Land Description Units, where it is more visible in the wider landscape.*
 2. *Discouraging development in unsettled areas and ensuring that development around existing coastal settlements enhances local landscape character and contributes to screening recent development.*

The description of the key landscape characteristics information as set out in the landscape character assessment has been included in the Landscape and Visual Baseline chapter of the LVIA. The applicable management guidelines were not included in the overview.

- The landscape and visual baseline section mentions the no longer existing designation of Area of Great Landscape Value. The LVIA's appendix also includes this outdated designation.
- The sections within Chapter Landscape and Visual Baseline addressing the National Character Area description should have included the Statements of Environmental Opportunities applicable to the site:

- **SEO 4:** *Plan and manage for a strong landscape framework to support and integrate the expansion of Exeter, Exmouth, Teignmouth, Tiverton, Crediton and Cullompton, and the road and rail network throughout the area. Conserve and enhance the existing character, form and pattern of the area's historic settlement, from single farmsteads to larger villages.*
- The sections within Chapter Landscape and Visual Baseline the Devon County Character area – Sidmouth and Lyme Bay Coastal Plateau description should have include the relevant guidelines:
 - *Manage and protect the **landscapes network of hedgerows and characteristic dwarf or windswept hedgerow trees**, replanting ageing or diseased specimens to ensure the future survival of these characteristic features.*
 - *Plan to **integrate existing and any new development** such as parking, holiday accommodation and housing into the landscape effectively through careful attention to siting and, where appropriate to the relatively open landscape context.*
- The sensitivity of LCZ1 should be considered to be Medium due to the above average quality and green character of the Avenues which abuts the site.
- Comments on the sensitivity of visual receptors:
 - The sensitivity of Visual Receptor VR5 has been underestimated and should be considered high as the receptors are pedestrians with a key interest and expectation of enjoying the view and the viewpoint is located within the East Devon AONB.
 - The sensitivity of Visual Receptors VR6, VR14a and VR14b should be considered medium as the narrow lanes on which these viewpoints are located, are frequently used by walkers who do have a keen interest in the surrounding landscape.
 - The sensitivity of Visual Receptor VR9 has been underestimated and should be considered high as the receptors are users of a Public right of way with a key interest and expectation of enjoying the view and the development would introduce urban form within a view where there currently is very little.
 - Viewpoint 10 is not labeled on the figure.
 - The sensitivity of Visual Receptors VR11a, 11b, 12a and 12b has been underestimated and should be considered high as the receptors are users of a Public right of way with a key interest and expectation of enjoying the view, the proposed development would introduce urban form within a series of views where there currently is very little and the viewpoints are located within close proximity to the site.
 - The sensitivity of Visual Receptors VR13 has been underestimated and should be considered medium as the receptors are users of a Permissive footpath with a key interest and expectation of enjoying the

view, the proposed development would introduce urban form within a series of glimpsed views where there currently is very little and the viewpoints are located within close proximity to the site.

- Comments on the Mitigation measures:
 - For detailed comments on mitigation measures please refer to comments as listed within the *Review of the Illustrative Layout & Landscape Strategy as set out within the DAS*.
 - The listed mitigation measures includes the following:

'Built form will be clustered to allow strategic viewing corridors through the upper section of the development.'

Current layout does not show a clustered approach to the built form.

- Overall the mitigation approach taken is good, there is however uncertainty over the longevity of the proposed landscape framework as large sections of it fall within the private demise, form property boundaries or are situated in such a location that access for maintenance purposes is very difficult to achieve. Therefore the presented measures are insufficient to mitigate the impact of the proposed development. The provision of a long term management strategy is needed to make the proposed mitigation measures future proof.
 - Additional mitigation measure would be to reduce the extent of development to the south-east to bring the proposed development in line with the built form and garden boundary extent of the approved Plumb Park and the extent of existing residencies of Douglas Avenue. This would help create a stronger landscape setting for views from the south-east and enhance the landscape buffer between Plumb Park built form and Douglas Gardens built form reducing intervisibility. It would also provide an area in which the maintenance issues raised before are not a concern.
- Comments on the assessment of effects on Landscape resource
 - The significance of the construction phase effects on LCZ1 will be moderate as the sensitivity of the landscape receptor is medium. The significance of Year 1 phase effects on LCZ1 will be moderate as the magnitude of impact is medium due to the landscape framework not being established. At phase year 15 the impact will reduce to minor due to the landscape framework reaching maturity.
 - The significance of Year 1 phase effects on LCZ5 will be moderate as the magnitude of impact is medium due to the landscape framework not being established.
 - The significance of the 15 years effects on all the landscape resources is dependent on whether or not a suitable management strategy is implemented. If no suitable management strategy is implemented the

significance of the effect could be moderate to major as a failed landscape framework would increase the magnitude of impact.

- Comments on the assessment of effects on Visual Receptors
 - The significance of the 15 years effects on all the visual receptors is dependent on whether or not a suitable management strategy is implemented. If no suitable management strategy is implemented the significance of the effect could be moderate to major as a failed landscape framework would increase the magnitude of impact.
 - The significance of the construction phase effects on VR5 will be major as the sensitivity of the visual receptor is high. It will reduce to moderate at phase Year 1 and will further drop to minor a stage Year 15 (taking note of the aforementioned conditions of management).
 - The significance of the construction and Year 1 phases effects on VR6, VR14a and VR14b should be judged to be moderate as the sensitivity of the receptors should be considered to be medium and the magnitude of impacts is medium due to the close proximity of the site to the receptor and due to the landscape framework not being established. At phase Year 15 the significance of effects will reduce to minor (taking note of the aforementioned conditions of management).
 - The significance of the effects associated with Year 1 phase on VR7, VR8 & VR15 will be major as the magnitude of impacts is medium due to the landscape framework not being established. The significance of the effects associated with Year 15 phase on VR7 & VR8 will reduce to moderate due to the landscape framework reaching maturity (taking note of the aforementioned conditions of management).
 - The significance of the construction phase effects on VR9, VR11a, VR11b, VR12a & VR12b will be major as the sensitivity of the visual receptors is high. The significance of the effects associated with Year 1 phase on VR9, VR11a, VR11b, VR12a & VR12b will be moderate due to the sensitivity of the visual receptor being judged to be high and the magnitude of impacts is medium due to the landscape framework not being established. At phase Year 15 the significance of effects will reduce to minor due to the landscape framework reaching maturity (taking note of the aforementioned conditions of management).
- Comments on cumulative impacts:
 - The sensitivity of LCZ1 should be considered medium as explained before.
 - The sensitivity of Visual Receptor VR5 should be considered high as explained before.
 - Magnitude of impact, of the construction phase on VR6, VR14a and VR14b should be considered to be medium and VR6, VR14a and VR14b's sensitivity is medium therefore the significance of effects should be valued at moderate. The Douglas gardens development will

substantially increase the amount of built form perceived in these specific views which would create a moderate cumulative impact. This would be considered to substantiate a significant change.

- The sensitivity of Visual Receptor VR9 should be considered high as explained before. The Douglas gardens development is located in front of the Plumb Park development and will therefore cause a moderate cumulative impact. This would be considered to lead to a significant change
- The sensitivity of Visual Receptors VR11a, VR11b, VR12a, VR12b & VR13 should be considered high as explained before.
- The cumulative impact on the visual receptors has been underestimated. VR6, VR7, VR8, VR9, VR14a and VR14b should have been noted as having significant cumulative impacts at construction phase and all cumulative effects are dependent on a feasible management strategy for the proposed mitigation landscape framework.

Comments on conclusion:

- The planning context set out within the LVIA included out of date policy and failed to list *the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management guidelines*
- The baseline study listed all the relevant character assessments, but failed to include the relevant guidance against which the design would be judged.
- The judgments in relation to the sensitivity of the landscape and visual receptors undervalued one landscape receptor (LCZ1) and ten visual receptors.
- The mitigation measure proposed are good in design terms, but lack in long term certainty as most of the landscape framework is located within the private demise or in difficult to access locations imposing problems on maintenance. For the mitigation landscape strategy to work a strong maintenance agreement will need to be put in place. This will hopefully ensure the longevity of the proposed landscape framework.
- The effects on landscape resources were overall assessed correctly.
- The effects on visual receptors were for over half of the receptors underestimated. Either the magnitude of impact was judged too low or the sensitivity of the receptor was undervalued
- The assessment of the effects is greatly dependent on a successful mitigation strategy which requires a strong agreement for the long-term management of the proposed landscape framework.
- The cumulative impact on the visual receptors has partly been underestimated. All cumulative effects are dependent on a feasible management strategy for the proposed landscape framework.

- The LVIA underestimated the sensitivity of certain receptors and the significance of certain effects, however it is judged the site can accommodate development of a slightly reduced scale than currently proposed or of a re-configured layout. Suggestions on how to revise the layout are provided within the *Review of the Illustrative Layout & Landscape Strategy as set out within the DAS*. Key reasons for this judgment are:
 - Under estimation of the sensitivity of certain receptors
 - Undervaluation of significance of certain effects
 - The proposed development does propose a good approach on how to develop the edge of Exmouth and more particularly the site, especially in relation to the site's topography, but lacks in the assurance of longevity of the proposed landscape framework.

REVIEW OF THE ILLUSTRATIVE LAYOUT & LANDSCAPE STRATEGY AS SET OUT WITHIN THE DAS

The landscape and architectural approach taken is sensitive to the existing landscape and its features; however there are a few concerns:

- The illustrative layout included in the DAS does not incorporate the 6m easement around the water distribution pipe. Is there an intention to re-direct pipe otherwise the proposed layout is not feasible?
- The built form extends beyond the line connecting private garden boundaries of properties of Douglas Avenue with the extent of built form within the approved Plumb Park development.
Re-design the layout to re-locate/remove the units which extend beyond the red line.
- The northern boundary structural planting and the central east-west structural planting will require a guarantee/management structure to ensure its longevity as it is located within the private demise or not easily accessible.
- Where new hedge banks/hedgerows are proposed to form the boundary of private gardens a management structure/agreement is needed to ensure their longevity.
- The emergency access and cycle and pedestrian connections should be negotiated with neighbouring Plumb Park site (as both sites are in same ownership this should not be a major issue). Design of the connection should take account of design language established within the approved Plumb Park (with due consideration to site levels).
- Current illustrative layout does not indicate any play areas; the site should include at least 1 children's & youth play space (LEAP) according to '*East Devon Open Space Study*'.
- The '*East Devon Open Space Study*' highlights a deficit of formal parks provision within the Exmouth area. The further development of the scheme should consider the re-design of the informal gardens as a formal park area.
- The main access road is framed by a hedge which reduces access to the informal gardens and reduces the levels of overlooking which affect safety.

- The informal gardens have a low level of overlooking by the surrounding houses, which could potentially create an un-safe environment.
- The drainage strategy shows below ground attenuation tanks, The DAS illustrative master plan indicates a detention pond. The above ground detention pond would be preferred due to its potential for wildlife habitat creation and enrichment of the landscape setting. Please confirm SUDS approach.
- Planning application form states surface water will be disposed of by main sewer, this is in conflict with both the flood risk strategy and the DAS.

To address some of the above raised concerns the following strategy should be considered.

By reducing the number/relocating six numbers of dwellings a larger park area can be created which could help to address the edge of the development and prevent development from extending beyond the line of private gardens and built form set by the existing residential properties along Douglas Avenue and the approved Plumb Park development. Further it could assist in creating a better landscape edge to the proposed and already existing development, which is in line with the guidance set out in *The East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management guidelines* stating the following;

'Discouraging development in unsettled areas and ensuring that development around existing coastal settlements enhances local landscape character and contributes to screening recent development.'

and the guidance set out in the National Character area of 148: *Devon Redlands*:

'SEO 4: Plan and manage for a strong landscape framework to support and integrate the expansion of Exeter, Exmouth, Teignmouth, Tiverton, Crediton and Cullompton, and the road and rail network throughout the area. Conserve and enhance the existing character, form and pattern of the area's historic settlement, from single farmsteads to larger villages.'

The Green area could also help to strengthen the buffer between the Plumb Park Development and the Douglas Garden development and reduce the visual impact of both developments.

The parkland zone could help to address the shortage of formal park space within Exmouth as highlighted within the *'East Devon Open Space Study'*. It could also provide space for play which is a requirement for this scale of development as set out within *'East Devon Open Space Study'*.

The Park area could also assist in creating better integrated links between the proposed Douglas Gardens, the approved Plumb Park and the existing landscape context. The parkland zone could also address some of the concerns raised about the longevity of the landscape framework by providing a larger scale area of green infrastructure without any management concerns.

The park zone could incorporate the SUDS strategy to form a type of water feature creating a multi-functional green infrastructure, which would help to integrate the

scheme within the Littleham Brook valley and create a zone for landscape enjoyment and biodiversity.

RECOMMENDATION

The LVIA underestimated the sensitivity of certain receptors and the significance of certain effects, however it is judged the site can accommodate development of a slightly reduced scale than currently proposed or of a re-configured layout. Suggestions on how to revise the layout are provided within the review of the *Review of the Illustrative Layout & Landscape Strategy as set out within the DAS*. Key reasons for this judgment are:

- Under estimation of the sensitivity of certain receptors
- Undervaluation of significance of certain effects
- The proposed development does propose a sensitive approach on how to develop the edge of Exmouth and more particularly the site, especially in relation to the site's topography, but lacks in the assurance of longevity of the proposed landscape framework.

For a revised scheme to gain full planning approval a section 106 agreement is required to ensure the longevity of the proposed mitigation/landscape framework. Landscape design and management need to be included as a pre-commencement condition if outline planning permission were to be granted. The required section 106 agreement would need to include the necessary landscape management tools to ensure the longevity of the proposed landscape framework. The above are required to comply with the following:

- Following points raised within Paragraph 58 of the NPPF:
Planning policies and decisions should aim to ensure that developments:
 - *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
 - *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
 - *are visually attractive as a result of good architecture and appropriate landscaping.*
- The following requirements which form part of local planning Policy D4 (Landscape Requirements):
 - *Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable commensurate provision should be made elsewhere in the site, in addition to the requirement for new landscaping proposals.*
 - *Measures to ensure public safety should be incorporated.*
 - *Measures to ensure routine maintenance and long term management should be included.*

- *Provision for the planting of trees and hedgerows (including the replacement of those of amenity value which have to be removed for safety reasons) and other planting and improvements to existing habitat, and/or creation of new areas of wildlife value should be made.*
- National Character area profile: 148 Devon Redland:
 - SEO 4:** *Plan and manage for a strong landscape framework to support and integrate the expansion of Exeter, Exmouth, Teignmouth, Tiverton, Cullompton and Cullompton, and the road and rail network throughout the area. Conserve and enhance the existing character, form and pattern of the area's historic settlement, from single farmsteads to larger villages.*
- The East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management guidelines:
 - *Boundaries: conserve and enhance by:
Encouraging the appropriate maintenance of hedges, in particular to benefit elm hedgerows and ensure their survival in the face of Dutch Elm Disease.*
 - *Settlement and development:
Conserve by Discouraging development in unsettled areas and ensuring that development around existing coastal settlements enhances local landscape character and contributes to screening recent development.*

The number of proposed dwellings is only feasible if the water distribution pipe is relocated. Before any scheme is considered for outline planning approval a clarification should be sought regarding the approach towards the water distribution pipe. The design and access statement currently states the water distribution pipe requires a 6m wide easement.

The scheme should aim to provide a play area and a formal park area to help alleviate the shortage of formal park areas within Exmouth as set out in '*East Devon Open Space Study*'. Relation park and houses will have to be reconsidered to address the low levels of overlooking.

The drainage strategy needs to be clarified as the planning application form states surface water will be disposed of by main sewer; this is in conflict with both the flood risk strategy and the DAS. SUDS should be incorporated within the landscape design as it could provide amenity and an opportunity for habitat creation (see comments within the review of the illustrative layout & Landscape Strategy as set out within the DAS). The above outlined approach would be in accordance with guidance set out in:

- Paragraph 118 of the NPPF:
 - *Opportunities to incorporate biodiversity in and around developments should be encouraged;*
- Following section of Policy D1 (Design and Local Distinctiveness):
 - *Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.*
- Following section of Policy D4 (Landscape Requirements):

- *Provision for the planting of trees and hedgerows (including the replacement of those of amenity value which have to be removed for safety reasons) and other planting and improvements to existing habitat, and/or creation of new areas of wildlife value should be made.*

The revised landscape scheme will need to comply with the following landscape guidance & policies:

- Policy D1 (Design and Local Distinctiveness):

'In order to ensure that new development is of a high quality design and locally distinctive, a design statement setting out the design principles to be adopted should accompany proposals for new development. Proposals should have regard to Village and Design Statements adopted as Supplementary Planning Guidance. Proposals will only be permitted where they:

1. *Reinforce the key characteristics and special qualities of the area in which the development is proposed;*
2. *Ensure that the scale, massing, height, fenestration and materials of buildings relate well to their context*
3. *Do not Adversely affect:*
 - I. *The distinctive historic or architectural character of the area*
 - II. *The urban form, in terms of significant street patterns, groups of buildings and open spaces;*
 - III. *Important landscape characteristics and prominent topographical features;*
 - IV. *Trees worthy of retention*
 - V. *The amenity of occupiers of adjoining residential properties.*
4. *Have due regard for important aspects of detail and quality and should incorporate:*
 - I. *Secure and attractive layouts with safe and convenient access for the whole community, including disabled users;*
 - II. *Measures to create a safe environment for the community and reduce the potential for crime;*
 - III. *Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO₂ reduction;*
 - IV. *Necessary and appropriate street lighting and furniture and, subject to negotiation with developers, public art integral to the design;*
 - V. *Features that maintain good levels of daylight and sunlight into and between buildings to minimize the need for powered lighting;*
 - VI. *Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.*

- Policy D4 (Landscape Requirements):

'Planning permission will not be granted for development proposals unless they include a landscape scheme, covering the design and layout of external space. The landscape scheme should meet all of the following criteria:

- *Landscape features should be recorded in accordance with the requirements of 'trees in relation 37/1991 in a detailed site survey, to be submitted as part of the full or detailed planning application.*
 - *Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable commensurate provision should be made elsewhere in the site, in addition to the requirement for new landscaping proposals.*
 - *Measures to ensure public safety should be incorporated.*
 - *Measures to ensure routine maintenance and long term management should be included.*
 - *Provision for the planting of trees and hedgerows (including the replacement of those of amenity value which have to be removed for safety reasons) and other planting and improvements to existing habitat, and/or creation of new areas of wildlife value should be made.*
 - *Roads, parking and footpaths and the continuity of fencing or walling with existing boundary treatments where this contributes to the street scene should be integrated with the development and landscape framework.*
- National Character area profile: 148 Devon Redland:
SEO 4: *Plan and manage for a strong landscape framework to support and integrate the expansion of Exeter, Exmouth, Teignmouth, Tiverton, Crediton and Cullompton, and the road and rail network throughout the area. Conserve and enhance the existing character, form and pattern of the area's historic settlement, from single farmsteads to larger villages.*
- Devon Character Areas 'Stage 3 assessment' 2012
 - *Manage and protect the **landscapes network of hedgerows and characteristic dwarf or windswept hedgerow trees**, replanting ageing or diseased specimens to ensure the future survival of these characteristic features.*
 - *Plan to **integrate existing and any new development** such as parking, holiday accommodation and housing into the landscape effectively through careful attention to siting and, where appropriate to the relatively open landscape context.*
- The East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment and Management guidelines:
 - *Boundaries: conserve and enhance by:*
 - 1) *Encouraging the appropriate maintenance of hedges, in particular to benefit elm hedgerows and ensure their survival in the face of Dutch Elm Disease.*

- 2) *Encouraging the planting and maintenance of hedgerow trees, using exposure-tolerant locally indigenous species.*
- *Settlement and development: conserve by*
 - 1) *Discouraging development in unsettled areas and ensuring that development around existing coastal settlements enhances local landscape character and contributes to screening recent development.*

Further comments 08.09.15:

Thank you for the revisions.

The revised plan looks good and is acceptable in landscape terms.

Devon County Council Education Dept

The proposed 44 family-type dwellings will generate an additional 11 primary pupils and 6.6 secondary pupils.

Devon County Council will seek a contribution towards additional education infrastructure at both the local primary and secondary schools that serve the address of the proposed development. The primary contribution sought is £124,976 and the secondary contribution sought is £120,390 (based on the current DfE extension rate for Devon) which will be used to provide education facilities for those living in the development.

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.

Other Representations

71 letters of objection at 10th July 2015 stating the following points:

- Scale of development is too big
- The Greenfield site should be protected from development
- Wildlife impact - in particular badgers, butterflies and birds
- Proposal is contrary to the Development Plan and premature
- Undue pressure on local infrastructure
- No affordable homes are being offered
- Maer Valley is a precious local resource
- Access to Douglas Avenue is dangerous with a high existing accident rate
- Traffic will be high, congested and parking limited
- Flood and drainage risks
- Local sewerage infrastructure is at capacity
- Lack of local public consultation
- Noise, air and light pollution

- East Devon has a 5 year housing supply which means the BUADs should be kept
- Loss of dwelling is harmful
- Objections to the proposed over-55s housing
- Health impact and lack of local NHS facilities
- Loss of privacy
- Noise and disturbance and construction impacts
- Landscape, AONB and visual impact are unacceptable
- No housing need
- Fields have local amenity value
- Footpath impact
- Site will be inaccessible by foot due to its steep gradient

POLICIES

New East Devon Local Plan Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 22 (Development at Exmouth)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 7 (Development in the Countryside)

Strategy 42 (Green Infrastructure Provision and Strategy)

Strategy 43 (Open Space Standards)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN1 (Land of Local Amenity Importance)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset or Loss of a Building or Structure that makes a Positive Contribution to a Conservation Area)

Adopted East Devon Local Plan Policies

RE3 (Open Space Provision in New Housing Developments)

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)

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

S5 (Countryside Protection)

S7 (Infrastructure Related to New Development)

D1 (Design and Local Distinctiveness)

D2 (Sustainable Construction)

D4 (Landscape Requirements)

D5 (Trees on Development Sites)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

EN6 (Wildlife Habitats and Features)

EN8 (Proposals Affecting Sites Which May be of Archaeological Importance)

EN15 (Control of Pollution)

H1 (Residential Land Provision)

H2 (Residential Land Allocation)

H3 (Range and Mix of New Housing Development)

H4 (Affordable Housing)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

ANALYSIS

Site Description

The application site is 2.95 hectares of sloping agricultural grazing land on the south eastern edge of Exmouth. The land is adjacent to the back gardens of the even numbered houses that line Douglas Avenue to the north and directly west of a previously permitted housing development (in outline) called Plumb Park. The proposals being considered here have been regularly referred to as Douglas Gardens.

The site is outside the built up boundary defined in the adopted East Devon Local Plan and is unmistakably rural land at the urban fringe of the town. The site is also outside of the proposed built-up area for boundary for Exmouth in the emerging New Local Plan.

The land slopes down to the south allowing residents of Douglas Avenue excellent views of the Maer Valley and AONB landscape on the opposite, southern side of the valley. The site itself is not inside the AONB, but is a green field in a pleasant situation with a crossfall in height of around 15 metres when travelling from north to south. The outer perimeters of the site are delineated by mature field hedgerows and mature hedgerow trees.

The land is crossed by a public footpath that runs from Douglas Avenue along a small lane before crossing the application site at an angle. On the ground, walkers mainly do not follow the diagonal path and follow a track around the outside of the field. Because the field is so close to residents with unrestricted footpath access, it is popular with dog walkers and others who do not always stay to the established rights of way.

To the south of the site are open farming fields and to the south west gardens and wooded land. As well as the permitted housing development to the north-east at Plumb Park, Douglas Avenue to the north is the southern side of the suburb known as The Avenues. The Avenues is broadly characterised by larger dwellings in larger grounds in a low density arrangement, with a leafy street character.

There are no Conservation Areas in close proximity and the nearest Listed Building is Prathayes House (Grade II) some 400 metres to the east.

Proposed Development

The planning application is in outline for the erection of up to 44 new dwellings with the demolition of No.76 Douglas Avenue (a detached dwelling) to enable vehicular access at a single point. Details of the means of access are the only matter for consideration at this stage. All other matters (Layout, Scale Appearance and landscaping) are reserved for future consideration.

The application includes an indicative layout for the 44 units, 24 of which were originally proposed to be over-55s housing, the remaining 20 houses being unrestricted open market housing. After discussions with East Devon District Council, it is now proposed to be 50% affordable housing; therefore 22 homes would be affordable and 22 open market.

The application is accompanied by the following documents:

- Plans including an Indicative Masterplan
- Landscape and Visual Impact Assessment (LVIA)
- Heritage Assessment
- Travel Plan
- Transport Assessment
- Drainage Strategy
- Flood Risk Assessment (FRA)
- Design and Access Statement (DAS)
- Planning Supporting Statement
- Ecology and Ecology Mitigation Report/Plan/Assessment
- Arboricultural Report
- Statement of community involvement

Planning Considerations

The issues for consideration as part of this application relate to the principle of development, highway safety and impact, landscape and visual impact, ecology and habitats, residential amenity, flood risk and drainage, heritage, and other matters including affordable housing and planning obligations.

Principle of Development

The National Planning Policy Framework states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 14 sets out that at the heart of the Framework there is a presumption in favour of sustainable development. This states that in decision-making where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework.

Although a housing monitoring update has recently shown that East Devon District has a 5 year supply of housing land, recent appeal decisions made where this information has been presented have concluded that full weight cannot be given to the 5-year housing land supply position until the Local Plan Inspector has fully tested and resolved the housing need figures and it has been through public consultation. However given that the Monitoring Report is based on up to date information it does carry reasonable weight in the determination of this application.

The formerly adopted East Devon Local Plan is now out of date circa 2011, but the saved Development Plan policies have been assessed as being in accordance with

the Framework. The most relevant saved policies to this application are TA1 - Accessibility of New Development, S5 - Countryside Protection, D1 - Design and Local Distinctiveness. These policies comply with the National Planning Policy Framework and substantial weight is attached to them. The successor policies in the emerging East Devon Local Plan are Policy TC2, Strategy 7 and D1 to those most relevant saved policies mentioned above. These policies are also compliant with the National Planning Policy Framework and substantial weight should be given to them also.

Policies S5, and latterly its successor Strategy 7, are policies that are partly 'relevant' policies (see first paragraph above) for the supply of housing in terms of Paragraph 49 of the National Planning Policy Framework as they may have an indirect effect on restricting housing development in the countryside. For the purposes of the Framework and decision-making, the housing restraint part of these policies can be considered out of date and are excluded by the NPPF. In any case the proposal represents a departure from adopted planning policy.

It is clear that Exmouth, as the largest town in the District, is the foremost sustainable location for housing development where there is all the infrastructure and services you would expect with a large settlement. It is proposed to retain a built up area boundary for Exmouth in the emerging Local Plan and plan positively to deliver housing development in sustainable locations around the town, for example in locations such as Plumb Park adjacent to this application site.

In this case, the site is outside of built up area boundary and the countryside policies of the Development Plan apply, in compliance with the NPPF, discouraging unsustainable development that would harm the distinctive land form and the patterns of settlement. However, the planning balance must be applied, in particular considering the three elements of sustainability - the economic, social and environmental roles.

To summarise the consideration of the principle of development, the erection of housing outside of built-up area boundaries cannot be excluded on the grounds of protection of the countryside alone at this time. The Planning Authority must consider the economic benefits of development, the housing land supply position and the social benefits of providing 17 affordable homes in a time of urgent affordable housing needs. The accessibility of the site and its impact on the local and wider environment must also be apportioned due weight and a balancing exercise carried out to conclude whether the development is sustainable or not. This will be carried out at the conclusion of this report.

Highway Impact and Access

The proposals for 44 homes will be accessed by a new adopted roadway through what is presently No.76 Douglas Avenue which is to be demolished in the process. Once the access road has entered the site in a southerly direction, adoptable standard roads are shown in the indicative Masterplan that lead out to all of the proposed units. The existing public footpath is likely to be diverted, but is proposed to enter and leave the land in the same positions at the north and south of the site. The proposed adopted road network within the site is shown as running up to the

Plumb Park development before becoming a pedestrian and cycle link between the two developments.

In terms of the access and the development's impact on the wider road network where it generates additional vehicular traffic onto the surrounding Littleham and Avenue roads, the Highway Authority have considered the scheme in detail and met with local groups that have raised concerns about accidents and congestion. The County Council as Highway Authority recommend approval of the scheme with specific conditions applied to ensure safe visibility at the access and timely provision of well designed roadways.

In pragmatic terms, the development will inevitably generate additional vehicular activity on local roads. This traffic will accumulate at pinch points with the new traffic being generated when the Plumb Park development is occupied. The Highway Authority are satisfied that the new junction of the access at No.76 and Douglas Avenue will not suffer undue congestion at peak flows and has excellent visibility that can be controlled and maintained. They specifically do not consider there will be a significant denigration of highway safety. The Highway Authority point out that drivers will have the ability or option to take alternative routes to those routes that are most likely to suffer congestion at peak times such as Littleham Cross. For these reasons the proposals are considered to accord with saved Policy TA7 and emerging Policy TC7.

In terms of wider accessibility, saved Policy TA1, emerging Policy TC2 and the NPPF seek residential development that is located in positions where there are viable alternatives to the private car allowing pedestrian, cycle and public transport access to jobs, services and amenities. As was found with the Plumb Park development, the application site is very accessible to a range of services including bus services, shops, schools, medical services and jobs. There are suitable and safe walking routes into the town centre and seafront. In short, the site is considered very accessible and future residents would have very viable and attractive sustainable alternatives to using the private car.

In addition, the applicant has provided a draft Residential Travel Plan to which the County Council has not objected. The Travel Plan can be controlled by inclusion in any legal agreement that accompanies any permission. The Travel Plan is similar to that agreed for Plumb Park.

In conclusion, the proposals are considered an accessible location with suitable and safe access. Vehicular traffic will enter an occasionally busy local road network, particularly passing through the Salterton Road junctions, but these trips will naturally dissipate onto alternative routes through the Avenues that are safe and appropriate. There are viable alternatives to the use of the car with pedestrian and cycle links as well as walkable bus stops with regular services in the locality. The submitted Transport Assessment and the Residential Travel Plan are considered acceptable by Devon County highway Authority and the overall the scheme considered to accord with the transport policies of the Development Plan and the guidance in the NPPF.

Landscape and Visual Impact

The application site is currently a pleasant green field, sloping steeply down as it leaves the edge of Exmouth. It is overlooked by the residents of Douglas Avenue who back onto the land and this forms the northwest side of the Maer Valley. The applicant has submitted a Landscape Character and Visual Impact Assessment (LVIA) that analyses the impact of development in detail. The Council's Landscape Officer has reviewed the LVIA and also completed a critique of the proposed development in the light of the landscape and visual impacts.

Both the LVIA and the Landscape Officer have sought to find those people who are most affected by the development. It is clear that those most affected are the residents of the even numbered houses on Douglas Avenue who back onto the site and the users of the public right of way that goes through the site. There are plenty of other viewpoints identified too, for example from Maer Lane and the dwellings thereon, from other permissive rights of way and as far afield as the East Devon Golf Course and the South West Coast Path on the edge of Budleigh Salterton.

It is clear that at the early stages of development, particularly the construction phase, the visual and landscape impacts will be high. By Year 15 when landscaping is established, the harmful impacts will be mitigated by tree growth far more and will be minor.

The land in question is overtly rural and the Area of Outstanding Natural Beauty (AONB) begins on the south side of Maer Lane, some 400 metres to the south of the site. However, the application site does not have any specific landscape protection. The current character is an open field with mature hedgerow boundaries that are to be largely retained. The resulting development would be houses throughout the site creating a distinct alteration to the character of the land. That said, this is the urban edge of Exmouth where the viewer already sees homes on the rim of the town and the Plumb Park development of well over 300 dwellings has been approved on land directly adjacent to the northeast.

The Council's Landscape Officer makes detailed comments on the conclusions of the LVIA. The LVIA makes some minor oversights and the impacts on some of the 'receptors' has been moderately underestimated. That said, the visual, landscape and cumulative impacts are broadly low level and do not trigger fundamental concerns from the Landscape Officer. The Landscape Officer concludes that, after some indicative plan changes by the applicant, the site could accommodate development of the proposed scale providing landscape mitigation, for example planting, is properly managed over the long term.

Indeed, the Landscape Officer notes that there are a number of constraints for the site, for example the gradient, a water pipe and public right of way, yet the scheme addresses the steep slope with an indicative form of development that is not too dense and allows for structural planting that can be maintained in the long term. There are a number of public and private open spaces through the site that allow large trees to grow and prevent the housing being unduly exposed to views across the valley.

In terms of the residents of Douglas Avenue, they will undoubtedly lose part of their rural view from the back of their houses, but a private view is not a material planning matter. The adverse visual impact from their viewpoint would also be reduced as the housing proposed will be positioned 2 to 14 metres lower than the houses on Douglas Avenue. It is not considered that the landscape and visual impact from these viewpoints amounts to a reason for refusal.

The users of the public footpath going through the site will also experience a major change in landscape and visual character. Put simply, the field will become housing with a dramatically urbanising affect. This change in character will only be experienced for short part of the footpath route and again this landscape and visual impact does not amount to a reason for refusal in light of the 5 year housing land supply position.

Most of the other viewpoints of the site experience a minor, negligible or 'no change' impact, especially if a well maintained and managed landscaping scheme is implemented. The most affected public viewpoints (often called receptors) are not unduly sensitive to change and are not adversely affected.

The Landscape Officer concludes that the LVIA is correct in stating that with control, the amount of development proposed can be acceptably accommodated on the land.

With all of these factors taken into consideration, it is considered that the landscape and visual impact will be in accordance with the policies of the Development Plan and this will be taken into consideration when applying the planning balance for the scheme as a whole.

Ecology and Habitats

The application is accompanied by an Extended Phase 1 and Phase 2 Habitat Survey with detailed analysis of the site. The land has no habitat or species designation, but there are European level sites towards the beach and Exe estuary. The ecologists completing the study of the site have endeavoured to achieve a net gain in biodiversity using a Mitigation and Enhancement Plan as follows:

- Hedgerow and tree planting as part of the landscaping scheme
- Recreation or grassland areas totalling around 0.8 hectares on site
- An open attenuation pond at the bottom of the site
- Maintenance of wildlife corridors through the site
- A lighting plan to protect bats
- Bat and bird nesting boxes on all houses
- An occupier's biodiversity 'Welcome Pack' for every home
- Long term management of the public spaces
- A mitigation payment under a Unilateral Undertaking to compensate recreational impact on the Exe Estuary and Pebblebed Heaths
- A mitigation plan for curlews in the Maer Valley

The application relates to semi-improved grazing land set down to a semi-permanent ley. Putting Douglas Gardens' proximity to European sites to one side for the

moment, the main on-site habitats are the grassland and its surrounding hedgeline/treeline.

The grassland has been heavily improved over the years with little inherent floral interest. It has a public right of way passing through which detracts from its attractiveness to wildlife. Natural England have highlighted the importance of fields around Exmouth for foraging curlew who leave the estuary in winter months on high tide, normally settling in quiet, corn stubble fields. The ecologists for the applicant have looked into this, taking into consideration both the synergy with the European sites, ie the estuary, and the importance of the curlew as a protected species.

They note that the application field is not a stubbly field of the type preferred and on 5 ecologist visits, no foraging curlews have been observed on site. On 2 of the 5 surveys curlew did enter the Maer Valley, but not to this field because it provides poor foraging opportunities, is regularly crossed by walkers and dog-walkers and is heavily overlooked by residents of Douglas Avenue. Nonetheless, in ensuring that curlews are not significantly affected and to provide ecological uplift, the applicant's ecologist has provided a 'Curlew Management Plan' that could be in place by 2015/16.

The surrounding hedge and treeline provide good habitats and foraging around the site. 9 species of bat have been observed on the site. Only 3 metres of hedgerow is to be lost for access to the east, but this hedgerow has a minor importance bat roost in one of its trees which is not to be lost. Other species of note in the area are badgers, birds and reptiles. In conclusion, the Phase I Habitat Survey identifies the three primary ecological issues as wintering curlews (as mentioned above), foraging badgers and the network of hedges and the bats that use them.

The proposed mitigating measures in relation to specific ecological resources are as follows:

- Hedges - creation of buffer zones (hedgerow verges and margins), enhancement of existing hedge structure and hedge losses to be offset by appropriate new hedge habitat creation and management.
- Bats - retention of trees with bat roost potential. Hedgerow enhancement, and establishment of a sensitive lighting plan that includes unlit zones in relation to tree roosts and key commuting routes and foraging sites. An indicative lighting plan and provision of bat roost opportunities in the new buildings.
- Badgers - retention of commuting corridors to the wider countryside and creation of potential foraging resource within hedgerow margins.
- Birds - timing of site clearance outside bird breeding season, enhancement of habitats and nesting boxes in all the new houses.
- Reptiles - enhancement of hedgerows and creation of buffer zones.

Overall, as a package of protection and biodiversity enhancement, the site during and following development will benefit from a net gain and the measures are suitable mitigation. These measures are encapsulated in the Ecology Mitigation and Enhancement Plan dated March 2015 and submitted with the application.

The ecological surveys show that a licence from Natural England for the disturbance of protected species is unlikely to be required.

Natural England have commented on a number of points. They note the site's proximity to the East Devon Pebblebed Heaths (SAC) and the Exe Estuary (SPA)/Exe Estuary Ramsar, both of which are SSSIs. As these are European level sites within 10km of the development site, the screening exercise of the Habitat Regulations means that the application must be subject to a Habitat Regulations Assessment to consider whether there is likely to be a significant effect. The Council has carried out an Appropriate Assessment and concluded that significant effects will not occur, first in relation to the enhanced levels of recreational activity on the SAC and SPA, and second the impact on curlews from the European sites foraging in the area.

Natural England want confirmation that the proposed payments towards SANGS promised through the contribution of £749 per unit will materialise in the form of compensatory and alternative public open space that will relieve the recreational pressure from new residential occupiers. East Devon District Council are actively engaging in securing the mitigation plan with an appointed specialist at present.

Natural England do not object to the landscape and visual impact on the distant AONB.

In summary, the ecological impact of built development on the site can be managed and mitigated using a combination of protection measures during the construction phase, minimal intervention in the most valuable habitats, off-site measures to mitigate the very minimal disturbance to foraging curlews, on-site improvements to the site to enhance biodiversity and a management regime secured in a Landscape and Ecological Management Plan (LEMP). Mitigation for the impact on the Pebblebed Heaths and the Exe Estuary, both European protected sites will be achieved by securing the necessary contribution of £749 per dwelling.

For these reasons the proposals are considered to accord with the Policies of the Development Plan, the NPPF and the stipulations of the Habitat Regulations.

Residential Amenity

The proposals are in outline and do not include detailed plans for the housing proposed. An indicative masterplan shows a low density layout of housing arranged following the contours of the sloping ground.

It is considered that at the number of homes being proposed, the land can comfortably accommodate the built development without resulting in undersized gardens or cramped building arrangements. Similarly, the impact on those already living on Douglas Avenue need not result in overlooking, enclosure or loss of light with plenty of room for new homes to be situated well away from the boundary. The impact of development is lessened further as the ground falls away to the south meaning that any new houses will be situated on lower ground than the existing houses on Douglas Avenue.

For these reasons the proposals are considered to be acceptable in terms of residential amenity and accord with the policies of the Development Plan.

Flood Risk and Drainage

A Flood Risk Assessment has been submitted as part of this application and the Environment Agency (Environment England) has no objections to the proposals subject to a condition securing a surface water drainage system following Sustainable Urban Drainage System (SUDS) principles.

The site is in Flood Zone 1 and is therefore not prone to flooding. Residential development is 'more vulnerable' to flooding, but is directed to Flood Zone 1 in national guidance and the development as proposed is considered appropriate. There is a ditch down the eastern side of the site which has been confirmed to be of no substantive flood risk to the site.

The submitted indicative masterplan shows a drainage attenuation pond in the south east corner of the site, which is generally the preferred SUDS method of holding water being drained and attenuated before leaving a development.

A detailed drainage methodology will be required as part of a reserved matter submission that will inevitably follow the layout design of the site. This method of drainage will be controlled by planning condition.

In terms of foul drainage, South West Water (SWW) have commented that the sewage network has not got capacity until the drainage improvements identified at Plumb Park are put into action. Being the same landowner, there is a reasonable prospect of these works taking place in a timely way and for that reason a sewerage improvement strategy can be required by planning inclusion in the Section 106 planning obligations in consultation with SWW. The legal agreement can also ensure that development of this site does not commence until the necessary sewage capacity is in place.

Heritage Impact

As well as the policies of the Development Plan, the Planning Authority must give special consideration to the significance of any Listed Buildings or Conservation Areas affected by this development.

There are no Conservation Areas in close proximity to the site. The nearest Listed Buildings are Prattshayes and Green Farm around 400 metres or more to the south east. Other heritage assets included in the Historic Environment Assessment are Littleham's church which is Grade II* and other Listed Buildings in Littleham some 1000 metres east.

The applicant's Assessment concludes that whilst some of these buildings are of high and medium significance, their significance is either unchanged, has a minor or negligible impact from the development proposed. Put simply, the nearest listed buildings are a long way from the site and the interrelationship between them is distant. The listed buildings' settings will be almost entirely unchanged and their

heritage worth protected. In relation to the impact from this development upon Prattshayes, given that the permission for 350 dwelling on the adjoining site was not considered to harm its setting, it would be difficult to conclude that this development causes harm adequate to justify refusal of permission.

For these reasons the proposals do not harm designated and undesignated heritage assets for which special consideration has been given. The heritage policies of the Development Plan and the NPPF have been complied with.

Other Matters

Issues of tree protection and contamination on the site can be controlled using regular planning conditions that protect the hedgerow tree root protection areas and provide for analysis of the ground conditions to provide health protection for future residents.

In terms of the other objections raised by neighbours, many neighbours have pointed to prematurity ahead of the Local Plan being adopted. The application should be determined in a timely fashion and although there are issues that would be clarified by the adoption of a Plan, the application must be determined at this point in time on its current merits.

Representations have been made about the pressures on local infrastructure. Most of these matters have been addressed by a planning obligation package and the scale of development would not justify a contribution towards the NHS.

Noise, air and light pollution have also been mentioned as has construction disturbance. A construction management plan can be imposed by planning condition and the matters of light, noise and air pollution have been assessed by East Devon's Environmental Health Officer as acceptable.

Pedestrian access to the land has also been highlighted, both in that the public right of way will be harmed and that future residents will struggle on the sloping topography of the site. The public right of way will be dramatically changed, possibly running around the outside of the housing, but altering the context of this short stretch of the path will not be adverse with the exact route and relationships considered in detail at any reserve matters stage. The accessibility of the site to pedestrians in the future will not be too difficult and does not trigger objections from the future custodians of the roads, the County Highway Authority.

Affordable Housing

The applicant has agreed to a ratio of 50% affordable housing with a split therein of 70% social rented and 30% intermediate social housing. This offer has been made after the submission originally only offered age-restricted housing as part of the scheme and then an offer of 40% affordable housing. The housing originally offered was 24 units for persons over 55.

The revised offer on the development is for 22 affordable housing units out of 44 new units. This social housing offer weighs heavily in favour of the proposals where Exmouth would benefit from affordable housing that is in great need.

The East Devon District Council Housing Officer in their consultation response highlights that 'according to Strategy 34 (of the emerging Local Plan) we will be seeking 50% affordable housing (22 units) on the application site'. The Housing Officer rightly notes that Douglas Gardens does not accord with any proposed housing development allocation in the emerging Local Plan and therefore may be considered a 'countryside' location where the 50% affordable housing provision should be applied to major residential development.

Strategy 34 of the emerging East Devon District Local Plan has been given great weight in recent planning appeal decisions by Inspectors and great weight should be given to it here.

It is therefore considered that the 50% affordable housing offer is compliant with current policy and a viability appraisal has been submitted to show that the scheme can provide the 50% affordable housing provision. This position has been checked and agreed by the District Valuer and the affordable housing provision is considered to weigh heavily in favour of the application.

Other planning obligations necessary to mitigate the impact from the development:

- Off site habitat mitigation (SANGS) - £749 per unit
- On site open space provision and maintenance through a management company
- Off-site open space contribution
- Education contributions (The primary school contribution sought is £124,976 and the secondary school contribution sought is £120,390)
- Assurance and timing of the development in relation to foul drainage arrangements

The Planning Balance and Conclusion

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

In this scheme, great weight is attached to the offer of 22 affordable housing units that will provide social sustainability benefits. Similar importance is attached to the potential (net) 43 new homes where the 5 year housing land supply cannot be given full weight at this point in time.

Without an entirely secure 5 year housing land supply there is diminished countryside protection from the relevant parts of former Local Plan policies.

The economic benefits of building, furnishing and living in 44 new homes and the filter down effect this will have on the local and regional economy weigh in favour of the proposal.

The development will be accessible by a range of transport means to Exmouth's varied amenities and facilities without the need to resort to the private car. Although the local road network will receive additional pressure, the impact is not considered severe and there are no objections from the County Highway Authority. This also weighs in favour of the proposal.

There is not a significant adverse impact on local residential amenity and an acceptable impact on the local and wider rural landscape and the setting of the town. Although there will be an inevitable erosion of the countryside with the new housing being built, the Landscape and Planning Officers assessments do not consider the visual impact to be significantly adverse in light of the current policy position. A similar conclusion is drawn on local heritage assets where special consideration has been given and whose significance has not been harmed.

Ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. There will be retention of the primary hedgerow around the site with minimal tree or hedge removal overall.

The development is outside of the floodplain with a site that can be drained by sustainable means. Sewage capacity is constrained by a lack of local capacity that can be addressed through the planned and paid-for expansion of the sewage treatment works by development of Plumb Park on adjoining land.

The proposals offer an appropriate package of mitigating measures to offset the impact that the new housing will have on local infrastructure.

It is considered that there are substantial social and economic benefits to development at Douglas Gardens. The affordable housing, the open market housing and the benefit to the local economy should be given great weight. The environmental impacts are limited, the most significant being the erosion of countryside on the edge of Exmouth. However, given the current policy position, and given that the impact is not so harmful in light of the comments from the Landscape Officer, the environmental impact is not so adverse that it outweighs the substantial housing offer being tabled.

On balance the proposals are considered to represent sustainable development in the light of the guidance in the National Planning Policy Framework and the up to date policies of the Development Plan.

RECOMMENDATION

APPROVE subject to the applicant entering into a S.106 Agreement to secure the above obligations and subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the development comes forward in a timely manner).

2. Approval of the details of the layout, scale and appearance of the building (s) and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(Reason - The application is in outline with one or more matters reserved.)

3. The details to be submitted as part of the reserved matters shall adhere to the key design principles set out within the Design & Access Statement and indicative Masterplan drawing number 14098-L01-03 received on 7 Aug 2015.

(Reason: To ensure that the development proceeds in accordance with the design principles established at the outline stage in the interests of ensuring a development that is compatible with and appropriate for the area and to accord with Policy CO6 (Quality of New Development) of the Devon Structure Plan and Policies D1 (Design and Local Distinctiveness) and EN6 (Wildlife Habitats and Features) of the East Devon Local Plan.)

4. All future reserved matters applications submitted pursuant to condition 2 of this permission shall be accompanied by a Construction and Environment Management Plan that must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. The plan shall also consider construction vehicle routing and delivery arrangements. Construction working hours and all site deliveries shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the East Devon Local Plan.)

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

writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

(Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

6. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram 14575/SKT01 Revision B where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in both directions. (REASON: To provide adequate visibility from and of emerging vehicles in accordance with Policy TA7 of the adopted East Devon Local Plan).
7. 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 main road and 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 main road and 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 main road and 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;
 - G) The street nameplates for the main road and cul-de-sac have been provided and erected.

(Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with Policies TA7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

8. Prior to the commencement of the development a Travel Plan shall be submitted for the written approval of the Local Planning Authority in general accordance with the Outline Residential Travel Plan document submitted as part of the application and then the approved travel plan shall be implemented prior to first occupation and for each and every subsequent occupation of the

development, thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

(Reason: - To promote the use of sustainable modes of transport in accordance with policies TA7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

9. No development shall commence until details of a surface water management scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall generally accord with the submitted Drainage Strategy dated 27th March 2015 and will include the following:-

- a) Agreement on the existing 'greenfield' run off performance for the site for a range of conditions; and
- b) Agreement on a surface water drainage scheme that mimics the 'greenfield' (as a) performance of the site; and
- c) Agreement on the standards of performance of any new scheme; and
- d) Details to ensure collection of only clean surface water and to prevent spillages or disposal of pollutants to a watercourse or river.

The development shall be carried out in accordance with the approved details. (Reason: In the interests of flood risk and pollution control to accordance with policy CO13 (Protecting Water Resources and Flood Defence) of the Devon Structure Plan and Policy EN15 (Control of Pollution) of the East Devon Local Plan.)

10. The details of the landscaping and layout to be submitted as part of the reserved matters shall include all fences, gates, walls and retaining structures. The development shall be carried out in accordance with the approved details. Thereafter and notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no further fences, gates or walls shall be erected within the curtilage of any dwelling house.

(Reason: In the interests of the character and appearance of the area and to maintain open landscaped areas where necessary to accord with policies CO6 (Quality of New Development) of the Devon Structure Plan and policies D1 (Design and Local Distinctiveness), D4 (Landscape Requirements) of the East Devon Local Plan.)

11. A landscape and ecological management plan (LEMP), including long term design objectives, habitat mitigation/enhancement measures, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place. The proposals shall be carried out as approved for the full duration of the plan. (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.)

NOTE FOR APPLICANT

Informative:

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

Wildlife - Bats and birds are protected under the Wildlife & Countryside Act 1981 and the Countryside and Rights of Way Act 2001, it is an offence to deliberately or recklessly disturb them or damage their roosts or habitat. Therefore, close inspection of the tree(s) should be undertaken prior to the commencement of works to determine if any bats or birds reside in the tree(s). No works should occur while birds are nesting which may be at any time between the month of March to September inclusive; if bats are present works should cease until the applicant has obtained further advice from Natural England on 0845 601 4523 or email wildlife@naturalengland.org.uk. Further advice on bats is available from The Bat Conservation Trust (0845 1300 228).

Plans relating to this application:

14098_L01_01 REV A	Other Plans	25.03.15
14098_L01_03 REV C	Other Plans	25.03.15
14575/SKT01 REV B	Proposed New Junction to Douglas Avenue	25.03.15

List of Background Papers

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

Ward Exmouth Littleham

Reference 15/2053/FUL

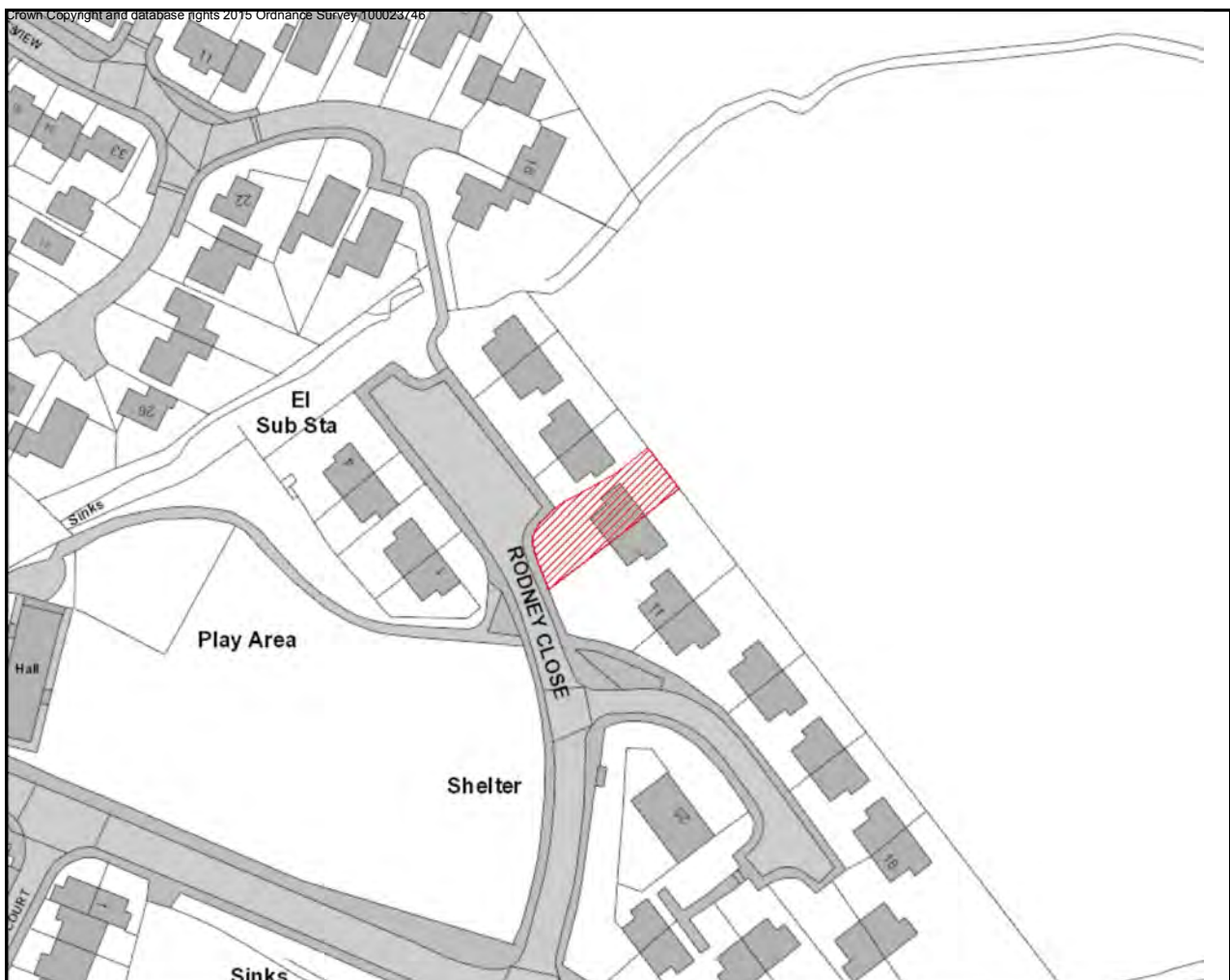
Applicant EDDC (Housing)

Location 9 Rodney Close Exmouth EX8 2RP

Proposal Installation of new ramp to allow disabled/elderly access to property



RECOMMENDATION: Approval - standard time limit



		Committee Date: 3 November 2015
Exmouth Littleham (EXMOUTH)	15/2053/FUL	Target Date: 23.10.2015
Applicant:	EDDC (Housing)	
Location:	9 Rodney Close Exmouth	
Proposal:	Installation of new ramp to allow disabled/elderly access to property	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Development Management Committee because the Council is the applicant.

The application relates to a property known as 9 Rodney Close in Littleham, which is within the built-up area of Exmouth as well as within the East Devon Area of Outstanding Natural Beauty (AONB). The property is a semi-detached bungalow forming part of an estate which is constructed from brick and has a tiled roof. It is set back from the highway, with an area of grass between all the properties in the estate and the pavement. On the whole, this grass area is open and unobstructed with the exception of paths providing access to each property and a ramp to 11 Rodney Close.

Planning permission is sought to construct a ramp to provide access to 9 Rodney Close in a similar arrangement to that serving number 11. This would replace the existing steps used to access the property. The proposed works would mainly take place in front of the dwelling extending down the side to the main entrance and opposite the main side entrance to the neighbouring property. The scale of the proposed works is such that it is considered that they can be undertaken without causing a significant loss of amenity to the occupiers of other dwellings.

Additionally, it is considered that, given the size and scale of the proposal that it would not be harmful to the street scene or the AONB.

On this basis, it is recommended that this application is approved.

CONSULTATIONS

Parish/Town Council
Meeting 21.09.15

No Objection

Other Representations
No third party representations have been received.

PLANNING HISTORY

None relevant.

POLICIES

New East Devon Local Plan Policies
Strategy 6 (Development within Built-up Area Boundaries)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

Adopted East Devon Local Plan Policies
S4 (Development Within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

Government Planning Documents
NPPF (National Planning Policy Framework 2012)

Site Location and Description

This application relates to 9 Rodney Close in Littleham, which is a semi-detached bungalow forming part of an estate situated within the built-up area of Exmouth, as well as within the East Devon Area of Outstanding Natural Beauty (AONB). The property is constructed from brick and has a tiled roof. It is set back from the highway, with a wide area of grass between all the properties in the estate and the pavement. On the whole, this grass area is open and unobstructed with the exception of paths providing access to each property and a ramp to 11 Rodney Close.

Proposed Development.

It is proposed to construct a ramp to provide access to 9 Rodney Close. This would replace the existing steps used to access the property. The ramp would extend forward of the property to address the levels change across the site and would be similar to the ramp at number 11 Rodney Close.

ANALYSIS

The proposed works would mainly take place in front of the dwelling and the other dwellings within the estate. Clearly, the proposal would be an intrusion into the open area in front of the property but notwithstanding this, it is considered that the size and scale of the proposed structure is not sufficient to create undue harm to the street scene; especially given that a similar structure already exists at number 11 Rodney Close.

The entrance to the property is to the north-west of the property on its side elevation facing towards the neighbouring properties side entrance. Although the proposal would result in the construction of a landing area adjacent to these entrances, it is considered that its use as an access to the property would cause no more harm, and no additional loss of amenity, over and above that which already exists from the steps currently in situ. In terms of the elements of the ramp forward of the property, it is considered that no significant additional loss of amenity would arise from this. This is because, at this point, the height of the ramp is relatively low and the areas at the front of all the properties are already clearly visible from the public domain.

The nature of the works, and the location of the site within a developed area, is such that it is considered that the proposal would not cause harm to the AONB.

Conclusion

Given the above comments, it is considered that the proposed works can be undertaken without causing undue harm to the amenity of the occupiers of other properties, the street scene or the AONB. Therefore, it is recommended that this application is approved.

RECOMMENDATION

APPROVE

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.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District

Council works proactively with applicants to resolve all relevant planning concerns, however in this case the application was deemed acceptable as submitted.

Plans relating to this application:

P079-15-100	Location Plan	28.08.15
P079-15-104	Proposed Site Plan	28.08.15
P079-15-105	Proposed Floor Plans	28.08.15
P079-15-106	Proposed Elevation	28.08.15

List of Background Papers

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

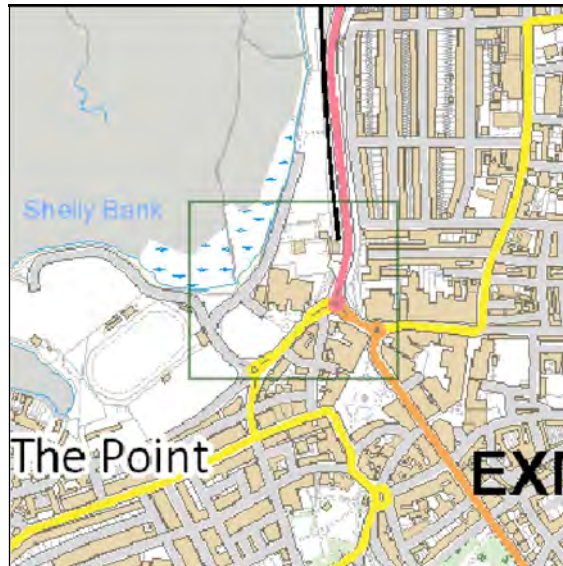
Ward Exmouth Town

Reference 15/1897/FUL

Applicant Mr Peter Gilpin (Leisure East Devon)

Location Exmouth Leisure Centre Royal Avenue Exmouth EX8 1EN

Proposal New section of roof to accommodate a new platform lift



RECOMMENDATION: Approval with conditions

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		Committee Date: 3 November 2015
Exmouth Town (EXMOUTH)	15/1897/FUL	Target Date: 13.10.2015
Applicant:	Mr Peter Gilpin (Leisure East Devon)	
Location:	Exmouth Leisure Centre Royal Avenue	
Proposal:	New section of roof to accommodate a new platform lift	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before Members as the site is on land owned by East Devon District Council.

This application seeks permission to raise the height of a small area of sloping roof on the existing building to accommodate a platform lift which will allow all users to access the building unaided. The main considerations are the impact of development on the character and appearance of the site and surrounding area. The development is minor in scale with the new roof viewed against the existing building such that the visual impact would be minor and not harmful. The proposed materials are considered to be acceptable and as such the proposal is considered to be acceptable.

CONSULTATIONS

Local Consultations

Parish/Town Council
Meeting 07.09.15
No Objection

Technical Consultations

County Highway Authority
Does not wish to comment

Other Representations

There have been no third party representations received in respect of this application.

Officer Report

Relevant Planning History

The Leisure Centre has been the subject of many planning applications over the years. The only recent development which is of relevance to this application is the approved scheme (ref. 14/2239/FUL) for renovation of the building and to which this current application follows.

Site Location and Description

Exmouth Leisure Centre occupies a position between the town centre and The Royal Avenue adjacent to the estuary to the west, and with the train and bus station to the north. To the east across an existing roundabout is the main shopping and commercial centre of the town. To the south is a large surface level car park.

The complex comprises a number of conjoined buildings that have been converted and extended over time to arrive at the current layout and form.

Proposed Development

The proposal seeks permission to raise the height of a small area of the roof to the west facing elevation, measuring 2.4 metres by 2.9 metres, to accommodate a platform lift within the building.

ANALYSIS

The main issues to be considered are the impact of the proposed development on the appearance of the building and on the character and appearance of the area. The location of the building and the location of development within the site to the west facing elevation facing the estuary mean that the proposal would not impact harmfully on the privacy or amenities of any nearby occupants.

The change to the roof is required in order to install a lift within the building, to enable all users of the leisure centre to access the facilities unaided.

The proposal would see replacement of a section of profiled steel sheet roof with a small flat roof area finished with a weatherproof membrane over an insulated plywood frame. The proposed development would increase the height of this area of roof by 1.1 metres. The increased height would remain lower than the existing roof of the main building surrounding the site and it is considered that the change to the roof profile would have a minor impact on the appearance of the site as a whole and would not detract from the character and appearance of the site given that the new roof would be viewed against the existing building.

The change of materials would also not significantly harm the appearance of the building or the surrounding area. The agent has confirmed that the colour finish will be lead grey to ensure that its appearance blends suitably with the existing building.

The lift will aid the use of the building for all users and the visual impact upon the building and wider area is considered to be acceptable and as such the application is recommended for approval.

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.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

(08)004_A01, (21)001_C04, (20)102_C04, (20)002_C04, (27)001_A01,
(27)002_A00, (27)003_A00

List of Background Papers

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

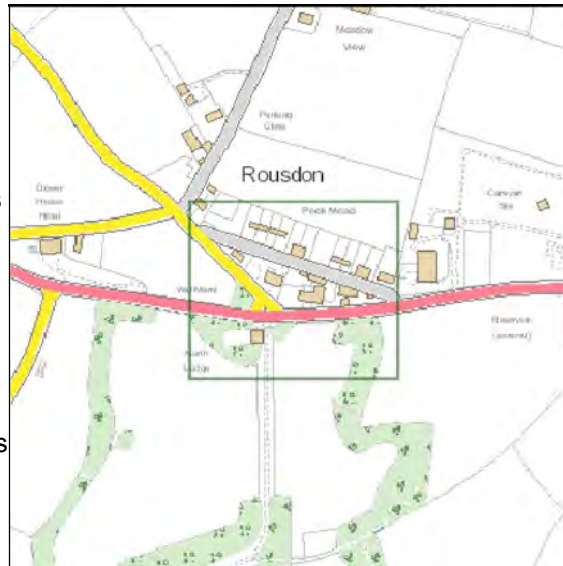
Ward Trinity

Reference 15/1835/LBC

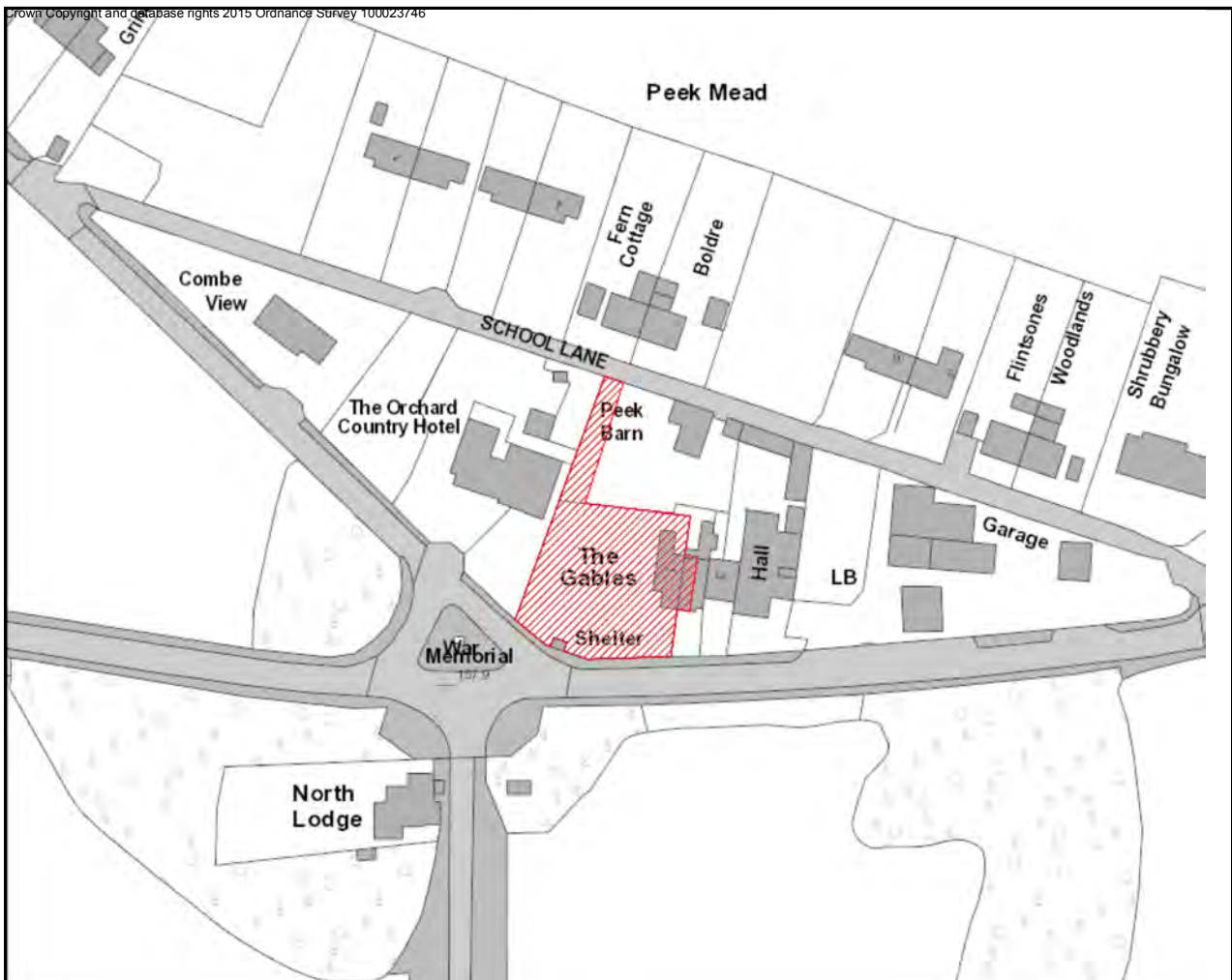
Applicant Mr & Mrs M Dalton-Aram

Location 1 The Gables Rousdon Lyme Regis DT7 3XZ

Proposal Repair and replacement of windows, re-configuration of kitchen/dining room layout, reinstatement of doorway from dining room to rear courtyard, conversion of outdoor toilet to internal toilet, installation of biomass boiler in rear outbuilding and other associated works including provision of flue



RECOMMENDATION: Approval with conditions



		Committee Date: 3 November 2015
Trinity (COMBPYNE ROUSDON)	15/1835/LBC	Target Date: 06.10.2015
Applicant:	Mr & Mrs M Dalton-Aram	
Location:	1 The Gables Rousdon	
Proposal:	Repair and replacement of windows, re-configuration of kitchen/dining room layout, reinstatement of doorway from dining room to rear courtyard, conversion of outdoor toilet to internal toilet, installation of biomass boiler in rear outbuilding and other associated works including provision of flue	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members as the applicant is a current member of staff.

The property is in need of considerable repair and upgrading of the existing accommodation and services. This application seeks to address the various issues in a comprehensive and sympathetic manner and will improve the overall character and appearance of the listed building without compromising the significance of the property or the loss of any historic fabric. It is therefore considered that the works are acceptable and that the application should be approved subject to the conditions.

CONSULTATIONS

County Highway Authority
Does not wish to comment

Other Representations
No 3rd party representations were received

POLICIES

New East Devon Local Plan Policies
EN9 (Development Affecting a Designated Heritage Asset or Loss of a Building or Structure that makes a Positive Contribution to a Conservation Area)

Adopted East Devon Local Plan Policies

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

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Site Location and Description

The property is located in the centre of Rousdon on the A3052 and comprises part of the former Rousdon School building which has been subdivided into 3 dwellings and the Village Hall. The site is adjoined by residential properties to the north, east and west facing the road to the south and opposite the main entrance to the Rousdon Estate.

The property is Grade II listed with the listing description stating:

Listed Grade II: SY 29 SE COMBPYNE ROUSDON ROUSDON 14/258 Rousdon Village School and Schoolmaster's House including area wall to south GV II Village school and schoolmaster's house. Circa 1880 by Sir Ernest George and T Vaughan. Stone rubble with freestone dressings, tile hanging and plain tile gabled and half hipped roofs. School to east has hipped roof with tiled spire incorporating a timber bell stage. Segmental and pointed arch doorways below. Gabled projection at front with sundial over large stone mullion and transom window. Two large dormers at centre recess. To west (left) the schoolmaster's house projects with tile hung first floor and large shafted brick chimney stack rising through centre of the gable. Including front area wall to south. Low stepped wall of stone with chamfered coping and squat gate piers with chamfered corners. Listing NGR: SY2966891268

Proposed Development

The application proposes repair and refurbishment to the listed building comprising repair and replacement of windows, re-configuration of the kitchen/dining room layout, reinstatement of a doorway from dining room to rear courtyard, conversion of the outdoor toilet to an internal toilet, installation of biomass boiler in rear outbuilding and other associated works including provision of flue.

ANALYSIS

Rousdon Village School and Schoolmaster's House including the area wall to the south was built in 1876 by Sir Ernest George and T Vaughan as part of the works to the Rousdon Estate owned by Sir Henry Peek. Constructed in stone rubble with freestone dressings, tile hanging and plain tile gabled and half hipped roofs and brick chimneys, the building has a decorative and picturesque style as seen throughout the Estate. The school closed in 1939 and has since been divided into the Village Hall and 3 dwellings. The Design & Access Statement including the Statement of Significance accompanying this application outlines the full history of the building and is a very comprehensive and useful document.

This application relates to No. 1 The Gables which has recently been purchased by new owners and is in a very poor state of repair. The lack of regular maintenance over the years has resulted in considerable damage and deterioration of the property and it is now in need of considerable repair and restoration. The new owners are keen to repair and refurbish the building in a more sympathetic manner and the detailed proposals reflect this.

The works include the repair of the front porch using traditional handmade clay tiles, investigating the original finish underneath the existing timber cladding and repairs to the herringbone brickwork; restoration of the hall and lounge including the tiled flooring, timber panels, replacement with a more appropriate Douling Stone fireplace based on the original design within the Village Hall and the removal of the modern load bearing beams within the lounge; the reconfiguration of the kitchen/dining/utility room to provide a more useable space for current living standards which will upgrade the kitchen and provide internal access to the outdoor WC, re-using an original door. In addition, to re-instate a fireplace, replace the modern window with a door based on the original plans and again remove a modern load bearing beam within the dining room; external repairs include alterations to the outdoor WC to improve facilities, upgrading of the outbuilding (not curtilage) to house the proposed new biomass boiler, and generally to repair and improve the external finishes (roof, walls and chimneys) and minimise modern interventions eg. pipework; and on the first floor some minor alterations to the layout and sourcing an appropriate fireplace.

In addition to the above one of the main areas of repair are the windows which comprise a mix of both metal leaded lights and timber casements. The Design & Access Statement including the Statement of Significance includes a comprehensive summary of the 14 windows and the likely repairs and where there may be a need to replace them due to the extent and practical costs of the repairs. This is also detailed on the plans. It is proposed wherever possible to carefully repair and restore the existing windows in line with current guidance from Historic England. Where replacement is required, it is intended to use a slim profiled double glazed unit or laminated insulated single glazing which benefits from modern thermal efficiencies, but also retains the character and appearance of traditional glass. Whilst, this may not always be appropriate in a listed building, the significance of the old School and Schoolmaster's House has already been compromised by the installation of replacement windows including Crittals, modern timber casements and upvc.

There is no objection to the works which have been carefully thought through and following pre-application discussions with the Conservation Officer with a view to addressing the poor state of repair of the building and its lack of maintenance. The proposed approach will improve the existing windows and the overall character and appearance of the property without compromising the significance of the building or resulting in the loss of any historic fabric.

RECOMMENDATION

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 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.)
3. All replacement roof tiles, hanging tiles and brickwork indicated on the approved plans shall match the existing and no other materials used, unless the written consent of the Local Planning Authority is obtained to any variation.
(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. All new barge boards, soffit boards, fascia boards and external cladding shall be in timber only and no other materials and shall be painted in a colour to be agreed with 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.)
5. Where panel doors, linings and architraves are to be removed, they shall be carefully removed, stored under cover and re-used on site 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.)

6. 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 EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
7. 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.)
8. 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.)
9. Only exploratory opening up is to be carried out of the exterior of the porch to determine the original material and the 3no. fireplaces to the lounge, dining room and Bedroom 3 before seeking consent of the Local Planning Authority for the completion 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.)
10. No works shall commence until the following details and specification have been submitted to and approved in writing by the Local Planning Authority:
 - New door to north elevation including sections, mouldings, profiles, and paint colour. Sections through panels, frames and glazing bars should be at a scale of 1:2 or 1:5.
 - Replacement windows including sections, mouldings, profiles, paint colour and details of slim profile glass or laminated insulated glazing. Sections through casements, frames and glazing bars should be at a scale of 1:2 or 1:5.
 - External boiler flue.

The works shall be carried out in accordance with the approved details.
(Reason - In the interests of 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.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

	Location Plan	11.08.15
C0305 P1	Existing Elevation	11.08.15
C0305 P2	Existing Floor Plans	11.08.15
C0305 P3	Proposed Elevation	11.08.15
C0305 P4	Proposed Floor Plans	11.08.15
	Existing Site Plan	11.08.15

List of Background Papers

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

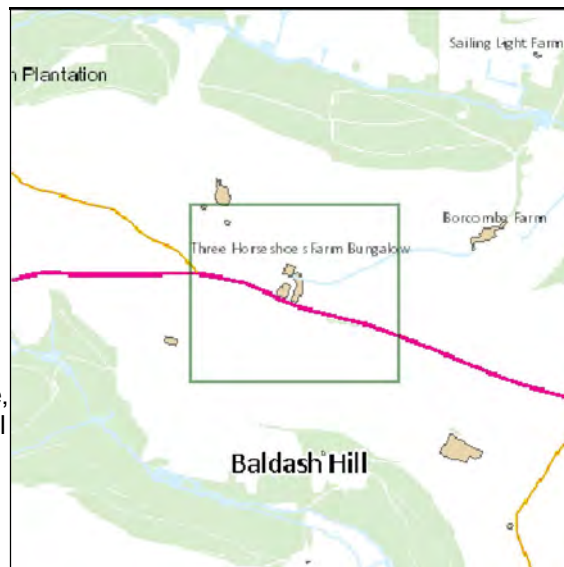
Ward Coly Valley

Reference 15/1609/FUL

Applicant Mr J Franks (Abbeywood House Developments Ltd)

Location Three Horse Shoes Inn Branscombe

Proposal Proposed demolition of existing derelict public house with flat above, construction of 4 no. new residential dwellings, 2 no. replacement dwellings and associated works



RECOMMENDATION: Approval with conditions



		Committee Date: 3 November 2015
Coly Valley (SOUTHLEIGH)	15/1609/FUL	Target Date: 11.09.2015
Applicant:	Mr J Franks (Abbeywood House Developments Ltd)	
Location:	Three Horse Shoes Inn Branscombe	
Proposal:	Proposed demolition of existing derelict public house with flat above, construction of 4 no. new residential dwellings, 2 no. replacement dwellings and associated works	

RECOMMENDATION: Approval with conditions and subject to the completion of a S106 agreement to secure, manage and monitor a dark wildlife corridor.

EXECUTIVE SUMMARY

This application is before Members as it represents a departure from the adopted Local Plan.

The proposal seeks the redevelopment of the Three Horse Shoes Inn, a disused public house, which is situated off the A3052 and within the East Devon Area of Outstanding Natural Beauty (AONB).

The proposal has been amended during the planning application process and as such the proposal seeks the creation of 4 new residential properties, in and around the footprint of the public house, and the replacement of 2 existing dwellings.

The existing site is within a state of disrepair and features several other dwellings which would be demolished and replaced. This current planning application differs from the previously refused planning application in that a viability assessment has justified the number of dwelling required to develop the site. Therefore, with the number of dwellings justified, the proposal would bring about planning benefit by replacing the dilapidated buildings and improving conditions on the site on a prominent site off the A3052 within the designated AONB.

There is an ancient scheduled monument that lies underneath the public house but, with the agreement of Heritage England, the works can proceed in accordance with recommended conditions. Natural England has also expressed concern based on the potential to impact bats at the Beer Quarry Caves – a European designated site. As such, and with further information in line with the Habitat Regulations, the Council has ascertained that the proposal would not

have a significant effect this European designation. As such a balanced recommendation of approval is made.

CONSULTATIONS

Local Consultations

Cllr Parr - The location of the Three Horse Shoes Inn is remote and unsustainable. However it is a brownfield site, the buildings have become derelict and are an eyesore.

The reasons for the previous refusal have been addressed.

The number of units has been further reduced. Conditions should be applied as per Historic England response and Natural England comments /the Ecologist statement re lighting.

Design of 6 & 7 along road frontage sympathetic to the old inn buildings.

No objection

Parish/Town Council

Southleigh Parish Council recommend refusal on the following grounds. The Parish Council are horrified at the proposal to demolish what is one of the last remaining old coaching inns on the main A3052 road and consider it to be absolutely essential to preserve such an important landmark in the area. Whilst they sympathise with the need to remove any of the later extensions they strongly consider that the main shell of the original public house/coaching inn should be retained in order to reflect the original character of its' former use. They are surprised that certain elements of the old coaching inn's construction are not listed. Regarding the other parts of the development the Parish Council would prefer that they were constructed in local materials relevant to the area.

Further comments 01/09/2015 - The Parish Council reiterate their former reasons for refusing this application

Adjoining Parish – Branscombe Parish Council

If the building cannot be refurbished without re-development Branscombe Parish Council would reluctantly support this application. However it had not been in favour of the building being neglected in light of the fact that to the Parish Council knowledge, offers to buy as a public house had been refused. The Parish Council was concerned that this should have been addressed many years ago instead of being allowed to become derelict.

Technical Consultations

Historic England

I write in connection with the above application. Pre-determination archaeological evaluation work at the proposed Three Horseshoes development site is currently underway.

A definitive account of the archaeological implications of the proposed development is not possible at this stage, but a report will be produced in due course, which will provide essential information for the determination of the application. Work has been progressing on the areas east of the scheduled monument, where present indications are that there are no significant archaeological remains that might prevent development in this area as proposed on heritage grounds.

For the area of the scheduled monument on the west side of the application site, which is still largely occupied by the former inn buildings, the archaeological trial trench evaluations were begun earlier this week but have had to be abandoned due to the discovery of a series of service runs, including live electricity supply.

It is clearly not possible to undertake the evaluation work in this area as intended. The options for proceeding with the application therefore need to be reconsidered.

One option would be to continue with the strategy for pre-determination archaeological evaluations, and to not determine any planning or scheduled monument consents for redevelopment until the inn has been wholly demolished and archaeological trial trench evaluations have been undertaken to provide information on the archaeological implications for development, and a suitable archaeological mitigation strategy has been devised.

A possible alternative would be for the necessary archaeological work to be undertaken post-determination. In this case, consent would be granted subject to conditions requiring a scheme to be undertaken for the archaeological supervision and investigation of the area of the monument affected by the application. The conditions would require submission and approval by the council of a Working Method Statement and archaeological programme, along with full implementation of the agreed programme, prior to development / construction work in this area. The Working Method Statement and archaeological programme (i.e. Written Scheme of Investigation) would cover the demolition of the existing buildings and clearance of the site under archaeological supervision, arrangements for any temporary storage and transport routes for demolition material etc.; and the archaeological investigation of the ditch and former bank of the scheduled monument, together with associated post-excavation work and reporting.

The results of this archaeological work would mitigate the impacts of development on the monument. On the basis of present evidence, it is now thought unlikely that there will be any discoveries that would prevent the development of the kind proposed, and that mitigation can take the form of archaeological investigation and reporting. It is, however, likely that the archaeological work will provide information important for the designing of the foundations of any buildings overlying the former ditch (as there will almost certainly be engineering implications due to the softer ditch fill).

It would seem that securing the necessary archaeological work post-determination could be accommodated in relation to the present planning application by attaching suitable conditions. I have an example of planning conditions used for securing archaeological supervision and investigation of a scheduled site which requires demolition and clearance of buildings, followed by archaeological investigation and reporting etc.

I also anticipate that conditional Scheduled Monument Consent could be granted on similar lines.

Please let me know if you think that this kind of approach would be appropriate for the current planning application, and we can liaise on the wording of suitable conditions.

Further consultee responses –

The proposed development would result in some harm to the scheduled monument of 'Cross dyke extending north and south of the Three Horse Shoes Inn'. It is not possible to determine in detail the level of harm due to problems preventing full site assessment; however, we consider that the harm would (in NPPF terms) be less than substantial. In order for the application to be acceptable, this harm needs to be outweighed by public benefits. We recommend that this could be achieved by a scheme to mitigate the harmful heritage impacts of the development, through measures for control of demolition and other site works to safeguard the monument; agreed programmes for site development and for archaeological and historic building investigation and recording, and a scheme for installing a public information display panel (See above for details.)

If the items and provisions detailed above are included in the scheme (either as details incorporated in the application or covered by conditions attached to any grant of planning consent), then the potential harm to the Cross Dyke monument would be reduced to an acceptable level, balanced by public heritage benefits, and we would not object to the application. If, however, these items are not included, then we would object, as anything less than this would not, in our view, outweigh the harm to the heritage asset brought by the development

Recommended conditions:

1. Conditions to control works on the scheduled monument site.

Phased programme of works:

'Prior to the commencement of development, a phased programme of works shall be submitted to and agreed in writing with the Local Planning Authority. The programme of works shall specify the sequencing of:

- the demolition of existing buildings;
- alterations to existing structures;
- ground works including the removal of surface coverings, excavations for service trenches, foundations and any changes in ground levels;
- the movement, storage and/or removal of material following demolition or ground works;

- works for the reinstatement of land affected by the removal and/or deposition of demolition or excavation materials.

The programme of works shall be carried out prior to the occupation of the new dwellings, or in accordance with any revision to the programme agreed with the Local Planning Authority.

If the development is to be undertaken in phases, with the inn/scheduled monument area in a second phase, the demolition and clearance of the inn, and landscaping of the site, should be carried out, (with an appropriate level of archaeological supervision and monitoring) prior to the commencement of construction work of the first phase.

Working Method Statement:

'No development, including ground or demolition works, shall start on site until a Working Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of:

- demolition and clearance works (including details of the removal, transportation (including vehicle runs) and disposal of building debris and any demolition and excavation materials;
- measures to reinstate land affected by the removal and/or deposition of such materials;
- any temporary site compounds, storage containers or buildings;
- measures to safeguard the archaeological significance of the site during the construction period;
- provision for archaeological supervision of these works as part of the submitted archaeological programme.

The approved Working Method Statement shall be implemented in full throughout the construction process.

Please note that Historic England operates an access to information policy.

Correspondence or information which you send us may therefore become publicly available.

2. Condition to secure the necessary archaeological work and historic building recording to accompany the development.

'No ground works, building works or demolition and clearance works shall take place within the site until the applicant has confirmed in writing the commissioning of a programme of archaeological work in accordance with a Project Design or Written Scheme of Investigation which has been submitted by the applicant to, and approved by, the Planning Authority. This scheme shall include on-site historic buildings recording and archaeological fieldwork and monitoring of any ground works, together with off-site post-excavation work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Planning Authority.

The council may prefer to separate the requirements for archaeological recording and historic buildings recording into two conditions. This would be perfectly acceptable, as long as it is recognised that the two programmes should be closely co-ordinated. To this end, we have provided notes below on these programmes.

Archaeological programme

Due to the national archaeological importance of the scheduled monument and the impact of the proposed development on it, there needs to be a suitable mitigation scheme which ensures that the archaeological remains here are fully investigated, characterised and reported. The scheme should include excavating an archaeological trench across the line of the scheduled dyke in order to fully investigate the nature and extent of the feature, together with any additional excavation to investigate particular features as may be required by the LPA as advised by the county archaeological service and Historic England.

This is to ensure that a proper record is made of archaeological remains on the scheduled monument and associated site affected by development.

The archaeological programme should be closely co-ordinated with the historic buildings recording programme.

Historic Building recording

The development should be accompanied by a historic buildings recording programme which will monitor and record the fabric and structure of the former Three Horseshoes Inn. This is to ensure that a record is made of the historic building. The building recording should be undertaken prior to and during the demolition of the building, by an experienced professional historic buildings specialist, and should include measured drawings at an appropriate scale, record photographs and descriptive and interpretive text; any existing drawings of the buildings can be used where these have been confirmed as sufficiently detailed and accurate. The historic buildings recording programme should be closely co-ordinated with the archaeological programme.

3. Condition to secure public interpretation of the affected heritage asset

'Prior to the occupation of the new dwellings on the site of the Three Horseshoes Inn, an interpretative display panel should be erected on a boundary fence or wall or other suitable publicly accessible location. The interpretation panel should display details of the history and significance of the Cross Dyke monument and the wider site.

The content and location of the interpretation display should be submitted for approval by the local authority and Historic England prior to installation.

This is in order to promote public appreciation and understanding of the heritage assets in the vicinity of, and affected by, the development.

Devon County Archaeologist

I refer to the above application and your recent consultation. The proposed development occupies an area of known high archaeological potential, sited over a prehistoric cross-ridge dyke that is protected as a Scheduled Monument. Recent archaeological investigations have been undertaken across the proposed development site and have shown that later archaeological features are present but that the area to the east of the Schedule Monument has been subject to some degree of truncation. The area to the west of the Schedule Monument and the monument itself have not been subject to any intrusive investigations due to the presence of live services.

Since the proposed development involves the disturbance of a designated heritage asset, Scheduled Monument Consent will need to be granted by the Secretary of State for Culture, Media and Sport as advised by Historic England for any works that involve disturbance to the monument. As such, the comments made below are made without prejudice to any comments made by Historic England.

Should the development of this site be acceptable to Historic England the impact of the development upon the known and unknown heritage assets on the site could be mitigated by the implementation of a programme of staged archaeological investigation.

This programme of work should be implemented through the application of the following worded condition on any consent that may be granted by your Authority. This would be in accordance with Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan and with paragraph 141 of the National Planning Policy Framework (2012) and is based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure that an appropriate record is made of archaeological evidence that may be affected by the development and in accordance with Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012).

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the nature, presence and significance of any heritage assets with archaeological interest that will be affected by the development - in particular any deposits associated with the cross-ridge dyke. Based on the results of this initial stage of works the scope of any further archaeological mitigation can be determined and implemented either in advance of construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

I will be happy to discuss this further with you, the applicant or their agent.

Conservation

We do not wish to comment on this application. DCC Archaeology to comment specifically on the impact of the proposed development upon the Scheduled Ancient Monument. As per discussions at preapp stage, I do not consider the redundant public house to be an un-designated heritage asset. However, DCC may discover further information on the HER and recommend that in the event of an approval the building is recorded.

Natural England

Internationally and nationally designated sites - Objection/Further information required

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Beer Quarry & Caves Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as Beer Quarry & Caves Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out.

It has been established through radio tracking that bats from Beer Quarry and Caves SAC also use roosts and flyways within the Branscombe area. Natural England is working with the AONB to establish some planning guidance and consultation zones for Bats in East Devon similar to that produced for the South Hams Bat SAC. The ecology report identifies evidence of Bat occupation at the site and East Devon

AONB have Identified that this development falls within one of the proposed consultation zones.

In the absence of specific East Devon planning guidance for Bats we recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

1. Review the following guidance <http://webarchive.nationalarchives.gov.uk/20150603000001/http://publications.naturalengland.org.uk/publication/142010>
2. Consider the implications of this development identified in the ecology in line with the above guidance.

SSSI

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

Landscape - Objection further information required

Natural England has assessed this application. We believe a Landscape and Visual Impact Assessment (LVIA) has not been undertaken and there is a potential for a significant impact on the purposes of designation of the East Devon AONB. From the information available Natural England is unable to advise on the potential significance of impacts on the East Devon AONB.

We therefore advise you request an LVIA and seek the advice of the AONB Partnership. Their knowledge of the location and wider landscape setting of the development further informed by an LVIA should help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able advise on whether the development accords with the aims and policies set out in the AONB management plan.

County Highway Authority

Observations:

The proposed development to replace the derelict public house with 5 no. new replacement residential dwellings and the demolition and replacement of 2 no. existing dwellings would bring the total number of residential dwellings for this location up to 10, including; Rattenbury Cottage, Three Horseshoes Cottage and Three Horseshoe Farm Bungalow.

It should also be recognised that it is likely that patterns of trips to a public house's differ to those of vehicles attracted to purely residential units. Residential units will tend to have a greater impact on the peak hours traffic flows than a public house. This is especially true in the AM peak (07:30-09:30) and less so in the evening peak (15:30-18:30). Also the site as a destination for residence only, alters slightly, this is because it is assumed that there is a certain amount of traffic already on the road

that would be attracted to a public houses ad hoc, which is unlikely to be the case for vehicles making for residential destinations. This being said, the location for purely residential occupation could not be considered as particularly sustainable in terms of it's lack of access to more sustainable modes of transport i.e. walking and cycling.

The application's Design & Access Statement claims that the "visibility in both directions is considered to be acceptable by Devon County Council Engineers". I personally have not stated this, nor can I find any evidence that DCC has ever given this assurance to the applicant.

The A3052, at the point of access is subject to the national speed limit of 60 mph. This speed limit, according to contemporary national guidance 'Manual for Streets 1 & 2', requires visibility splays of at least 2.4m by 215m in both directions. Whilst I am confident that this can probably be achieved in the easterly direction (trailing traffic direction), the existing white wall in the westerly direction (Existing low wall retained, on plan) obscures this sight line, and even then gives something in the order of 2.4m by only 94m, which is not sufficient in the leading traffic direction. It would; however be unrealistic to require vastly improved visibility sight lines from those which the public house had, but even so, I think that the maximum available should be offered with this application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION

1. The proposed development would be likely to result in an increase in the volume and a change in the character of traffic entering and leaving the Class A County Road through an access which does not provide adequate visibility from and of emerging vehicles, contrary to paragraph 32 of the National Planning Policy Framework.

2. The location of the proposed development is likely to create the need for additional travel by private vehicles due to its location and the lack of suitable access to alternative means of travel contrary to paragraph 14, 29, 32 and 34 of the National Planning Policy Framework.

East Devon AONB

NPPF calls for valued landscapes to be protected and enhanced (NPPF 109) with the greatest weight being given to conserving landscape and scenic beauty in National parks and Areas of Outstanding Natural Beauty (AONBs) (NPPF 115).

The Three horse Shoes has been present on this site for many years, as tithe map records show dating back to the mid 1800s. The location is suited well to an Inn, set as its between the towns of Seaton and Sidmouth and away from any other development or housing. It is less well suited today for housing in respect of sustainability issues and as the landscape character assessment for the area show, the unsettled nature of this landscape. It is also located on a significant heritage

asset in the form of a pre-historic cross-ridge dyke territorial boundary that runs north-south across the ridge between flanking valleys to the north of Branscombe village.

Despite containing architecturally distinguished features from the late 19th-early 20th century houses in the Arts and Crafts style, the existing derelict buildings to not serve to enhance the AONB and removing and replace these with a more aesthetic and appropriate built form that respects the heritage setting of the site would be preferable. However, this should not in its own right be justification for a new form of development at this location. Development in unsettled areas is no encourages, the emphasis being to ensure limited new development or property extension that incorporate local buildings styles.

Any proposals for housing in such a prominent location as this would therefore be expected to be of the highest standards and design; closely meeting the existing built vernacular form of predominantly chert stone and appropriate in both scale and form to the existing property, the landscape character and heritage assets/setting. We expected Historic England to assess the Schedule Monument impacts at the site.

With reference to the ecology report, it is important to note the site falls within a proposed bat consultation zone relating to Beer Quarry Caves SAC (documents currently being drafted). We note the differing location for the proposed bat house shown in the report to these shown in the plans. Whilst we do not think the re-location of the bat house is of great concern, in the planning drawing it appears to be in a self-contained wildlife corridor. We are concerned about the possible risk that in the fullness of time this wildlife area may become annexe by the owners of plots 7 and 8, as it is possible they may perceive this as an untidy waste area that they could use to their benefit. It would therefore be important to condition that this corridor is managed and maintained in-perpetuity, to ensure the Management Company retains this strip and, as importantly, actively manages it.

The Plan appears to show a bat house with a hip roof whereas the eco-report proposed a more traditional ridge construction. This is a significant change as Lesser Horseshoes will typically hang from the ridge beam and the rafter so the change in construction radically changes the area of available hanging space for the bats and therefore the volume of the roof to accommodate free flight of the bats. This may well be a cost reduction exercise, however it could well significantly devalue the benefits of the mitigation.

As there are no plans for the bat house we do not know exactly what will be constructed and whether it will be fit for purpose beyond this initial assessment. This should be subject to a condition. Given its rural location and the known bat presence, there should also be minimal external lighting to any development proposals for the location.

Devon County Council Education Dept

There is currently capacity at the nearest primary and secondary schools for the number of pupils likely to be generated by the proposed development. We will however require a contribution towards primary and secondary school transport

costs due to the development site being further than 1.5 miles from Branscombe Primary School and 2.25 miles from Axe Valley Community College. The costs required are as follows: -

Primary Education -

1.00 primary pupil

£20.00 per day x 190 academic days x 7 years = £26,600

Secondary Education -

1.00 secondary pupil

£2.89 per day x 190 academic days x 5 years = £2,745

In addition to the contribution figures quoted above, 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 either of 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.

Other Representations

1 letter of support has been received;

- The proposal would greatly enhance the approach to Seaton.
- The proposal would replace an eyesore.
- Approve of the layout and design of the dwellings and feel that the development would be both a pleasurable place to live and drive past.

1 letter of representation received querying what would replace the boundary fir trees.

PLANNING HISTORY

Reference	Description	Decision	Date
05/0367	Four affordable houses and four additional garages plus five dwellings to be sold on the open market	Refused	06.04.2005
00/P1864	Redevelopment Of Premises From Inn To 6 Dwelling Units & Extension Of Dwelling	Approved	26.04.2001

14/2591/FUL	Proposed demolition of existing derelict public house and construction of 4 no. new residential dwellings, demolition and replacement of 2 no. existing dwellings, construction of 2 no. new detached dwellings and all associated works	Refused	01.04.2015
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POLICIES

New East Devon Local Plan Policies

Strategy 46 (Landscape Conservation and Enhancement and AONBs)
D1 (Design and Local Distinctiveness)
EN5 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)
EN6 (Nationally and Locally Important Archaeological Sites)
EN7 (Proposals Affecting Sites which may be of Archaeological Importance)
Strategy 7 (Development in the Countryside)
Strategy 46 (Landscape Conservation and Enhancement and AONBs)
Strategy 47 (Nature Conservation and Geology)
TC2 (Accessibility of New Development)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)
TA9 (Parking Provision in New Development)
TA7 (Adequacy of Road Network and Site Access)
EN4 (Nationally Important Sites – including Sites of Special Scientific Interest)
EN6 (Wildlife Habitats and Features)
S5 (Countryside Protection)
EN8 (Proposals Affecting Sites Which May be of Archaeological Importance)
EN7 (Nationally and Locally Important Archaeological Sites)
H4 (Affordable Housing)
EN1 (Developments Affecting Areas of Outstanding Natural Beauty)
TA1 (Accessibility of New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)
NPPG (National Planning Policy Guidance 2013)

Site Location and Description

The site known as the former Three Horse Shoes Inn is positioned within the open countryside and within the East Devon Area of Outstanding Natural Beauty (AONB). The public house has not been used for several years and is currently in a state of disrepair which has in the past been subject of enforcement investigations due to the poor state of the site. In immediate proximity of the public house is a detached dwelling known as 'Rattenbury Cottage' and to the North West 'Three Horseshoes Farm Bungalow' (not within the applicants ownership). The other dwellings within the site (and proposed to be replaced) are known as 'Seamist' and 'Sea Glimpse'. There is also an area of hard standing to the east of the site access which has previously been used as a car park to serve the public house.

The public house was built in the 1830s as a roadside inn to serve the main road. This inn was extended in the 20th Century with a recreation room, accommodation and service building.

A cross ridge dyke (a designated scheduled ancient monument) extends on a north to south axis under the existing pub.

The last application on the site (14/2591/FUL) for 8 dwellings was refused at the Development Management meeting on the 31st March 2015 where it was refused for the following reasons:

'The proposed development of two additional dwellings over and above those which would occupy the existing footprint of the public house (which on balance are considered acceptable providing benefits that would outweigh the unsustainable location) within a location that has limited facilities and services to support growth, limited access to public transport and fails to accord with the definition of sustainable development found within the National Planning Policy Framework. As such, the proposed development is considered contrary to the provisions of Policies S5 (Countryside Protection) and TA1 (Accessibility of New Development) of the East Devon Local Plan, Policies STGY7 (Development in the Countryside) and TC2 (Accessibility of New Development) of the emerging new East Devon Local Plan and the guidance in the National Planning Policy Framework.'

'The proposal does not provide sufficient information to account for the potential impact on the heritage assets (the scheduled ancient monument and potential site of archaeological importance) and therefore the proposal conflicts with the requirements of the National Planning Policy Framework (NPPF), specifically Paragraph 128. There is a lack of an historic environmental record, implementation program and any expert assessment of the proposal. The proposal therefore conflicts with policies EN7 (Nationally and Locally Important Archaeological Sites) and EN8 (Proposals Affecting Sites Which May Potentially be Archaeological Importance) of the East Devon Local Plan, and policy EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance) of the Emerging East Devon Local Plan and guidance contained within the NPPF and National Planning Policy Guidance.'

ANALYSIS

Proposed Development

The proposal seeks planning permission for the construction of 4 new residential dwellings and 2 replacement dwellings with associated works. The proposal includes the demolition of the Three Horse Shoes Inn and the replacement of two other dwellings within the site and seeks to address the two reasons for refusal on the previous application.

Plots 1 and 4 are on the site of former dwellings. On the site of the former public house plots 5-7 are proposed to be located (please note that plot 2 has been removed from the scheme and plot 3 related to the layout as part of the previously refused application). As there was a flat above the public house there would be a net gain in three dwelling as a result of the development.

The site would be served via a single access point from the A3052. There is currently an existing access point onto this site which serves the existing dwellings.

The main issues concerning this proposal are;

- The principle of the development
- Viability
- Impact on an Ancient Scheduled Monument and site of potential archaeological importance
- Whether the Three Horse Shoes Inn should be retained as a heritage asset
- Highway Safety
- Impact on the AONB
- Design and layout
- Impact on the adjacent properties
- Ecology

Addressing each issue in turn:

Principle of the development

The development plan for the District is the East Devon Local plan 1995-2011 including all the saved policies following the Secretary of State's Direction in 2009. The site is located in the open countryside outside of any built up area boundary as defined within the Local Plan and is therefore identified as countryside for the purposes of Policy S5 of the Local Plan. This policy will only allow development in the countryside where it is in accordance with a specific Local Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of development;
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings; and

3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

Within the housing section of the Local Plan there is not a policy that would explicitly permit housing on this site outside of the established built up area boundary. The proposal does not therefore accord with the Development Plan and as such the application has been advertised as a Departure by virtue of Regulation 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

The National Planning Policy Framework (NPPF) advises that the "golden thread" running through Planning is the presumption in favour of sustainable development and the three dimensions to it: economic, social and environmental. This means approving development that accords with the Development Plan or, if this is out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole within the framework; or specific policies in the framework indicate that development should be restricted.

The NPPF also advises that housing applications should also be considered in the context of the presumption in favour of sustainable development. To a certain extent this means approving development without delay if relevant policies are out of date, unless any adverse impacts would significantly and demonstrably outweighs the benefits or conflict with the NPPF as a whole.

Paragraph 14 of the NPPF sets out how this presumption is to be applied by decision takers by proscribing a set approach explaining how this presumption is to be operated. In such circumstances where the relevant policies are silent, absent, or out of date the decision maker is enjoined to grant planning permission unless the any adverse effects would significantly and demonstrably outweigh the benefits when assessed the framework policies as a whole; or specific policies of the framework indicate that development should be restricted (under footnote 9). Such a resection can be found at paragraph 119 in that the presumption does not apply where development requiring appropriate assessment under the Birds or habitats Directives is being considered, planned or determined.

The Council is currently working on the production of the emerging East Devon Local Plan for East Devon. The intention is that the draft Local Plan will build on and supersede work that has gone into the past LDF Core Strategy. Examination in public of this emerging local plan has been heard, but the results from the local plan inspector have not been published to date.

Approving this application would not undermine the strategic intent of the new local plan. In the absence of a five year land supply the policies concerned with the supply of housing cannot be considered up to date. The development would accord with the NPPF in bringing forward housing to aid this five year supply. In addition the proposal would meet a core planning policy by encouraging the effective use of land by re-using land that has been previously developed.

NPPF paragraph 30 states that encouragement should be given to solutions which support reductions in green house gas emission and reduce congestion. In preparing local plans, planning authorities should therefore support a pattern of development which facilitates the use of sustainable modes of transport. Policy TA1 (Accessibility of New Development) of the local plan broadly accords with this and states that new development should be located so as to be accessible by pedestrians, cyclist and public transport and also be well related to compatible land uses so as to minimise the need to travel by car. The site is remote from identified settlements with the nearest being Bransombe (identified under the saved local plan) and Sidmouth. Due to the clearly remote location the occupants of the proposed new dwelling would rely on private modes of transport as the main means of transportation. The proposed development would be a failure to support a low carbon future and actively manage patterns of growth.

However, the location of the proposal has to be balanced against the potential benefits of regenerating the site. For the most part the dwellings would be positioned on the approximate location of existing buildings. Some of the new dwellings that occupy the footprint of the former public house would improve visually the appearance of the site to the benefit of the wider AONB environment by replacing the now dilapidated buildings. There have been previous enforcement investigations into the appearance of the site and the redevelopment would provide the opportunity to improve the visual impact on the site within an AONB, which is easily viewable from the well used adjacent highway. Accordingly whilst in terms of the environmental dimensions there would be an unsustainable distance to services and facilities there would also be environmental benefits in clearing up the site to the benefit of the AONB. As the preservation of the AONB is accorded great weight within the NPPF it is considered that the harm from the location of the site is significant or demonstrable enough to outweigh the benefits from redevelopment.

Viability

The applicant claimed that the quantum of development originally proposed was required in order to bring about delivery of the site and the subsequent regeneration. A viability report was submitted by the applicant in order to demonstrate this and the Council has consulted with the independent District Valuer on the findings (at the applicant's expense). The District Valuer has concluded that the scheme is viable and deliverable with only 6 units, rather than the 7 proposed originally proposed. Accordingly the applicants removed a unit from the proposal (plot 2). Removal of this plot also means there would be less of a visual impact on the wider landscape. Amended plans have been received and so the planning application has been assessed on that basis.

It should be noted that due to the net increase of only three dwellings on the site this would not trigger the requirement for any S106 contributions.

In light of the above sections the proposal has adequately addressed the first reason for refusal on the previous application.

Impact on an Ancient Scheduled Monument and site of potential archaeological importance

The proposed development lies in an area of high archaeological potential and affects the site and setting of the scheduled monument known as 'Cross Ridge Dyke extending north and south under the Three Horse Shoes Inn. Scheduled monuments are heritage assets designated at the highest level of national significance under the Ancient Monument and Archaeological Areas Act 1979 (as amended). The monument consists of the below ground remains of a prehistoric cross ridge dyke that runs north to south across the ridge between flanking valleys to the north of Branscombe village. In addition to planning consent being granted Ancient Scheduled Monument consent would also need to be secured from English Heritage.

National Planning Policy Framework and guidance indicate that development should avoid harmful impacts on the affected heritage assets, and that opportunities should be taken to enhance the significance of the assets and the public understanding and appreciation of them.

The applicants have carried out some investigative works to ascertain the archaeological potential of the site, the findings of which has been documented. This investigative work was not completed however due live wires and sensitive infrastructure being found under the public house.

English Heritage has been consulted on the application. The proposed development would result in some harm to the scheduled monument of 'Cross dyke extending north and south of the Three Horse Shoes Inn'. It is not possible to determine in detail the level of harm due to problems preventing full site assessment; however, English Heritage considers that the harm would (in NPPF terms) be less than substantial. In order for the application to be acceptable, this harm needs to be outweighed by public benefits. English Heritage recommend that this could be achieved by a scheme to mitigate the harmful heritage impacts of the development, through measures for control of demolition and other site works to safeguard the monument; agreed programmes for site development and for archaeological and historic building investigation and recording, and a scheme for installing a public information display panel .

The Devon County Council Archaeologist has recommended that a condition securing a written scheme of investigation would be appropriate and in light of this and the above the application has adequately addressed the second reason for refusal on the previous application.

Whether the Three Horse Shoes Inn should be retained as a heritage asset

If the building had been in a good or significantly better state of repair the Conservation Officer may have considered this as a non-designated heritage asset. However, much of the building fabric is beyond repair and if the building were to be retained most of this building fabric would need to be replaced in any event. On this basis the Conservation Officer does not consider it appropriate to consider this as a heritage asset.

Planning Officers agree with the considerations of the Conservation Officer in that it would not be necessary to consider the proposal as a non designated heritage asset due to its dilapidated state.

Highway Safety

Devon County Highway Authority has raised concerns with regard to the proposed access visibility splays. They consider that there would be an increase in the volume and a change in character of traffic (as opposed to the former patrons of the public house) entering and leaving the class A county road through an access that does not provide adequate visibility from and of emerging vehicles. The national speed limit (60 mph) applies to the A3052 (passing highway) which would require visibility splays of 2.4 metres by 215 metres in both directions. The Highway Authority acknowledges that it would be unrealistic to require vastly improved visibility sight lines from those which the public house benefited from but still considers that the maximum available should be offered. The maximum visibility splay achievable is not stated by the Highway Authority. On exiting the proposed access the views to the west are greater than those to the east. The views to the east are slightly precluded by a small wall and bend in the road.

When taking into account that there remains at least the potential to bring back into use the former public house, and that the proposal would only provide a net gain of three additional dwellings, it is considered that any increased movements utilising this access would not be *severe*, which is the test under paragraph 32 of the NPPF. Furthermore, if all other matters of the application were considered to weigh in favour of an approval, an appropriate safeguarding condition could be imposed to create an access that would not detrimentally impact on highway safety whilst at the same time respecting the AONB landscape setting. Such details should clarify the height of fixed structures within the visibility splay. Therefore, on balance, this issue would not preclude the development.

Impact on the AONB

Paragraph 115 of the NPPF states that great weight should be given to conserving landscape and scenic beauty in AONB's, which have the highest status of protection in relation to landscape and scenic beauty. The landscape character is defined as an open coastal plateau, separated by river valleys and dissected by combs. In this area there is very low settlement density. Development Management should seek to conserve the landscape by maintaining the inherent pattern of isolated farms and small hamlets and discourage development in unsettled areas.

From immediate views the site can easily be seen from its frontage along the A3052 which is positioned directly adjacent to the development. As previously stated the existing development has been subject to enforcement investigation regarding its untidy nature. Development of this site could lead to the visual enhancement of the site, improving the site appearance within a designated landscape from this immediate vantage point. From medium vantage points the site can be witnessed from two surrounding public rights of way. From these vantage points the development would be seen in the context of the existing dwelling (in separate ownership) and would produce a visual appearance not unlike the current built form.

Long range views of the site are largely precluded by topography and foliage and due to the relatively minor scale of the development, not dissimilar to its current form, the development would not have a wider impact on the landscape character.

On balance it is considered that the proposal would not harm the wider qualities of the designated AONB, instead the development would conserve the landscape character and appearance in accordance with Policy EN1 of the Local Plan and guidance in Paragraph 115 of the NPPF.

Design and layout

The design and layout of the proposal has evolved during the process of the planning application. As a result of the investigations into the viability of the project plot 2 (as originally labelled) has been removed from the proposal which in turn has affected the layout. The removal of this plot means that the proposal would produce a visually less sprawling impact on the appearance of the countryside with the majority of plots still focused on the previously used land.

These designs of the buildings themselves are fairly generic and do not feature particular features or reference existing buildings on the site. Whilst such features and distinction would have added variety and maintain a greater sense of local distinctiveness the design of these dwellings would not result in visual harm. Plots 5-8 feature more variety and would be situated on the approximate footprint of the existing public house. These front the main road and maintain a suitably active frontage and reflect the general architecture of the existing building in terms of roof form and bay windows. The private garden would be to the rear and sides of these dwelling screened from public view. The dwellings are situated within the existing boundary of the property and avoid sprawl into adjacent fields. A materials condition should ensure that high quality materials suitable for its location are used in the construction. The proposal is considered to accord with Policy D1 in this regard.

Impact on the adjacent properties

The property known as 'Rattenbury Cottage' is a detached two storey dwelling. This property is in close proximity to the existing public house and would therefore be close to proposed plots 4 and 5. The south elevation of plot 4 does not feature any windows to overlook. The east elevation of plot 5 features one small dormer window which belongs to a bedroom. This bedroom would be situated mid way down the property and look onto a blank wall of Rattenbury Cottage and not have any views of the private amenity space of the aforementioned property. Furthermore it is considered that these proposed dwellings are situated far enough away to avoid an oppressive or overlooking impact on Rattenbury Cottage.

Immediately to the north of the proposal site lies the single storey property known as 'Three Horseshoes Cottage', the proposed access road and parking area would abut this property. Two of the bedroom windows from Plot 5 would have views over this property sided 11 metres to the south of the boundary with the property. Whilst this is an intimate relationship, the flat from the public house already features windows at a similar distance in a similar position and therefore as this could be brought back into use without the need for any further planning permission.

The property known as Three Horse shoes Bungalow is removed far enough (sited 50 metres to the north of the side elevation of Plot 8) not to be impacted upon in terms of amenity.

The proposal is considered to accord with Policy D1 in this regard.

Ecology

An ecological survey report was conducted in August 2014 by Bluesky Ecology which appears to satisfactorily assess and make appropriate mitigation measures for the development. A preliminary ecological appraisal identified multiple features for high bat roost potential. Additionally three slow worms were recovered during the survey period. An active swallows nest was also identified on the ground floor of the public house.

In terms of mitigation measures the following is proposed (in summary);

Bats - Mitigation measures for careful demolition, compensatory habitat mitigation provided within roof of new building (with fly in access) the new building would be located on the western boundary of the site and control external site lighting so that it does not detrimentally discourage bats from using the site.

Reptiles - Careful approach to site clearance in stages and avoidance of active season.

Nesting Birds - Compensatory habitat incorporated, avoiding work during breeding season. To avoid accidental harm to nesting birds a 15 metre buffer zone would be marked around any further nest uncovered.

Overall the mitigation measures proposed could be integrated with the proposal in order to produce a development that preserves the ecological value of the site, in accordance with guidance contained within the NPPF and Policy EN6 of the East Devon Local Plan.

Impact on SAC and SSS - Beer Quarry Caves

The application is situated within 3.1 KM of the Beer Quarry Caves which is Special Areas of Conservation (SAC). This site is also a notified Site of Special Scientific Interest (SSSI). Natural England, as a consultee, has advised that there was not enough information to determine whether the likelihood of significant effects on the European site can be ruled out. In such circumstance the competent authority will be required to screen and record the proposal for 'likely significant effect' in order to identify the requirement for an appropriate assessment. Natural England has identified that the development falls within one of the proposed consultation zone of forthcoming planning guidance (which is echoed in strategy 47 of the emerging Local Plan).

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 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 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, alone or in combination with other plans or projects.

The opinion of the general public and other consultees was taken under Regulation 61(4) by way of public advertisement of the planning application and direct consultation with stakeholders.

The conservation objectives of the SAC are ensuring the integrity of the site is maintained or restored as appropriate and ensuring Favourable Conservation Status of its qualifying features by maintaining and restoring;

- The extent and distribution of the habitats of qualifying species.
- The structure and function of the habitats of qualifying species.
- The supporting processes on which the habitats of qualifying species rely.
- The populations of qualifying species; and,
- The distribution of qualifying species within the site.

Qualifying features;

Rhinolophus hipposideros; Lesser horseshoes bat
Rhinolophus ferrumequinum; Greater horseshoe bat
Myotis bechsteinii; Bechstein's bat

Although there is no specific guidance for bat habitat within East Devon, Natural England has advised that similar guidance issued within South Hams would help.

The applicant considers that the potential effects of the development would be negligible due to the following reasons:

- A lesser horseshoe bat was observed on two separate occasions within the public house. No other parts of the site had recorded presence of a lesser horseshoe bat. Three separate emergence surveys were conducted did not find evidence of any other bats thereby identifying a low level use (of qualifying features) within the site.
- The recommendation of the ecology report acknowledges that species such as *myotis* are a light sensitive species. The report goes on to outline the site lighting strategy to accommodate these species. A condition could ensure that these recommendations are fulfilled and

further information submitted, thereby ensuring that the development would not interrupt the function of qualifying species.

- The mitigation proposed within the ecological appraisal provides new roosting opportunity facilities for lesser horseshoe, long-eared and crevice dwelling bat species.
- A new wildlife corridor at the far western side of the site would provide a dark route through the site for bats – this area will be planted with native hedgerow species to provide a light and noise screen.
- The minor scale of the new development, which would only set the net gain in three dwellings and taking into account that the pub could continue without the need for planning permission.
- The proposal is for six dwellings. The South Hams SAC guidance document identifies this as below the threshold for ‘major development’ and therefore it would not qualify for extensive survey effort.

The applicant does not have control over part of the designated areas in order to apply direct mitigation measures, and they consider that the proposal would not give rise to any tangible harm to the SAC.

In addition to the above the competent authority does not consider that the proposal would require further surveys;

- Due regard is had to the South Hams SAC flow diagram illustrating when further surveys could be required. Addressing each aspect in turn;
 - The proposal is not greater than 10 houses or meets the criteria for schedule 1 or 2 development.
 - A ‘pinch point’ has not been identified for the location that the application site is situated within.
 - While the site would add further luminance the existing site is not unlit as the site contains the public house and existing dwellings (as well as other dwellings immediately adjoining the site). Adding luminance is defined by changing the lighting regime from a previously unlit situation and so this is not the case.
 - The proposal would not result in the removal of trees or hedgerows which would harm protected species.
- It is noted that the consultation zones, referred to by Natural England suggested within strategy 46 of the emerging local plan, are yet to be finalised or adopted.

The imposition of conditions and restrictions on the way the proposal could be carried out has been considered. A legal agreement to provide and manage, maintain and monitor a ‘dark’ wildlife corridor (as stated within the ecologist correspondence dated 5th October 2015) would help to overcome the potential

adverse effects on the integrity of the designated site. This agreement would have to be contained within a S106 as the developer would have to agree to long term management. The installation of a bat box would also help to achieve a favourable conservation status, however, finalised details of this structure is required. Due to the combination of both mitigation and compensation the competent authority is convinced that there would not be a significant effect on the qualifying features and the ecological structure and function of the SAC or the SSSI. Therefore the competent authority does not have to proceed to conduct an Appropriate Assessment.

Conclusions

Paragraph 7 of the NPPF outlines that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 explains that these dimensions should be undertaken in concert in order to achieve sustainable development.

The proposal would reuse brownfield land in line with one of the core objectives of the NPPF and would improve the appearance of a prominent site in the AONB that has long been neglected.

The proposal would bring about social benefits in providing additional housing which would aid the council in meeting a 5 year housing supply. There would be some economic benefits during the construction of the proposal. In terms of the environmental dimension the development would regenerate a site within an AONB, the conservation of which is accorded great weight. Provided the development is carefully controlled there would not be a harmful impact on the archaeological potential of the site. Whilst there have been concerns expressed with regards to the impact on the European designated site by Natural England, given the mitigation measures that can be controlled the proposal is not considered to conflict with the Habitat Regulations. As such, and on balance, the proposal would meet the environmental dimension.

RECOMMENDATION

APPROVE subject to the completion of a S106 agreement and the planning conditions below:

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. Prior to the commencement of development, a programme of works shall be submitted to and agreed in writing with the Local Planning Authority. The programme of works shall specify the sequencing of:
 - the demolition of existing buildings;
 - alterations to existing structures;
 - ground works including the removal of surface coverings, excavations for service trenches, foundations and any changes in ground levels;
 - the movement, storage and/or removal of material following demolition or ground works;
 - works for the reinstatement of land affected by the removal and/or deposition of demolition or excavation materials.

The programme of works shall be carried out prior to the occupation of the new dwellings, or in accordance with any revision to the programme agreed with the Local Planning Authority.

If the development is to be undertaken in phases, with the inn/scheduled monument area in a second phase, the demolition and clearance of the inn, and landscaping of the site, should be carried out, (with an appropriate level of archaeological supervision and monitoring) prior to the commencement of construction work of the first phase.

(Reason – To ensure that the proposal does not harm the Ancient Scheduled Monument, in accordance with policy EN7 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and policy EN6 (Nationally and Locally Important Archaeological Sites) of the emerging East Devon Local Plan and guidance contained within the National Planning Policy Framework).

4. No development, including ground or demolition works, shall start on site until a Working Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of:
 - demolition and clearance works (including details of the removal, transportation (including vehicle runs) and disposal of building debris and any demolition and excavation materials;
 - measures to reinstate land affected by the removal and/or deposition of such materials;
 - any temporary site compounds, storage containers or buildings;
 - measures to safeguard the archaeological significance of the site during the construction period;
 - provision for archaeological supervision of these works as part of the submitted archaeological programme.

The approved Working Method Statement shall be implemented in full throughout the construction process. (Reason – To ensure that the proposal does not harm the Ancient Scheduled Monument, in accordance with policy EN7 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and policy EN6 (Nationally and Locally Important Archaeological Sites) of the emerging East

Devon Local Plan and guidance contained within the National Planning Policy Framework).

5. No ground works, building works or demolition and clearance works shall take place within the site until the applicant has confirmed in writing the commissioning of a programme of archaeological work in accordance with a Project Design or Archaeological Written Scheme of Investigation which has been submitted by the applicant to, and approved by, the Local Planning Authority. This scheme shall include on-site historic buildings recording and archaeological fieldwork and monitoring of any ground works, together with off-site post-excavation work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Planning Authority. (Reason – To ensure that the proposal does not harm the Ancient Scheduled Monument, in accordance with policy EN7 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and policy EN6 (Nationally and Locally Important Archaeological Sites) of the emerging East Devon Local Plan and guidance contained within the National Planning Policy Framework).
6. Prior to the occupation of the new dwellings on the site of the Three Horseshoes Inn, an interpretative display panel should be erected on a boundary fence or wall or other suitable publicly accessible location. The interpretation panel should display details of the history and significance of the Cross Dyke monument and the wider site. The content and location of the interpretation display should be submitted for approval by the local authority and Historic England prior to installation. This is in order to promote public appreciation and understanding of the heritage assets in the vicinity of, and affected by, the development. (Reason – To ensure that the proposal promotes understanding of the heritage asset, in accordance with the National Planning Policy Framework).
7. The development hereby approved shall be carried out in accordance with the submitted BlueSky ecological Survey report dated August 2014. (Reason - In the interest of safeguarding protected species and wildlife in accordance with policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan and policy EN5 (Wildlife Habitats and Features) of the emerging East Devon Local Plan).
8. External lighting on site shall only be provided in accordance with a detailed scheme which shall be submitted to and agreed in writing prior to occupation of the first dwelling by the Local Planning Authority. Such a lighting scheme shall accord with the general principles established within the submitted BlueSky ecological Survey report dated August 2014. The development shall only take place in accordance with the agreed details. (Reason - To ensure that the onsite ecological status of the site is maintained, in accordance with policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan and policy EN5 (Wildlife Habitats and Features) of the emerging East Devon Local Plan).
9. Prior to their installation samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed samples.

(Reason – In the interest of the character and appearance of the countryside and designated AONB, in accordance with polices D1 (Design and Local Distinctiveness) and EN1 (Development affecting Areas of Outstanding natural Beauty) of the East Devon local Plan and policies D1 (Design and Local Distinctiveness) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the emerging East Devon Local Plan).

10. Prior to the commencement of the development hereby permitted details of improved visibility splays for the access onto the A3052, to accommodate the development shall be submitted to and approved by the Local planning Authority. The development shall be carried out in accordance with the approved details (Reason – To ensure that suitable visibilities can be accommodated in the interest of highway safety, in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the East Devon local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the emerging East Devon Local Plan).
11. The garage and parking areas hereby approved shall be retained for parking of vehicles only and for no other purpose. (Reason: To ensure that adequate facilities are available for the traffic attracted to the site, in accordance with policy TA9 (Parking Provision in new Development) of the East Devon Local Plan) and policy TC9 (Parking Provision in New Development) of the emerging East Devon Local Plan).
12. Details of all boundary treatments, both hard and soft, shall be submitted to and approved in writing by the Local Planning Authority prior their installation. The development shall be carried out in accordance with agreed the details and implemented prior to first occupation of any dwelling within the site. (Reason – In the interest of the character and appearance of the countryside and designated AONB, in accordance with polices D1 (Design and Local Distinctiveness) and EN1 (Development affecting Areas of Outstanding Natural Beauty) of the East Devon Local Plan and policies D1 (Design and Local Distinctiveness) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the emerging East Devon Local Plan).
13. Notwithstanding the submitted details, prior to the commencement of the development hereby approved, full details including elevations and the exact position of the proposed bat box shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details. (Reason - To ensure that the onsite ecological status of the site is maintained, in accordance with policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan and policy EN5 (Wildlife Habitats and Features) of the emerging East Devon Local Plan).

NOTE FOR APPLICANT

Informative:

1. In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in

determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

2. Notes on the Archaeological programmes

Archaeological programme

Due to the national archaeological importance of the scheduled monument and the impact of the proposed development on it, there needs to be a suitable mitigation scheme which ensures that the archaeological remains here are fully investigated, characterised and reported. The scheme should include excavating an archaeological trench across the line of the scheduled dyke in order to fully investigate the nature and extent of the feature, together with any additional excavation to investigate particular features as may be required by the LPA as advised by the county archaeological service and Historic England. This is to ensure that a proper record is made of archaeological remains on the scheduled monument and associated site affected by development. The archaeological programme should be closely co-ordinated with the historic buildings recording programme.

Historic Building recording

The development should be accompanied by a historic buildings recording programme which will monitor and record the fabric and structure of the former Three Horseshoes Inn. This is to ensure that a record is made of the historic building

The building recording should be undertaken prior to and during the demolition of the building, by an experienced professional historic buildings specialist, and should include measured drawings at an appropriate scale, record photographs and descriptive and interpretive text; any existing drawings of the buildings can be used where these have been confirmed as sufficiently detailed and accurate. The historic buildings recording programme should be closely co-ordinated with the archaeological programme.

Plans relating to this application:

14:07:LP	Location Plan	13.07.15
BS1963/04.14/01 /DR	Survey Drawing	13.07.15
14:07:PL/04	Proposed Floor Plans	13.07.15
14:07:PL.05	Proposed Elevation	13.07.15
14:07:PL/06	Proposed Floor Plans	13.07.15
14:07:PL/07	Proposed Elevation	13.07.15

14:07:PL/08	Proposed Floor Plans	13.07.15
14:07:PL/09	Proposed Elevation	13.07.15
14:07:PL10 A	Proposed Floor Plans	13.07.15
14:07:PL/11	Proposed Elevation	13.07.15
14:07:PL/12	Proposed Combined Plans	13.07.15
14:07:PL13	Street Scene	13.07.15
14:07:PL14A	Other Plans	13.07.15
14:07:PL01E	Layout	29.09.15
14:07:PL02B	Proposed Floor Plans	29.09.15
14:07:PL03B	Proposed Elevation	29.09.15

List of Background Papers

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

Ward Coly Valley

Reference 15/1965/OUT

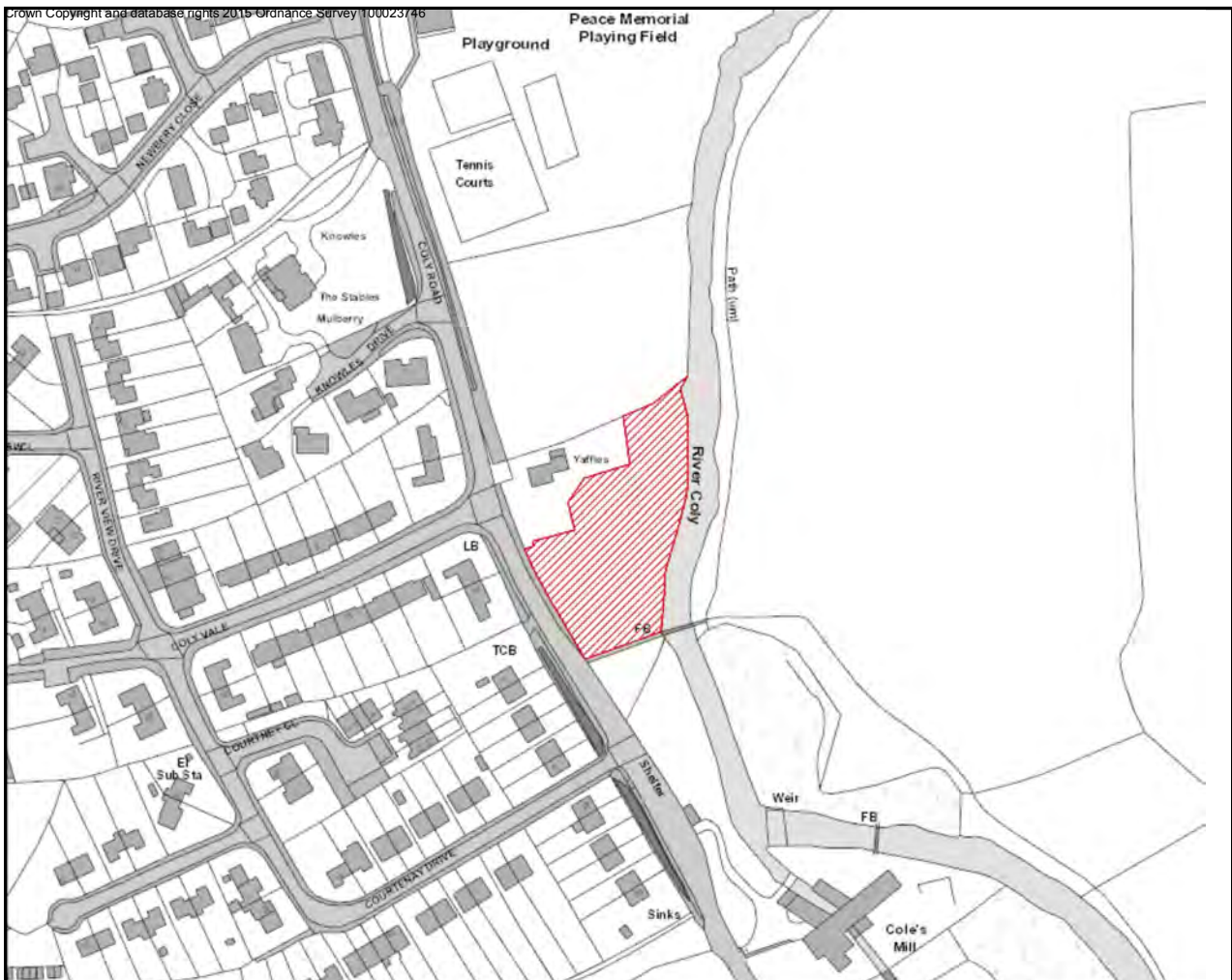
Applicant Mrs A Gould

Location Land South Of Yaffles Coly Road
Colyton

Proposal Outline application for 4 no.
dwellings and associated access



RECOMMENDATION: Approval with conditions



		Committee Date:
Coly Valley (COLYTON)	15/1965/OUT	Target Date: 15.10.2015
Applicant:	Mrs A Gould	
Location:	Land South Of Yaffles, Coly Road, Colyton	
Proposal:	Outline application for 4 no. dwellings and associated access	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application site relates to a small parcel of land to the south of the property known as Yaffles, which itself lies south of Peace Memorial Playing Field on the eastern outskirts of Colyton. The site lies outside the built up area boundary in an area of undeveloped land on the edge of the village but between existing residential properties.

The current application follows the refusal of an application earlier in the year (15/0269/OUT) for a development on the site for 5 no. dwellings. That earlier application was refused on the grounds of its position outside the development boundary of Colyton and its resulting impact on the undeveloped character of the site and setting of the village.

At the time of the decision on the earlier application the Council had recently received its updated housing figures and was confident that full weight could be given to these and therefore that applications in circumstances such as this could be resisted. Whilst it is still considered that some weight can be given to the Council's 5 year housing supply figures it is accepted that until such time as these have been tested and found sound through the Local Plan process it is not possible to fully rely on our five year land supply. This being the case and where the site is considered to be located in a sustainable location the NPPF advises that permission should be granted unless, "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits...".

In this case, the proposal would have some detrimental impact on the character and appearance of the site and begin to erode the transition from countryside to town on the southern approach to Colyton. However, these matters need to be balanced against the benefits of the provision of additional housing. Regard should also be had to the sites location between existing residential properties, its proximity to residential development opposite and the potential to bolster

boundary planting which would help to mitigate the identified harm. The application is therefore quite balanced but is recommended for approval subject to the conditions set out at the end of the report.

CONSULTATIONS

Local Consultations

Parish/Town Council

NOT SUPPORTED

CPC wishes to reiterate its previous comments and in light of the recent road accident on Coly Rd. (B3161) highlight the access issue and increased traffic.

This development was felt to be an overdevelopment for the site and Colyton, being outside the built up boundary and the settlement boundary of Colyton. The visual impact of this development would be detrimental to the surrounding area.

Access to the development was felt to be hazardous and a danger to road users, (bearing in mind that there has already been a fatality on that stretch of road and a recent accident resulting in a two hour road closure.). The proposed access to the development is situated right beside a very well used footpath onto the East Devon Way, a tourist attraction being heavily promoted by EDDC, and a crossing area of the B3161. This stretch of road already has poor visibility and anything that would compromise this, or increase the traffic flow at that point, could only increase the potential of another accident as happened in the last two weeks, fortunately without major injuries.

Coly Valley – Cllr H Parr

The reasons for refusal of the previous application on this site [May 15] apply, albeit this later application is for 4 dwellings- harm to the landscape.

If permitted, the development, which is in countryside, outside the BUAB of Colyton, would have a harmful impact on the character of the area and the wider landscape;

It would further erode the rural setting of Colyton and have a harmful effect on the rural approach to the settlement.

The council can now demonstrate a 5 yr land supply. Although this has not been tested through the LP process reasonable weight should be given to this position.

Other Representations

5 letters of objection and 2 neutral comments received:

Housing Issues

- Any need for additional housing should be met at the Ceramtec site
- The proposal, together with other proposed developments along this stretch of road will lead to coalescence with Colyford
- Land lies outside built-up area boundary and not in line with Village Development Plan

- The Parish Council has continually reiterated its stance that any future development should be by way of infill or brown field site and not on green field sites.
- Destruction of the green wedges between Colyton and Colyford.
- The identified housing need for Colyton for the next 20 years has already been nearly met by recent approved development.

Trees/Wildlife

- The proposal site is frequented by owls, bats and other wildlife and further survey work should be required.
- The development will result in the loss of trees/hedgerows which would affect wildlife and increase flooding potential
- The river supports a rich diversity of wildlife and its banks provide an important wildlife corridor and haven. This is particularly the case for amphibians, invertebrates and a local otter.

Flooding/Drainage

- There is a risk of flooding building next to a river prone to flooding in or on edge of flood zone 2.
- Additional pressure on existing drainage system that already struggles to cope at times of heavy rain
- Increased surface water run-off from development

Traffic

- The road into Colyton is already busy with many people crossing for the preschool, park, sports field, walking pathways adjacent to the proposed development.
- Dangerous access onto already busy road
- A recent road traffic accident on this stretch of road demonstrates how dangerous it can be.
- Loss of on-street parking for existing residents as inadequate parking is provided for visitors

Other Issues

- Loss of vistas of the AONB from Colyton

Technical Consultations

County Highway Authority

Observations:

The proposed development site has been subject of pre-application advice between the applicant and the CHA, and whilst I am confident that a suitable and safe access from Coly Road will be available to the site, the submitted plan (TW14/95/1A) does not show sufficient visibility to the south of the proposed access. I have concerns that visibility in this direction, to the centre of the carriageway instead of to the nearside verge, may be compromised by the existing on-carriageway bus stop south of the junction to Courtenay Drive that will cause northbound vehicles to cross the centre line in order to pass a stationary bus. I have therefore suggested to the applicant that traffic speed data recordings are taken prior to the visibility requirements in this direction are decided upon. Because this application in outline

only, with no matters to be decided at this time, I am happy to defer any recommendations until further details are available.

Natural England

Natural England has no comments to make on this application

Environmental Health

I have considered this application and with the adoption of the construction site code of practice in place I have no further comments to make

Environment Agency

I confirm that there are no objections to this proposal

PLANNING HISTORY

Reference	Description	Decision	Date
15/0269/OUT	Outline application (all matters reserved) for up to 5 no. dwellings, formation of site access and estate roads, footway and parking provision	Refusal	22.05.2015

POLICIES

New East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC9 (Parking Provision in New Development)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

EN6 (Wildlife Habitats and Features)

TA7 (Adequacy of Road Network and Site Access)

TA9 (Parking Provision in New Development)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

S5 (Countryside Protection)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description

The site is situated on the east side of Coly Road, Coly Vale, Colyton and outside of the Built-up area boundary of Colyton.

The application site extends approximately 0.29 hectares and comprises a parcel of low lying land that falls gently to the east towards the river Coly. Part of the site is within the flood zone 2 / 3 due to the proximity of the river to the east of the site. The site is enclosed by mature hedge banks and trees but open to the south where a public footpath runs.

Beyond the river to the east is open agricultural land falling within the East Devon Area of Outstanding Natural Beauty. To the west, the site abuts Coly Road, which leads from Colyton to Colyford through Colyvale. There is extensive housing development on the west side of Coly road. As stated in the design and access statement the area to the west contains a diverse mix of building styles and dwelling sizes including, detached houses and bungalows, semi detached houses and terraces, together with local authority houses and flats. Coly Vale and Courtenay Drive are positioned opposite and above the site. There is a single dwelling known as Yaffles adjoining the site on the northern boundary and beyond this is an enclosed parcel of land for which outline planning permission has previously been granted for the development of 16 no. dwellings. Further to the north is the Peace Memorial Playing field with its associated buildings and recreation facilities. To the south is the historic Coles Mill, grade II listed.

Proposed Development

The application seeks outline permission for the construction of 4 no. dwellings on the land. Whilst indicative elevations and a site layout have been provided, all matters are reserved for future consideration and it is only the principle of developing the site for the number of dwellings proposed that is under consideration. This being the case matters relating to scale, layout, appearance, access and landscaping are not for consideration at this stage.

The illustrative drawing number TW1/14/95/1A shows an indicative layout for 4 dwellings with associated parking for 8 cars. The drawing also indicates turning provision for service vehicles and takes account of the flood zone areas. A flood risk assessment has been submitted.

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
- Impact on residential amenity
- Highways/Access Issues
- Impact on Wildlife
- Impact on Trees
- Flood Risk

THE PRINCIPLE OF THE PROPOSED DEVELOPMENT

The site is considered to be in open countryside (this being defined as all areas outside built-up area boundaries or specific allocations). There is a presumption against new development in the countryside contained in both the Adopted and New East Devon Local Plans (policies S5 and Strategy 7 respectively) unless supported by an exceptional justification i.e. a justified requirement for an agricultural worker's dwelling or to meet a specific local housing need - this policy is considered further below. In the absence of any such explicit policy justification development of the site would be considered to represent development in the countryside contrary to Local Plan policy. A number of recent appeal decisions in the District have confirmed that (amongst others) policy S5 of the adopted Local Plan and Strategy 7 of the New East Devon Local Plan are consistent with National Planning Policy Framework policy objectives and can be given 'great weight' (Appeal Ref: APP/U1105/W/15/3003548 Land adjacent The Last Resort, Green Lane, Exton EX3 0PW and Appeal Ref: APP/U1105/A/14/2229080, Land at Down Close, Newton Poppleford).

However, the Adopted East Devon Local Plan, is now out of date and despite Inspector's recognition of the weight that can be afforded to countryside protection policies the proposal needs to be considered against the presumption in favour of sustainable development as defined by the National Planning Policy Framework.

The NPPF advises that the "golden thread" running through Planning is the presumption in favour of sustainable development and the three dimensions to it: economic, social and environmental. This means approving development that accords with the Development Plan or, if this is out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole within the framework; or specific policies in the framework indicate that development should be restricted. The NPPF also advises that Local Planning Authorities should maintain an up to date 5 year supply of housing (including a 20% reserve where there has been a history of under supply) this is therefore a material consideration where development is considered to be sustainable.

It is the Council's position that, following the publication of the new Strategic Housing Market Assessment on the 9th March 2015, it can now demonstrate a 5 year housing land supply including the required 20% buffer due to the previous under supply. However, it is accepted that this position has not been tested and accepted through the Local Plan process to date and therefore can only be given limited weight. Recent appeal decisions have highlighted this issue and Inspector's have taken the line that until this matter has been tested through the development plan process that the Council is unable to demonstrate a 5 year housing land supply (APP/U1105/W/14/3001269 Land at Lees Farm, Talaton).

SUSTAINABLE DEVELOPMENT

The introduction of the NPPF provides a presumption in favour of sustainable development which it recognises as the golden thread running through both plan making and importantly in this context, decision taking. As part of the definition of Sustainable Development, there are 3 key themes - the economy, the environment and the society. Many aspects of the consideration to be made when determining an

application fall within one or more of these areas and it is these three aspects that must now be held in tension in determining applications. East Devon District Council Local Plan Policies can only be given weight in decision making where such policies are compliant with the NPPF.

Paragraph 55 of the NPPF encourages LPAs to deliver a wide choice of high quality homes and to plan for a mix of housing based on current and future demographic trends and the needs of different groups to achieve inclusive and mixed communities.

Recent appeal decisions have expanded on this and have placed significant weight on a need to support economic growth through the planning system. Although the development is not of a scale to justify other uses with the site, i.e. employment/retail etc, the provision of housing itself has been considered to be a contributor to economic growth through the construction process and the contribution to local housing need.

The social role can be met if the scheme delivers a good mix of high quality housing, to meet current and future needs. Whilst the proposed development is not of a scale that would warrant provision of affordable housing it would nonetheless provide a further contribution to the housing offer in the area.

The indicative layout also demonstrates that the site can accommodate an area of informal open space which accommodates the area within the flood zone.

In terms of the environmental dimension, the site does have some potential to harbour protected species and as such an Ecological survey has been carried out and submitted with the application. The results of the survey suggest that the site and in particular the boundary vegetation and margins of the site have the potential to provide habitat for protected species. The report includes recommendations to avoid impacts on wildlife and to enhance biodiversity these could be secured by means of a suitable worded condition.

Notwithstanding that the site falls outside of defined development limits, the location is in close proximity to existing development to the west and approved development to the north. There is a public footpath across and to the south of the site and a pavement runs on the opposite side of Coly road linking to the services within the village. The site is considered to be relatively, close to public transport links, recreational, and community facilities and is considered to be sustainably located.

In summary therefore the site is considered to be capable of contributing to the Council's 5 year land supply and should be regarded as sustainable development within the terms of the NPPF.

DESIGN AND IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

The application is in outline form with all matters reserved. In terms of detailed design and layout these would be considered as part of any subsequent reserved matters approval.

The site is visible from Coly Road and from the public footpath which follows the side of the river bank to the east of the site, and indeed the footpath that runs immediately passed the site. The open flat landform with the hedgebanks screening the road and the development opposite creates an area that is open internally with an open countryside feel but is relatively close to and would be viewed in context with the residential development to the west on higher ground and also the approved development to the north of Yaffles if this is brought forward.

The boundary of the Area of Outstanding Natural Beauty follows the edge of the river bank. Given the proximity to the river and the open area beyond, the site would be sensitive to change and there is further potential for development on the site to have an impact on the setting of the AONB due to the wider view of the site looking back from the AONB. However, as discussed above any such impact in wider views would be in conjunction with the development to the west and views from the east would be filtered by mature tree belt alongside the river.

The creation of the access would require appropriate visibility splays to be provided which in turn would be likely to require the removal of some of the frontage hedge, however there would be potential to replant a new hedge to the rear of any visibility splay and there is also potential for further landscaping within the site and particularly on the eastern boundary, should this be necessary, to further ameliorate the visual impact of the development.

Whilst the proposal would result in the erosion of the countryside on the edge of the settlement and this formed the basis of a reason for refusal on the earlier application. Clearly in this instance the proposal would represent an incursion into the open countryside that surrounds Colyton and in so doing would have some detrimental impact on the existing open and undeveloped character of the site. In addition the proposal would also detract, to an extent, on the town's attractive setting on approach from the south. However, these impacts would need to be weighed in the balance against the potential benefits of the scheme and the degree to which they might be mitigated.

A scheme for 16 units was approved in outline in 2014 to the north of Yaffles closer to the built up area of the town. Although 5 year land supply issues weighed in favour of this site it also provided for the remaining affordable housing need for the settlement. The site is also largely enclosed by a tall row of lleylandi trees along the road frontage which mean that the section of Coly Road to the front of the site has a more enclosed feel than that to the south of Yaffles. Furthermore when approaching the town from the south when you pass Yaffles you turn the curve in Coly Road and have views further ahead of built development. The application site for the current site lies to the south of Yaffles and has a more rural and open feel to it particularly to the eastern side of the road. It is therefore clear that the impact on the character of the area and the wider landscape would be greater on this site than those previously considered that lie to the north of Yaffles including the Peace Memorial Grounds. Despite this the urban form of development to the west side of the road as well as to some extent to the north mean that this site has a clear relationship with the built form of the town while through sensitive design and landscaping its impact could be further mitigated.

IMPACT ON RESIDENTIAL AMENITY

The impact on the amenity of existing and future occupiers can only be properly considered at reserved matters stage. However, the submitted plans indicate that the site could accommodate the size and number of units proposed without having any significant impact on the privacy or amenity of surrounding occupiers. As the details are indicative, any particular issues could be resolved through room layouts and fenestration arrangements at reserved matters stage. The potential concern is the relationship with the existing dwelling Yaffles adjoining the boundary to the north of the site. This can be adequately addressed through the reserved matters stage. While the development of the site for residential use will clearly have some impact in terms of noise and disturbance in comparison to the existing use of the site, it is not considered that such noise and disturbance will be at an unacceptable level. The Environmental Health team have raised no specific issue in this regard.

HIGHWAYS/ACCESS

The access to the site and parking provision is a reserved matter; nevertheless the site plan indicates potential new access of Coly Road.

The site has an existing access onto the B3161 Coly Road, which comprises a standard field gate situated at the southern end of the site's road frontage with a sloped approach to the highway over a pedestrian footway. The submitted drawing shows (indicatively) a single, 9m radii entrance set midway between the two Coly Vale junctions with Coly Road opposite to the west. The proposed entrance would lead into a 4.8m estate road designed to accommodate service vehicles, with a 2m wide service strip for parking for up to 8 cars.

The proposed development has been the subject of pre-application advice between the applicant and the County Highways Authority, and it is considered that a suitable and safe access from Coly Road could be provided. However the submitted plan (TW14/95/1A) does not show sufficient visibility to the south of the proposed access. There is concern that visibility in this direction, to the centre of the carriageway instead of to the nearside verge, may be compromised by the existing on-carriageway bus stop south of the junction to Courtenay Drive that will cause northbound vehicles to cross the centre line in order to pass a stationary bus. It has been suggested to the applicant that traffic speed data recordings are taken prior to the visibility requirements in this direction are decided upon.

As this application is in outline only, with no matters to be decided at this time, the Highways Authority are happy to defer any recommendations until further details are available.

Notwithstanding the concerns regarding the intrusion of the proposed access and visibility splays on the character and appearance of the areas, it is considered that safe highways access, parking and turning along with the provision of a new footway could be achieved in accordance with Local Plan Policy TA1 (Accessibility of New Development), Policy TA7 (Adequacy of Road Network and Site Access) and Policy TA9 (Parking Provision in New Development) and the relevant equivalent policies of the Emerging Local Plan.

FLOOD RISK

The application has been submitted with an appropriate Flood Risk Assessment (FRA). This explains that all buildings and hard surfaces would be sited outside of the flood zone where there is a significant risk of flooding. Despite this the properties closest to the flood zone would have a raised ground floor level that would be raised by 300mm above natural ground level which will help to future proof the development. The Environment Agency has raised no objections to the proposal provided the development proceeds in accordance with document submitted.

TREE IMPACT

The application has not been accompanied by a full tree report at this stage.

The scheme is in outline and the layout indicative only that the landscaping of individual plots, should permission be granted, could be dealt with by a detailed scheme at the reserved matters stage. Also should there be concerns over the impact on retained trees, the layout could also be altered at reserved matters stage to reflect those concerns.

However, the proposal envisages the retention of all existing trees and hedgerows, with the exception of the roadside leylandii trees and similar coniferous trees contained within the site. Landscaping within individual plots would be subject to a detailed scheme at the reserved matters stage, and the loss of roadside trees would be mitigated by replacement tree planting on the site. Layout remains a reserved matter and could be altered to reflect concerns.

WILDLIFE

The applicants commission an ecologist to carry out a preliminary ecological appraisal and reptile survey of the site. The report assesses the sites potential to harbour and attract protected species of wildlife including bats, dormice, reptiles, badgers, otters and nesting birds and provides recommendations in accordance with national policy. The report concludes that following a walkover survey of the sites natural habitat, including the river banks, that there is no evidence of badger setts or otter Holts, albeit both species are known to frequent the area, which may include the site. The surveys submitted identify two trees as having the potential to support roosting bats with the grassland, hedgebanks and scrub likely to provide dispersal routes and feeding habitat for bat species. The hedge banks and associated scrub are considered suitable to support dormice. Himalayan Balsam was also found to be present along the banks of the River Coly and dry ditch associated with the northern boundary hedgebank and the recommendations of the report cover how this should be dealt with.

Provided that the development is carried out in accordance with the mitigation measures it is not considered that there would be any harm to wildlife.

Natural England has been consulted on the application but has raised no objections. On previous schemes they had initially raised concerns over potential increases in

phosphate levels from sewage outfalls to downstream receptors, namely the River Axe Special Area of Conservation (SAC), mainly through increasing nutrient levels within the SAC. However, they subsequently advised that they were happy that the matter was being addressed via a Diffuse Water Pollution Plan (DWPP) and the previous application was not objected to.

There are not therefore considered to be any concerns in this regard.

LOSS OF AGRICULTURAL LAND

Queries have been raised regarding the agricultural status of the land. According to mapping systems the land is designated as grade 3 agricultural land. However this has not been differentiated between grade 3a or 3b and due to the size of the land it is not considered that it would represent a significant loss of land even were it to be considered grade 3a land and therefore to represent Best and Most Versatile Agricultural land in any case it is not of the highest grade.

OTHER ISSUES

Footpath

It is noted that the footpath is shown on some maps as being across this site. However on site it actually runs directly parallel across a bridge. Consultation with the County Footpath Officer on the previous application for the development of the site stated that a footpath diversion order would be required. This would normally be dealt with by the District Council as part of the planning process as a diversion under section 257 of the Town and Country Planning Act 1990, on the grounds that a diversion is necessary to enable development to take place, for which planning permission has been granted or applied for. The County Footpath Officer has not responded to the current application but if a footpath diversion is required this would need to be separately applied for by the applicants.

S106 obligations

A development of this scale would normally generate contributions towards open space infrastructure but not affordable housing. However, until fairly recently this has not been the case as Planning Practice Guidance prevented collection of tariff style contributions, in this location, on developments below 5 no. units. As reported to members at the September Development Management committee meeting, following a high court challenge, this guidance was revoked and as a result where there is a need contributions towards open space infrastructure can now again be sought. Nonetheless, for applications in the system prior to 9th September 2015, members have agreed that such contributions would not be sought, this is one such application and it is therefore considered that there should be no such requirement for open space contributions in this instance.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
2. Approval of the details of the scale, appearance, access, layout and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the development is commenced.
(Reason - To clarify the nature and content of the reserved matters application.)
3. No development shall commence until details of finished floor and ridge levels and finished ground levels in relation to a fixed datum has 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 adequate details of levels are available in the interest of the character and appearance of the locality and in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan.)
4. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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 Adopted East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan.)
5. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within Schedule 2, Part 1 Classes A, B, D or E for the enlargement, improvement or other alterations to the dwellings hereby permitted (other than works that do not materially affect the external appearance of the buildings) or for the provision within the curtilage of any building or enclosure
(Reason - To enable the Local Planning Authority to retain control over any subsequent additions in the interests of the character and appearance of the site and surrounding area and the amenities of adjoining occupiers and in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan.)

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within Schedule 2 Part 2 Class A, for the erection of any fences, gates or walls other than those agreed as part of the landscaping scheme submitted as part of the reserved matters application.
(Reason - To enable the Local Planning Authority to retain control over the character of the development as a whole in the interests of the character and appearance of the wider area; to ensure the future use of appropriate and sympathetic boundary treatments and in the interests of flood prevention in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan, Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan and planning policy guidance in the National Planning Policy Framework.)

7. Development shall be carried out in accordance with the submitted flood risk assessment submitted with the application and date stamped 20th August 2015 unless otherwise agreed in writing with the Local Planning Authority.
(Reason - In the interests of the prevention of flooding and to ensure a suitable method of surface water disposal in accordance with guidance within the National Planning Policy Framework)

8. Development shall proceed in accordance with recommendations set out in the Preliminary Ecological Appraisal, prepared by Bluebell Ecology Ltd and dated November 2014, unless otherwise previously agreed in writing by the Local Planning Authority.
(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 Adopted East Devon Local Plan and EN5 (Wildlife Habitat and Features) of the Emerging East Devon Local Plan.)

9. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboriculture 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 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 and in accordance with policy D5 (Trees on Development Sites) of the East Devon Local Plan and policy D3 (Trees and Development Sites) of the Emerging East Devon Local Plan.)

10. 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.)

NOTE FOR APPLICANT

Informative:

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

INFORMATIVE

The applicant is advised of the need to discuss with Devon County Council whether there is a requirement to apply to formally divert the public footpath that crosses/bounds the site. Devon County Council's Public Right of Way team can be contacted on 0345 155 1004 or by e-mail at: prow@devon.gov.uk

Plans relating to this application:

Location Plan	20.08.15
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List of Background Papers

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

Ward Dunkeswell

Reference 14/2852/FUL

Applicant Mr Philip Stevens

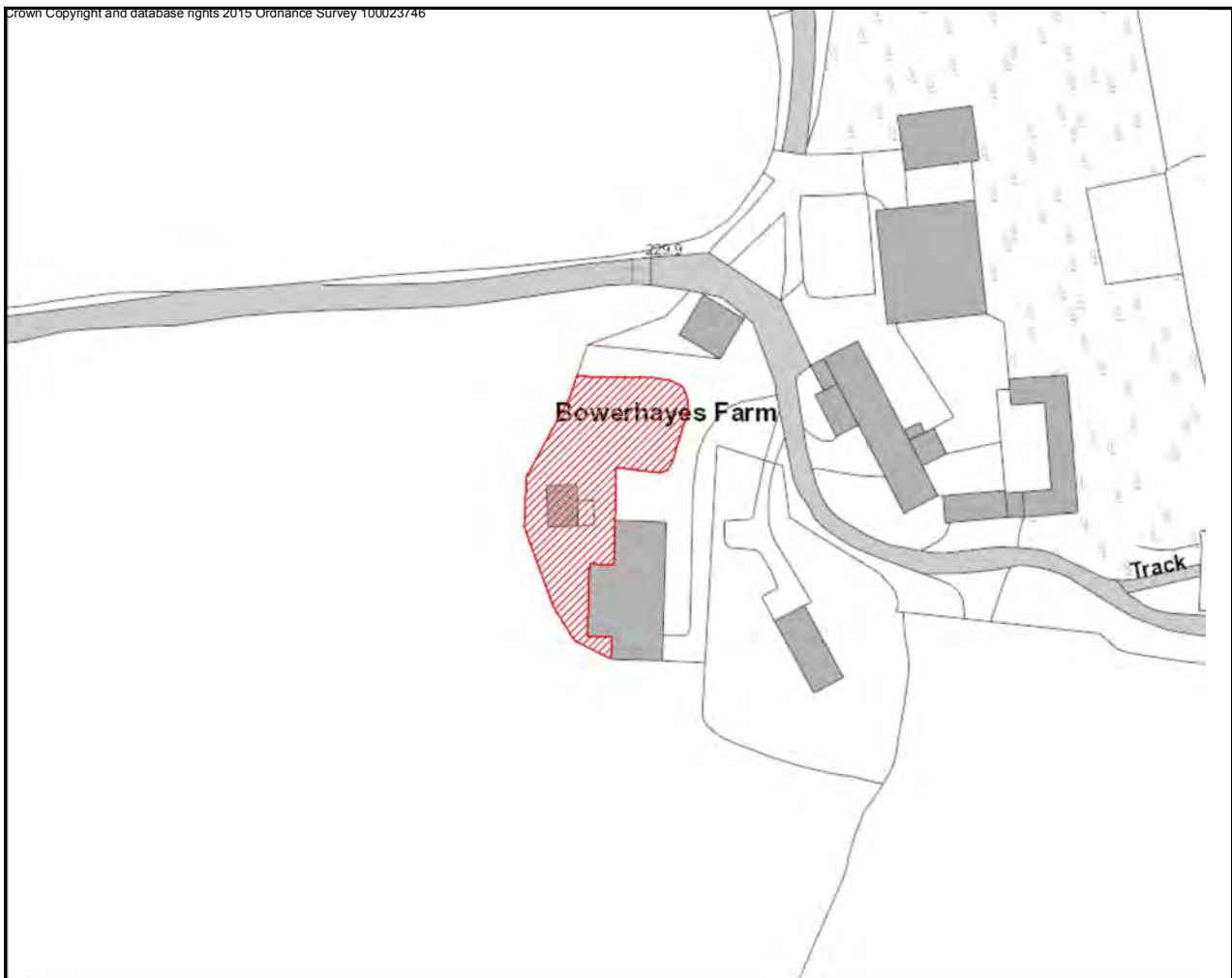
Location Bowerhayes Farm Dunkeswell
Honiton EX14 4RN

Proposal Construction of dwelling for
agricultural worker (retrospective
application)



RECOMMENDATION: Refusal

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		Committee Date: 3 November 2015
Dunkeswell (DUNKESWELL)	14/2852/FUL	Target Date: 05.02.2015
Applicant:	Mr Philip Stevens	
Location:	Bowerhayes Farm Dunkeswell	
Proposal:	Construction of dwelling for agricultural worker (retrospective application)	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is brought before Members as the officer recommendation differs from the view of the former Ward Member.

The application seeks retrospective planning permission for the retention, on a temporary basis, of a residential unit, occupied as an agricultural dwelling, that has been formed from the use, adaptation and enlargement of a mobile home on land at Bowerhayes Farm to the north of Dunkeswell within the designated AONB.

The farm, a long-established family-owned unit primarily involved with the rearing of a beef suckler herd, is already served by a tied bungalow constructed during the 1980s which is occupied by the applicant and his wife. The currently unauthorised accommodation to which the application relates is occupied by the applicant's son, partner and young child.

Consideration of the application principally turns on the extent to which there is a demonstrable functional requirement for a second dwelling on the farm. In this regard, and based upon the agents' own calculation of the labour requirement, there is clearly no need for a second permanent on-site presence within sight and sound of the farm and that any such additional requirements are capable of being met from simply being resident within the vicinity.

Although the continued occupation of the development is clearly of convenience to the applicant's son's family, this does not equate in planning terms to there being a demonstrable essential need for the accommodation to fulfil the functional requirements of the farm. Furthermore, it is not considered that it has been adequately demonstrated that these cannot be met by from the occupation of the original farm dwelling.

The opinion expressed by the applicant that a previous planning permission for a second permanent tied bungalow on the holding, granted permission in the early 1990s, remains extant has been thoroughly assessed. However, it is the view of officers that it is not any longer live and capable of being implemented. In any event, acceptance that it is would further strengthen any argument against the development to which the current application relates since it would be tantamount to a third dwelling on the farm.

In the absence of sufficient justification for the development, coupled with the comparatively remote location of the site in relation to services and facilities, the proposal amounts to development that is unsustainable. As such, it is contrary to the provisions of relevant emerging and adopted local plan policies and the National Planning Policy Framework.

CONSULTATIONS

Local Consultations

Parish/Town Council

14/2852/FUL Bowerhayes Farm - Construction of dwelling for agricultural worker (retrospective application) COMMENTS: No objections

Former Ward Member - Dunkeswell - Cllr R Buxton

I fully support this application which I regard as a genuine need. Should this be recommended for refusal I would like it to go to the DM committee.

Technical Consultations

County Highway Authority

Standing Advice

Environment Agency

Thank you for this consultation, the site is in FZ1 and I am unaware of any other constraints which would trigger a bespoke response. Please refer to the appropriate Standing Advice.

Other Representations

1 letter of objection has been received raising the following grounds:

1. Unacceptable precedent for the Blackdown Hills AONB with risk that this type of sporadic building with retrospective planning applications will become the norm.
2. There should be proof that there is sufficient income from farming to warrant a home for an agricultural worker; this should be from a business plan suggesting a profit comparable with the wage of a general farm worker and provides a sound financial basis.
3. Situation is the same as 22 years ago when planning permission was granted for a bungalow but not progressed suggesting, as the applicant's main source of income is from outside the farm, that the farm cannot sustain a full time agricultural worker.

4. The site can be seen from the public footpath and its style is not in keeping with adjacent properties and those within the AONB.

PLANNING HISTORY

Reference	Description	Decision	Date
92/P1373	Erection Of Bungalow For Agricultural Use (Approval Of Reserved Matters)	Approval with conditions	19.10.1992
89/P1835	Agricultural Dwelling (Outline)	Approval with conditions	13.09.1989
79/C0762	AGRICULTURAL WORKERS BUNGALOW	Approval with conditions	11.07.1979

POLICIES

New East Devon Local Plan Policies Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

EN20 (Private Sewage Treatment Works)

EN22 (Surface Run-Off Implications of New Development)

H4 (Dwellings for Persons Employed in Rural Businesses)

E8 (Agricultural Development and Succession Housing)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Adopted East Devon Local Plan Policies S5 (Countryside Protection)

D1 (Design and Local Distinctiveness)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

H8 (Dwellings for Persons Employed in Agriculture or Forestry)

TA1 (Accessibility of New Development)

TA7 (Adequacy of Road Network and Site Access)

TA9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Site Location and Description

Bowerhayes Farm comprises a long established family holding that occupies a hilltop plateau site located approximately 1 km to the north of Dunkeswell old village within the designated Blackdown Hills Area of Outstanding Natural Beauty (AONB).

The farm, which extends to around 220 acres and consists of a range of both older traditional and more modern farm buildings, houses a suckler beef enterprise based on a herd of approximately 100 cows. Three bulls are run with the cows with the rearing of calves taking place all year round. Calves are then sold at auction. Replacements are then retained from the offspring when required. The total number of stock reared on the holding amounts to around 200 animals.

More recently, a proportion of the weaned calves have been retained to an older age before being sold and the stated intention is to expand this in the future, thereby helping to achieve a greater gross margin per animal.

The present bungalow that serves the farm, which is occupied by the applicant and his wife, was constructed in 1983 (application 79/C0762 refers).

Planning permission was also granted during the early 1990s for a second bungalow on the farm (outline application 89/P1835 and approval of reserved matters 92/P1373 refer). The situation regarding the status of this permission is material to consideration of the current application as detailed below.

Proposed Development

The application proposal relates to the temporary retention of additional farm accommodation that has been created on the holding in the form of an extended mobile home that houses the applicant's son and family.

The accommodation, which is single storey, comprises an adapted portacabin-style unit, attached to one side of which is a timber-framed and clad lean-to structure that provides additional space as well as a more robust defence against the weather. Being mounted on wheels, the mobile unit is not permanently fixed to the ground and can be removed. Similarly the attached timber structure, which effectively near doubles the floorspace provided by the accommodation, is of a temporary nature and capable of being easily dismantled.

The development is positioned approximately 40 metres to the north west of the main farm bungalow and adjacent to one of the farm buildings.

ANALYSIS

Considerations/Assessment

The principal issue that is material to consideration of the proposal in this case relates to the justification for what is effectively a second dwelling on the farm and, more particularly, the extent to which it is essential to meet the functional requirements of the existing farm business as well as the planned increase in stock numbers. The application is accompanied by an agricultural and business appraisal prepared by the applicant's agents from whom the following factual information is taken.

Other relevant matters that are the subject of consideration below relate to the impact of the development upon the rural character and landscape and scenic beauty of the AONB and the status of the planning permission granted for a second bungalow on the farm and its relevance to an assessment of the merits of the current application.

Agricultural Justification

The applicant occupies the main farm bungalow on the holding and is fully engaged with the running of the farming operation and meeting the functional needs of the business.

His son, who occupies the temporary accommodation that the application is seeking to retain, has always lived on the farm and provides assistance in the form of help with seasonal operations during the busier times of the year. These include bedding and feeding during the winter and silage and hay making during the summer.

However, when not required on the farm, he is either employed on a part-time basis by a local firm of agricultural building contractors or carrying out repairs to agricultural machinery for both the farm and other customers from a workshop located at Bowerhayes.

It is now suggested however that the applicant is less able to work the long hours that are required to fulfil the functional needs of the farm and that there is therefore a greater need for his son to be readily available on the holding at most times to assume increasing responsibility for the running of the unit. Whilst until relatively recently this need has been met as a result of the son's occupation of the main farm dwelling, this arrangement has become unsustainable in the light of the need to also accommodate a partner and young child which has in turn resulted in the creation of the (currently unauthorised) second unit of accommodation.

The principal reason set out in support of the additional accommodation is that it will enable the son to meet the necessary year round, 24-hour supervision of the beef suckler herd, and more especially the attention required during calving, which requires more than one person to be readily available 'at most times'. As the bulk of

the livestock housing is situated at the main farm and is the centre of the farming enterprise, it is necessary for this additional person to be resident here.

It is also argued that the functional requirement for a second dwelling on the farm is derived from the expansion of the beef enterprise through the rearing of a proportion of the weaned calves for longer ahead of sale as well as proposals to take in hand grassland machinery operations, previously undertaken by contractors, in the form of silage baling and wrapping and re-seed cultivations. Assistance is also needed for the applicant in undertaking some of the heavier jobs with cattle; handling, worming and both pre-movement and annual tuberculosis (TB) testing requires the help of a younger and stronger person who also knows the livestock and the living systems on the farm to be able to cover for holidays and illness as well as future expansion of the enterprise.

General farm security is also highlighted as justifying the need for a further on-site presence. Being located in an isolated rural area, it is maintained that livestock, machinery and equipment are all vulnerable to theft. The dwelling is positioned where it would allow for a suitable level of security to both the farm and the workshop in which the applicant's son carries out repairs to machinery.

The submitted appraisal calculates that the functional requirements of both the current enterprise and planned increase in livestock numbers amounts to a total of 1.64 labour units that is met by the applicant working full-time and his son. The temporary dwelling would therefore allow the son and young family to live in and meet the additional labour demands beyond those met by the applicant.

It is also stated that the accommodation is positioned on the same site as the second permanent dwelling permitted during the early 1990s, the septic tank for which was installed but now serves the present temporary accommodation. The issue of the status of this permission is discussed in greater detail below.

However, the calculation of the functional requirement of 1.64 labour units includes labour involved with operations relating to silage and hay baling, annual re-seeding and maintenance of property, Devon bank/hedges/trees, electric fences and machinery. Whilst there is no doubting the need for such work to be undertaken, it is not thought that these in themselves would ordinarily justify a requirement for a 24-hour on farm presence to support the need for one dwelling, let alone two.

Furthermore, the calculation is based upon a total labour requirement for the farm which is not the same as that essentially required to be resident within 'sight and sound' of it. In this case therefore, and being mindful of the above points with regard to the nature of the work carried out beside the management of the suckler herd, it is likely that the calculation of the labour requirement for the beef enterprise would justify a requirement for nearer one labour unit to be living at the farm.

The appraisal also makes clear that the functional need as a result of the proposed increase in stock amount to the same in terms of the labour units that would be required to fulfil it.

Whilst there is little doubt that there is a need for the help of the applicant's son in assisting with the daily tasks required of the farm, this does not equate in Planning terms to a need for a second permanent on-site presence given that it is thought that this additional labour requirement could be met by a person living elsewhere in the vicinity without the need for the provision of further accommodation. Although it has been argued that there are difficulties with access to the farm during periods of harsh or extreme winter weather given its isolated and elevated location and the narrowness of the approach lane, it is not accepted that this amounts to a strong case for a second dwelling on the farm. Equally, it is not considered that it has been adequately demonstrated that the main functional requirement of the unit could not continue to be met by the applicant with the help of the son living off site.

Although the proximity of the development to the farm (and presumably the son's employment elsewhere when not helping out) is clearly advantageous to all parties from a practical perspective, not least as it also facilitates accommodation for the son's partner and young child, this does not equate to an essential need in terms of a second agricultural dwelling for the farm.

The concession granted to the general policy of restraint upon new residential development in the open countryside to accommodate a rural worker is based on the premise that there is an essential need for that worker to be resident at all times of the day and night to fulfil the functional requirements of the business and that this has been adequately demonstrated. In this particular case, it is considered that such a need cannot be demonstrated.

In the circumstances therefore, and having regard to the foregoing points, there clearly appears to be no functional requirement for a second dwelling on the farm. In terms of the functional test set out in both adopted and emerging local plan policy and the National Planning Policy Framework (NPPF), the proposal is unacceptable. In the perceived absence of a demonstrable functional requirement for the development which itself means that the basic principle is unacceptable, the need for consideration of the remaining criteria set out in the policies falls away.

Impact upon AONB

The farm complex is located at the end of an unclassified lane that connects to three public footpaths and a public bridleway that extend to the north, east and south. Although the accommodation that has been created is visible from these, it is positioned in close proximity to the remainder of the buildings that make up the farm complex. As such, the views that are available are mainly glimpsed in nature rather than open or extensive. As a consequence, and given its single storey height, the development has no more than a limited impact upon the landscape.

Whilst the structure is of a more transient character and appearance than a permanent building, it is not thought that it causes undue harm to the rural landscape character or landscape or scenic beauty of the AONB. Although due acknowledgement is given to the highest level of protection that it is afforded through the NPPF, in this case it is accepted that the objective of AONB conservation would not be unduly compromised were the proposal otherwise considered to be acceptable.

Status of Permission for Second Farm Bungalow

It is contended by the applicant that the planning permission granted back in the early 1990s in respect of the construction of a second permanent bungalow on the farm remains extant by virtue of the installation of a drainage and septic tank system in October 1994. This system now serves the unauthorised accommodation that this current application seeks to regularise. In the view of the applicant, it supports the need for an additional residential unit.

However, it is clear that any acceptance that this previous permission remains extant and capable of further implementation would completely undermine any case for the retention of the accommodation subject of this current application relates since it would effectively relate to the provision of a third dwelling on the farm.

In any event, there are significant doubts as to whether the permission for the second permanent dwelling can be regarded as being extant solely as a result of the drainage installation alone.

First, and most significantly, it would appear that the septic tank and soakaway system were installed on land that is outside of the defined site area for the second farm dwelling. This involved a portion of land within the field to the west of the farm complex and, as best as it has been possible to establish from a review of the scanned documents that are in the Council's archives, the current unauthorised accommodation, and the septic tank and its associated outfall, are positioned beyond the then application site.

In addition, a condition attached to the original outline planning permission for the development required the submission of details of the septic tank and soakaway system, including its siting, for the Authority's approval prior to the commencement of development. However, whilst there is evidence of approval under Building Regulations to the installation, including an inspection, there is no written evidence available that confirms that the requirements of this planning condition were ever met. Although a copy of correspondence entered into between the Council and the then agent seeking confirmation as to the validity of the planning permission has been supplied by the applicant in seeking to demonstrate that it does remain extant, none of it appears to contain the details required by the condition or explicitly gives the Council's approval to any such details.

In any event, the written response of the Council concerning the status of the planning permission suggesting that the permission might be extant was clearly caveated by the advice that this is 'provided that the septic tank was installed with the intention of carrying out the development through to completion'. However, there can be little doubt that there was no intention to undertake any further development at that stage. Indeed, review of notes of an investigation carried out back in 2007 by the Council's Enforcement Officer points to advice being given that the planning permission had not been implemented owing to the failure to comply with the 'pre-commencement' drainage condition. They also make reference to the applicant's indecision as to whether to proceed with the construction of the bungalow.

Drawing these factors together, it is thought that it cannot be concluded that the planning permission for the second farm bungalow remains extant and lawfully capable of now being implemented through to completion. Indeed, were the Council to be charged with determining an application for a certificate of lawfulness seeking confirmation on this point it is highly doubtful, having regard to the key test of balance of probability, that the grant of a certificate would be forthcoming in the light of the foregoing considerations.

In the circumstances therefore, it is maintained that the issue cannot be given any weight in the balance of considerations that are material to the present application to retain the adapted and extended mobile home.

Other Matters

It is not considered that there are any other material issues of concern with regard to the application proposal.

The junction of the access lane with the road extending north from Dunkeswell village, which is essentially lightly trafficked, is satisfactory.

Notwithstanding the issues as to the siting of the septic tank drainage system set out above, an acceptable foul drainage assessment has been submitted with the application, the contents of which comply with the appropriate standing advice of the Environment Agency.

If Members determine the application in accordance with the officer recommendation, enforcement action would need to be instigated to seek the removal of the dwelling and a reasonable period would be given for this to be complied with.

RECOMMENDATION

REFUSE for the following reason:

1. The development comprises an additional dwelling for which, in the opinion of the Local Planning Authority, there is no demonstrable essential functional requirement to service the needs of the farm holding. Furthermore, the development occupies an unsustainable location within the open countryside remote from services and facilities. The proposal is therefore contrary to the provisions of Policies H8 (Dwellings for Persons Employed in Agriculture and Forestry), S5 (Countryside Protection) and TA1 (Accessibility of New Development) of the adopted East Devon Local Plan, Strategy 7 (Countryside Protection) and Policies H4 (Dwellings for Persons Employed in Rural Businesses) and TC2 (Accessibility of New Development) of the emerging New East Devon Local Plan and paragraph 55 of the National Planning Policy Framework.

Plans relating to this application:

10438401/01 Existing Floor Plans 02.12.14

1043840/LP	Location Plan	02.12.14
1043840/02	Existing Site Plan	02.12.14

List of Background Papers

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

Ward Newbridges

Reference 15/1746/OUT

Applicant Mr & Mrs Jonathan And Clare Hansford

Location Land At Pit Orchard Bim Bom Lane Kilmington

Proposal Construction of 6 no. dwellings (outline application with all matters reserved)



RECOMMENDATION: Approval with conditions



		Committee Date: 3 November 2015
Newbridges (KILMINGTON)	15/1746/OUT	Target Date: 29.09.2015
Applicant:	Mr & Mrs Jonathan And Clare Hansford	
Location:	Land At Pit Orchard Bim Bom Lane	
Proposal:	Construction of 6 no. dwellings (outline application with all matters reserved)	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members as it is a departure from Adopted Local Plan policy.

The application relates to a rural site on the edge of the village of Kilmington. The site was formerly a clay pit and latterly an orchard but in recent years this use has ceased and the site has become overgrown. However, the site benefits from a lawful development certificate for B8 storage use. The majority of site is set below the level of the local road that runs along the eastern boundary of the site and the site boundaries are marked by mature tree planting with more significant planting on the banks to the east and south sides.

Outline permission with all matters reserved is sought for the construction of 6 no. dwellings on the site, 4 of which would be affordable. Whilst the site is detached from the built-up area boundary, this lies only 30 metres to the north of the site which is relatively accessible in terms of access to the facilities within the village itself and bus stops on the A35 to travel further afield.

The affordable housing need for Kilmington (based on the January 2014 Housing Needs Survey) will largely be met by a separate development off George Lane to the north of the site. The remaining unmet need for the village would be for 1 no. dwelling. Musbury, however, with which Kilmington is grouped (under housing policies of both the Adopted and Emerging Local Plan, in relation to affordable housing provision), has an identified need (February 2014 Housing Needs Survey) for 9 affordable rented dwellings. The development could therefore go some way to meeting this need.

Weighed against the benefits of the affordable housing provision is the environmental harm that might arise from developing on this site outside the designated settlement boundary and within an Area of Outstanding Natural

Beauty. In this respect whilst it is recognised that there would be some intrinsic harm to the character of the site, visually and in landscape terms any impact would only be very localised. This impact needs to be considered against the lawful use the site could be put to, the measurable social benefits of the scheme and the economic benefits that would arise from it. In weighing the benefits against the potential harm it is considered on balance to be acceptable and is recommended for approval subject to a s.106 agreement to secure the affordable housing in perpetuity and contributions towards open space infrastructure and the conditions set out below.

CONSULTATIONS

Local Consultations

Parish/Town Council

Kilmington parish councillors cannot support this application. They feel that the applicant has not been able to demonstrate that there is sufficient demand at present from applicants with ties to the village for the provision of affordable housing units over and above those already under construction on land off George lane.

Newbridges – Cllr I Chubb

This site has a history of planning applications and I feel something could go on this site. The mix of housing proposed would help the village retain a younger element of the population, therefore helping with sustainability. Although the site is just outside the built up area boundary, it is surrounded by housing along the road and I feel it does not harm the beauty of the area. I therefore support the application for development.

Other Representations

6no. representations have been received to the application, of these 2no. are objections and 4 no. are in support of the proposed development, the comments are summarised below:

Objections

- The quality of the submitted Landscape and Visual Impact Assessment is questioned.
- The findings of the submitted Protected Species Report are similarly questioned.
- It is suggested that contrary to the findings of the protected species report that the site is used by bats, deer, barn owls, badgers, foxes and potentially dormouse, that amphibians and reptiles are regularly found within the garden areas on the northern fringes of the site, that a rare species of butterfly has been spotted in the area and that suitable habitat also exists on the site for all of these species.
- The proposal would result in increased traffic movements on the local lane that serves the site which would result in dangerous conditions for all road users
- The proposal would result in ribbon development and set a precedent for further development outside the built-up area boundary of the village.
- Development in an Area of Outstanding Natural Beauty

- The proposal is served by a poor access with limited visibility and would increase traffic movements on a road unsuitable to accommodate such traffic
- The site lies outside the built-up area boundary of the village and therefore is contrary to planning policy
- The local need for more affordable housing is questioned

Support

- The planning application represents a great opportunity for young people to get on the housing ladder in Kilmington
- The site would be better developed for 2 or 3 market houses
- The site is small and secluded and surrounded by mature or semi-mature trees and is over-looked by few properties

Technical Consultations

Devon County Council Education Dept

Further to your recent correspondence regarding the above planning application I write to inform you that a contribution towards education infrastructure is not sought.

There is currently capacity at both the nearest primary and secondary schools for the number of pupils likely to be generated by the proposed development.

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

Housing Strategy Officer Paul Lowe

At a recent planning appeal in the District, the Planning Inspector and the Secretary of State both advised that Strategy 34 of East Devon District Council's emerging Local Plan can be given a considerable degree of weight and is to be preferred to Local Planning Policy H4, which is out-of-date, when determining appropriate levels of affordable housing provision.

The site appears to be outside the built up area boundary for Kilmington in the emerging local plan. With this in mind we will be seeking an affordable housing provision of 66% (4) units, in accordance with Strategy 35, Exception Mixed Market and Affordable Housing at villages.

We note that the applicants intend to provide 66% (4 units) affordable housing. A housing need survey was completed in January 2014 which identified a need for 12 affordable homes (9 rented and 3 shared ownership) over 5 years. Planning permission has been granted on another site within the village for 11 affordable homes and 2 market houses and we understand construction has commenced. We have concerns that the immediate housing need in the village has been addressed; however there is still a district wide need. The applicants are proposing that all the affordable units are to be intermediate affordable housing. In accordance with the Strategic Housing Market Assessment we would expect to see a tenure mix of 70% (3 units) in favour of rented accommodation and 30% (1 unit) as shared ownership or similar affordable housing product as defined in the National Planning Policy Framework document or relevant policy at the time.

The completed affordable homes should be transferred to and managed by a preferred Registered Provider. All the affordable homes should be constructed to the relevant local and national standards at the time of construction.

It appears that the application site is located within a Designated Protected Area and therefore staircasing should be restricted to 80%.

We would also expect that a nomination agreement is place that enables the Local Authority or a preferred Register Provider to nominate individuals from the Common Housing Register, preference going to those with a local connection to the parish, then cascading to adjoining parishes and finally the district.

ADDITIONAL COMMENTS 28.09.15

As requested, I can confirm that Housing Needs Surveys have been carried out in Musbury in February 2014. It identified a need for nine smaller rented affordable homes. Kilmington's HNS was completed in January 2014 and identified a need for twelve affordable dwellings, comprising nine rented and three shared ownership. When taking into consideration the development of George Lane it leaves a potential un- met need of one affordable dwelling.

I'm not aware of any affordable housing schemes either in the pipeline or with planning permission in Musbury. With the Grouped Parish approach as stated in the emerging Local Plan in mind, this leaves a combined potential affordable housing shortage of ten in Musbury and Kilmington Parishes.

If this proposal were to secure planning permission we would expect to see an all affordable rented scheme.

Environmental Health

I have considered the application and have no environmental health concerns so long as all commercial uses will cease if the application is approved and the development commences.

County Highway Authority

The application is for the Construction of 6 no. dwellings at Bim Bom Lane Kilmington. There have been number previous planning applications on this site with various different proposals. Bim Bom Lane is subject to a 30 MPH speed limit the site access is located on a steep hill. There is an existing access on to the highway from the proposed site. In highways terms, the site access has severely limited visibility from and of emerging vehicles and is located on a narrow lane that is signed as being unsuitable for heavy goods vehicles. Due to the observed vehicles speeds and the how little traffic there is on the Bim Bom Lane the Highway Authority has no objections.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY,

RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION.

1. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 10 metres back from its junction with the public highway.

REASON: To prevent mud and other debris being carried onto the public highway.

2. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details

to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

3. 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 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.

PLANNING HISTORY

Reference	Description	Decision	Date
78/C1715	ONE DWELLING	Refusal	08.02.1979
80/C0775	TWO DWELLINGS	Refusal	03.06.1980

00/P0375	Erection Of Two Dwellings & Alterations To Access	Refusal	06.04.2000
01/P1034	Erection Of Two Dwellings & Alterations To Access	Refusal	16.08.2001
04/P2063	Erection Of Dwelling And Garage With Alterations To Existing Access	Refusal	05.10.2004
07/1832/FUL	Erection of storage building	Approval with conditions	09.05.2008

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)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

TC7 (Adequacy of Road Network and Site Access)

TC2 (Accessibility of New Development)

Strategy 35 (Mixed Market and Affordable Housing Outside Built-up Area Boundaries)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

EN1 (Developments Affecting Areas of Outstanding Natural Beauty)

S5 (Countryside Protection)

H4 (Affordable Housing)

TA7 (Adequacy of Road Network and Site Access)

D5 (Trees on Development Sites)

EN6 (Wildlife Habitats and Features)

TA1 (Accessibility of New Development)

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 a former clay pit located to the southwest side of the village of Kilmington. The site is accessed from BimBom Lane, a narrow single carriage width rural lane that runs south from the village and serves a number of residential properties to the south of the site. The access to the site is currently taken from a field gate in its northeast corner, this leads west for a short distance before the site opens up to the southwest. The central part of the site whilst relatively overgrown is level but there are steeply sloping banks upwards from the site to the south and west sides. These banks are heavily planted with trees and there is a further line of trees marking the northwest boundary of the site with an adjoining field and to the north with the gardens of properties in Silver Street.

The site lies outside the designated built-up area boundary of Killmington and as such is considered as open countryside. There are residential properties fronting Silver St. approximately 30m north of the site, a detached grade II listed property, 'The Old Cider Lodge' approximately 50m beyond the western boundary and 4 no. residential properties on the west side of Bim Bom Lane to the south. The site lies within the East Devon Area of Outstanding Natural Beauty.

Proposed Development

Outline Planning permission is sought (with all matters reserved) for the development of the site for 6 no. dwellings. A Draft Heads of Terms for a legal agreement has been submitted with the application which proposes 4 no. of the dwellings to be shared ownership (intermediate housing).

The application is in outline with all matters reserved but the indicative layout indicates development in the central part of the site, served by an improved access in the existing location and indicating a short terrace of 4 no. 2/3 bed properties with 2 no. detached 4 bed properties to the southwest of these.

Background

The three most recent applications also went to appeal where they were dismissed. The appeals were dismissed on the basis of concerns over impact on the character and appearance of the area and AONB and/or visual impact.

In addition in 2004 a Certificate of Lawful Use was granted, on appeal, for the use of the majority of the site for any B8 storage use (03/Y0012 refers) subsequent to these

applications, permission has been granted for the construction of a storage building on the site and a commencement has been made on this application, so whilst not built this could be fully implemented.

The site has also been promoted for consideration under the 2010, 2011 and 2012 Strategic Housing Land Availability Assessments (SHLAA), where concerns were raised in relation to the capability of the local highway network to accommodate traffic generated by the development. Commentary on the 2012 SHLAA relating to this site stating that, "Without a detailed analysis of the traffic potentially generated from the authorised existing uses (whatever they may be) versus proposed uses, the highway authority would not wish to give a definitive response at variance to the former response."

ANALYSIS

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

- The principle of the proposed development (including provision of affordable housing)
- Design and impact on the character and appearance of the area
- The wider landscape impact
- Economic benefits of the scheme
- Impact on trees
- Ecological Impact
- Highway Safety/Access
- Impact on residential amenity
- Impact on setting of listed building/conservation area

THE PRINCIPLE OF THE PROPOSED DEVELOPMENT (INCLUDING PROVISION OF AFFORDABLE HOUSING)

The site is considered to be in open countryside (this being defined as all areas outside built-up area boundaries or specific allocations). There is a presumption against new development in the countryside contained in both the Adopted and New East Devon Local Plans (Policies S5 and Strategy 7 respectively) unless supported by an exceptional justification i.e. a justified requirement for an agricultural worker's dwelling or to meet a specific local housing need - this policy is considered further below. In the absence of any such explicit policy justification development of the site would be considered to represent development in the countryside contrary to Local Plan policy. A number of recent appeal decisions in the District have confirmed that (amongst others) Policy S5 of the adopted Local Plan and Strategy 7 of the New East Devon Local Plan are consistent with National Planning Policy Framework policy objectives and as such are in accordance with Framework 215 and can be given 'great weight' (Appeal Ref: APP/U1105/W/15/3003548 Land adjacent The Last Resort, Green Lane, Exton EX3 0PW and Appeal Ref: APP/U1105/A/14/2229080, Land at Down Close, Newton Poppleford).

However, the Adopted East Devon Local Plan, is now out of date and despite Inspector's recognition of the weight that can be afforded to countryside protection

policies the proposal needs to be considered against the presumption in favour of sustainable development as defined by the National Planning Policy Framework.

The NPPF advises that the "golden thread" running through Planning is the presumption in favour of sustainable development and the three dimensions to it: economic, social and environmental. This means approving development that accords with the Development Plan or, if this is out of date, granting permission unless any adverse impacts of doing so would significantly and demonstratively outweigh the benefits when assessed against the policies as a whole within the framework; or specific policies in the framework indicate that development should be restricted. The NPPF also advises that Local Planning Authorities should maintain an up to date 5 year supply of housing (including a 20% reserve where there has been a history of under supply) this is therefore a material consideration where development is considered to be sustainable.

In this case the Council consider that it can demonstrate a five year land supply (+ 20% buffer) but it is acknowledged that full weight cannot be given to this until it has been tested through the Local Plan process.

The development plan for the District is the East Devon Local plan 1995-2011 including the policies saved following the Secretary of State's Direction in 2009. Within the housing section of the Local Plan there is not a policy that would explicitly permit housing on this site. The successor plan The New East Devon Local Plan (NEDLP) has been to Examination in Public but the Inspector has asked the Council to carry out further work on certain aspects of the plan, therefore although at a fairly advanced stage the Emerging plan can only be given limited weight at present. The housing strategy policies of the NEDLP do not look to assign housing numbers to small towns and larger villages, nor would sites be designated through a Villages Development Plan Document. The provision of new housing in the settlements listed in Strategy 27 (which includes Kilmington) would therefore be left to Neighbourhood Plans. Kilmington is not understood to be a parish that is currently producing a neighbourhood plan. There is therefore no current policy support for additional development at Kilmington other than any windfall development that may come forward for sites within the built-up area boundary of the village. Nonetheless, the village is considered to be a sustainable location for limited residential development.

The Council has adopted for decision making purposes a Mixed Affordable and Market Housing Cross-Subsidy Position Statement which in certain circumstances provides support for such development outside designated settlements of a certain size. In terms of the emerging New East Devon Local Plan this contains a similar policy, Strategy 35, that looks to support such developments subject to meeting a number of specified criteria.

This exception to the normal policy of restraint permits schemes of up to 15 dwellings, outside of but well related to villages with built-up area boundaries where there is a proven local need and the affordable housing accounts for at least 66% of the proposed dwellings. In such circumstances the policy states that evidence will be required to demonstrate that: the affordable housing need, in any given locality, would not otherwise be met; is satisfactory in terms of its location in relation to the settlement where it is proposed, is well designed, sympathetic to the character of the

settlement and has satisfactory highway access, and; the affordable housing is appropriately secured.

In relation to the proposed development no evidence has been submitted with the application to demonstrate a local affordable housing need. In the absence of submitted evidence the most up to date assessment of local need is considered to be the 2014 Housing Needs Survey for the village, carried out by the Devon Rural Housing Partnership. This identified a need at the time for 12 affordable houses to meet the needs of the parish. However, there is already another cross-subsidy site currently under construction in the village, at George Lane. After deducting the affordable housing provision from the development currently under construction at George Lane, the evidenced housing need for the village would be one unit. Strategy 35 states that, "*For affordable housing in rural areas account will be taken of the specific need within the Parish in which the application land is sited*", however it goes on to state that regard will also be paid to need in surrounding parishes. For this purpose Kilmington is grouped with the surrounding parishes of Dalwood, Musbury and Shute.

The cross-subsidy position statement similarly makes reference to the need for affordable housing being demonstrated for the settlement and/or in surrounding areas. The proposed scheme would provide for 66% of the dwellings to be affordable and is located where it is considered to be reasonably well related to the existing village which has a range of community services and facilities; the matter of satisfactory highway access is considered below but subject to this being available, in locational and housing terms the proposed site is considered to meet the requirements of proposed Strategy 35 and the cross-subsidy position statement.

Whilst in principle a cross-subsidy scheme might be acceptable on this site the applicant has provided no evidence of local need either in Kilmington itself, or in any of the other grouped parishes. Nonetheless, the District Council's Housing Enabling Officer has confirmed that there is an unmet affordable housing need in one of the grouped parishes, Musbury. The Housing Needs Survey for Musbury (dated from February 2014) identifies a need for 9 no. smaller rented affordable dwellings, this coupled with the remaining unmet need of 1 in Kilmington would give an unmet need of ten affordable units across both parishes. The proposal could go some way to meeting this unmet need and where there is no knowledge of alternative schemes being brought forward which might otherwise meet it.

SUSTAINABLE DEVELOPMENT

Paragraph 50 of the NPPF encourages LPAs to deliver a wide choice of high quality homes and to plan for a mix of housing based on current and future demographic trends and the needs of different groups to achieve inclusive and mixed communities.

Recent appeal decisions have expanded on this and have placed significant weight on a need to support economic growth through the planning system. Although the development is not of a scale to justify other uses within the site, i.e. employment/retail etc, the provision of housing itself has been considered to be a contributor to economic growth through the construction process and the contribution

to local housing need. The proposed development may also provide some further limited benefits in helping to support and sustain existing services in the village. It would therefore have some limited economic benefits.

The social role could be met if the scheme delivers a good mix of high quality housing, to meet current and future needs with a range of tenures including affordable housing. On the basis that the proposed layout is only indicative, the scheme looks to provide detached, and terraced dwellings including a high percentage of affordable dwellings. The development would therefore provide a further contribution to the housing offer in the area and whilst not meeting a specific local affordable housing need would offer some additional wider benefits in helping to meet a district wide affordable housing need. As assessed above it would also add a modest population to support the viability of existing services in the village. In terms of the social role the proposal can also be seen to have some positive benefits.

In terms of the environmental dimension, the site does have some potential to harbour protected species and this matter has been raised by local residents (considered further below). A Preliminary Ecological Assessment has been carried out and submitted with the application. The conclusions of the report suggest that the site of the development itself has limited ecological value and that there would be no need for further survey works to be carried out. It does however set out recommendations for ecological enhancements that could be conditioned as part of any approval.

The site also lies outside the defined settlement boundary of the village and within the designated East Devon Area of Outstanding Natural Beauty and further consideration is given to landscape impact below.

Notwithstanding, that the site is located outside the development boundary it is relatively well related to the village and there is reasonable access to public transport links (nearest stops approximately 600m to north on A35), recreational, and community facilities (albeit the majority of these facilities including; primary school, one of the pubs, garage and, community hall are found on the other side of the village). As such until such time that the Local Plan has been adopted the presumption in favour of sustainable development must be applied and in terms of accessibility the application site is considered to be reasonably well located in rural terms.

DESIGN AND IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

The proposed scheme is in outline with all matters reserved but an indicative layout has been provided indicating how the site might be developed. The indicative layout indicates development within the central part of the site with the surrounding tree screening maintained. The development of the site would affect a change in the character of the site from undeveloped and rural to a developed residential character, however, the opportunity exists to develop a scheme that retains the distinct rural village feel of the development to the north. It is also recognised in this respect that there are lawful storage uses on the site that could be operated and

would in themselves be likely to have a degree of harm on the character of the site and surroundings.

In terms of appearance development of the site would be apparent from localised views, despite the retention of tree planting on the site boundaries. Such views as would be afforded would though be localised only and although likely to have a slight negative impact this could be minimised through the use of appropriate design and materials.

THE WIDER LANDSCAPE IMPACT

A Landscape and Visual Impact Assessment has been submitted with the application. This assessment has considered the wider landscape impact of the proposal, the likely impacts and what mitigation might be appropriate. The LVIA concludes that the landscape has a low to medium sensitivity to change, the magnitude of the impact is considered to be low and the visual impacts are considered to be low in sensitivity and magnitude resulting in slight significance. Overall the LVIA concludes that the development impact would be limited to a small geographic area and a small number of receptors and that in relation to the surrounding Area of Outstanding Natural Beauty would be complementary in terms of scale, siting and design and would not damage the natural beauty or otherwise threaten the public enjoyment of the AONB.

Policy EN1 and Strategy 46 of the EDLP and NEDLP respectively seek to conserve and enhance the quality and character of Areas of Outstanding Natural Beauty and to restrict development unless it cannot be reasonably accommodated elsewhere outside of the AONB. Similarly, the NPPF at para. 115 is concerned with conserving landscape and scenic beauty in such areas, which it advises should be given great weight. Whilst the landscape impact is considered to be limited in this case some harm would arise through the change in character on the site and the limited visual impact of the development, where it has also not been demonstrated that the need cannot be met elsewhere this adds some further weight to the degree of harm that can be attributed.

IMPACT ON TREES

The application site is surrounded by individual and groups of mature native trees. An arboricultural constraints report submitted with the application indicates that the majority of the trees are good quality B category trees and represent a constraint on development; best practice guidance states they should be retained. The application is in outline form only and therefore the access and layout details are indicative only. However, it is clear that any access to serve the site would need to be in the general location of the existing access, in the northeast corner of the site. Furthermore, it is likely that any residential development would be located in the central level part of the site (as indicated) and as such would not affect boundary trees. The indicative site plan indicates that 3 no. trees would be removed to facilitate access to the main part of the site, these trees form part of a group of 8 no. trees at the site entrance, whilst their removal would make the site entrance more visible from the road and potentially from views from the north their loss overall would not have a significant impact and replacement planting elsewhere within the site could be made a

requirement of consent. In the event of an approval it would also be necessary to the protection of existing trees on site.

ECOLOGICAL IMPACT

There have been a number of representations relating to the use of wildlife by a number of species including bats, deer, barn owls, badgers, foxes and potentially dormouse. It has also been suggested that amphibians and reptiles are regularly found within the garden areas on the northern fringes of the site and that a rare species of butterfly has been spotted in the area. The site is tranquil, surrounded by native tree and shrub planting with overgrowth in the central part of the site, on the face of it the site looks to represent good habitat for a number of species.

The applicant has commissioned a Preliminary Ecological Appraisal from Sunflower International Ecological Consultancy and this has been submitted with the application. The appraisal included visits to the site and an assessment of the suitability of the habitat for use by bats, badgers, dormice reptiles and amphibians, the report concludes that the site itself does not provide suitable habitat for, or is not being used by any of the above. Whilst it acknowledges that there is some potential for use of the margins of the site (the planted banks) it concludes that no further survey work is required but does provide recommendations on mitigation/enhancement measures that could be provided to enhance the biodiversity of the site. Whilst the comments of local residents are noted no evidence of use of the site by protected species has been provided and the application site excludes the planted banks of the former clay pit which are the areas of greatest ecological potential. Subject to suitable conditions to secure the recommended enhancement and mitigation measures it is considered that the ecological impact of the development would be acceptable.

HIGHWAY SAFETY/ACCESS

Details of access are reserved for future consideration, although the location of the access is likely to be in the northeast corner of the site. The approach roads serving the site are narrow, winding and in sections sloping although just to the north of the site they feed into the network of lanes that run through the village and which feed onto the A35 further to the north. The supporting statement submitted with the application makes reference to the lawful uses that are permissible for the site, 'the fall back position' and the vehicle movements that would be associated with such uses. The lawful (B8) storage use for the site and permitted building on it could be utilised by the applicant's building and demolition business - this it is stated would, '...constitute a higher proportion of larger vehicles.'

The highways authority has considered the application, the existing highway conditions and approach road network together. Whilst they have noted the restricted nature of visibility at the site access and the narrow nature of the approach roads from and of emerging vehicles they have raise no objections on the basis of the observed vehicles speeds lightly trafficked nature of the lane serving the site.

IMPACT ON RESIDENTIAL AMENITY

The site is relatively well screened from residential properties in the vicinity, although this is not to say the proposed dwellings might not be visible, the screening provided by boundary trees, coupled with the separation distance between existing and proposed dwellings are considered sufficient to prevent any significant amenity impacts. To the north, whilst the site boundary borders garden areas of properties on the opposite side of Silver Street, using the indicative layout the minimum distance between proposed and existing dwellings to this side would be 50m. To the south neighbouring properties would be closer but still a minimum of 20m away and at a significantly higher level than the site. The site is over 45m from the residential property to the west of the site and is screened by the existing tree belt on the northwest boundary. It is not considered that outside some inevitable disturbance during the construction phase that the privacy or amenity of neighbouring occupiers would be significantly affected.

IMPACT ON SETTING OF LISTED BUILDING/CONSERVATION AREA

To the west of the site is 'The Old Cider Lodge', a grade II listed building. This building is physically and visually separated from the site, being a minimum of 45 metres away from the nearest part of the site. There are some public views where the site might be seen in conjunction with this building i.e from Silver Street to the north but given the proposals to retain trees on the boundary of the site any dwellings would be set further still from this building and views filtered by mature tree screening. It is not considered that the proposal would result in any harm to the setting of the listed building.

OTHER ISSUES

The application is accompanied by a draft heads of terms relating to the securing of 4 no. of the units as affordable rented properties (in accordance with the identified need in the parish grouping) and the provision of off-site contributions towards public open space/recreation infrastructure. These matters would need to be secured by means of a s.106 agreement.

The application proposes the erection of 4 no. affordable units all proposed to be made available for affordable rent. The Councils' Housing department has advised that the development would help to meet an unmet need in the parish and adjoining grouped parish and in turn the wider district. It is expected that East Devon District Council or its approved Registered Provider will have nomination rights and that all the affordable homes will be available in perpetuity, be tenure blind and constructed to the relevant local and national build standards. In addition a contribution of £9,913.56 is sought towards public open space/recreation infrastructure. These matters will be secured through a s.106 agreement.

PLANNING BALANCE

The application proposes development within the designated AONB and outside of a recognised settlement boundary. Whilst the development would clearly alter the character of the site and would have some limited landscape/visual impact. It is also recognised that there are extant permissions for development on the site and lawful uses for storage which would in themselves result in some harm were they to be

commenced. In terms of ecological impact there have been concerns over the potential impact of the development on protected species that might be using the site. The application is accompanied by a Preliminary Ecological Appraisal that considers the impacts of development and which concludes that the site is currently of ecological value but that a package of mitigation could improve the biodiversity of the development.

Balanced against the environmental impact are the social and economic benefits that might accrue from the development. In this case the proposal would bring forward affordable housing development to meet an identified need within the parish group in which the application site lies and where there are currently no alternative schemes by which this need might otherwise be met, this weighs heavily in the applications favour.

In economic terms addition the proposed development would provide some economic benefits both directly through the construction and associated jobs that would be supported but also indirectly by the additional spend in the local community and likely support of village services helping to sustain these in the longer term. Cutting across all three strands of sustainable development as a background matter is the impact the development might have on the fallback position (of B8 storage use) for the site. Whilst this is an economic use that would be lost, it is not likely to be one that would result in or sustain significant job creation and such a use would also be likely to have some environmental impacts of its own, it is not considered that the loss of this potential use adds any significant weight either way.

Overall the benefits of the scheme are considered to outweigh any harm.

RECOMMENDATION

APPROVE subject to the applicant entering into a s.106 agreement to secure the matters set out above and the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
2. Approval of the details of the scale, appearance, access, layout and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the development is commenced.
(Reason - To clarify the nature and content of the reserved matters application.)

3. No development shall commence until details of finished floor and ridge levels and finished ground levels in relation to a fixed datum has 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 adequate details of levels are available in the interest of the character and appearance of the locality and in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan.)
4. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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 Adopted East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan.)
5. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within Schedule 2, Part 1 Classes A, B, D or E for the enlargement, improvement or other alterations to the dwellings hereby permitted (other than works that do not materially affect the external appearance of the buildings) or for the provision within the curtilage of any building or enclosure
(Reason - To enable the Local Planning Authority to retain control over any subsequent additions in the interests of the character and appearance of the site and surrounding area in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging East Devon Local Plan.)
6. Development shall proceed in accordance with recommendations set out in the Preliminary Ecological Appraisal, prepared by Sunflower International Ecological Consultancy and dated October 2014, unless otherwise previously agreed in writing by the Local Planning Authority.
(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 Adopted East Devon Local Plan and EN5 (Wildlife Habitat and Features) of the Emerging East Devon Local Plan.)
7. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboriculture 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 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 and in accordance with policy D5 (Trees on Development Sites) of the East Devon Local Plan and policy D3 (Trees and Development Sites) of the Emerging East Devon Local Plan.)

8. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 10 metres back from its junction with the public highway.
(REASON - To prevent mud and other debris being carried onto the public highway and in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the Emerging East Devon Local Plan.)
9. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details
to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
(Reason - To ensure that adequate information is available for the proper consideration of the detailed proposals in the interests of highway safety in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the Emerging East Devon Local Plan.)
10. 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 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.

11. 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.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

The permission hereby granted shall be read and implemented in conjunction with the accompanying s.106 legal agreement dated XXXXXXXXXXXXXXXXXXXXXXXX.

Plans relating to this application:

Location Plan	04.08.15
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List of Background Papers

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

		Committee Date: 3 November 2015
Ottery St Mary Rural (AYLESBEARE)	15/1390/VAR	Target Date: 11.09.2015
Applicant:	Mr P Stacey	
Location:	55 Village Way Aylesbeare	
Proposal:	Retention of garden shed (variation of condition 7 of planning permission 13/0360/FUL)	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application was deferred by Members at the October Committee to enable officers to provide further information in relation to the parking situation in the area. The application was originally before Members as the officer recommendation differs from the view of the Ward Member.

Planning permission is sought to vary condition 7 of planning permission granted under reference 13/0360/FUL to allow the loss of a parking space and the retention of a shed on land at 55 Village Way, Aylesbeare.

Following deferral at the last Committee, officers have opened an enforcement case in relation to the adjoining dwelling (53 Village Way) as the owner/occupier have erected fencing around the car parking area to the rear in breach of condition 7 on application 13/0360/FUL. This case will be pursued independently of this current application.

The application site will still retain space for 2 private off-road parking spaces available for their exclusive use and whilst concerns regarding additional parking on Village Way are appreciated, the road in this location has unrestricted parking and is considered to be of sufficient width to allow parking without causing a danger to highway safety. The pavement to the front of the dwellings being within the ownership of the dwellings and not part of the adopted highway.

There are no objections to the proposal from a highway safety perspective, and no planning reasons to resist the loss of a parking space serving the property given the availability of additional parking to the rear adjacent to the shed.

Visually the shed is not intrusive and would not be highly visible from public vantage points. Where visible it will be viewed in association with the rear of the

dwellings. As such its design and visual impact are acceptable. Whilst it is disappointing that the shed has been erected on a parking space, there is no harm to the visual amenity of the area or highway safety to justify a refusal of permission.

The application is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

Members of Aylesbeare Parish Council could not find any material grounds not to support this application.

Ottery St Mary Rural - Cllr M Coppel

I cannot support this retrospective application as allowing the shed to remain will exacerbate the parking problems already being experienced on Village Way.

Technical Consultations

County Highway Authority

Does not wish to comment

Other Representations

Six representations have been received all raising objections to the proposal. These are summarised below:

Objections

- The new dwellings have resulted in increased traffic and parking problems and the loss of a space will exacerbate this;
- On street parking is already causing obstruction;
- Approval could set a precedent for the loss of other spaces;
- Traffic is increasing and parking to the front of the properties is causing problems;
- On street parking is making manoeuvring of vehicles difficult.

PLANNING HISTORY

Reference	Description	Decision	Date
13/0360/FUL	Construction of 3 no. dwellings	Approved	11.06.2013
11/0246/OUT	Construction of two semi-detached dwellings	Approved	17.05.2011

06/3509/OUT	Erection of two semi-detached dwellings	Approved	20.02.2008
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POLICIES

New East Devon Local Plan Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

TC9 (Parking Provision in New Development)

Adopted East Devon Local Plan Policies

S3 (Built-up Area Boundaries for Villages)

S4 (Development Within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

D4 (Landscape Requirements)

TA7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Site Location and Description

The application site comprises part of the rear parking area serving a recently constructed property, one of a terrace of three that were built within the former garden area of the Aylesbeare Inn.

Each of the three dwellings has a private parking area to the rear of the property that is accessed through the entrance to the car park that served the public house.

There is also unrestricted on-street parking available to the front of the properties.

Proposed Development

Planning permission is sought to vary condition 7 of the approval under which the property was granted (reference: 13/0360/FUL) to allow the retention of a garden shed that has been constructed within the parking area serving number 55.

Condition 7 of 13/0360/FUL states

“The parking and turning areas and access drive thereto shall be laid out, properly consolidated and surfaced in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details and shall be retained for that purpose in perpetuity.”

The reason for the condition was as follows

“(Reason: To ensure the provision of adequate facilities within the site for the traffic generated by the development and to prevent debris from spilling out onto the public highway in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan).”

The shed erected on the site measures 1.8m wide by 3.6m deep at a maximum height of 2.7m.

ANALYSIS

The main issues to be considered are whether sufficient car parking would be retained to serve the dwelling, and any visual or other impact which the proposed shed would have on the character and appearance of the area.

Each of the new dwellings has space for 3 private parking spaces located to the rear of the property within their curtilage and located on part of the former public house car park. There is a pavement to the front of and within the curtilage of each of the properties in Village Way. The road has unrestricted parking to the front of the dwellings and the road is of sufficient width to allow on street public parking without causing an obstruction or any danger to highway safety. The owner/occupiers of Number 53 Village Way have constructed a fence around their rear parking area such that there is only 1 parking space available at the rear of that property and this is the subject of separate enforcement investigation.

Whilst the local residents' concerns regarding vehicles parking on Village Way are appreciated, there are no restrictions on the parking of vehicles in this location and there are no highway objections to the proposal, the pavement to the front of the site being within the ownership of the dwellings.

The siting of the shed means that one of the spaces to the rear is no longer available for private parking, however space remains for the parking of 2 average sized cars that are available for the exclusive use of the property.

Within the adopted local plan there are no specific parking standards, although Policy TA9 (Parking Provision in New Development) provides a *maximum* standard which states that a dwelling with 2 or more bedrooms should not have more than 2 spaces. Policy TC9 (Parking Provision in New Development) of the emerging Local Plan states that

“Spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home”

The loss of one of the spaces serving the property would still comply with both the existing and proposed local plans by providing 2 spaces exclusively for the property. Condition 7 was placed on the original planning permission to ensure the retention of

an acceptable level of parking in the interest of highway safety and, as suitable parking levels are retained without harm to highway safety, it is considered that there are no sound grounds for refusing planning permission.

In terms of visual impact the shed is a relatively modest structure that is not considered to be particularly intrusive. It is located at the rear of the property and is not highly visible from any public vantage points and viewed in association with the rear of the dwellings. As such it is not considered that planning permission should be withheld on the basis of its visual impact.

As this application is seeking a variation of condition to a previous permission, any relevant conditions on the varied application need to be carried over to any grant of this permission.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The parking and turning areas and access drive thereto shall be laid out, properly consolidated and surfaced in accordance with details specified in the Discharge of Conditions Certificate dated 21 October 2014 except with regard to number 55 Village Way where it shall be in accordance with the plans and details listed at the end of this decision notice. The development shall thereafter be carried out in accordance with the agreed details and shall be retained for that purpose in perpetuity.
(Reason - To ensure the provision of adequate facilities within the site for the traffic generated by the development and to prevent debris from spilling out onto the public highway in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)
2. Notwithstanding the time limit to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission being retrospective as prescribed by Section 63 of the Act shall have been deemed to have been implemented on the 17 July 2015.
(Reason - To comply with Section 63 of the Act.)
3. Visibility splays shall be maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 600mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 23 metres to the centreline in the easterly direction and 23 metres to the nearside carriageway edge in the other direction.
(Reason - To provide adequate visibility from and of emerging vehicles in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 1995-2011.)

4. The site access shall be maintained at a width of not less than 5.0 metres for the first 17.0 metres back from its junction with the public highway and shall be provided with a 4.0 metre kerb radii at the junction.
(Reason - To minimise congestion of the access in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 1995- 2011.)
5. 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 works shall be undertaken within the Schedule Part 1 Classes A, B, E or F for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool, [other than any enclosure approved as part of the landscape management scheme] or for the provision within the curtilage of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse.
(Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers 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) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.
(Reason - To retain the open character of the landscaped frontage in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)
7. The rooflights in the northern elevation of the dwelling shown on drawing no 1666:4 shall be at a minimum cill height of 1.7 metres above the level of the floor of the room they serve and shall be retained as such thereafter.
(Reason - To protect the privacy of adjoining occupiers in accordance with the provisions of Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 1995 to 2011.)
8. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice and those approved as part of application 13/0360/FUL.
(Reason - For the avoidance of doubt.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

	Location Plan	16.06.15
1666:5	Proposed Site Plan	16.06.15
1A	Proposed Site Plan	29.06.15

List of Background Papers

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

Ward Ottery St Mary Rural

Reference 15/1424/FUL

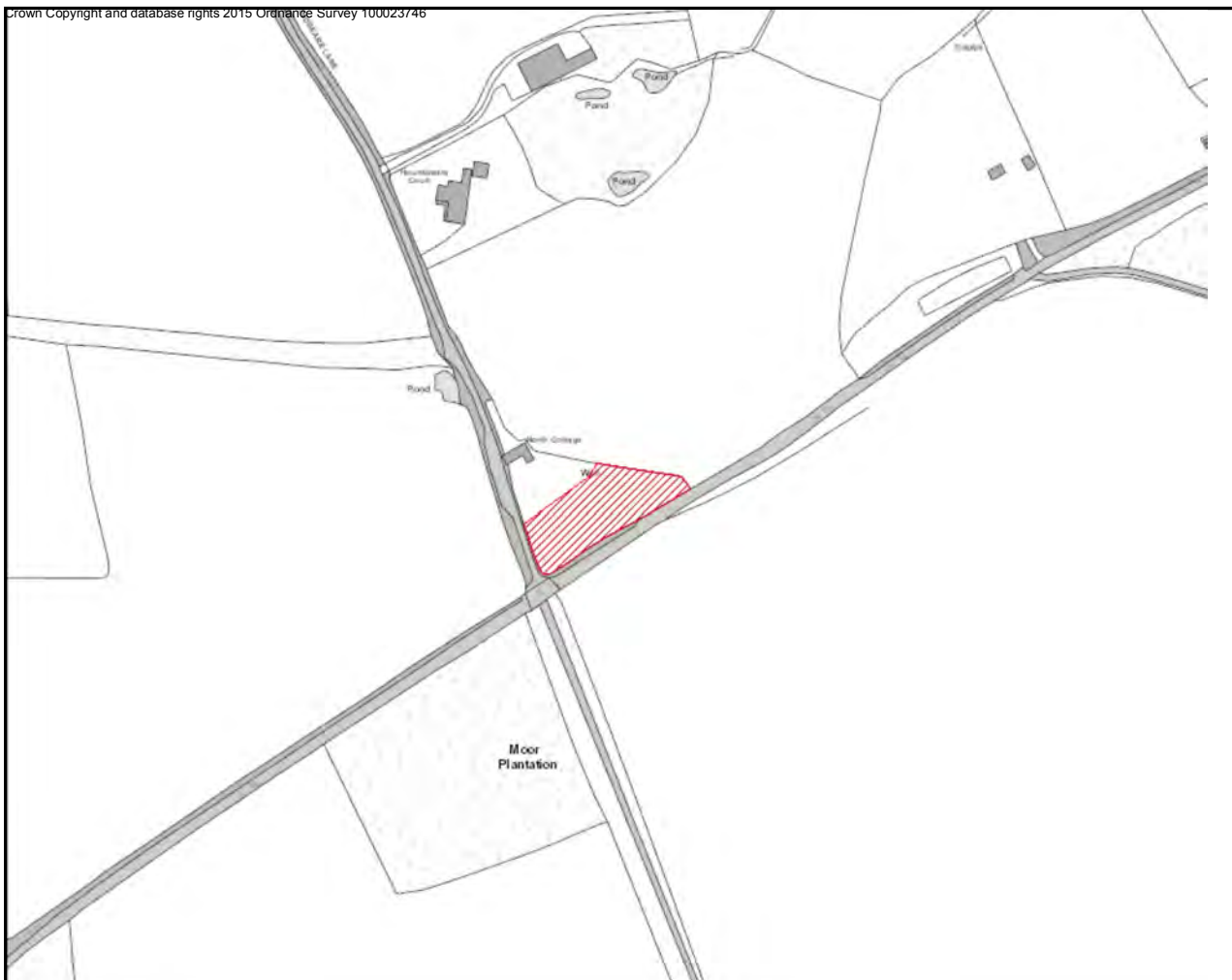
Applicant Mr & Mrs Peter Carhart

Location North Cottage Aylesbeare Exeter
EX5 2DB

Proposal Detached single storey dwelling and
detached garage



RECOMMENDATION: Refusal



		Committee Date: 3 November 2015
Ottery St Mary Rural (AYLESBEARE)	15/1424/FUL	Target Date: 02.10.2015
Applicant:	Mr & Mrs Peter Carhart	
Location:	North Cottage Aylesbeare	
Proposal:	Detached single storey dwelling and detached garage	

RECOMMENDATION: REFUSE

EXECUTIVE SUMMARY

The application is before Members as the officer recommendation differs from the view of the Ward Member.

The application proposes the construction of a detached dwelling with associated access and landscaping on a small parcel of land in the countryside mid-way between Aylesbeare and West Hill. There is no special planning justification for the dwelling in this countryside location as it is proposed to benefit from unrestricted occupancy.

Given the remote location of the site, the proposal is not considered a sustainable form of development, as it is not well served by local services and facilities or public transport links. In addition, the application fails to provide a valid legal agreement to secure mitigation against impacts upon the Exe Estuary and Pebblebed Heaths.

Accordingly the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Ottery St Mary Rural - Cllr M Coppel

I am favourable towards this application, and would ask that it be taken to committee should officers find reasons for refusal. Should this be the case, I reserve my final judgement until presented with all the facts on the day.

Parish/Town Council

Members of Aylesbeare Parish Council would wish to recommend that this application is approved.

Technical Consultations

County Highway Authority

Does not wish to comment

Other Representations

There have been no third party representations received in respect of this application.

POLICIES

New East Devon Local Plan Policies

Strategy 7 (Development in the Countryside)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

D3 (Trees and Development Sites)

Adopted East Devon Local Plan Policies

S5 (Countryside Protection)

TA7 (Adequacy of Road Network and Site Access)

TA1 (Accessibility of New Development)

D5 (Trees on Development Sites)

EN6 (Wildlife Habitats and Features)

OFFICER REPORT

Site Location and Description

The application site is a small parcel of land located in the countryside adjacent to the road approximately half way between Aylesbere and West Hill. The site lies on the western side of the road and is roughly triangular in area. The roadside boundary is formed by a hedgebank and the other boundaries are interspersed with mature trees. The site is surrounded by farmland and there is a copse of trees to the south. Adjacent to the north side of the site is a detached dwelling in same ownership.

Relevant Planning History

There is no planning history on the site that is relevant to the current proposed development.

Proposed Development:

The application seeks full planning permission for the construction of a detached single storey dwelling and detached garage on the land, together with the formation of a new vehicular access from the adjacent road, towards the southern end of the roadside boundary. The dwelling would be located towards the north east side of the plot, and the garage located to the east of the dwelling.

The applicant has advised that they wish to remain in the area and would move into the new smaller dwelling as the existing dwelling is in need of refurbishments with the garden overgrown and a burden.

ANALYSIS

The main considerations in the determination of this application are;

- The principle of the proposed development;
- The impact on the character and appearance of the area;
- Amenity Impacts;
- Impact on highway safety;
- Other issues;

Principle:

The site lies in the countryside around 1.25 km north east of Aylesbeare and around 1.5 km south west of West Hill. Both of these settlements have a defined built up area boundary (BUAB) in the Adopted Local Plan, but only West Hill is proposed to retain its BUAB in the New East Devon Local Plan. The site is therefore in open countryside (this being defined as all areas outside built-up area boundaries or specific allocations).

There is a presumption against new development in the countryside contained in both the Adopted and New East Devon Local Plans (Policy S5 and Strategy 7 respectively) unless supported by a special circumstance or another policy in the Local Plan. There are no other policies that support residential development in this location and such a special circumstance could include the requirement for an agricultural worker's dwelling, optimal viable use of a heritage asset or re-use of a redundant or disused building where it leads to an enhancement of the immediate setting. No such justification has been put forward in this instance and as such the proposal is considered to represent a departure from the adopted Local Plan. Whilst the intention of the applicant to downsize is acknowledged and appreciated, the occupation of the existing and new dwellings cannot be controlled through the planning system in this instance and the reason does not amount to a special circumstance in planning policy terms.

A number of recent appeal decisions in the District have confirmed that (amongst others) Policy S5 of the adopted Local Plan and Strategy 7 of the New East Devon Local Plan are consistent with National Planning Policy Framework policy objectives and can be given 'great weight' (Appeal Ref: APP/U1105/W/15/3003548 Land adjacent The Last Resort, Green Lane, Exton EX3 0PW and Appeal Ref: APP/U1105/A/14/2229080, Land at Down Close, Newton Poppleford).

However, the Adopted East Devon Local Plan is now out of date and despite Inspector's recognition of the weight that can be afforded to countryside protection policies, the proposal needs to be considered against the presumption in favour of sustainable development as defined by the National Planning Policy Framework.

The NPPF advises that the "golden thread" running through Planning is the presumption in favour of sustainable development and the three dimensions to it: economic, social and environmental. This means approving development that accords with the Development Plan or, if this is out of date, granting permission unless any adverse impacts of doing so would significantly and demonstratively outweigh the benefits when assessed against the policies as a whole within the framework; or specific policies in the framework indicate that development should be restricted. The NPPF also advises that Local Planning Authorities should maintain an up to date 5 year supply of housing (including a 20% reserve where there has been a history of under supply) this is therefore a material consideration where development is considered to be sustainable.

In this case the Council consider that it can demonstrate a five year land supply (+ 20% buffer) but it is acknowledged that full weight cannot be given to this until it has been tested at the current Local Plan Examination and agreed by the Local Plan Inspector. In any case the social benefits from the proposal are limited given the location of the site (see below). In terms of economic benefits the proposal may provide some support to the local construction industry but there would be very limited wider benefits to the wider rural economy particularly due the lack of businesses and services in the village that any residents might help to sustain.

In terms of the environmental element, there are only very limited services available locally, with nearest services at Aylesbeare and West Hill. Services in Aylsebeare are limited to a village hall and a church, and West Hill offers a convenience shop, post office, primary school and petrol filling station. Whilst West Hill is considered to be a sustainable location, access by foot or bicycle would not be attractive given the lack of dedicated footways or street lighting. As such it is considered that future residents of the site would have to rely on the private car for much of their day-to-day needs. In that context, the proposal would substantively add to the need to travel by car, bringing it into conflict with Policies TA1 and TC2 respectively of the Adopted and Emerging Local Plans. In addition, concerns are raised below regarding the change to the character and appearance of the area from the proposal.

In light of the above the proposed development is considered to be a departure from the Adopted Local Plan and a form of development that is located in an unsustainable location.

Character and Appearance:

At present the site where the dwelling is proposed has a rural, undeveloped character, the land within and surrounding the site being fairly level and the site having many mature trees and shrubs along the boundaries and throughout the site. The residential development of the site would fundamentally alter the rural and undeveloped character of the site. As the site also falls within the open countryside there is a requirement for development to seek to conserve and enhance the landscape character of the area.

The application proposes to clear the site and construct a dwelling with a large hard standing linking the dwelling with the proposed new access. The construction of a dwelling in this location would appear distinctly separate from the existing pattern of development and it is considered that there will be public views of the site from the adjacent road. Development of this site for residential purposes would fundamentally alter the undeveloped character of the site and lead to a consolidation of development in the countryside contrary to the environmental role of sustainability.

Residential Amenity:

The nearest dwelling to the site is the existing dwelling on the adjacent plot and within the same ownership, known as North Cottage. The proposed dwelling would be situated around 30.0 metres from the existing dwelling, and separated by a new boundary definition between the two plots. There is no submitted information regarding proposed boundary treatments, however a 2 metre close boarded fence or equivalent height hedgerow would provide a base level of screening. The proposed dwelling would be located approximately 32 metres from North Cottage and oriented so that it would not directly face North Cottage. It is considered that there would be sufficient space between the properties to maintain adequate privacy and residential amenity between them. On balance it is considered that the proposed development would not impact unduly on the privacy or amenities of any nearby occupants. There have been no representations received from members of the public in relation to this proposal.

Highways Issues:

The proposed development would provide a new vehicular access from the road adjacent to the south east boundary of the site. The existing access on the southern corner of the site would be closed up and new hedge bank planted. The proposed new access would be 5 metres in width and would provide visibility splays of 45 metres in either direction. There would be sufficient space available within the proposed hard standing area to accommodate traffic attracted to the site and to provide turning areas to enable vehicles to arrive and depart in forward gear. The county highways authority has been consulted and has not raised any issues in respect of the proposal and it is considered that the proposed development would not pose a danger to the safe operation of the highway network.

Other Issues:

There has been an issue regarding the validity of a Unilateral Undertaking in respect of the required financial contributions towards habitat mitigation for the Exe Estuary and Pebblebed Heaths. This issue has not yet been resolved and therefore it is not considered that the impacts from the development on these European protected sites could be adequately mitigated and it is recommended that this forms an additional reason for refusal. In the event that members are minded to support the application, a favourable decision cannot be issued until the technicality with the UU has been resolved.

Conclusion

The location of the site within the countryside remote from adequate services represents an unsustainable form of development with the adverse impacts from its location and visual impact significantly and demonstrably outweighing any benefits. As such the proposal is unacceptable despite no concerns regarding the proposed access to the dwelling or impact upon residential amenity.

In addition, the failure to provide a valid legal agreement results in a proposal that does not adequately mitigate any impact upon the Pebblebed Heaths and Exe Estuary contrary to the Habitat Regulations.

RECOMMENDATION

Refuse permission for the following reason(s):

1. The proposed development would be located in the countryside beyond any defined settlement and without a designated built-up area boundary. The development would therefore, in the absence of any special justification and given its location remote from adequate services, employment, education, and public transport, and where it would therefore increase the need for travel by private vehicles, represents an unsustainable form of development with the adverse impacts significantly and demonstrably outweighing any benefits. The proposal would therefore be contrary to the provisions of Policy S5 (Countryside Protection) and TA1 (Accessibility of New Development) of the East Devon Local Plan 1995 to 2011, and Strategy 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of The emerging East Devon Local Plan and guidance within the National Planning Policy Framework on sustainable development.
2. The application fails to make provision to mitigate its impacts on the Exe Estuary and the Pebblebed Heaths - a European level habitat. As such the application is contrary to Policies EN4 (Nationally Important Sites - including Sites of Special Scientific Interest) of the Adopted East Devon Local Plan and Strategy 47 (Nature Conservation and Geology) and 50 (Infrastructure Delivery) of the Emerging New East Devon Local Plan and the guidance contained in the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

Plans relating to this application:

Site Location Plan, 14.504/02, 14.504/03, 14.504/04, 14.504/05, 14.504/06

List of Background Papers

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

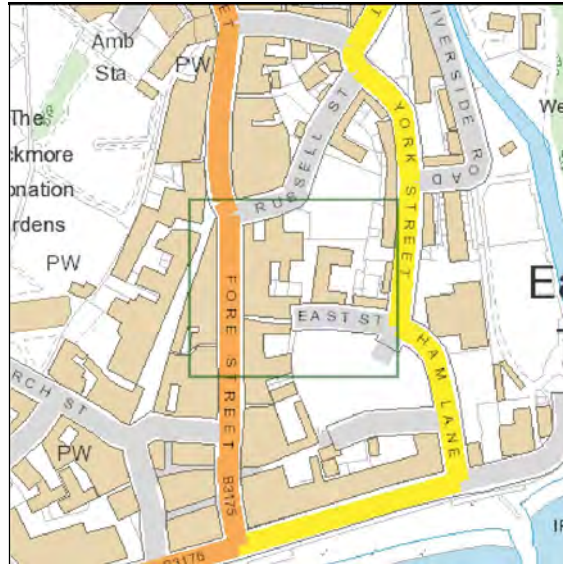
Ward Sidmouth Town

Reference 14/2994/FUL

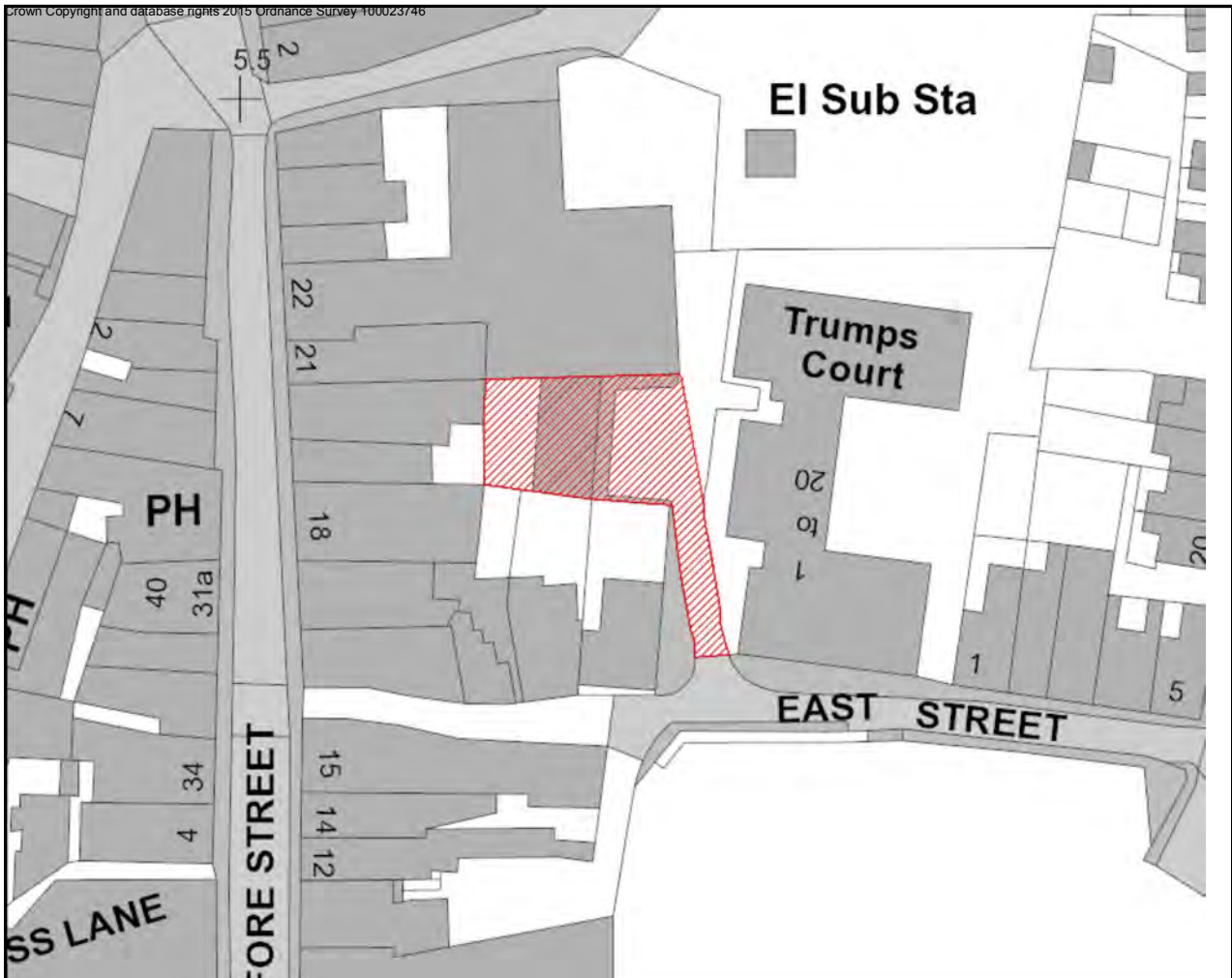
Applicant Mrs S Sargent

Location Land Rear Of 19 - 20 Fore Street
Sidmouth EX10 8AL

Proposal Demolition of outbuilding and construction of a pair of semi detached houses and construction of a boundary wall.



RECOMMENDATION: Refusal



		Committee Date: 3 November 2015
Sidmouth Town (SIDMOUTH)	14/2994/FUL	Target Date: 18.09.2015
Applicant:	Mrs S Sargent	
Location:	Land Rear Of 19 - 20 Fore Street Sidmouth	
Proposal:	Demolition of outbuilding and construction of a pair of semi detached houses and construction of a boundary wall.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Members as the proposed development is partly on land owned by EDDC.

The application seeks full planning permission for the construction of two semi-detached dwellings to the rear of 19-20 Fore Street, Sidmouth.

The proposal is not considered to be acceptable as it would create two independent dwelling houses in a high risk flood zone and sequentially sites for such a development in a lower risk environment are available elsewhere within the District.

In addition, the proposal would harm the setting of listed buildings and would fail to preserve or enhance the conservation area. Furthermore, the proposal would have an adverse impact on neighbouring amenity and proposes an unsatisfactory means of access pedestrian access through a car park to the detriment of the amenity of future occupiers.

CONSULTATIONS

Local Consultations

**Parish/Town Council
Support**

Technical Consultations

Devon County Archaeologist

My ref: Arch/DM/ED/23431a

I refer to the above application. The proposed development lies within the historic core of Sidmouth and in the rear garden of nos 19 & 20 Fore Street - an area likely to contain archaeological deposits associated with the early settlement here such as rubbish pots or evidence of small scale industrial activity. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the early settlement in the town.

For this reason and in accordance Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan and with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure that an appropriate record is made of archaeological evidence that may be affected by the development and in accordance with Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012).

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

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

Environment Agency

Thank you for your consultation dated 30 July 2015 regarding the above application.

Environment Agency position

We object to this application on the following grounds:

1. Absence of evidence that the flood risk Sequential Test has been carried out.
2. Inadequate Flood Risk Assessment (FRA).

Sequential Test

We object to this application in the absence of any evidence to demonstrate that the flood risk Sequential Test has been applied. We recommend that until then the application should not be determined for the following reasons:

Reasons

The application site lies within Flood Zone 3 defined by the Environment Agency Flood Map / Strategic Flood Risk Assessment as having a high probability of flooding. Paragraph 101 of the National Planning Policy Framework requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. In this instance no evidence has been provided to indicate that this test has been carried out.

Overcoming our objection

You can overcome our objection by providing evidence that the Sequential Test has been completed and demonstrates that there are no reasonably available alternative sites in areas with a lower probability of flooding that would be appropriate for the type of development proposed.

If following the application of the test it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. For the Exception Test to be passed the applicant should submit a site specific FRA to demonstrate the development will be safe; will not increase flooding risks elsewhere and will, if possible, reduce risks overall.

Flood Risk Assessment

In the absence of an acceptable FRA we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

Reason

The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. The submitted FRA does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In this instance the applicant has submitted an FRA dated January 2015 and signed 3 February 2015. Contrary to the FRA, the site of the proposed dwellings is at risk of flooding and;

a) has a history of flooding;

b) is currently zoned as at "high/medium" risk of flooding; and

c) is subject to an increase in flooding risks in line with the effects of the ongoing rise in sea levels and the predicted adverse effects of climate change on both river flows and sea level rise.

In addition that FRA has made no attempt to quantify likely 'design' flood level / depth / velocity on the site both now and in the future for the design life of the development. Similarly, it has not promoted a development that would mitigate for these risks e.g. floor levels above the 'design' water level, flood resilience measures, safe access egress routes and flood warnings.

Overcoming our objection

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

We ask to be re-consulted with the results of the FRA. We will provide you with bespoke comments within 21 days of receiving formal reconsultation. Our objection will be maintained until an adequate FRA has been submitted.

EDDC Trees

The proposed development shows the three flowering cherry trees abutting Trumps court as retained. Whilst in the short term these trees will provide some welcome greening in this urban area. They are poor quality trees with tightly included unions (these are branch unions where due to the acute angle, a bark against bark joint forms. This type of union is unstable and prone to failure. These would be categorised as C grade trees within a BS5837:2012 tree assessment (trees with a useful life span of up to 10 years) and in any event be prone to main branch failure in coming years and removal in the near future.

Given the level of development and the condition of the trees, this would be an appropriate time to secure good quality replacement tree planting within designed urban tree pits that complement the development, as such their arrangement could be adjusted slightly to architecturally tie in with the built form.

No objection to the proposed scheme subject to new tree planting forming part of the proposals, to replace the poor quality flower cherry trees and secure good quality trees going forwards.

Other Representations

15 representations have been received on this application raising a number of issues including:

- The impact on traffic and parking, particularly in relation to parking at Trumps Court;
- The impact on the Conservation Area;
- Issues with noise and dust from construction; and
- Overlooking and privacy issues from neighbouring residents.

POLICIES

New East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN9 (Development Affecting a Designated Heritage Asset or Loss of a Building or Structure that makes a Positive Contribution to a Conservation Area)

EN10 (Preservation and Enhancement of Conservation Areas)

Strategy 6 (Development within Built-up Area Boundaries)

EN21 (River and Coastal Flooding)

TC7 (Adequacy of Road Network and Site Access)

Adopted East Devon Local Plan Policies

D1 (Design and Local Distinctiveness)

D5 (Trees on Development Sites)

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

EN11 (Preservation and Enhancement of Conservation Areas)

S4 (Development Within Built-up Area Boundaries)

TA7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)

Relevant Planning History

Listed Building Consent (15/0989/LBC) has recently been granted for the construction of a brick wall to the boundary between Utopia and the land to the rear.

The Local Planning Authority provided pre-application advice for the proposed redevelopment of the rear of the site to provide one or two dwellings advising that the construction of dwellings at the site would be unsuitable, primarily because of the risk of flooding and the harmful impact on the character and appearance of the area and the setting of listed buildings.

Site Location and Description

The site is located to the rear of 19-20 Fore Street in Sidmouth, which is a hair salon (Utopia) occupying a Grade II listed building over three levels. The building has relatively recent single and two storey rear extensions with a small outdoor area alongside.

Behind the hair salon the site opens up into a larger yard area with a single storey building with a mono-pitched roof at its rear. The building is set against the stone rear boundary wall with the adjoining car park and is currently used for storage and ancillary accommodation but does not appear to have a lawful use as a dwelling.

The site is located within the Sidmouth Town Centre Conservation Area and the Town Centre Shopping Area. It is adjoined to the north by the Ashleigh Bishop Gallery and to the south by the Cancer Research UK charity shop. Directly opposite the site are Humbug and Sidmouth Wines.

The site's rear courtyard is adjoined to the north by the Housewares store and to the south by the private gardens to the rear of Caxton House and Sunny View.

Immediately behind the site's stone rear boundary wall is an area owned by East Devon District Council (EDDC) which is the private car parking for residents of Trumps Court (a large retirement and sheltered housing building). There are also three existing Cherry trees between the existing stone wall and the parking area which are on EDDC-owned land and are not in the ownership of the applicant.

The application site includes land owned by the applicant (the land immediately to the rear of number 19-20 including the outbuilding) and part of the car park that is owned by EDDC. Whilst it is currently understood that no consent has been given by EDDC to allow pedestrian access through the car park, matters of ownership and access rights are not a planning matter and do not factor into consideration of this application.

Proposed Development

The application seeks planning permission to demolish the existing outbuilding and construct two semi-detached dwelling houses. The proposed dwellings would each comprise two bedrooms and a bathroom at first floor level and an open plan dining/kitchen/lounge area and a toilet at ground floor.

The dwellings would be brick-built with a pitched slate roof, with dormer windows on the east and west elevations. The east elevation of the dwellings would retain the existing stone wall but with doors inserted to provide access via Trumps Court to the rear. No parking is proposed for the dwellings and pedestrian access is proposed through the private parking area for Trumps Court.

ANALYSIS

The main issues for consideration with this application are the principle of development, matters of flood risk, impact upon adjoining listed buildings and the conservation area, impact upon the amenity of adjoining occupiers, impact upon trees, archaeology and matters of access and parking.

Principle of development

The site is located within the heart of Sidmouth within the Built-up Area Boundary and as such the principle of residential development is acceptable and in accordance with Adopted and emerging Local Plan Policies.

Flood Risk Assessment and the Sequential Test

The site is located in Flood Zones 2 and 3 where there is a high probability of flooding. The National Planning Policy Framework (NPPF) highlights that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The NPPF requires decision-makers to steer new development toward areas with the lowest probability of flooding (Flood Zone 1) by applying the Sequential Test. The NPPF also advises that development should not be permitted if there are reasonably available sites appropriate for that development in areas of lower probability of flood risk.

It is noted that the Environment Agency has objected to the proposal as it considers the Flood Risk Assessment (FRA) submitted with the application to be inadequate and does not demonstrate the development would not increase flood risk elsewhere and, where possible reduce overall flood risk. Further, the FRA does not provide a suitable basis for assessing the flood risks arising from the development.

The Environment Agency also adds that contrary to the advice contained in the FRA the site of the proposed dwellings is at risk of flooding and:

- has a history of flooding;
- is currently zoned as at "high/medium" risk of flooding; and
- is subject to an increase in flooding risks in line with the effects of the ongoing rise in sea levels and the predicted adverse effects of climate change on both river flows and sea level rise.

In the absence of an adequate FRA the Local Planning Authority considers that the requirements of the Sequential Test have not been satisfied and satisfactory evidence has not been provided to demonstrate there are no reasonably available sites within an area of lower flood risk which can accommodate the proposal.

Sequentially, the Local Planning Authority considers that sites for the provision of dwellings exist elsewhere in the District in lower risk areas of flooding. Therefore, the proposal is considered contrary to national planning guidance owing to its location in Flood Zone 3 and the potential risks of flooding.

Impact on the Conservation Area and setting of listed buildings

The existing outbuilding appears to have been constructed sometime between 1905 and 1952 from map evidence. Therefore the outbuilding is considered to be curtilage listed as part of the statutory protection of 19/20 Fore Street which is Grade II listed. Listed Building Consent is therefore required for these proposals as well as planning permission.

The rear east elevation is constructed in stone and the parallel west elevation in brick. While the form of the building has probably changed over the years it still retains some historic fabric worthy of retention, particularly the stone elevation.

The Statement of Significance has not given an appropriate level of assessment of the significance of the existing outbuilding or how the proposals would impact the setting of the principal listed buildings on Fore Street. Views into the conservation area from the east and some aspects of listed buildings would be affected by any building on this site. Existing buildings overlook the site from three sides and it would

be regrettable to lose a more open space which affords views of the traditional roofscape within the conservation area. Despite the proposed retention of the section of stone wall the design has suburban aspects which would seem out of place here. The symmetry of the pair and projecting dormers are not considered appropriate.

As such this proposal is unacceptable as it would harm the setting of the adjacent listed buildings and their special historic interest, and would not preserve or enhance the character and appearance of the conservation area.

Impact on the amenity of adjoining residents

The application proposes to replace the existing single-storey outbuilding with a two storey building in the rear yard of the site. The proposed dwellings would be within close proximity of adjoining residential properties, namely Caxton House and the flats above the 19 and 20 Fore Street, both have rear windows within 10 metres of proposed development.

The proposal would result in windows at ground and first floor level directly facing these properties at a distance that would harm the privacy of the occupiers of the adjoining dwellings. Whilst there could be argued to be some loss of privacy to the occupiers of Trump Court, given that this is across a car park through which people use to connect East Street with the Russell Street car park, it would be difficult to justify any additional harm from overlooking between the proposed dwellings and the existing flats.

In addition, there are concerns regarding the impact from a two-storey building upon the amenity of adjoining occupiers in terms of the increased height of the building being overbearing within close proximity to the site boundaries.

The proposal is, therefore, considered unacceptable by virtue of its bulk and scale which would have an overbearing impact, as well as creating issues with loss of privacy and overlooking to adjacent residential properties.

Impact on trees

The three flowering cherry trees abutting Trumps Court are identified as to be retained by the proposal. The Council's Tree Officer has advised that while in the short term these trees will provide some welcome greening in an urban area, they are poor quality trees and would be prone to main branch failure in coming years and removal in the near future.

The Tree Officer raises no objection subject to new tree planting forming part of the proposals, to replace the poor quality flower cherry trees and secure good quality trees going forwards. This could be secured by condition.

Archaeological potential

The proposal is located in an area likely to contain archaeological deposits associated with the early settlement. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the early settlement in the town.

It is noted that the Council's Archaeologist has recommended a condition to be attached to any permission to require the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Access and parking

While the proposal does not propose any parking this is considered acceptable in this town centre location which is in close proximity to a range of services and facilities and is well-served by public transport links.

However, the proposed pedestrian access to the dwellings would be via the adjoining car parking area serving Trumps Court. Although the County Highway Authority have raised no objection to the application on highway safety grounds, the provision of pedestrian access through the car park, with the properties immediately adjoining the car parking spaces, is considered to result in a poor standard of amenity for the occupiers of the proposed dwellings.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposal is located within a high risk flood zone (Flood Zones 2 and 3) and the creation of two dwelling houses in such a location fails to accord with the requirements of the sequential test as there are other reasonably available sites within the District that could accommodate such a development. In addition, there are no overriding benefits from the scheme to allow the exception to this. As such the proposal is considered to be contrary to Policy S4 (Development within Built-up Area Boundaries) of the Adopted East Devon Local Plan 2006, Strategy 6 (Development within Built-up Area Boundaries) and Policy EN21 (River and Coastal Flooding) of the emerging New East Devon Local Plan, and the guidance set out in the National Planning Policy Framework.
2. By reason of the unjustified loss of the existing building, and due to the scale and design of the proposed dwellings, the proposal would harm the setting and special historic interest of the adjacent listed buildings, and would not preserve or enhance the character and appearance of the conservation area. As such the proposal is considered contrary to Policies EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) and EN11 (Preservation and Enhancement of Conservation Areas) of the Adopted East Devon Local Plan 2006 and Policies EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) of the emerging East Devon Local Plan, and the guidance set out in the National Planning Policy Framework.
3. The proposal by virtue of its design, height and window positions would have a detrimental overbearing impact, and result in an unacceptable level of overlooking with subsequent loss of privacy to the occupiers of adjoining properties. In addition, the proposal would result in a means of pedestrian access through, and immediately adjoining, a car park resulting in a poor standard of amenity for future occupiers of the proposed dwellings. As such the

proposal is contrary to Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2006, Policy D1 (Design and Local Distinctiveness) of the emerging New East Devon Local Plan, and the guidance set out in the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council 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:

UTO-05	Proposed Combined Plans	15.12.14
UTO-06	Proposed Combined Plans	15.12.14
UTO-07	Proposed Combined Plans	15.12.14
UTO-08	Proposed Floor Plans	15.12.14
UTO-09	Location Plan	09.02.15
UTO-10	Existing Combined Plans	09.02.15

List of Background Papers

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