

# Agenda for Development Management Committee Tuesday, 2 August 2016; 10am



## [Members of the Committee](#)

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

[View directions](#)

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01395 517542, Issued 21 July 2016

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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://eastdevon.gov.uk/council-and-democracy/committees-and-meetings/development-management-committee/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 25 July up until 12 noon on Thursday 28 July by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

### Speaking on non-planning application items

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

- 1 Minutes of the Development Management Committee meeting held on 5 July 2016 (page 5 - 11)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#)
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.
  
- 6 **Planning appeal statistics** (page 12 - 16)  
Development Manager
  
- 7 **Applications for determination**  
**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.**  
  
**16/0205/FUL & 16/0206/LBC (Minor)** (page 17 - 33)  
Ottery St Mary Town  
11 Silver Street, Ottery St Mary EX11 1DB  
*Application was deferred for a site inspection on 5 July 2016 – the Committee will have carried out a site visit in advance of the meeting.*  
  
**16/0239/OUT (Minor)** (page 34 - 46)  
Ottery St Mary Rural  
Land at The Gap, Lower Broad Oak Road, West Hill EX11 1UD  
  
**15/1473/VAR (Other)** (page 47 - 74)  
Clyst Valley  
Enfield, Oil Mill Lane, Clyst St Mary EX5 1AF  
  
**15/1512/FUL (Minor)** (page 75 - 97)  
Clyst Valley  
Enfield, Oil Mill Lane, Clyst St Mary EX5 1AF

**15/2522/FUL (Minor)** (page 98 - 111)  
Clyst Valley  
Land East of Denbow Farm, Farringdon

**16/0871/FUL (Minor)** (page 112 - 119)  
Clyst Valley  
Rosario, Ebford EX3 0QN

### **Break**

(Lunch will be provided for Development Management Committee members)

**Afternoon Session – the items applications below will not be considered before 2pm.**

**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.**

**16/0969/FUL (Minor)** (page 120 - 128)  
Exmouth Brixington  
30 Little Meadow, Exmouth EX8 4LU

**16/0787/MOUT (Major)** (page 129 - 161)  
Exmouth Littleham  
Rolle College Playing Field, Douglas Avenue, Exmouth

**15/2202/COU (Minor)** (page 162 - 172)  
Exmouth Littleham  
Madeira Bowling Club, Queens Drive, Exmouth EX8 2AY

**16/0997/MFUL (Major)** (page 173 – 194)  
Seaton  
Seaton Beach (Trebera), East Walk, Seaton EX12 2NP

**16/0435/MFUL (Major)** (page 195 - 217)  
Seaton  
Land at Harbour Road, Seaton

**16/0268/FUL (Minor)** (page 218 - 228)  
Sidmouth Rural  
Land adjacent to 4 Oak Bridge, Sidmouth EX10 0SE

**15/1970/MFUL (Major)** (page 229 - 256)  
Woodbury and Lympstone  
Land to the West of Strawberry Hill, Lympstone

**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 5 July 2016**

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

The meeting started at 10am and ended at 4.05pm (the Committee adjourned at 12.09pm and reconvened at 2pm)

#### **\*7 Minutes**

The minutes of the Extra Ordinary Development Management Committee meeting held on 31 May 2016 and Development Management Committee meeting held on 7 June 2016 were confirmed and signed as true records.

#### **\*8 Declarations of interest**

Cllr Steve Gazzard; 16/0874/RES; Personal Interest (remained in the Chamber during the debate and vote); Member of Exmouth Town Council, Ward Member, lives in same road.

Cllr Brian Bailey; 16/0874/RES; Personal Interest (remained in the Chamber during the debate and vote); Ward Member

Cllr Mark Williamson; 16/0874/RES; Personal Interest (remained in the Chamber during the debate and vote); Member of Exmouth Town Council

Cllr David Barratt; 16/0634/FUL; Personal Interest (remained in the Chamber during the debate and vote); Member of Sidmouth Town Council, Ward Member

Cllr Paul Carter; 16/0781/FUL, 15/0266/FUL, 16/0205/FUL & 16/0206/LBC, 16/0554/FUL & 16/0721/VAR; Personal interest; Known to family, Ward Member, Ottery St Mary Town Councillor

Cllr Alan Dent; 16/0074/FUL; Ward Member, Member of Budleigh Salterton Town Council

Cllr Mike Howe; 16/0781/FUL; Ward Member, known to family

Cllr David Key; 16/1032/FUL; Ward Member

Cllr Chris Pepper; 16/0693/MRES; Ward Member

In accordance with the Council's constitution, the Vice-Chairman took over Chairmanship of the meeting during consideration of application 16/1032/FUL (Colehill Farm, Luppitt) as the application was in the Chairman's Ward.

#### **\*9 Appeal statistics**

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

The Development Manager drew Members' attention that the Planning Inspector upheld the decision to refuse the Douglas Avenue Scheme in Exmouth.

#### **\*10 Applications for Planning Permission and matters for determination**

##### **RESOLVED:**

that the applications before the Committee be determined as set out in Schedule 2 – 2016/2017.

**Attendance list**

**Present:**

Committee Members

Councillors:

David Key (Chairman)

Mike Howe (Vice Chairman). Cllr Howe was not present for the afternoon session.

Brian Bailey (did not vote on application 16/0074/FUL as did not attend site visit)

David Barratt

Susie Bond (did not vote on application 16/0074/FUL as did not attend site visit)

Colin Brown

Peter Burrows

Paul Carter

Alan Dent (Vice Chairman for the afternoon session)

Steve Gazzard

Simon Grundy

Ben Ingham (did not vote on application 16/0074/FUL as did not attend site visit)

Chris Pepper (did not vote on application 16/0074/FUL as did not attend site visit. Not present for applications 16/0201/FUL, 16/0554/FUL & 16/0721/VAR, 16/0435/MFUL and therefore did not speak or vote on the item)

Mark Williamson

Officers

Chris Rose, Development Manager

Andy Carmichael, Major Projects Team Leader

Richard Cohen, Deputy Chief Executive

Shirley Shaw, Planning Barrister

Amanda Coombes, Democratic Services Officer

Also present for all or part of the meeting

Councillors:

Tom Wright

Geoff Jung

Roger Giles

Peter Faithfull

Jim Knight

**Apologies:**

Committee members:

Councillors

Matt Coppel

Non-committee members:

Councillors

Andrew Moulding

Chairman .....

Date.....

**EAST DEVON DISTRICT COUNCIL**  
**Development Management Committee**  
**Tuesday 5 July 2016; Schedule number 2 – 2016/2017**

**Applications determined by the Committee**

Committee reports, including recommendations, can be viewed at:

<http://eastdevon.gov.uk/media/1784790/050716-combined-dmc-agenda-compressed.pdf>

(Cllrs Bond, Bailey and Ingham did not vote on this item as they had not attended the site visit)

Budleigh Salterton  
(BUDLEIGH  
SALTERTON)

16/0074/FUL

Applicant: Mr John Brett

Location: 21 Stoneborough Lane, Budleigh Salterton

Proposal: Construction of detached dwelling.

**RESOLVED:** REFUSED contrary to officer recommendation.

Members were of the view that the proposed dwelling, by reason of its design and position, would be out of character with the street scene and result in a loss of amenity and detrimental levels of overlooking to numbers 21 and 23 – from the ground floor windows and garden in particular – and unacceptable standard of amenity for future occupiers of the proposed dwelling. In addition, the lack of any off-street parking provision for number 21 would result in an unacceptable increase in on-street parking and danger to highway safety contrary to Policy TC9.

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Axminster Rural  
(HAWKCHURCH)

16/0978/COU

Applicant: Mr Paul Hoffmann

Location: Land To Rear Of Plots 7 – 9 S.E. of Hawkchurch School

Proposal: Change of use of land to provide enlarged residential cartilages.

**RESOLVED:** APPROVED as per officer recommendation but with change to Condition 3 to confirm that the fence be provided before first use of the land.

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Broadclyst  
(CLYST HONITON) 16/0693/MRES

Applicant: Lidl UK GmbH

Location: Land At Hayes Farm, Clyst Honiton

Proposal: Approval of reserved matters (access, appearance, landscaping, layout and scale) application for the erection of a distribution warehouse (use class B8) with ancillary offices, access, gatehouse, sprinkler tanks, plantroom, haulier cabins, HGV and car parking provision, earthworks, landscaping and associated infrastructure works (pursuant to application 10/2184/MOUT).

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

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Clyst Valley  
(FARRINGDON) 16/0781/FUL

Applicant: Stuart Property Holdings Ltd

Location: Unit 2 (land Adj) Jacks Way

Proposal: Extension to existing vehicle storage compound approved under 13/2069/MRES.

**RESOLVED:** APPROVED as per officer recommendation but subject to an additional condition requiring submission of a landscaping scheme to the southern and eastern boundary to screen the site in Spring, Autumn and Winter months, and amended Condition 7 to ensure that the lighting columns are no greater than 6m in height.

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Exmouth  
Withycombe Raleigh  
(EXMOUTH) 16/0874/RES

Applicant: Mr & Mrs N Hargreaves

Location: 19 Marpool Crescent, Exmouth

Proposal: Construction of an attached dwelling pursuant to planning application 15/2293/OUT.

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

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Otterhead  
(LUPPITT) 16/1032/FUL

Applicant: Mr & Mrs Hill

Location: Colehill Farm, Luppitt

Proposal: Conversion of outbuilding to form ancillary residential and holiday let accommodation and alterations to external elevations.

**RESOLVED:** APPROVED contrary to officer recommendation. Members were of the view that as the building was no longer required for agricultural use, was structurally sound and capable of conversion, and as the conversion would result in a visual improvement to the AONB, the application should be approved as the benefits outweighed any harm

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Sidmouth Rural  
(SIDMOUTH) 16/0634/FUL

Applicant: Salcombe Regis Camping And Caravan

Location: Salcombe Regis Camping And Caravan Park, Salcombe Regis

Proposal: Construction of new games room, sanitary block and toilet block with additional parking.

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

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Ottery St Mary Rural  
(AYLESBEARE) 15/0266/FUL

Applicant: East Devon Estates Limited

Location: Aylesbeare Inn, Village Way

Proposal: Demolish current building and build 3 dwellings and a replacement public house (use class A4) with parking facilities

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

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Ottery St Mary Rural  
& Town  
(OTTERY ST MARY) 16/0554/FUL & 16/0721/VAR

Applicant: Mr Tom Rogers

Location: Land Adj. Barnfield House, Cadhay Lane

Proposal: 16/0721/VAR: Variation of condition 2 of reserved matters approval ref 14/0317/RES to amend details of appearance, landscaping and layout.

16/0554/FUL: Construction of detached double garage with storeroom.

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

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Ottery St Mary Town  
(OTTERY ST MARY) 16/0205/FUL & 16/0206/LBC

Applicant: Ashcom Developments Ltd

Location: 11 Silver Street, Ottery St Mary

Proposal: 16/0205/FUL - Construction of dwelling in rear garden.

16/0206/LBC – Proposed works to rear boundary wall for access to proposed new dwelling.

**RESOLVED:** DEFERRED for a site inspection to assess if the site is large enough for the development and to assess the impact upon the surrounding listed buildings, conservation area and neighbouring properties.

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Raleigh  
(WOODBURY) 16/0201/FUL

Applicant: Mr Thomas Smith

Location: Large Mobile Dwelling, Greendale Lane

Proposal: Use of land for four additional caravans, one day room and creation of new vehicular access for gypsy family.

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

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Seaton  
(SEATON) 16/0435/MFUL

Applicant: Bovis Homes PLC & Tesco Stores Ltd

Location: Land At Harbour Road

Proposal: Proposed residential development for 20 no. plots and associated works (amended layout to residential development approved under 13/2392/MRES to provide additional 8 no. units).

**RESOLVED:** DEFERRED to enable further information to be presented to Members regarding the viability appraisal and the District Valuers

assessment of it and reasons why the proposal is still unable to provide any affordable housing.

**East Devon District Council  
List of Planning Appeals Lodged**

**Ref:** 16/0589/FUL                      **Date Received** 21.06.2016  
**Appellant:** Mr Saul Tyler  
**Appeal Site:** 1 Raddenstile Lane Exmouth EX8 2JH  
**Proposal:** Loft conversion including front dormer windows  
**Planning** APP/U1105/D/16/3152862  
**Inspectorate**  
**Ref:**

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**Ref:** 15/2239/MOUT                      **Date Received** 22.06.2016  
**Appellant:** Mrs M & W Broom & Adams  
**Appeal Site:** Weeks Farm Talaton Exeter EX5 2RG  
**Proposal:** Construction of 25 dwellings and 20 space car park for village hall (outline application discharging means of access only)  
**Planning** APP/U1105/W/16/3152976  
**Inspectorate**  
**Ref:**

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**Ref:** 15/1777/OUT                      **Date Received** 01.07.2016  
**Appellant:** DBD Developments  
**Appeal Site:** Peace Memorial Playing Fields Coly Road Colyton  
**Proposal:** Outline application for the erection of 5 no. detached dwellings (all matters reserved)  
**Planning** APP/U1105/W/16/3153630  
**Inspectorate**  
**Ref:**

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**Ref:** 15/2326/FUL                      **Date Received** 05.07.2016  
**Appellant:** Mr P Broom And Ms J Gladstone  
**Appeal Site:** Milton Yard Payhembury  
**Proposal:** Temporary retention of mobile home.  
**Planning**  
**Inspectorate**  
**Ref:**

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**Ref:** 13/F0752 **Date Received** 05.07.2016  
**Appellant:** Mr P Broom And Ms J Gladstone  
**Appeal Site:** Milton Yard Payhembury  
**Proposal:** Temporary retention of mobile home.  
**Planning Inspectorate Ref:**

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**Ref:** 16/0504/FUL **Date Received** 12.07.2016  
**Appellant:** Mr Mark Hannaford  
**Appeal Site:** Tanglewood 3 East Croft New Road Beer Seaton  
**Proposal:** Retention of existing decking (in part) and alteration to upper decking area (amendments to refused planning application 15/2182/FUL)  
**Planning Inspectorate Ref:** APP/U1105/D/16/3154276

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**Ref:** 15/2052/OUT **Date Received** 13.07.2016  
**Appellant:** Mr A Lightfoot  
**Appeal Site:** Land Adjoining White Farm Lane West Hill Ottery St Mary EX11 1GF  
**Proposal:** Outline planning permission for the construction of a dwelling with all matters reserved.  
**Planning Inspectorate Ref:**

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East Devon District Council  
List of Planning Appeals Decided

**Ref:** 15/2137/OUT **Appeal Ref:** 16/00013/REF

**Appellant:** Mr & Mrs M Hellier  
**Appeal Site:** Land At Withen House Withen Lane Aylesbeare Exeter EX5 2JQ

**Proposal:** Outline application for the erection of dwelling with all matters reserved

**Decision:** **Appeal Dismissed** **Date:** 24.06.2016  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, countryside protection and sustainability reasons upheld (EDLP Strategy 7 & Policy TC2).

**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3145855

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**Ref:** 15/2425/FUL **Appeal Ref:** 16/00011/REF

**Appellant:** Mr A Cooper  
**Appeal Site:** 28 Burrough Fields Cranbrook Exeter Devon EX5 7AN

**Proposal:** Demolition of existing garden wall and construction of new 2m high boundary wall.

**Decision:** **Appeal Dismissed** **Date:** 24.06.2016  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, amenity and design reasons upheld (EDLP Policy D1).

**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/D/16/3144550

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**Ref:** 15/0753/MOUT **Appeal Ref:** 15/00062/NONDET  
**Appellant:** Littleham 2010 Ltd  
**Appeal Site:** 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  
**Decision:** **Appeal Dismissed** **Date:** 29.06.2016  
**Procedure:** Written representations  
**Remarks:** Appeal against non-determination of the application within the prescribed time period. Officer recommendation to refuse, Committee resolution to refuse, countryside protection and sustainability reasons upheld (EDLP Strategies 7 & 22).  
**BVPI 204:** **No**  
**Planning Inspectorate Ref:** APP/U1105/W/15/3137880

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**Ref:** 15/1728/OUT **Appeal Ref:** 16/00017/REF  
**Appellant:** Mr & Mrs Colin Barrow  
**Appeal Site:** Marylea Dunkeswell Honiton EX14 4RQ  
**Proposal:** Construction of agricultural workers dwelling (outline application with all matters reserved)  
**Decision:** **Appeal Dismissed** **Date:** 06.07.2016  
**Procedure:** Informal Hearing  
**Remarks:** Delegated refusal, countryside protection reasons upheld (EDLP Strategy 7 & Policy H4).  
**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3146859

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**Ref:** 15/1619/FUL **Appeal Ref:** 15/00070/REF

**Appellant:** Mr John Hardy

**Appeal Site:** Foye River Front Exton Exeter EX3 0PR

**Proposal:** Alterations of existing bungalow to form 4 no. new dwellings

**Decision:** **Appeal Allowed (with conditions)** **Date:** 12.07.2016

**Procedure:** Written representations

**Remarks:** Delegated refusal, sustainability reasons overruled (EDLP Policy TC2). Application for a full award of costs against the Council refused.

The Inspector acknowledged that following the recent adoption of the Local Plan, the Council has been able to demonstrate a five year supply of housing. He also accepted that the site is not within a defined built-up area boundary and that Exton is not listed as one of those settlements considered under Strategy 27 of the Local Plan to offer a range of accessible services and facilities.

He noted that there is a public house close to the site and a village hall, but recognised the absence of most other local facilities and was in no doubt that Exton does not enjoy the range of services that are evident in other settlements which are identified under Strategy 27.

The appeal site is located immediately adjacent to Exton railway station and the Inspector considered that it is very likely that future occupiers of the dwellings would utilise the railway for a substantial proportion of trips, including shopping, commuting and leisure related trips.

The Inspector concluded that whilst he acknowledged the limited local facilities and the location of the site outside of the built-up area boundary, on balance he considered that the exceptionally good access to the railway station makes the location of this site a sustainable one for the proposed development in this case.

**BVPI 204:** **Yes**

**Planning Inspectorate Ref:** APP/U1105/W/15/3139662

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**Ward** Ottery St Mary Town

**Reference** 16/0205/FUL &  
16/0206/LBC

**Applicant** Ashcom Developments Ltd

**Location** 11 Silver Street Ottery St Mary EX11 1DB

**Proposal** Construction of dwelling in rear garden.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 5<sup>th</sup> July 2016</b>
<b>Ottery St Mary Town (OTTERY ST MARY)</b>	<b>16/0205/FUL &amp; 16/0206/LBC</b>	<b>Target Date: 05.05.2016</b>
<b>Applicant:</b>	<b>Ashcom Developments Ltd</b>	
<b>Location:</b>	<b>11 Silver Street Ottery St Mary</b>	
<b>Proposal:</b>	<b>16/0205/FUL - Construction of dwelling in rear garden.</b>  <b>16/0206/LBC – Proposed works to rear boundary wall for access to proposed new dwelling.</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation differs from the view of the Ward Members.**

**The proposals relate to the construction of a split level three bedroom dwelling of contemporary form and design on a modest plot of land around 0.035ha in area at the rear of no. 11 Silver Street, a range of two and three storey Grade II listed buildings located within the designated Ottery St. Mary Conservation Area. This part of the conservation area is of particular sensitivity owing to the number and concentration of listed buildings in the vicinity, including St. Mary's Church. Parts of no.11 itself have been converted, and are currently undergoing conversion works, to form a number of residential properties.**

**The submitted details show an L-shaped plan form incorporating two main roofs of monopitch design aligned at right angles to one another with lean-to single storey additions to both the basement and upper floor levels to provide additional space. External wall and roof finishes are to consist of a mix of stone, brick and vertical timber boarding with zinc standing seam roof. Engineering works to reduce site and floor levels would be required so as to seek to reduce the impact of the building and drop proposed garden levels so as to reduce potential levels of overlooking of adjacent gardens.**

**The site is flanked on three boundaries by attractive established walls of brick and stone construction. The brick wall that defines the northern boundary would be removed and rebuilt in light of its poor structural condition.**

**The submission follows the withdrawal of an earlier 2015 scheme for a larger two**

storey unit, also of contemporary built form, on the plot.

The sensitivity of the site in relation to key heritage assets within the town is unquestioned and the extent to which a contemporary built form and design may be viewed as inappropriate are fully acknowledged. However, the plot is located at the rear of a considerable number of buildings where, with the possible exception of a glimpsed view from distance of the upper parts of the proposed building from the car park off Hind Street, the development would not be readily visible. It would also exhibit a subservient scale and height in relation to the surrounding development, much of which is of a frontage layout and pattern, in line with the general principles of creating a hierarchy of built forms within the townscape. As such, it is thought difficult to justify the view that it would detract from the character or appearance of the conservation area, the character of the setting of the listed buildings around the site or the overall heritage significance of either.

Equally, it is not considered that the development would result in any material detrimental impact upon the living conditions/amenities of the neighbouring occupiers through overlooking/loss of privacy or through being unduly overbearing or dominant as to cause significant loss of outlook, aspect or light.

In the circumstances therefore, while the objections raised by the town council, ward members and third parties are acknowledged and understood, it is thought that the overall planning balance weighs in favour of acceptance of the proposal.

## **CONSULTATIONS**

### **Local Consultations**

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

TOWN COUNCIL'S COMMENTS: The Town Council strongly objects to this Planning Application for the following reasons:

- o The construction would have a very detrimental impact on the Conservation Area.
- o It would not be in keeping with the area.
- o It would be overbearing, overlooking surrounding properties and causing loss of light to those properties.
- o There are grave concerns over excavations adjacent to the surrounding wall.
- o The design is inappropriate.

#### **Ottery St Mary Town - Cllr R Giles**

This application is in my ward and my preliminary view, based on the information presently available is that the application should be REFUSED.

The application site is highly sensitive. It is at the heart of the Ottery Conservation Area, and it is adjacent to a Listed Building, with several other Listed Buildings in close proximity. Ottery St Mary Parish Church - probably the most important building in the whole of East Devon - is very close to the site, in an elevated position above the site.

Should it be considered that a dwelling could be acceptable in this small and limited site (I have considerable doubts about this) it would have to be very carefully designed in order to come up with something that complemented or enhanced the important and attractive buildings nearby. Instead something quite abhorrent and totally unacceptable has been put forward. It is totally out of keeping with the existing buildings nearby, and is also too large for the small site. It would be visually intrusive, and cause considerable damage to the integrity of the Conservation Area.

The proposed dwelling, if approved, would also have a detrimental effect on a number of adjacent properties in Hind Street and Silver Street. The site is substantially higher than the gardens of adjacent properties, and would result in overlooking and also a loss of light.

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

Ottery St Mary Town - Cllr P Faithfull

Dear Planning Team

This application is in my ward. My preliminary view, based on the information presently available to me is that it should be refused.

Although the latest design is less intrusive than the original design, the proposed building remains a contemporary structure, set in a conservation area. The proposed building will have a damaging impact on this sensitive part of conservation area of the town. There is also concern about the structure of boundary walls.

### **Technical Consultations**

County Highway Authority

Highways Standing Advice

Devon County Archaeologist

I refer to the above application. The Historic Environment Team have no additional comment to make on this planning application to those made on the earlier application 15/1802/FUL, namely:

The proposed development lies in the historic core of Ottery St Mary. While 11 Silver Street is an early 19th century building this area is likely to have been occupied from the medieval period onward and the area occupied by the proposed development may contain artefactual and archaeological evidence of early occupation at Ottery St Mary. 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.

For this reason and in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) 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, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.

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

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.

#### Conservation

08.04.2016:

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

No 11 SY 09 NE 1/113 13.6.72. II GV 2. C18 altered, 3 storey, wide 3 window front, 3 sash windows at upper floors, flank windows being 3-light, glazing bars remain at 1st floor. Stucco, rusticated. Panelled flank pilasters with enriched caps and vermiculate bases. Entrance door with fielded panels, right, and with fanlight. Early C19 wood shop front with entablature full width, and with glazing bars, and Greek pilasters with enriched caps. All the listed buildings in Silver Street form a group in very important central position.

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

With regard to the application to demolish a section of the rear garden wall the information submitted relates mostly to the planning application for the proposed new dwelling. While the proposed demolished and new sections of wall are shown on the proposed north elevation there is no mention of the walls to the site in the statement of significance. Their contribution to the heritage value of the asset has not been

assessed and no justification for the works has been offered. On this basis, as it stands I cannot support the material works to the wall. Does the wall really need to be demolished in part?

The revised application for the new dwelling is an improvement upon the previous design. However, it is still a more substantial building than I would have hoped for. I am aware that there have been pre-application discussions over the proposed design and certainly the L-shaped plan and mono-pitched roofs would have less of an impact than the bulk of the previous approach. There are aspects that may need to be altered to comply with building regulations and these would have an additional visual impact. The retaining walls forming the sunken garden area may require additional railings or walls. There are new sections of stone walls indicated on the proposed elevations. As the indigenous stone is quite unlikely to be available the impact of an imported stone would need to be considered carefully. An alternative material may be more appropriate.

The proposed east elevation shows that the existing wall forming the southern boundary would be quite low from within the site. I recall that the previous application included a fence on this wall which, following concerns was subsequently omitted. It is not clear whether the ground level within the site is to be raised. If so, would there be an issue with a requirement to raise the height of the wall from a safety or/and privacy aspect?

As the roof slopes would be a visible element of the design I would advocate a more attractive roof cladding than the proposed artificial membrane. Zinc or stainless steel would probably be more befitting the contemporary design approach.

**PROVISIONAL RECOMMENDATION - PROPOSAL  
UNACCEPTABLE as it stands.**

#### Other Representations

4 representations of support and 2 representations of objection have been received in respect of the application.

#### Summary of Objections

1. Concern regarding long term stability of retaining walls if excavation and building works are carried out so close to them contrary to NPPG.
2. Overbearing, dominating and overshadowing impact upon garden resulting in loss of light contrary to local plan policy D1.
3. Overlooking/loss of privacy.
4. Development totally at odds with surrounding area and squeezed into a plot of inadequate size.
5. By reason of its location in the heart of the conservation area, its close relationship to listed buildings and its modern design, the development will fail to preserve or enhance the area.
6. Exacerbation of problems of pedestrian safety and traffic flow at entrance to single vehicle width road to site through more cars crossing the pavement at a point of congestion.

#### Summary of Grounds for Support

1. This is a wasted piece of land on which one house will fit without affecting the area.
2. The design is attractive, carefully considered and different and would complement the more traditional setting and also complete the development; additional housing in the town is to be welcomed.
3. A contemporary style house will encourage more people to the area bringing further wealth.
4. In the interests of the local developer to do a good job.
5. The development will be screened by existing boundary walls and will fit into the space available.
6. Good to see interesting contemporary architecture planned for Ottery; there is little else that demonstrates the 21st century.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
15/1802/FUL	Construction of dwelling house to the rear of 11 Silver Street.	Withdrawn	13.10.2015
15/1803/LBC	Proposed works to rear boundary wall for access to proposed new dwelling.	Withdrawn	13.10.2015

### **POLICIES**

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

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 24 (Development at Ottery St Mary)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

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

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

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

EN22 (Surface Run-Off Implications of New Development)

E9 (Town Centre Vitality and Shopping Areas)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

## **ANALYSIS**

### Site Location and Description

The site comprises a currently vacant plot of land around 0.035 hectares in area located to the rear of no. 11 Silver Street, the former premises of Coles Furnishers, just to the north of the town centre. It lies within the designated Ottery St. Mary Conservation Area and in close proximity to a significant group of Grade II listed buildings that line the western side of Silver Street as it ascends towards St. Mary's Church, itself Grade I listed, to the north. The site is also within the defined Town Centre Shopping Area.

More specifically, it is positioned just beyond, and to the south west of, the western end of a connected group of two storey former warehouses, previously used in connection with the business premises, that have very recently been converted to form two residential units. These are themselves attached to the rear of a two storey building fronting Silver Street, formerly part of the retail area of the business, which is itself being converted to a dwelling. This building is in turn attached to the side of the main three storey building originally occupied by Coles, the upper floors of which are being converted to form two flats. All of these buildings are Grade II listed.

The plot to which the current application relates is bordered on three sides by established walls of brick and stone construction, two of which are retaining structures with adjacent land to the west and south, in the form of the private rear garden of no. 3 Hind Street and a long narrow garden at the rear of Seasons Tea Rooms at no. 9 Silver Street respectively, set at a lower level.

An unmade private lane of single vehicle width extending off Silver Street and running immediately alongside the converted former warehouses provides vehicular access to both the plot and an adjacent car parking area that, until its closure, served the Barclays bank premises at no. 15 Silver Street to the north. A wall, principally of brick construction extends along the majority of the length of the boundary between this area and the plot (the northern boundary). There is presently an opening in this wall.



The remaining eastern boundary, to what will become the private gardens attached to the new unit created from the conversion of the former warehouses, is currently open.

### Proposed Development

The application proposals involve the construction of a split level part single storey, part two storey three bedroom dwelling within the plot together with works to remove and reconstruct in replica the majority of the wall that forms the northern boundary to, in part, facilitate the formation of a pedestrian access to the development.

Two parking spaces to serve the proposed dwelling would also be laid out beyond the reconstructed wall alongside three spaces that have been provided for the units within the converted warehouses.

The submitted details show an L-shaped building on plan with an inward looking main aspect that would be of contemporary form incorporating what is essentially a pair of joined monopitch-roofed elements at right angles to one another, one extending west/east and the other north/south. The former would be of two storey height and accommodate a basement level housing two bedrooms (one with en suite facilities), a bathroom and a plant room with the main living/dining and kitchen/breakfast room areas accommodated on the upper level and connected by a staircase. The latter would be single storey and would house the third bedroom and a w.c. Two separate lean-to elements would be added to the west elevation, one at each level. The basement level lean-to would feature a glazed roof to allow light to one of the bedrooms whilst that at the higher level would facilitate additional space for the third bedroom and toilet.

Access would be provided from the other basement level bedroom to an external terrace/patio. A second terrace would be laid out at the higher ground level to the north with a glazed handrail/balustrade constructed on top of a retaining wall separating the two levels. Beyond the end of the upper level terrace, the prospective garden land attached to the development would be gently graded to meet the lower ground level towards the eastern site boundary.

Externally, the walls of the building would be finished in a mix of vertical timber boarding, handmade brick and stone with zinc standing seam roofs (excluding the glazed lean-to roof referred to above). An open-sided lean-to entrance canopy would be added to the east elevation of the single storey element.

The construction and laying out of the plot would entail significant engineering works in the form of excavation to create the intended partially sunken floor levels of the dwelling itself as well as sufficiently low garden levels in the vicinity of the walls along the southern and western boundaries so as to avoid potential overlooking, mainly of the neighbouring private garden area of no. 3 Hind Street to the west as well as create an amenity space in the form of an internal courtyard for the development. For similar reasons it is proposed that the windows in the west elevation serving the upper floor be high level with only rooflights proposed along the south elevation.

The original intention was to only remove the section of the brick wall along the northern plot boundary necessary to create the proposed pedestrian access to the

site and to infill part of the present opening. However, the wall is only of single skin construction. Its condition has been investigated by the applicants and it has been found to be leaning and cracked. It is therefore now proposed to dismantle and reconstruct it in replica using the existing bricks.

The details have been modified during the course of the application to amend the roof finish, the arrangement of wall finishes, the balustrade design and materials, external garden levels and to advise of the change to the extent of the works necessary to the wall on the northern boundary.

The applications succeed previous planning and listed building consent applications (refs. 15/1802/FUL and 15/1803/LBC), submitted last year but subsequently withdrawn, relating to a scheme involving the construction of a larger contemporary dwelling of more regular form on the site.

#### Considerations/Assessment

The following issues that are material to consideration of the proposals are discussed in turn below.

#### Principle of Development

The site is located within the built-up area boundary of Ottery St. Mary defined within the adopted local plan within which the principle of additional residential development is acceptable in strategic policy terms subject to assessment of the scheme against the more detailed issues set out below.

Furthermore, the site occupies a sustainable location in relation to the range of services and facilities that are available within the town and benefits from a good level of pedestrian connectivity to the wider footway network and proximity to public transport routes.

There is therefore no objection to the principle of the proposed development in this case.

#### Design and Appearance and Impact upon Character and Appearance of Conservation Area

There is no question that the contemporary form and design of the proposed dwelling, taken together with its external appearance and the palette of materials that would be employed in its construction, would be markedly different to that of any surrounding buildings. Moreover, the sensitivity of the location of the site within the designated conservation area and its proximity to the highest concentration of listed buildings in the town, including St. Mary's Church, are duly acknowledged.

To this extent therefore, on the face of it the proposed development could simply be regarded as appearing at odds with the historic and architectural character and wider heritage significance of the designated conservation area and the character of the setting of the adjacent listed buildings, as is reflected strongly by the views of the town council and ward members.

However, it is thought that this would fail to fully recognise broader issues regarding the character of the setting of the site within this part of the town centre and the

conservation area. The plot is wholly screened from public view from both Silver Street, as well as Saddlers Lane and Hind Street to the south and south west, by existing buildings, a number of which directly front these highways. It is also screened from views from The College and the church to the north by a combination of buildings and high boundary walls. Furthermore, the development would be set down within the plot such that, at worst, the only semi-public views of the very upper part of the building that may be available are those from the supermarket car park off Hind Street some 70 metres to the west of the site. However, again these would be broken by existing boundary walls between the two to such an extent that any part of the development that is visible would be viewed amidst a foreground and backdrop of walls and higher street frontage buildings respectively.

It is also suggested that the reduced height of the dwelling when set against surrounding buildings would appropriately reflect the hierarchical pattern of, and relationship between, the general scale of street frontage and backland development that is sought elsewhere within town centre developments where taller street frontage buildings screen development that is more subservient in scale and height behind them.

It is also considered that the development reflects a conscious attempt to respond to the constraints of the site in terms of both its modest area and uneven ground levels, more especially when compared with the scheme subject of the previous application ref. 15/1802/FUL. In particular, the L-shape footprint of the building is thought to more appropriately address the need to try to avoid overdevelopment of what is acknowledged to be a plot of limited size whilst allowing for a reasonable level of amenity space for prospective occupiers. Furthermore the overall scale, bulk and massing of the building are altogether more modest than the original scheme with the objective having been to create an inward-looking unit of comparatively more limited proportions that sits more comfortably within the plot.

Furthermore, the detailed design and external finishes have been modified during the course of consideration of the proposal to accommodate a number of concerns held by officers. In the light of these, the details are now considered to be acceptable and the Conservation Officer verbally advised that the amended plans had improved the proposal and justified the re-building of the wall to an extent that now makes the proposal acceptable subject to materials samples.

In these circumstances, it is not considered that the impact of the scheme upon the character of the setting of listed buildings or the wider conservation area would be unduly harmful. Indeed, in terms of the policy set out within the National Planning Policy Framework (the Framework), it would in the view of officers lead to 'less than substantial' harm to the significance of designated heritage assets. The Framework states that any such harm should be weighed against the public benefits of the proposal, including securing its optimal viable use. In this case, whilst acknowledged to be slightly limited in extent, there is some public benefit to be derived from the scheme in the form of a modest contribution towards town centre housing provision as well as the enhancement of what could otherwise be a largely redundant site.

Although it is accepted that this latter argument does not necessarily itself justify development, all the more particularly as the site is in the same ownership as the

other development both carried out and ongoing at no. 11 Silver Street and could alternatively be used, for example, to provide amenity space for these other units, given the balance of the foregoing material considerations it is thought that the development would not adversely affect the character, appearance or significance of the conservation area to the extent that refusal would be justified on this ground.

Regarding the proposed works involving the reconstruction in replica of the wall along the northern plot boundary, there are no objections to these subject to controls being maintained, by way of appropriately-worded conditions, over its detailed design, any 'new' materials that it may be necessary to use to address any shortfall in the numbers of the existing bricks that can be retained for reuse and to enable inspection of a sample panel of the wall.

#### Impact upon Neighbour Amenity

Again in some contrast to the previous scheme, the current proposal seeks to accommodate a principal inward-looking main aspect where the windows serving the main living spaces face towards the proposed courtyard terrace.

Although the 'outer' west elevation would feature windows affording a relatively close aspect over the existing boundary wall towards the rear garden of no. 3 Hind Street , these would all be set at a sufficiently high level as to avoid any overlooking. However, in order to address the perceived privacy impact that the neighbouring occupiers could experience it is recommended that these windows be obscure glazed and fixed shut. As they are high level, they are incorporated for the purposes of providing added light to the interior of the dwelling only and, as such, it is not anticipated that any such requirement would be unduly onerous or likely to cause lower grade amenities for any prospective future occupiers.

The only windows proposed for the south elevation would be rooflights set within a roof plane of very modest pitch. As such, it is not anticipated that these would result in any overlooking or privacy issues for the adjacent rear garden of the commercial premises at no. 9 Silver Street.

Taken together with the revised site/garden levels now proposed, it is therefore not considered that the dwelling would result in any overlooking or privacy issues in relation to either of the immediate neighbouring properties/premises at no. 3 Hind Street or 9 Silver Street.

It is also necessary to consider the physical/visual impact arising from the proposed development and the effect of this upon the occupiers/operators of these adjacent sites.

In this regard, although it is accepted that the dwelling would stand up in part above the height of both walls that define the western and southern site boundaries to the extent that there would clearly be a degree of impact, it is not thought that the level of this would be sufficient to result in significant harm to the living conditions of the occupiers of no. 3 Hind Street or the operators of the business at no.9 Silver Street through being unduly physically dominating, overbearing or intrusive as to cause material loss of outlook, aspect or light. The residential property at 3 Hind Street has the benefit of a sizeable rear garden and, coupled with the distance at which the

development would be set back from the plot boundary with this property, at between 2.5 and 3 metres, it is not considered that it would be unduly dominant or intrusive as to justify objection on this ground. Equally, although positioned close to the site boundary with the rear garden of no. 9 Silver Street, this occupies a narrow but long strip of land and, whilst there would be some degree of impact upon part of this premises it is not considered that it would be at a level that could reasonably form the basis of a substantive objection.

There is some empathy with the concerns expressed regarding the lack of knowledge as to the depth of the older stone retaining walls that form the western and southern boundaries of the site with these properties, particularly given the differences in land levels, and their future stability. A condition is therefore recommended requiring the submission of a method statement for their retention and protection during the course of development for the purposes of ensuring both their retention as heritage assets within the designated conservation area and that their stability is appropriately considered and, if/where necessary, addressed. It is acknowledged that the plot is limited in area and the development would be constructed in close proximity to these walls that form an important element of this part of the conservation area. It is therefore of considerable importance that they are appropriately protected.

#### Archaeology

The County Archaeology Team recommends that a condition be attached to any planning permission that is granted in this case requiring the implementation of a programme of archaeological work in accordance with a written scheme of investigation to be submitted to and approved by the Authority. This is in recognition of the potential of groundworks connected with the development to expose artefactual and archaeological evidence of early occupation at Ottery St. Mary.

It is anticipated that this would take the form of archaeological supervision of all groundworks to allow for identification, investigation and recording of any deposits with the results and any post-excavation analysis presented in a report.

An appropriately-worded condition is therefore recommended.

#### Financial Contributions

The application is in this case required to be accompanied (in the event of a resolution to grant planning permission) by a unilateral undertaking that contains provisions securing the payment of a financial contribution of £626 towards mitigation of the impacts arising from increased residential development upon the integrity of the European-designated East Devon Pebblebed Heaths Special Protection Area in line with the Council's adopted approach towards fulfilling its obligations under the Habitat Regulations.

Although such an undertaking was supplied with the application when it was first validated, this also secured the payment of financial contributions towards open space provision/enhancement and affordable housing provision. However, following recent changes in Government policy (expressed through modifications to the National Planning Practice Guidance) in relation to the provision of tariff-style contributions and affordable housing in association with smaller scale residential

schemes, the Council is no longer able to seek these contributions. It is however still required to pursue habitat mitigation, in line with E.U. legislation, and the contribution level set out above is still to be sought by the Council.

To this end, the undertaking supplied by the applicants has been returned for the appropriate amendments to be made to omit the requirements for the payment of open space and affordable housing contributions. It is anticipated that the modified document may be returned to the Council ahead of the Committee meeting. However, if not, any resolution to grant permission would need to be made subject to this contribution being secured. If this is not possible, or the applicants are unwilling to modify the document, the matter may have to be referred back to Members with a recommendation to refuse the application on the basis that the scheme fails to appropriately mitigate the effects of the development upon a European site.

## **RECOMMENDATIONS**

### **16/0205/FUL**

APPROVE subject to receipt of an amended unilateral undertaking securing payment of a habitat mitigation contribution and 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. Notwithstanding the submitted details, before development is commenced a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be 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 considered at an early stage and are sympathetic to the character and appearance of the designated Ottery St. Mary Conservation Area in which the site is located and the character of the setting of adjacent listed buildings in accordance with Policies D1 - Design and Local Distinctiveness, EN9 - Development Affecting a Designated Heritage Asset and E10 - Conservation Areas of the East Devon Local Plan 2013-2031.)
4. 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 in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework.)

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no development of the types described in Classes A or E of Part 1, or Class A of Part 2, of Schedule 2 to the Order shall be carried out without a grant of express planning permission from the Local Planning Authority.

(Reason - To enable the Local Planning Authority to retain control over operations that would not ordinarily require a grant of planning permission in the interests of preventing overdevelopment of the site and in order to protect the character and appearance of the designated Ottery St. Mary Conservation Area in which the site is located and safeguard the character of the setting of adjacent listed buildings in accordance with Policies D1 - Design and Local Distinctiveness, EN9 - Development Affecting a Designated Heritage Asset and E10 - Conservation Areas of the East Devon Local Plan 2013-2031.)

6. No development shall commence until a detailed method statement for the retention and protection of the existing walls along the western and southern boundaries of the site during the course of the development has been submitted to and approved in writing by the Local Planning Authority. The statement shall set out a timetable for their protection and the means by which the protection shall be provided as well as measures to be implemented in the event of any structural failure of either wall. The agreed statement shall be fully complied with at all times.

(Reason - To ensure that the historical assets are appropriately retained and maintained during the development in accordance with Strategies 48 (Local Distinctiveness in the Built Environment) and 49 (The Historic Environment) and Policies D1 (Design and Local Distinctiveness) and EN9 (Development affecting a Designated Heritage Asset) of the adopted East Devon Local Plan 2013-2031.)

7. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless 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 ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local

Distinctiveness and D2 - Landscape Requirements of the adopted East Devon Local Plan 2013-2031.)

8. The windows in the west elevation shown on drawing no. 14.60 P 22a shall be obscure glazed and fixed shut prior to first occupation of the dwelling hereby permitted and shall thereafter be retained as such in perpetuity.  
(Reason - In the interests of protecting the privacy and amenities of the occupiers of the neighbouring residential property and to comply with Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan 2013-2031.)

#### 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.

This planning permission is accompanied by, and should be read in conjunction with, the unilateral undertaking dated (date to be inserted) relating to the payment of a financial contribution towards mitigation of the impacts of additional residential development upon the integrity of the European-designated East Devon Pebblebed Heaths Special Protection Area under the Habitats Regulations.

##### Plans relating to this application:

14.60.SP 10B	Location Plan	24.05.16
14.60 P22A	Proposed Elevation	24.05.16
14.60 P20B	Proposed Floor Plans	24.05.16
14.60 P21 C	Proposed Elevation	24.05.16
14.60 P23	Proposed Elevation	24.05.16

#### **16/0206/LBC**

APPROVE subject to the following conditions:

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



2. Prior to the commencement of development, a 3-5 square metre sample panel of brick walling to be used shall be constructed on site for inspection by an officer of the Local Planning Authority. Any such sample provided shall be agreed in writing with the Authority as well as any variations as to coursing, pointing and the type of brick to be used. The works as may be agreed shall be carried out and completed in full in line with any specification or other written instructions from the Local Planning Authority.  
(Reason - To ensure that the materials and detailed design and appearance of the reconstructed wall are considered at an early stage in the interests of the appearance and character of the designated conservation area in which the site is located in accordance with Policies D1 - Design and Local Distinctiveness and EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

Plans relating to this application:

14.60.SP 10B	Location Plan	24.05.16
14.60 P 20B	Proposed Floor Plans	24.05.16
14.60 P 23	Proposed Elevation	24.05.16

List of Background Papers

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

**Ward** Ottery St Mary Rural

**Reference** 16/0239/OUT

**Applicant** Stuart Partners Ltd

**Location** Land At The Gap Lower Broad Oak Road West Hill Ottery St Mary EX11 1UD

**Proposal** Outline application for three dwellings (including 2no affordable units) with associated access (details of layout, scale, appearance and landscaping reserved)



**RECOMMENDATION: Refusal**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Ottery St Mary Rural (OTTERY ST MARY)</b>	<b>16/0239/OUT</b>	<b>Target Date: 08.04.2016</b>
<b>Applicant:</b>	<b>Stuart Partners Ltd</b>	
<b>Location:</b>	<b>Land At The Gap Lower Broad Oak Road</b>	
<b>Proposal:</b>	<b>Outline application for three dwellings (including 2no affordable units) with associated access (details of layout, scale, appearance and landscaping reserved)</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is brought before the Committee in view of the difference of opinion between officers and one of the two ward members.**

**Outline planning permission is sought for a scheme comprising the construction of three dwellings, two of which would be affordable, on a parcel of land approximately 0.39 hectares in area consisting of two paddocks located adjacent to Lower Broad Oak Road outside of the built-up area of West Hill. The development is proposed in line with the provisions of Strategy 35 (Mixed Market and Affordable Housing Outside Built-up Area Boundaries) of the adopted local plan, having been amended from a scheme for three open market dwellings as originally submitted, in an attempt to achieve a proposal that is more policy compliant as an exceptions site scheme.**

**All detailed matters with the exception of means of access are reserved for later consideration. The submitted access details show 2.4 metre by 43 metre visibility splays in addition to a 4.8 metre width shared private driveway with junction radii. Their creation would necessitate the removal of a significant length of an existing hedge, together with a Beech tree, along the Lower Broad Oak Road frontage of the site.**

**The application is accompanied by indicative site layout details that show three detached units with the shared driveway extending alongside the northern and eastern site boundaries.**

**It is accepted that the scheme would be compliant with many of the criteria set out in Strategy 35. However, critically it is not supported by any evidence in the form of a robust and up to date housing needs survey to demonstrate a proven**

**local need for additional affordable housing in West Hill. Whilst the most recent such survey, carried out in 2011, identified a need for nine affordable units for the village, a total of fourteen units is already under construction as part of housing schemes being developed elsewhere in West Hill on two sites off Eastfield. The identified need is therefore already being met. In the circumstances, in the absence of evidence to support a current need for more affordable housing in the village development of the site must be resisted as any such proposals could only reasonably be considered on this 'exceptions' site where they comply in full with all provisions of the strategy.**

**In addition the proposed development itself, and in particular the formation of the access and visibility splays, would have a detrimental impact upon the rural character of the site, the area more generally and the street scene of this part of Lower Broad Oak Road where it forms a clear physical and visual boundary between the built-up area of this part of the village and the openness of the countryside beyond it. Furthermore, in the absence of detailed plans to demonstrate otherwise, there is concern with regard to the close proximity of the development, and in particular a unit towards the south eastern corner of the site, to the existing neighbouring properties to the south and the potentially harmful impact upon the living conditions of the occupiers that could arise in terms of overlooking/loss of privacy and loss of outlook, aspect or light from the physical impact of the development and any associated issues of dominance and intrusion.**

**It is therefore considered that the planning balance in this case tips against the proposal development. As such, the objections raised by the town council and opposing ward member are entirely supported.**

## **CONSULTATIONS**

### **Local Consultations**

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

**TOWN COUNCIL COMMENTS:** The Town Council does not support this application. Our previous objections still stand. The objections (discussed at our Planning Meeting on 29 Feb 2016) are detailed below:

- o** Outside of the build boundary of the new East Devon Local Plan
- o** Not well related, complimentary or compatible with the build form of West Hill
- o** Contrary to West Hill Design statement, East Devon Local Plan & guidance in National Planning Policy Framework
- o** The proposal removal of a stretch of Devon Bank
- o** Exceeds the build number of dwellings in the new East Devon Local plan for Ottery
- o** The application did not comply with Strategy 35 and does not propose any affordable housing.

Although the present application does comply with Strategy 35, it is still not supported.

We also note that lack of 106 information and Housing Needs Survey is not up to date.

#### Ottery St Mary Rural - Cllr P Carter

Following on from my previous comments, I would like to add my support to the 66% affordable housing bringing this application in line with Strategy 35 and also support the idea of more people having the chance to be able to afford to live in West Hill. With most of the open market properties, the average price may be unaffordable for many. This application offers us one of the rare opportunities to be able to provide just that, a chance that so many are looking for in West Hill.

#### Ottery St Mary Rural - Cllr M Coppel

I wish to restate my initial objection to this proposal. Although the lack of affordable housing provision has been addressed, there is no up to date information to suggest that there is a need for these additional units. The affordable housing provision for the village, as identified in the housing need survey from 2011, is being met by developments currently being built off of Eastfield. This application should therefore be refused until it can be demonstrated that there is a need for affordable housing in the village which justifies building outside of the BUAB.

That said, as ever, I will reserve my final decision until the matter has been discussed at committee.

### **Technical Consultations**

#### Housing Strategy Officer Paul Lowe

West Hill is identified in Strategy 27 and as such has a built up area boundary. The application site lies outside but abutting the built up area boundary. In our opinion this site should be brought forward under Strategy 35 - exception mixed market and affordable housing and should provide 66% (2 units) of affordable housing, as is now proposed.

Whilst we support the principle to provide affordable housing, the application should be supported by up to date robust housing needs evidence. A housing need survey for West Hill was completed in 2011, this identified a need for 9 rented dwellings. This need has been met through other consented schemes in the village, although these dwellings are not yet completed.

The survey is now out of date and a new survey should be undertaken, this will inform the type and tenure of affordable housing required. The indicative plans show 3 detached dwellings. The housing need survey in 2011 identified a need for 1 bedroom properties and this is consistent with housing need throughout East Devon.

We expect to see a tenure mix that reflects local need; this is typically 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 that time. However the Housing Needs Survey should prevail.

The site is located in a Designated Protected Area (DPA) and therefore staircasing on any shared equity dwellings should be restricted to 80%.

We expect all the affordable homes to be constructed to the relevant local and national standards at the time of completing a Section 106 Agreement. Once completed the affordable homes should be transferred to and managed by a preferred Registered Provider. All affordable homes should be constructed to Building Regulations M4(2) or the relevant standards at the time of determination.

A nomination agreement should be 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 West Hill, then cascading to adjoining named parishes and finally the district.

### Other Representations

A total of five representations of objection to the application proposal have been received, including two on behalf of the West Hill Residents Association in relation to both the original and amended proposals. The remaining three objections were received in response to the original proposal for 3no market houses with no further representations made in response to the consultation on the revisions to provide for 2no affordable units.

### Summary of objections

1. Need for further affordable housing has not been demonstrated by the applicants.
2. Need identified by the 2011 housing needs survey for nine affordable dwellings is being met at the Blue Cedar development in Eastfield which is providing ten affordable units.
3. A registered provider has not been identified and there is no Section 106 agreement in place.
4. The site is outside the built-up area boundary and there is no reason for extending this limit.
5. Building of more houses and loss of hedge will change the rural character of this area of Lower Broad Oak Road.
6. Lower Broad Oak Road is unlit and narrow with no pedestrian facilities and carries substantial traffic during the day for the size of road and any future development will add to existing problems of construction vehicles parking on the road and causing obstruction to visibility at the Lower Broad Oak Road/Elsdon Lane junction and further hazards for vehicles and pedestrians.
7. Destruction of a Beech tree and removal of a section of the Devon bank to create access would be contrary to the West Hill Village Design Statement.
8. Leylandii hedge between development and neighbouring property has a number of gaps which do not provide sufficient privacy.
9. Increased light pollution in an area of West Hill that enjoys dark skies.
10. Concern at contractor/supply vehicles using the shared lane leading to The Gap and restricting access and creating noise and nuisance.

## **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

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

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

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

### **ANALYSIS**

#### Relevant Planning History

There is no previous history relating to the application site itself. However, full planning permission has been granted for the construction of a detached dwelling in place of an agricultural building on a parcel of land immediately to the north of the site (ref. 16/0379/VAR). This development is presently under construction.

#### Site Location and Description

The site comprises a pair of agricultural paddocks, one significantly larger than the other, totalling approximately 0.39 hectares in area located on the eastern side of Lower Broad Oak Road, the frontage onto which is defined by an established mixed

native species hedgerow. It is bordered to the east by a shared private driveway that serves three residential properties, namely The Gap, Saltwhistle and Heatherbrae. These latter two both directly share boundaries with the site. To the north is a plot on which a dwelling is currently under construction following the recent grant of planning permission referred to above.

The entire site forms part of a wider area that is the subject of a woodland tree preservation order; however, with the exception of a single Beech tree in the frontage hedge with Lower Broad Oak Road, there are no trees either within or directly bordering the site, which is essentially level. It is also part of a larger area that is classified Grade 3 agricultural land.

The site is located just outside of the built-up area of West Hill.

### Proposed Development

The application seeks outline planning permission for a scheme comprising the construction of three dwellings, two of which would be affordable. All detailed matters regarding the appearance, layout and scale of the development and all associated landscaping are reserved for later consideration with only the details of the means of access to the site submitted for formal determination at this stage.

The submitted access layout details show a splayed entrance that would be positioned close to the north western corner of the site and laid out with 2.4 metre by 43 metre visibility splays in both directions and junction radii. The prospective shared private driveway serving the development is shown as being 4.8 metres in width.

The submission also includes indicative site layout details that show two of the prospective dwelling plots within the larger northern paddock with the third mainly positioned within the smaller paddock towards the south eastern corner of the site and immediately adjacent to Saltwhistle to its west. All three of the units are annotated as being 225 cubic metres in volume with, in the case of two of the dwellings, attached car stores of 100 cubic metres volume.

These details also show an arrangement where the shared private driveway would extend alongside the northern and eastern site boundaries.

The development is proposed in line with the provisions of Strategy 35 (Mixed Market and Affordable Housing Outside Built-up Area Boundaries) of the adopted local plan, having been amended from a scheme for three open market dwellings as originally submitted, in an attempt to achieve a proposal that is more compliant with the strategy.

### Considerations/Assessment

The proposal falls to be considered having regard to the following issues that are discussed in turn.

### Principle of Development

As a result of the adoption of the new Local Plan, full weight can be given to relevant housing supply policies that it contains in line with policy as set out in the National Planning Policy Framework (NPPF). This in turn means that full weight can be given



to built-up area boundaries for the settlements that are identified in Strategy 27 of the Plan as being sustainable in terms of the range of services and facilities, including access to public transport, that they offer. West Hill is one of these settlements.

As stated above, it is in acknowledgement of this position that the application scheme has been amended to expressly seek to fulfil the criteria in Strategy 35 as an 'exception site' mixed affordable and open market housing development. It is therefore necessary to assess the proposal against the key criteria set out within its provisions.

The strategy allows for exception site schemes for 'up to or around' 15 dwellings at villages and outside of defined built-up area boundaries in locations where ordinarily residential development would not be regarded as being acceptable (i.e. as an exception to the general policies of restraint upon development in such locations) where there is a proven local need that is demonstrated through an up to date robust housing needs survey. It requires that a minimum of two thirds of the dwellings should be affordable and that sites, where they relate to villages with a built-up area boundary, should abut, be located within close proximity of or be otherwise physically well related to, that boundary within easy walking distance and close to a range of facilities. To be permitted the housing needs evidence will need to show, among other things, that the need in any given locality would not otherwise be met.

The development would in this case meet a number of these criteria insofar as it proposes that two out of the three dwellings (i.e. two thirds) would be affordable and the site is both well located in relation to the edge of the built-up area and within relatively easy and safe walking distance of a number of the key facilities in West Hill, such as the primary school, local shops (the former Potters Country Market) and the village hall, as well as public transport routes connecting the village with Ottery St. Mary and Exeter, all centred upon West Hill Road beyond the end of the nearby Elsdon Lane.

However, more critically in the context of assessment of the proposal against Strategy 35, there is no up to date housing needs survey evidence to demonstrate the present level of local need for affordable housing within West Hill. Although a housing needs survey for the village was completed back in 2011 that identified a need for nine rented dwellings, this is already currently being met through the development of mixed open market and affordable housing schemes elsewhere in the village, mainly on sites at land to the north of Eastfield and land at Westhayes, also at Eastfield. These schemes will bring forward a total of 14 affordable dwellings.

As such, the 2011 survey must now be regarded as being out of date and there is therefore a need for a new survey to be carried out to inform the number, type and tenure of affordable houses that are required going forward. However, to date no such survey has been forthcoming.

In the absence of a proven local need for additional affordable housing in West Hill that is appropriately evidenced through both an up to date and robust housing needs survey, proposals for exceptions site development such as that subject of the application must be regarded as being contrary to the provisions of Strategy 35 of

the local plan. In this respect, the objections raised by the town council and one of the ward members are entirely supported.

The support offered to the proposal by the other ward member is acknowledged. However, it is worth emphasising that the key principle underlying the strategy is that schemes will only be considered as an exception to the normal policies of restraint upon housing development beyond the built-up areas of settlements in locations where such development would not ordinarily be acceptable. For such land to be released, rigorous stipulations need to be applied to avoid prejudicing the environmental conservation policies set out in the local plan. These include the critical requirement that schemes meet a proven local need. In this case, that need has yet to be proven and, while it is likely that a scheme could meet wider affordable housing needs across the District, this does not equate to the locally identified and proven need that the strategy exists to facilitate.

Whilst the scheme may be regarded as meeting many of the other criteria set out within the strategy, it is required to meet all of the tests if it is to be considered acceptable in principle. In the absence of the requisite proven local need for additional affordable housing in West Hill, the proposal cannot be supported.

The dwelling under construction on the adjacent site to the north was originally granted planning permission in 2015 prior to the adoption of the new Local Plan during the period when the Council was unable to demonstrate a five year supply of deliverable housing sites and could therefore give little weight to housing supply policies in the form of built-up area boundaries set out in the former Local Plan. It was therefore required to apply the presumption in favour of sustainable development set out in the NPPF. In the light of the relevant factors set out above, the site was considered to occupy a sustainable location in relation to the services and facilities provided in West Hill which weighed in favour of the principle of the development.

By contrast, the position in relation to the current application is materially different insofar as the adoption of the new plan means that full weight is able to be given to housing supply policies, including built-up area boundaries, and therefore relevant policies that apply to development proposals both within and outside of them, including Strategy 35. However, for the foregoing reasons, the application is thought to fail to meet all one of the key tests that it applies, namely the requirement to properly demonstrate a proven local need through up to date housing needs evidence.

#### Impact upon Character and Appearance of Area

The section of Lower Broad Oak Road that extends alongside the site is thought to demarcate a clear difference in character between the developed area along its western side that is within the built-up area of the settlement and the greater openness of the site and surrounding area both opposite and beyond it.

The more rural character of the site and surrounding area on the eastern side of Lower Broad Oak Road is reflected by the presence of the established roadside hedge and bank. In this context it is considered that the intervention that would be created by the proposed vehicular access and visibility splays, together with the

removal of the Beech tree, would be detrimental to the rural character and appearance of this frontage and this part of the street scene of Lower Broad Oak Road more generally.

Although an arboricultural consultant's report submitted with the application states that it should be possible to realign the hedgerow either by carefully dragging it with an excavator or reconstructing the bank and establishing new native species hedge planting on top, neither of these is considered to represent a satisfactory solution, particularly in the absence of housing needs evidence to support the principle of the proposed development. This part of the scheme would therefore amount to an unjustified loss of the existing hedge bank and tree that would be unduly harmful to the rural character of this part of Lower Broad Oak Road.

Equally, although arguably less proportionately damaging to local rural character in itself owing to the quasi-domestic appearance of the paddocks that form the application site, the presence of residential development to the south and under construction to the north and limited outward and inward views that exist of this part of the settlement, not least because of the sylvan character of the surrounding landscape, the introduction of the proposed dwellings in this part of the street scene would compound the detrimental impact of the proposed vehicular access and visibility splays.

The proposed development would in this regard therefore be contrary to the various provisions of Strategies 7 and 46 and Policies D1 and D3 of the Local Plan.

#### Impact upon Neighbour Amenities

Although the application is submitted in outline, the indicative layout plan that has also been supplied shows a suggested siting for the unit that is mainly positioned within the smaller paddock close to the south eastern corner of the site in very close proximity to the site boundary with Saltwhistle and its rear garden.

Whilst the outstanding details relating to the overall layout of the development and the scale (including height) and appearance of the individual dwellings would be reserved for later consideration, the closeness of this unit to the boundary is such as to appear potentially unneighbourly. In the absence of details as to its scale and height therefore, it cannot be concluded with any measure of confidence that this dwelling would not be unduly physically overbearing and dominating upon the occupiers of Saltwhistle and/or that it would not give rise to any issues with regard to overlooking of either or both this property and/or its private rear garden area.

In the absence of further details therefore, this element of the scheme is considered to be unacceptable and forms the basis for an additional ground for refusal.

The separation distances that could be achieved, as suggested by the layout plan, between the rear of the units on the two remaining plots and the rear of Saltwhistle and Heatherbrae are shown as being around 25 metres. Subject to consideration of the details, this is thought likely to achieve a reasonable degree of separation that would ensure that the living conditions of both existing and prospective occupiers would be adequately safeguarded.

The proposed development would in this regard therefore be contrary to the provisions of Policy D1 of the Local Plan which, among other things, only permits proposals where they do not adversely affect the amenity of occupiers of adjoining residential properties.

### Ecology

The documents submitted with the application include a report setting out the results of a phase 1 habitat survey of the site. Its principal conclusions are that the proposed removal of part of the frontage hedge has the potential, albeit limited, to result in the loss of bat foraging habitat and disturbance to nesting dormice and their nests. However, it is not considered proportionate to undertake a nest tube survey; instead it is recommended that any works be carried out in a manner that would avoid injury or death of dormice during nesting and hibernation periods. Measures to achieve this would include management of vegetation, stump extraction and earth removal during appropriate periods of the year.

In addition, it is recommended that hedgerow severance be carried out under an ecological watching brief and also that such works should be undertaken outside of the bird nesting season in order to minimise the risk of disturbing active nests.

### Contributions

The application is also accompanied by a completed unilateral undertaking containing provisions securing the payment of financial contributions of £8,452.80 and £1,878 towards, respectively, open space provision/enhancement and mitigation of the impacts arising from increased residential development upon the integrity of the European-designated East Devon Pebblebed Heaths Special Protection Area in line with the Council's adopted approach towards fulfilling its obligations under the Habitat Regulations.

However, following the recent changes in Government policy in relation to the provision of tariff-style contributions in connection with smaller scale residential schemes, the Council is no longer able to secure a contribution towards open space.

As such, should the Committee resolve that the application be approved, it would be necessary for the applicants to amend the submitted unilateral undertaking to omit the relevant provisions that secure payment of this contribution.

The Authority is still required to pursue habitat mitigation in line with E.U. legislation and the need to secure the contribution level set out above would remain should Members be minded to grant permission in this case.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. In the absence of a proven local need for the provision of additional affordable housing in West Hill that is demonstrated through an up to date and robust housing needs survey, the Local Planning Authority is not satisfied that there is adequate justification for the proposed development of a mixed affordable and

open market housing scheme on the application site, which is located outside of the defined built-up area of the village within the countryside, as an exception to the normal policies of restraint of development of such areas. As a consequence, and in the absence of any other Local or Neighbourhood Plan policy that explicitly permits such development in the countryside, the proposal is contrary to the provisions of Strategies 35 (Exception Mixed Market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries) and 7 (Development in the Countryside) of the adopted East Devon Local Plan 2013-2031.

2. The proposed development, including the removal of the existing road frontage hedge and bank and the Beech tree to create the vehicular access and visibility splays shown on the submitted access layout drawing, would have an unduly detrimental impact upon the rural character and appearance of this part of Lower Broad Oak Road and the adjacent open area that contains the application site to its east. It would also represent an unjustified intervention in this part of the street scene in the absence of an evidenced need for the development as referred to in reason 1 above. As a consequence, the proposal would be contrary to the provisions of Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the adopted East Devon Local Plan 2013-2031.
3. On the basis of the indicative site layout details submitted, the Local Planning Authority is not satisfied that the proposed development can be carried out in a satisfactory manner without any detrimental or adverse impact upon the living conditions of the occupiers of the existing adjacent residential properties to the south of the application site by reason of overlooking/loss of privacy and/or through being physically dominating or intrusive resulting in loss of light, outlook or aspect. As a consequence, the proposal would be contrary to the provisions of Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.

#### 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:

Location Plan	12.02.16
Layout	29.01.16

List of Background Papers

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

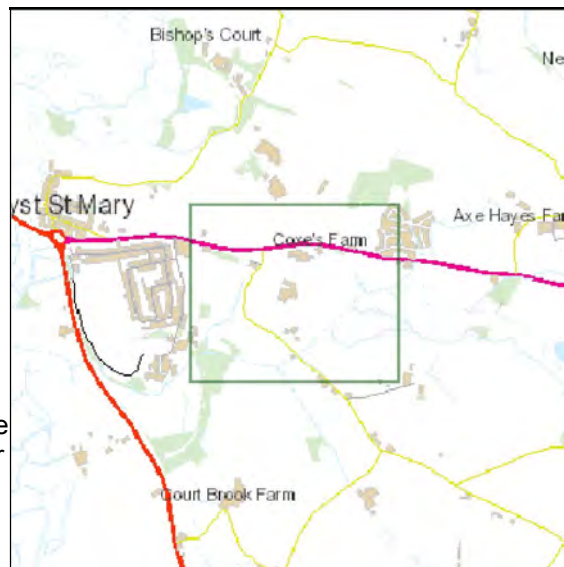
**Ward** Clyst Valley

**Reference** 15/1473/VAR

**Applicant** Mr Stuart Cole (Greener For Life Energy Ltd)

**Location** Enfield Oil Mill Lane Clyst St Mary Exeter EX5 1AF

**Proposal** Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Clyst Valley (CLYST ST MARY)</b>	<b>15/1473/VAR</b>	<b>Target Date: 01.10.2015</b>
<b>Applicant:</b>	<b>Mr Stuart Cole (Greener For Life Energy Ltd)</b>	
<b>Location:</b>	<b>Enfield Oil Mill Lane</b>	
<b>Proposal:</b>	<b>Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

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

**Under Section 73 of the Town and Country Planning Act, this application seeks planning permission to vary condition 2 (approved plans condition) of a previous planning consent for an Anaerobic Digester plant at Enfield Farm.**

**Following significant changes to the application in which the applicant no longer proposes to amend the quantities of feedstock into the site which are controlled through conditions; this application seeks to amend the layout and infrastructure within the consented AD plant. The plant has been partially constructed, is partially operational and is in the process of being commissioned. The AD plant is regulated by the Environment Agency and has been granted a permit.**

**Whilst this is the case, the application has attracted a high level of objection from local residents and their experiences to date with the AD plant are noted, are not positive and are not to be taken lightly. However, the changes that are proposed as part of this Section 73 application are not considered to result in any significant additional harm to residential amenity in terms of odour or noise. Complaints that have been received to-date can largely be attributed to the fact that the AD plant has not yet been fully commissioned and odour control mitigation measures had not be installed or were being commissioned. Conditions on the original planning permission require odour abatement measures to be implemented and for the plant to operated as a sealed system.**

**If the AD plant is completed and operated as designed then it should be able to run without any odour or noise impacts and as regulated by the permit granted**



by the Environment Agency. The application has been amended considerably and has been carefully considered by the Council's Environmental Health Team who now raise no objections to the proposal. Therefore subject to the imposition of conditions requiring the drying and separating of the digestate and for the plant to be operated in accordance with the submitted odour management plan, it is not considered that an objection could reasonably be sustained.

The Environmental Permit from the EA concentrates on the environmental effects of the operation of the AD plant and so in addition to the applicant having to comply with planning conditions in relation to odour and noise management, the pollution control regime as part of the permit will address odour control and should properly regulate the operation of plant in the long term.

Furthermore, the proposed changes to the layout and the additional on-site infrastructure are not considered to result in significant additional harm to the character and appearance of the area or severely impact on highway safety when considered in the context of the 2014 planning permission and the larger digester, digestate tanks and silage clamps which will be sited in accordance with the previous consent.

**On balance, the application is therefore recommended for approval.**

## **LATEST CONSULTATIONS TO AMENDED PROPOSAL**

### **Local Consultations**

#### **Clyst Valley - Cllr M Howe**

This Application is with its slight increase of raw materials being used will only make the existing smell complaints still worse and as such against policy EN14 in our new local plan, I accept that the issues of smell have been lessened but the promises of almost no smell made during the original application have and continue to be false, Also the digestate was supposed to be a DRY almost odourless product that could be spread on the fields with a large improvement to local amenity in lower smells again this is proving to not be the case. All this is again putting more stress on our Environmental health team.

The increased traffic movements now proposed for the removal of the digestate will have a further impact.

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

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

Comments:

Objection on transport; smell and increased capacity - contrary to policy EN14 of the new local plan with regards to the smell and pollution and transport infrastructure.

## **Technical Consultations**

### Environmental Health

Final comments following response from applicant:

28/06/2016

Once planning approval has been granted, any ongoing issues relating to odour and noise will be addressed using the Environmental Permit controls, regulated by the Environment Agency. At planning stage we work with the EA to ensure that our requirements relating to designing out and mitigating adverse impact on residential amenity mirror the EA requirements in the permit they issue. If the plant is built and operated in line with the planning approval(s) and various conditions then compliance with the corresponding permit conditions is likely to be achieved.

24/06/2016:

The applicant has now very helpfully addressed my comments of 17/06/16 and answered my outstanding queries as follows:

1. We are currently transferring the clamp effluent into the digester
2. Only liquid digestate will be taken to Denbow lagoon
3. Happy with this as a condition
4. The revised application refers to 5000m<sup>3</sup> digestate exported from the site to Denbow (this is only liquid).

I am sure that these answers will give confidence to the local community who still had concerns. I therefore have no further outstanding concerns in relation to the variation application and recommend that the noise condition as previously suggested, together with a condition in relation to separating the slurry into solid and liquid fractions within 6 months of the approval date (as suggested by the applicant in their response) are included in any approval.

I have reviewed the 2014 approval, specifically Condition 5 which refers specifically to the Odour Management Plan dated May 2014, and also my comments made in February 2016. I note the changes to this variation application, that is the removal of variations to Condition 7, and the addition of a need to consider rainwater collecting in the silage clamp. I would like to enquire why this run-off water which becomes silage effluent cannot be piped directly into the final liquid digestate storage tank, as I see no reason why this cannot happen; silage effluent is often contained and then spread directly back onto land. In this way the additional water would not need to be taken account of in the process, which I understand is quite sensitive to the optimum proportions of water and solid feedstocks. The silage is covered during storage to reduce the volume of water entering the clamp and there may be potential to provide an alternative cover that enables rainwater to be collected and then directed in to the surface water storage lagoon. As it stands it would seem like a sensible solution for this effluent to go directly into the adjacent liquid digestate storage tank and we accept that this will lead to a few more vehicle movements each week, depending of course on rainfall.

I have considered in detail the updated Section 73 Application Planning Support Statement dated January 2016 submitted by E4 Environment, and the subsequent Version 4 dated May 2016. The number of odour incidents has reduced since early 2016. The abatement works at the adjacent farm have been completed and are working effectively. I have not been able to link any recent odour complaints directly with the farm, although they do appear to coincide with tankering of partially treated digestate (unseparated, ie. liquid and solid mix) away from the AD plant. An odour report was prepared in December 2015 by Entran which provides some helpful descriptions of the plant, but these are still at odds with the descriptions contained in the new planning support statement. Specifically:

Para. 4.3 - "crop feedstock is delivered by tractor and trailer during harvest" - this is also my observation over last year, but the PPS suggests that crop feedstock will be delivered by a large truck/trailer daily throughout the year. This needs to be clarified - is this suggested duoliner trailer and truck to be permanently located at this site if the application is approved? There is no mention of the duoliner (which was to have inbuilt odour abatement technology) in the latest version; the applicant now describes tractors and tankers to take liquid digestate off site and 16 tonne trailers to remove 3000m<sup>3</sup> of "digestate" (we presume solid matter but this is not clear). Later the applicant states that this 3000m<sup>3</sup> will be spread on land via umbilical pipes and clearly this system is not applicable to the application of solid materials.

Para 4.9 - "digestate is separated by a screw press separator...the liquid fraction piped to a storage tank with a membrane gas dome" - it is my understanding that there is no separation occurring at present, although it might be introduced in future, and the digestate is stored in the domed tank. The applicant must clarify what exactly is being tankered off site at the moment (we assume the wet odourous slurry which is the treated, but not separated, digestate). The original planning application clearly states that the final product is low odour liquid digestate and a virtually odourless solid digestate. This final separation and drying process was always intended, as is clearly described in the original 2014 application, but to date has not occurred. We appreciate that the dryer is included in this variation application but would like some indication of timescale post approval for the process to be fully operational. The applicant should give clarification to all interested parties that the material currently being tankered off site is odourous, partially treated digestate (which is what residents notice) and that when the site is completed the final products will be the virtually odourless liquid and solid residues promised in the original application.

A noise report was submitted by Atkins dated September 2015. The report refers to mitigation provided by building screening, a 2.5m bund and 3m acoustice fence around generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However he has not taken into account low frequency noise, or provided an assessment of new noise sources proposed in this application, notably the new pumping station, CHP unit, digestate drier or any other equipment which may cause noise audible beyond the boundary. I note that close by residents are already reporting a new noise from the plant occurring at night. It is for the applicant to be carrying out off-site assessments already to ensure compliance with the current approval but we could not conclude that we are satisfied that noise will not impact on local residents without a full

evaluation of all noise sources. In the absence of an updated noise report I recommend that the same noise condition as recommended in my comments on 15/1512 are included on any approval for this application.

In conclusion, the experiences over the last 3 months have suggested noticeable improvements in odour incidents when compared to the previous 6 months, and this is encouraging. I would like to receive a response to the few outstanding queries which are: 1) Whether the silage clamp effluent can be piped directly into the liquid digestate storage tank pending tankering off site; 2) Confirmation that it is liquid digestate that will be taken to the Denbow lagoon and not the partially treated odourous digestate currently being taken off site; 3) Confirmation of a commitment to installing and operating the separator and drier within 6 months of approval of this application; 4) Confirmation of exactly which type of digestate the 3000m<sup>3</sup> refers to as the statements on this are contradictory.

Environment Agency 03/06/16

VARIATION OF CONDITION 2 (PLANS CONDITION) OF PLANNING PERMISSION 14/0858/MFUL ONLY TO ALTER THE INFRASTRUCTURE AND LAYOUT OF THE ANAEROBIC DIGESTER PLANT. FOR CLARIFICATION THIS APPLICATION NO LONGER PROPOSES TO VARY CONDITION 7 TO ALLOW AN INCREASE IN QUANTITIES OF FEEDSTOCK.

ENFIELD OIL MILL LANE, CLYST ST. MARY, EXETER, EX5 1AF.

Thank you for your consultation dated 26 May 2016 regarding the amended plans submitted in relation to the above planning application.

Environment Agency position

We have no objections to the proposal. We refer you to our previous letter dated 19 August 2015 for advice relating to the Environmental Permit for the site.

County Highway Authority

In principle the Highway Authority has no objections. The main two points that would be impacted would be the roundabout by Clyst St Mary and the right hand turn lane on to Oil Mill lane.

The roundabout at Clyst St Mary can become very congested at peak times. Queuing traffic can often form on the A3052. The roundabout has the A3052 and A376 coming off of it. The proposed vehicle movements won't have a severe impact on the junction. The increase use of right hand turn lane on to Oil Mill lane will have little impact on the junction. The vehicles have very little distance to travel from the start of Oil Mill lane to the site entrance

Highways England: 06/06/2016

Of particular interest to Highways England is the change to 15/1473/VAR which is no longer seeking to vary condition 7 to allow an increase in quantities of feedstock, which would have resulted in an increase in traffic movements although unlikely to have a severe impact on the strategic road network.

We are therefore satisfied that our previous recommendations of no objections in response to 15/1473/VAR (dated 13<sup>th</sup> July 2015) and 15/1512/FUL (dated 4<sup>th</sup> August 2015) remain valid and we have no further comments to make.

#### Conservation

We do not wish to comment on the additional plans.

#### Natural England: 10/02/2016

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 17 September 2015

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

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

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

### **CONSULTATIONS TO ORIGINAL PROPOSAL PRIOR TO AMENDMENT**

#### **Local Consultations**

##### Clyst Valley - Cllr M Howe

I object - as this application relates and in the documents submitted by the applicant relies on a linked application I don't believe we have enough facts about this application on its own and would expect to see the two applications together.

##### Parish/Town Council

PC have already submitted comments but would like it noted that as they are not in possession of the full facts they are still considering this application and will make further comments in due course.

The council would like to object to this proposal on the grounds of over development of the site, the building line would also increase over the borough of the hill giving greater visibility from surrounding rural areas and neighbours. The proposed increase in size of feeders (20% increase) would mean that traffic movement would increase from the original agreement set up as a condition of the original application. The extra materials coming into the site per annum is over 50 tonnes which is more than double the agreed amount in the original application. Previous application originally agreed 47,074 tonnes of feed increasing to 97,074 this is unacceptable !!!!.

The supporting statement says that a further 5 application are due to be made regarding information within this application. A decision of any kind cannot be made unless all information is present at the time of the discussion.

Parish/Town Council 30.09.15

15/1473/VAR-1

Proposal: Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant; variation of condition 7 to allow increase in quantities of feedstock

15/1473/VAR-2

Proposal: Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant; variation of condition 7 to allow increase in quantities of feedstock----swept path analysis for turning on site.

Comments:

- o The views and our comments from previous variation to the original applications still stands and would also like other considerations to be taken in to account that have been brought to light since the development has started .
- o The council would like to object to this proposal on the grounds of over development of the site, the building line would also increase over the borough of the hill giving greater visibility from surrounding rural areas and neighbours. The proposed increase in size of feeders (20% increase) would mean that traffic movement would increase from the original agreement set up as a condition of the original application. The extra materials coming into the site per annum is over 50 tonnes which is more than double the agreed amount in the original application. Previous application originally agreed 47,074 tonnes of feed increasing to 97,074 this is unacceptable !!!!.
- o The supporting statement says that a further 5 application are due to be made regarding information within this application. A decision of any kind cannot be made unless all information is present at the time of the discussion.
- o The council has received a large amount of complaint regarding the visual impact that the development is causing from all direction particularly from OIL MILL LANE and the residences that live there.
- o We would like to refer this application back to East Devon district council landscaping department to reassess the type of trees and hedges stated in this application as the type of planting suggested would take many years to become established and not screen the visual impact or noise to neighboring dwellings.
- o The council wish to comment that it will not support any changes to the infrastructure of this application if it effects any of the issues above or that may impact further visual or noise to the surrounding dwellings.

NOT SUPPORTED

290915

Adjoining Parish Council – Bishops Clyst 15.09.2015

No concerns other than conditions of screen planting to start immediately; view from distance is not increased and drain on new widened driveway; increase in vehicle movement.

slight amendment to this one re vehicle

1. 15/1473/var - Enfield Oil Mill Lane - Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant; variation of condition 7 to allow increase in quantities of feedstock - amended plans. Comments:- no concerns other than conditions of screen planting to start immediately; view from distance is not increased and drain on new widened driveway; NO increase in vehicle movement.

Further comments 11.02.2016

Comments: REFUSE

o The Council stands by the original decisions as stated in the original application and decision regarding the Number of traffic movements, the times of use and the total quantity amount of feedstock delivered and waste slurry taken away.

o The council has received many complaints already regarding the visual impact of the plant in the surrounding areas, the amount of smell and traffic congestion on the surrounding road infrastructures.

o The proposed alterations and increase in size at the rear of the land over the brow would also increase greatly the visual impact to both neighbouring dwellings and the country side vista that exists at the moment.

Decision: Not supported

Date: 10.02.2016

**Technical Consultations**

Environmental Health 19.02.2016

I have the following updated comments regarding the above application.

I have considered in detail the updated Section 73 Application Planning Support Statement dated January 2016 submitted by E4 Environment. Since my original comments made in August 2015 there have been considerable odour problems associated with this plant and its associated infrastructure. It has sometimes been difficult to distinguish these from the adjacent pig farm which has been independently odourous at times, but nevertheless the occurrence of odour clearly relating to this site has been significantly more than was experienced in a similar site nearby. Each odour issue has been investigated and a source identified and remediated as far as possible, but the occurrence of odours at this level at all raises concerns about the ability of this process to operate without causing odour impacts in the locality, particularly if it were to double in throughput. An odour report was prepared in

December 2015 by Entran which provides some helpful descriptions of the plant, but these are at odds with the descriptions contained in the new planning support statement. Specifically:

Para. 4.3 - "crop feedstock is delivered by tractor and trailer during harvest" - this is also my observation over last year, but the PPS suggests that crop feedstock will be delivered by a large truck/trailer daily throughout the year. This needs to be clarified - is this suggested duoliner trailer and truck to be permanently located at this site if the application is approved?

Para 4.9 - "digestate is separated by a screw press separator...the liquid fraction piped to a storage tank with a membrane gas dome" - it is my understanding that there is no separation occurring at present, although it might be introduced in future, and the digestate is stored in the domed tank.

Para 4.10 - "the digestate has a lower odour potential" . My personal observations are that this is highly odourous, similar to raw pig slurry but different in nature. The current proposal is that 12,000 cubic metres/tonnes of digestate would be produced each year and need to be transported off-site. This is double the volume of raw pig slurry needing to be stored and transported off-site before the AD plant was proposed, and double the quantity approved in the 2014 application.

Para 4.12 - "the digester is a ring in ring with weir design, with a retention time of 50-60 days." - this is not the same description as the current domed digestate storage tank which is proposed to be used as a second digester. There is no explanation of how this second, and different, design will achieve the same end result.

Para 4.16 - "the use of the flare will be rare and there will be no odour" - the flare has already been used, recently quite significantly as the gas could not meet quality standards, and residents report that there was an odour associated with that incident.

Para 6.4 - the report writer summarises the control measures that have been implemented within the last few months, namely providing a cover to the mixing tank, a pipe connection to the farm and a bio-filter to the pre-tank. These measures have largely addressed each separate odour issue as they have arisen. Other incidents have occurred since.

Para 8.2 - The writer concludes that there have been odours during commissioning (which has currently taken many months) and that measures have been taken which will mitigate them. This is correct but odours are still occurring at times and I cannot be satisfied that they will not occur in the future if the plant is to double its capacity, throughput and output.

The 2014 approved application clearly described this plant as an on-farm plant primarily intended to utilise methane produced during the breakdown of pig slurry taken from the adjacent farm. A significant quantity of crop feedstock was also to be required in order to provide the optimum conditions for producing methane which was to be fed into the national grid. Significantly the final liquid and solid products (liquid and solid digestate) were to be separated, dried and stored on-site pending



spreading at suitable times back onto nearby fields. During the last 6 months it has become clear that the intention of the current amendment application is to effectively double the throughput and output of this site by sacrificing the on-site digestate storage facility in favour of a second digester tank. This would apparently result in a need for off-site storage of double the amount of crop feedstock and all the liquid digestate end product. These off-site facilities were not mentioned in the original Section 73 application on which my comments of August 2015 were based. There are now also two other related planning applications for this off-site storage on farms in the vicinity. To my mind this is a significantly different operation which is likely to have a noticeable impact on the very close by residents in this locality.

A noise report was submitted by Atkins dated September 2015. The report refers to mitigation provided by building screening, a 2.5m bund and 3m acoustice fence around generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However he has not taken into account low frequency noise, or provided an assessment of new noise sources proposed in this application, notably the new pumping station, CHP unit, digestate drier or any other equipment which may cause noise audible beyond the boundary. I note that close by residents are already reporting a new noise from the plant occurring at night. It is for the applicant to be carrying out off-site assessments already to ensure compliance with the current approval but we could not conclude that we are satisfied that noise will not impact on local residents without a full evaluation of all noise sources.

I have looked carefully at Section 5 of the PSS which refers to feedstock and transport. Some of the additional feedstock sources are within 1.5 and 3 miles - within the same radius as the original consent. It is suggested that crop feedstock would be brought onto site throughout the year in a large duoliner trailer pulled by a truck which could also take away liquid digestate. This process would involve significant double handling of both commodities and I doubt if the use of this vehicle is sustainable over such short distances. It is more likely that a silage trailer and tanker would be used. If this is the case then the number of additional HGV vehicle movements proposed would in fact be nearer to 14 a day, causing greater impact on the residents living close to the site entrance.

In conclusion, the experiences over the last 6 months do not at this stage give me confidence that a plant of double the capacity (in terms of throughout and output) of that already built would be able to operate in this location without impacting on local residents who live close to the site entrance. The original approval was acceptable to us on the grounds that the digestate would be stored on site until being spread directly on surrounding land. Without this on-site storage capacity, and considering that the loss of on-site storage will necessarily lead to a requirement for a doubling of transport movements, I am of the opinion that this new proposal will unreasonably impact on the amenities of local residents, in contravention of policy EN14 of the New East Devon Local Plan.

Updated comments 27.07.2015:

I have now discussed the proposal with the applicants and attended site to see what has been done already and what will change with this new application. The

construction of the main elements is largely complete and the increase in volumes of feedstock are required in order that the plant can operate in an efficient way. The figures originally submitted with this variation application have been adjusted and it is clear that much of the feedstock will be piped to the site from the adjacent pig farm. There is a large clamp for crop material and this will be brought in by road. The other changes listed in the application are more minor and unlikely to have any off-site environmental impact. The site is already operating at a low capacity and there was only a minor odour noticeable on some parts of the site but no odour off-site at all. The odour differs from a normal pig slurry odour so could be distinguished from it. Recent odour reports locally have been associated with the adjacent pig farm which has recently changed the scale of its operations and some of its ventilation arrangements. The applicant has agreed to submit some information relating to noise from a dryer unit.

Initial comments:

I have looked at this variation application and it actually indicates a very substantial change to the application already approved. These are not just minor matters it will be a substantially different plant with almost double the feedstock capacity, and consequently significantly higher impact on the local community. This plant is largely built already and the proposals for feedstock alone are substantial - the applicant wishes to use almost ten times the volume of FYM for example. Do the officers feel the same about this and is it the case that such major changes can just be dealt with as a variation? Surely such big changes might need a whole new application with a new Environmental Impact Assessment etc.

At this stage I have not been provided with the detailed information we would require in order to make an informed opinion on whether these new proposals would impact on the local community.

Further comments 10.08.2015

I have now discussed the proposal with the applicants and attended site to see what has been done already and what will change with this new application. The construction of the main elements is largely complete and the increase in volumes of feedstock are required in order that the plant can operate in an efficient way. The figures originally submitted with this variation application have been adjusted and it is clear that much of the feedstock will be piped to the site from the adjacent pig farm. There is a large clamp for crop material and this will be brought in by road. The other changes listed in the application are more minor and unlikely to have any off-site environmental impact. The site is already operating at a low capacity and there was only a minor odour noticeable on some parts of the site but no odour off-site at all. The odour differs from a normal pig slurry odour so could be distinguished from it. Recent odour reports locally have been associated with the adjacent pig farm which has recently changed the scale of its operations and some of its ventilation arrangements. The applicant has agreed to submit some information relating to noise from a dryer unit and once this has been considered I do not have any objection to this application.

Natural England

Planning consultation: Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant; variation of condition 7 to allow increase in quantities of feedstock

Location: Enfield Oil Mill Lane Clyst St Mary Exeter EX5 1AF

Thank you for your consultations dated and received on 14th and 16th September 2015.

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

Natural England currently has no comment to make on the variation of condition 2 and 7 of planning permission 14/0858/MFUL.

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

Contaminated Land Officer

No contaminated land concerns with this application.

Environment Agency

VARIATION OF CONDITION 2 (PLANS CONDITION) OF PLANNING PERMISSION 14/0858/MFUL TO ALTER INFRASTRUCTURE AND LAYOUT OF AN ANAEROBIC DIGESTER PLANT; VARIATION OF CONDITION 7 TO ALLOW INCREASE IN QUANTITIES OF FEEDSTOCK  
ENFIELD FARM OIL MILL LANE CLYST ST MARY EXETER EX5 1AF

Thank you for your consultation dated 30 July 2015 regarding the above application.

Environment Agency Position

We have no objections to the variation of the existing planning permission.

We will be the lead environmental regulator for the activities at this anaerobic digester. We granted an environmental permit to Gorst Energy Ltd on 19 May 2015 (Reference EPR-DP3337WU). This environmental permit includes conditions that the operator must comply with to protect the environment. The permit already incorporates the amendments proposed in this planning application.

Further comments:

I refer to the above application and the odour assessment sent to us for comment on the 2nd February 2016.

## ENVIRONMENT AGENCY POSITION.

The assessment was conducted at the request of East Devon following public complaints.

As the assessment was conducted for a partially constructed facility where not all the infrastructure is in place its value is limited.

The conclusions of the report draw heavily on comments from the operator as no odour was observed during the site visits.

The identified odour sources appear to match our own observations, however, the report plays down key activities such as tankering and the operation of vents. We consider that these sources do have potential to create odour off-site if they are used over prolonged periods. We would expect the operator to prevent or minimise these releases.

It is suggested the flare is not an odour source due to high temperatures. It is unclear whether the current flare at Enfield is an odour source, however, it does require replacement because it is an 'open flare.' The Environment Agency guidance states:

Gas flares must be of an enclosed (ground) design and capable of achieving a minimum of 1,000°C and 0.3 seconds retention time at this temperature. Open (elevated) flares will only be allowed at small scale AD facilities (not Enfield), subject to site specific justification and should only be used in emergency situations or for very short durations when the gas engines/CHP are temporarily unavailable.

The flare has already been identified as requiring improvement which the operator has agreed to complete once the plant completes its construction and commissioning phase.

Please note that the odour assessment would not be considered as sufficient to meet the requirement to have an Odour Management Plan and as required by the Environment Agency permit.

### Highways England

Thank you for providing Highways England with the opportunity to comment on the revised planning statement submitted in support of the above applications. Of particular interest to us is the proposal to vary condition 7 of the original consent ref 14/0858/MFUL to increase the quantities of feedstock.

The applicant's revised assessment is that this will now equate to an additional 7 movements per day. The intention is still to source the bulk of this additional material locally and the primary impact will therefore be on the local road network, although there is the possibility that feedstock will be sourced from further afield. However, it remains unlikely that the proposals will create a severe impact on the operation of the strategic road network, in particular the M5 junction 30 and our previous formal recommendation of no objections in response to 15/1473/VAR dated 13 July 2015 therefore remains valid.

Regarding application 15/1512/FUL, we have no further comments to make and our previous recommendation of no objection dated 4 August 2015 applies.

### County Highway Authority

The proposed variation appears to be linked to alterations to the structures, such as the site entrance, which will be applied for under a separate planning application. The county highway authority cannot fully evaluate the proposed variation without full knowledge of the other application.

The proposed variation will dramatically increase the quantities of feedstock by a factor of almost 100%. Therefore a detailed breakdown of the proposed number of traffic movements on the highway network and within the site compared with that which has already been granted will be required.

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

### Natural England

Thank you for your consultation dated and received on 22nd July 2015.

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

Natural England currently has no comment to make on the variation of condition 2 & 7.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

Thank you for your consultation dated and received by Natural England on 02 July 2012.

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

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 07 May 2014 under planning reference number 14/0858/MFUL.

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

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

Thank you for your consultation dated and received on 22nd July 2015.

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

Natural England currently has no comment to make on the variation of condition 2 & 7.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

#### Contaminated Land Officer

I have considered the application and do not anticipate a contaminated land concern.

#### Exeter City Council, Planning Dept

We do not wish to comment. I have been unable to find any record of us having been consulted previously or having said anything about it.

#### **Other Representations**

There have been 7 respondents to this application (18 letters, some of which are multiple in response to amendments). The objections raise concerns which can be summarised as the following:

- Offensive odours
- Significant increase in traffic movements
- Mud on the highway
- Impact on the character of the area
- Fears from explosions from the gas
- Applicants have not adhered to original planning permission
- Operators are not capable of running the plant without impacting on residents
- Fly infestation
- Beeping noise from vehicles
- Flare is visible, audible and has an odour
- Pig slurry and silage smells
- Release of pollutants into atmosphere
- Risk to public health
- Humming noises from machinery at night
- No regard for planning system/ process
- Loss of land for growing crops for the AD plant
- Changes too significant to be considered as a Section 73 application.
- EIA Screening opinion is flawed
- Cumulative impact on the character of the area has not been properly considered
- Inadequate on-site storage for digestate

## **POLICIES**

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

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 39 (Renewable and Low Carbon Energy Projects)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN22 (Surface Run-Off Implications of New Development)

E4 (Rural Diversification)

TC2 (Accessibility of New Development)

TC7 (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 application site occupies an elevated position on land to the south of the A3052 and to the east of Oil Mill Lane. It once comprised a pig farm and contained a range of life-worn buildings and a large circular silo which have now been removed and replaced by an anaerobic digester plant approved under 14/0858/MFUL. The site lies in open countryside approximately 500 metres from the boundary of Clyst St Mary. No landscape designations apply to the site.

The access into the site is currently a narrow track which joins the main road network close to Oil Mill Cross. The track passes next to Enfield, a bungalow property sited adjacent to Grovely; a further residential dwelling. The area is fairly busy with traffic movements owing to the proximity with the A3052 and the coach park located between the application site and the A3052.

### Planning History:

Prior to planning permission being granted for the anaerobic digester, a series of planning permissions were granted for the re-development of the site for the conversion and construction of agricultural buildings and land to B1 (Light Industrial) and B8 (Storage and Distribution) uses.

Planning permission was recently granted in 2014 (ref 14/0858/MFUL) for the construction of an anaerobic digester plant within the northern and eastern sides of the site, extended in an eastern direction to accommodate two tanks and storage clamps and which was to be operated in conjunction with the re-opened pig farm. The approved plant comprised a complex arrangement of structures, involving tanks, operation building, frames and clamps, pumping station, weighbridge and gas flare. Within the structures areas of hardstanding have been provided for access and the manouvering of vehicles.

This planning permission was granted subject to a number of conditions including an approved plans condition (2) and a condition ensuring the anaerobic digester is operated in accordance with feedstock quantities and deliveries outlined within a report prepared by E4environment.

### Proposed Development:

Under Section 73 of the Town and Country Planning Act 1990, planning permission is sought to vary condition 2 of planning permission 14/0858/MFUL to allow for an amended site layout of the approved anaerobic digester plant. The proposed changes include:

- An increase in the size of the two approved substrate feeders from 80 m<sup>3</sup> to 100m<sup>3</sup>
- A change in position of an approved gas flare
- A change in position of approved separator and Combined Heat and Power unit.
- A change in position of the active carbon filter
- Repositioning of weighbridge
- Installation of additional combined heat and power unit
- Installation of a digestate drier
- Installation of a boiler within a shipping container
- Installation of LV panel building within a shipping container
- Installation of underground gas chambers
- Repositioning of office containers
- Repositioning of site access (subject to a separate application)
- Removal of propane tanks (subject to a separate application)

It should be noted that the application is no longer seeking to vary condition 7 of planning permission 14/0858/MFUL to allow an increase in quantities of feedstock from 19,537 tonnes to 44,574 tonnes per annum. Following officer concerns that this would have resulted in a development that would have been substantially different to that previously approved, this aspect has been removed from the scheme.



Members will also note that related to this application are two further applications which are on the committee agenda:

15/15128/FUL- Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds- Enfield Farm, Oill Mill Lane, Clyst St Mary.

15/2522FUL- Construction of lined earth lagoon to store digestate and concrete hardstanding- Land East of Denbow Farm, Farrington

## **ANALYSIS**

### Issues and Assessment:

The principle of the use of the site as an anaerobic digester plant has previously been accepted and the AD plant has been partially constructed on site, albeit not in accordance with the 2014 approval. Therefore the main issues to consider in determining this application are in terms of the extent of the changes to the approved layout and infrastructure within the site and an assessment of any additional landscape or visual impacts, any additional impacts on the residential amenities of the occupiers of surrounding properties from increased on-site activity, odour and noise generation, additional impacts on the highway network and on highway safety which need to be carefully balanced against the benefits of creating renewable energy from waste through the anaerobic digestion process.

### Character and Appearance:

It has always been acknowledged that the AD plant would have a degree of impact upon the prevailing character and appearance of the area however during consideration of the 14/0858/MFUL application, it was considered that the landscape and visual impact of the plant would not be so harmful as to outweigh the renewable energy benefits to be derived from anaerobic digestion.

Therefore an assessment of the impact the infrastructure and layout changes proposed as part of this application, must be considered in the context of the previous approval. In this respect, it should be noted that the digester, digestate tanks and the silage clamps remain in their consented positions. The infrastructure changes around these tanks are generally low in height and would be self contained within the context of the overall AD plant.

It is acknowledged that there has been a need for the operator of the site to construct the AD plant outside of the original red line application site and this is the subject of a separate application (15/1512/FUL) which will be considered on its own merits, however, despite the addition of an additional CHP unit, a digestate drier and other ancillary equipment into the site which it is stated is required for the purpose of generating and upgrading biogas for injection into the national grid, it is not considered that it results in any additional significant visual harm to the character

and appearance of the area over the previously consented AD scheme. When viewed from public vantage points outside of the site, this additional infrastructure is viewed within the context of the overall plant and is not considered to give rise to any additional visual harm that would warrant refusal of the application.

The application is accompanied by a detailed landscape planting and management plan which proposes woodland planting along the eastern and southern boundaries as well as a planted earth bund. The planting plan relates to land outside of the originally consented AD plant which is also the subject of the 15/1512/FUL application. However as this planting is required to mitigate and soften the visual impact of the AD plant as whole, it is recommended that a condition is imposed to ensure the landscaping is carried out within the first available planting season and maintained in accordance with the landscape management plan. The proposal is considered to comply with Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the Local Plan.

#### Residential Amenity:

Policy EN14 (Control of Pollution) of the East Devon Local Plan states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including smell, fumes, dust, grit, smoke and soot
2. Pollution of surface or underground waters including:
  - a) Rivers or other watercourses, water bodies and wetlands
  - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas
  - c) Harbours, estuaries or the sea
3. Noise and/ or vibration
4. Light intrusion
5. Fly nuisance
6. Pollution of sites of wildlife value, especially European designated sites or species
7. Odour

This application has generated a substantial amount of objections from local residents, Parish Councils and the Ward Member. Officers of the Council and the Environment Agency are fully aware of the odour issues that have been reported since the AD plant has been constructed. The Council's Environmental Health Officer in particular has been heavily involved in this application and in investigating odour complaints under EH legislation. It is understood that a number of odour issues that have arisen since the AD plant has been constructed has been because the plant has not yet been commissioned, tanks and pipes have not been sealed properly and there have been issues of management which has led to people's residential amenity being affected by odours from the plant. It is also understood that there have been odours reported from the adjacent pig farm and that complaints of odour release are not always attributed to the AD plant.

## Odour:

Whilst the concerns of local residents and those affected by odour are noted, any additional impacts on residential amenity must be assessed in the context of the previously approved scheme. The previous application was accompanied by an Odour Management Plan which addressed the issue of odour in some detail. The nature of the AD process requires the biomass to be broken down in the absence of oxygen which means that the buildings are sealed and the materials are not exposed to the open air. It is only at the start and end of the process that there would be any impact which would be during the storage and transportation to the silage clamps and the emissions from the CHP plant. A condition was imposed to ensure that the AD plant is operated in accordance with the Odour Management Plan.

It should be noted that this application proposes no change in the AD process and the quantities of throughput (pig slurry and crop feedstock) will remain as previously approved. Therefore, the final digestate product from the AD process should be a low odour liquid digestate and a virtually odourless solid digestate. The Council's EHO notes that the original application proposed the separation and drying of the digestate but to date this has not been occurring on site. As a result, it is understood that the digestate that is being tankered off the site is a wet odourous slurry and is likely to be the cause of odour which is the subject of local residents complaints.

Therefore whilst the concerns of residents who have been affected by odour are noted, it is considered that if the AD plant were to be operating as an entirely sealed system and were to be showing compliance with the odour management plan and carrying out the process of separating and drying the digestate such that it would become virtually odourless in a liquid and solid residue form, it is considered that the impacts from odour would not be harmful enough to refuse the application. This is not to play down the experiences residents have had to date, moreover this is an issue of compliance and the overall management of the AD plant.

The applicant commissioned an independent odour assessment to determine the potential odour impacts arising from Enfield Farm AD plant. The assessment identified that a number of odour impacts arose during the commissioning phase of the AD facility and because a number of measures including the installation of a bio-filter and flare, the covering of the mixing tank and piping of slurry between the piggery and the AD facility had not been implemented as the plant was partially operational and in the process of being commissioned. The odour report also identified odour release from the seeding of tanks which may have resulted in releases of high intensity odour, although it should be noted that this activity will not be carried out once the plant is fully commissioned. The report concludes that once all odour abatement is fully commissioned it is unlikely that significant odour impacts will be experienced at neighbouring properties.

The EHO is now satisfied that subject to a condition requiring the drying and separating process to be completed and operational within 6 months of any grant of planning permission and the development being carried out in accordance with the odour management plan that the odour impacts would be acceptable. Failure to operate and manage the AD plant would be an issue for Enforcement to ensure that the plant is being operated in accordance with the odour management plan/

conditions and for the Environment Agency using their Environmental Permit controls.

On balance, it is considered that subject to a condition requiring the separation and drying of the digestate within 6 months and for the AD plant to adhere to the odour management plan, it is considered that the impacts from odour would be acceptable.

#### Noise:

The noise impacts of the AD plant were previously assessed as part of the previous application. The 14/0858/MFUL planning permission was subject to a condition requiring a number of noise attenuation measures to be applied which included:

- Fitting all vehicles with effective exhaust silencers
- Machines in intermittent use being shut down or throttled down in the intervening periods when not in use
- Ancillary plant such as generators, compressors and pumps being positioned so as to cause minimum noise disturbance
- All fixed and mobile plant based at and operating within the site to be fitted with attenuated vehicle alarms.

The Council's Environmental Health Officer has identified one additional source of noise from the consented AD plant in the form of the digestate drier. A noise report was submitted by Atkins dated September 2015 and this refers to mitigation provided by building screening, a 2.5 metre bund and 3.0 metre high acoustic fence around the generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However the EHO advises that this has not taken into account low frequency noise or provided an assessment of new noise sources in this application.

In the absence of an updated noise report, it is recommended that a condition is imposed to ensure that any plant machinery or equipment is operated such that the noise generated at the boundary of the nearest neighbouring property does not exceed Noise Rating Curve 25 and that details of the scheme for mitigation shall be submitted within 2 months of the drier being installed. It should also be noted that noise from the plant will be regulated by the Environment Agency.

To conclude on residential amenity, the concerns of local residents and their experiences to date with the AD plant are noted are not to be taken lightly. However, the changes that are proposed as part of this Section 73 application are not considered to result in any significant additional harm to residential amenity in terms of odour or noise and the application is considered to comply with policy EN14 (Control of Pollution) of the Local Plan. Complaints that have been received to-date, are largely attributed to the fact that the AD plant has not yet been fully commissioned and through non-compliance with the conditions on the original planning permission which requires odour abatement and a sealed system throughout the plant. If the AD plant is completed and operated as designed then it should be able to run without any odour or noise impacts and as regulated by the permit granted by the Environment Agency. On balance therefore it is considered that subject to the aforementioned conditions, the application should be approved.

### Highway Safety:

It is important to note that amendments to this Section 73 application have removed any proposals to increase the amount of crop feedstock into the plant and therefore the AD plant would essentially operate in a similar manner to that previously approved, particularly in relation to transport movements. A condition was imposed on the original planning permission restricting the feedstock and feedstock delivery to slurry, farmyard manure, maize silage and wheat in proportions contained within a submitted report. This condition was imposed to define the type, sources and delivery of materials permitted to be managed and handled at the site and could be adequately accommodated within the overall site layout and on sustainability and transport movement grounds. It is considered necessary to re-impose this condition. There are no changes to the quantities of feedstock proposed as part of this application such that the transport movements remain unchanged from the previous consent.

However it is stated that because the Environment Agency regards rainwater that is captured via clamp storage within the permit of an AD facility as waste, there would be a resultant increase in digestate volume to be removed beyond that permitted by the current planning permission. Rainwater would be captured and processed through the AD system creating an additional 2000m<sup>3</sup> of digestate which would require removal from the plant using a tractor and tanker (16 tonne capacity).

It should be noted that the original planning consent allowed for the on-site storage of digestate pending spreading onto nearby fields. The original transport statement identified that there would be 4 traffic movements each day for digestate leaving the site. The requirement for removal of the additional 2000m<sup>3</sup> would result in the addition of 312 loads (625 movements per year) which would result in additional 2 movements per day. It is not considered that this increase in traffic movements would give rise to any significant highway safety concerns over the consented scheme.

The biggest change to how the approved AD plant will operate in term of digestate storage and removal is in relation to a proposal for a digestate storage lagoon at the nearby Denbow Farm to the rear of Hill Barton Industrial estate which is the subject of planning application 15/2522/FUL and is on this committee agenda. Whilst that application will be determined on its own merits, it is directly related to this AD plant as it is intended to be used to store 5000m<sup>3</sup> of liquid digestate from Enfield Farm which would then be spread onto surrounding land. The 2014 planning permission already allowed for digestate to be taken off-site for spreading onto land and therefore it isn't considered that the additional traffic movements from the site would be so significant to result in an impact that would be severe. The proposal would therefore comply with policy TC7 (Adequacy of Road Network and Site Access) and the NPPF.

### Conditions:

A number of pre-commencement conditions on the 2014 have been discharged in relation to materials and landscaping. The materials condition will be changed to a

compliance condition. However the landscaping proposals have changed as a result of enlarging the AD plant outside of the approved red-line application site (subject to 15/1512/FUL) and therefore this condition will be amended to reflect the revised landscaping scheme and management plan.

Conditions in relation to feedstock quantities will be carried over as well as those in relation to restrictions on external lighting, removal of permitted development rights, hours of delivery and a Construction Management Plan.

Additional conditions are recommended in relation to noise levels for plant and machinery and the submission of a scheme for noise mitigation, the drying and separating process for the digestate to be begun within 6 months of the planning permission, the plant being operated in accordance with the odour management plan and for the submission of a surface water management scheme (as required by the 2014 consent).

## **RECOMMENDATION**

Approval with conditions:

1. 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 30th April 2015.  
(Reason - To comply with Section 63 of the Act.)
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. In relation to materials, the development hereby permitted shall be carried out in accordance with the schedule of materials as discharged under condition 3 of planning permission 14/0858/MFUL. Details of the colours and finishes of the external surfaces of all additional buildings, fixed plant and machinery shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of this permission.  
(Reason: To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).
4. There shall be no external lighting associated with the development hereby permitted unless in accordance with details that have previously been submitted to and approved in writing by the local planning authority.  
(Reason - To safeguard the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).

5. The development hereby permitted shall be carried out in full accordance with the Odour Management Plan (Version 3) dated October 2015 and shall be complied with in perpetuity.  
(Reason - To comply with the requirements of Policy EN14 (Control of Pollution) to protect the amenity of local residents in terms of the control and management of odour, noise, traffic management and construction management and Policy D1 (Design and Local Distinctiveness of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)
6. The storage of feedstock materials at the site in connection with the anaerobic digestion process hereby approved shall not take place other than in the silage clamp which is shown on the approved plans.  
(Reason - To ensure that storage of feedstocks for the anaerobic digester can be adequately accommodated within the overall site layout and in the interests of general and visual amenity in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)
7. The feedstock and feedstock delivery for the anaerobic digester shall be as set out in the supporting information submitted with the application and shall comprise slurry, farmyard manure, maize silage and wheat in the proportions listed within Volume 1 of the report prepared by E4environment dated 10th June 2014 approved under 14/0858/MFUL. For the avoidance of doubt the proportions per annum are:

- o Pig slurry- 6000 tonnes
- o Farmyard manure- 1000 tonnes
- o Maize silage- 16,537 tonnes
- o Wheat- 3000 tonnes

The principal uses of the site shall thereafter be restricted to:

- i. the anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;
- ii. generation of electricity and heat and other ancillary operations associated with the above activities.

(Reason - To define the type, sources and delivery of materials permitted to be managed and handled at the site; to ensure that storage of feedstocks for the anaerobic digester are controlled and can be adequately accommodated within the overall site layout; and as the application is only considered to be acceptable and sustainable in this location on the basis that the waste being processed is sourced locally, in the interests of general and visual amenity in accordance with Policies EN14 (Control of Pollution), TC7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)

8. The landscaping of the site shall be carried out in accordance with the details shown on drawing no WIN01\_EN2\_PSnew\_015 figures 5 and 5b. The landscaping shall be carried out within the first planting season from the date of

this decision unless otherwise agreed in writing by the Local Planning Authority. The landscaping shall thereafter be managed and maintained in accordance with the approved landscape management plan (v6- June 2016) for the lifetime of the development. 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 D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031)

9. Notwithstanding the requirements of condition 5, the following noise attenuation measures shall be applied during operation of the site:
  - i. All vehicles and mechanical plant employed at the Site shall be fitted with effective exhaust silencers which shall be maintained in good efficient working order.
  - ii. Machines in intermittent use shall be shut down or throttled down in the intervening periods when not in use or throttled down to a minimum.
  - iv. All ancillary plant such as generators, compressors and pumps shall be positioned so as to cause minimum noise disturbance;
  - b. All fixed and mobile plant based at and operating within the Site shall be fitted with attenuated reversing alarms. Details of the types of reversing alarm proposed to be fitted to vehicles / plant under the terms of this condition shall be submitted for the approval in writing of the Local Planning Authority prior to the Commissioning Date.

(Reason - To minimise the possibility of adverse noise impact from site operations at the closest receptor locations in accordance with Policies D1 (Design and Distinctiveness) EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

10. Notwithstanding the submitted details, any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed, retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Services Engineers Environmental Design Guide when considered in combination with other equipment on the site. Details of any mitigation scheme shall be submitted to and approved by the Local Planning Authority within 2 months of the installation of any such plant and the development shall thereafter be carried out in accordance with the mitigation measures which shall be retained in perpetuity.

(Reason: To protect the amenity of local residents from noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no buildings, demountable structures, fixed



plant, or structures of the nature of buildings or fixed plant, and no fence or soil mound, in addition to those shown on the approved plans, shall be erected at the site unless approval in writing for their details and specification has first been obtained from the Local Planning Authority.

(Reason - To maintain control over the appearance of the site and ensure that the development is in accordance with the permitted details in accordance with Policy D1 (Design and local Distinctiveness) of the East Devon local Plan 2013-2031)

12. Deliveries to and from the site shall only take place within the hours of 8am - 6pm on Mondays to Saturdays.

(Reason - To ensure there is no unacceptable impact from traffic noise on the local community outside of standard working hours, in accordance with Policies D1 (Design and Distinctiveness) EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

13. There shall be no burning of any kind on site during construction, demolition or site preparation works, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays and dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance

(Reason - To protect the amenity of local residents from smoke, noise and dust in accordance with Policies D1 (Design and Distinctiveness) EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

14. Within two months of the date of this planning permission, details of a scheme for the management of the site's surface water shall be submitted to and approved in writing by the Local Planning Authority. The details shall include as a minimum:

Details of the final drainage scheme, including pathways and flow routes for excess surface water during extreme weather;

A construction quality control procedure;

A plan for the future maintenance of the system and of any overland flow routes.

The surface water drainage system shall be completed in accordance with the approved details and timetable and it shall be retained and operated as such thereafter.

(Reason - To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development in accordance with Policies D1 (Design and Distinctiveness), EN14 (Control of Pollution) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031)

15. The separation and drying of the digestate produced by the anaerobic digestion process shall be carried out within 6 months of the date of this permission and the plant shall thereafter carry out this process in perpetuity.

(Reason: To protect the amenity of local residents in terms of the control and management of odour in accordance with policy D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

Plans relating to this application:

WIN01_EN2_SL S73_001	Location Plan	23.05.16
WIN01_EN2_SP S73_006	Proposed Site Plan	23.05.16
WIN01_EN2_EL S73_W_005	Proposed Elevation	23.05.16
WIN01_EN2_EL S73_N_005	Proposed Elevation	23.05.16
WIN01_EN2_EL S73_E_005	Proposed Elevation	23.05.16
WIN01_EN2_EL S73_S_005	Proposed Elevation	23.05.16
WIN01_EN2_SP A_001	Other Plans	15.09.15
WIN01_EN2_PS NEW_015 FIGURE 5	Landscaping	06.07.16
WIN01_EN2_PS NEW_015 FIGURE 5B	Landscaping	06.07.16
MANAGEMENT PLAN VERSION 6	Landscaping	06.07.16

List of Background Papers

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

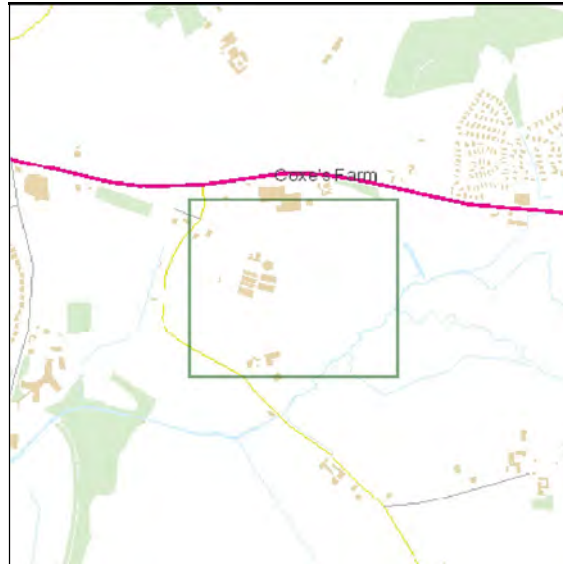
**Ward** Clyst Valley

**Reference** 15/1512/FUL

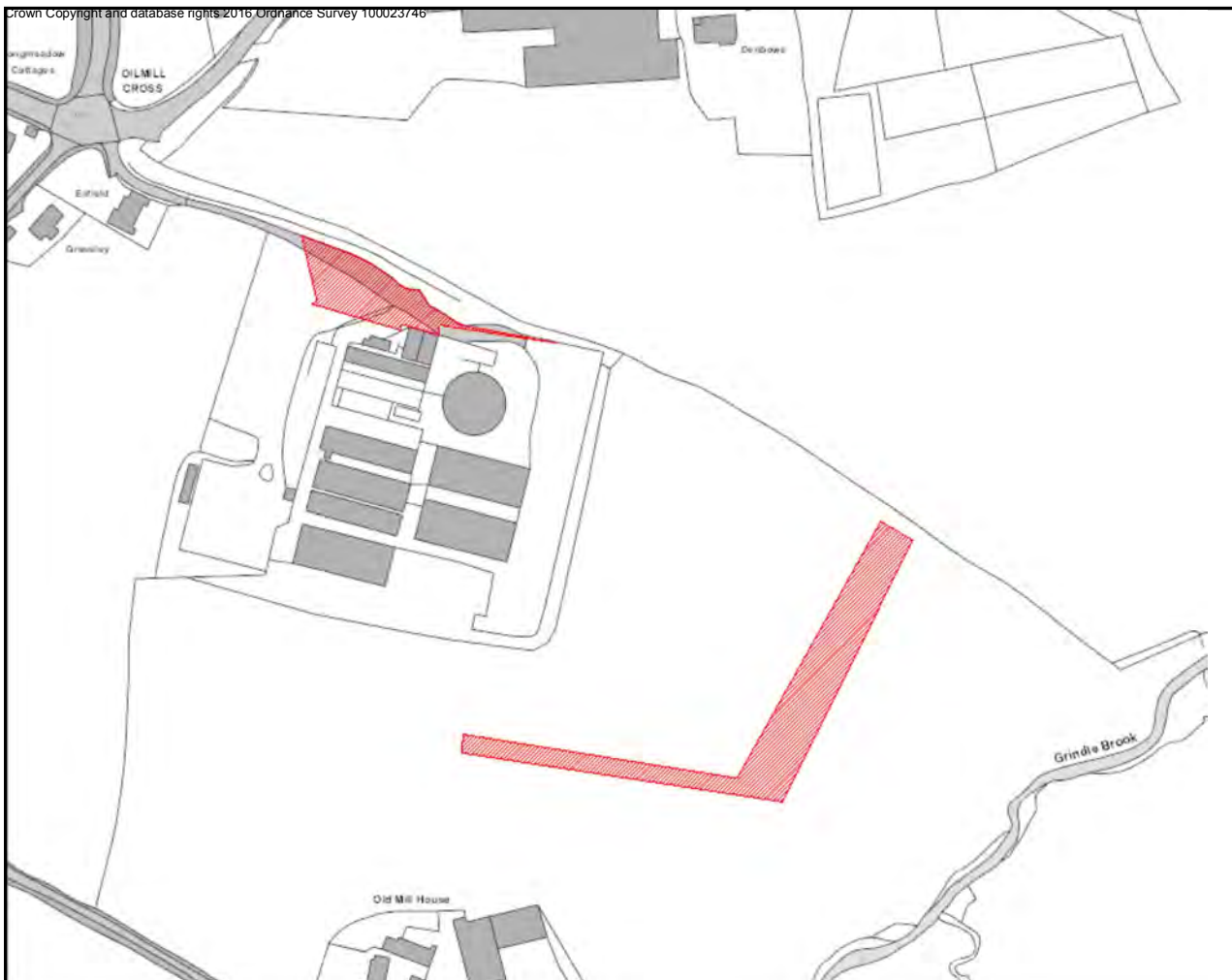
**Applicant** Mr Stuart Cole (Greener For Life Energy Ltd)

**Location** Enfield Oil Mill Lane Clyst St Mary Exeter EX5 1AF

**Proposal** Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Clyst Valley (CLYST ST MARY)</b>	<b>15/1512/FUL</b>	<b>Target Date: 22.09.2015</b>
<b>Applicant:</b>	<b>Mr Stuart Cole (Greener For Life Energy Ltd)</b>	
<b>Location:</b>	<b>Enfield Oil Mill Lane</b>	
<b>Proposal:</b>	<b>Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is being reported to committee as officer's recommendation differs from the view of the Ward Member.

This application seeks planning permission to enlarge the site for an approved Anaerobic Digester plant on its northern, eastern and southern boundaries to accommodate additional plant infrastructure, landscaping and earth bunds.

Whilst this application enlarges the size of the AD plant such that it encroaches further into the countryside, it is considered that its additional visual impact, in terms of views from public vantage points outside of the site, is limited in the context of the 2014 consented scheme. This is largely because the additional infrastructure is of limited height and scale or is underground such that it is read in the context of the larger structures such as the digester and digestate tanks and the concrete silage clamps which remain unchanged. Whilst the unauthorised works to create an enlargement of the plant is not to be encouraged, in this case, it is considered that it does not result in significant additional visual harm and as such it would be difficult to sustain a reason for refusal on these grounds. The application is accompanied by a detailed landscape planting scheme for woodland planting on the earth bund and re-graded bank which would provide a good degree of screening and would help to soften the impact of the plant in the long term.

Whilst the enlargement of plant would bring parts of the facility closer to some of the nearest neighbouring properties on the southern and eastern sides, it isn't considered that it would give rise to significant additional harm to residential amenity beyond that already permitted.

**As the application is directly related to the AD plant, almost as a bolt on to the original consent and the Section 73 application which is also being considered as part of this Committee Agenda (ref 15/1473/VAR), it is considered necessary and reasonable to impose the same conditions on both applications.**

**On balance, the application is therefore recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

Clyst Valley - Cllr M Howe

ADDRESS: Enfield Oil Mill Lane Clyst St Mary Exeter EX5 1AF

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

(tick as appropriate)

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

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

This extension again allows this already over prominent site to expand beyond its original permitted development, They have chosen to build what they wanted not what the permission they have allowed them to build, with the smells that have been caused by this site I believe is against policy EN14 of our local plan.

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

Further comments:

Following an initial review of the above application I recommend the following:  
(tick as appropriate)

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

be referred to Development Control Committee

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

The enlargement of this application increases the size down a hill that makes it much more visible than the consent granted I am not at all happy that the screen is adequate, that and coupled with the terrible smells now coming from this site affecting a large area, with the increase in traffic movements from a much larger area than originally anticipated all add up to a poor development on this site also I now believe due to the impact individual and calmative on the surrounding area this should have a full EIA.

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

#### Parish/Town Council- 08/07/2015

The council would like to object to this proposal on the grounds of over development of the site, the building line would also increase over the borough of the hill giving greater visibility from surrounding rural areas and neighbours. The proposed increase in size of feeders (20% increase) would mean that traffic movement would increase from the original agreement set up as a condition of the original application. The extra materials coming into the site per annum is over 50 tonnes which is more than double the agreed amount in the original application. Previous application originally agreed 47,074 tonnes of feed increasing to 97,074 this is unacceptable !!!!.

The supporting statement says that a further 5 application are due to be made regarding information within this application. A decision of any kind cannot be made unless all information is present at the time of the discussion.

Please note that the PC are attending a site visit this coming Friday and therefore will be making further comments after that meeting - their previous comments on this application still stand.

Further comments 29/09/2015:

Comments:

o The views and our comments from previous variation to the original applications still stands and would also like other considerations to be taken in to account that have been brought to light since the development has started .

o The council would like to object to this proposal on the grounds of over development of the site, the building line would also increase over the borough of the hill giving greater visibility from surrounding rural areas and neighbours. The proposed increase in size of feeders (20% increase) would mean that traffic movement would increase from the original agreement set up as a condition of the original application. The extra materials coming into the site per annum is over 50 tonnes which is more than double the agreed amount in the original application.

Previous application originally agreed 47,074 tonnes of feed increasing to 97,074 this is unacceptable !!!!.

o The supporting statement says that a further 5 application are due to be made regarding information within this application. A decision of any kind cannot be made unless all information is present at the time of the discussion.

o The council has received a large amount of complaint regarding the visual impact that the development is causing from all direction particularly from OIL MILL LANE and the residences that live there.

o We would like to refer this application back to East Devon district council landscaping department to reassess the type of trees and hedges stated in this application as the type of planting suggested would take many years to become established and not screen the visual impact or noise to neighboring dwellings.

NOT SUPPORTED

Further comments- 14/10/2015

o The views and our comments from previous variation to the original applications still stands and would also like other considerations to be taken in to account that have been brought to light since the development has started .

o The council would like to object to this proposal on the grounds of over development of the site, the building line would also increase over the borough of the hill giving greater visibility from surrounding rural areas and neighbours. The proposed increase in size of feeders (20% increase) would mean that traffic movement would increase from the original agreement set up as a condition of the original application. The extra materials coming into the site per annum is over 50 tonnes which is more than double the agreed amount in the original application. Previous application originally agreed 47,074 tonnes of feed increasing to 97,074 this is unacceptable !!!!.

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o The council has received a large amount of complaint regarding the visual impact that the development is causing from all direction particularly from OIL MILL LANE and the residences that live there.

o We would like to refer this application back to East Devon district council landscaping department to reassess the type of trees and hedges stated in this application as the type of planting suggested would take many years to become established and not screen the visual impact or noise to neighboring dwellings.

o We would like to point out to EDDC that this variant is in conflict with the original application made by the applicant. The original decision was agreed on a restricted size, capacity and movement of produce in and out of this digester plant, the proposed changes in various applications over the last 12 Months has now pushed the original consent to the limit.

o We feel as a council that this commercial impact would be to the detriment of the village and surrounding area of natural beauty with its increase size and the

environmental impact which has already been noted by local residents as commented earlier.

- o We are now asked to comment further on an increase in size to the boundary due to a miss calculation of the internal layout and to allow for the full vegetation screening which we have already commented about and referred to EDDC.
- o Under duress we now feel that we should accept this alteration due to all the work already carried out and which EDDC planning department has not monitored correctly.

Further comments - 11/02/2016:

Comments: REFUSE.

- o The Council stands by the original decisions as stated in the original application and decision regarding the Number of traffic movements, the times of use and the total quantity amount of feedstock delivered and waste slurry taken away.
- o The council has received many complaints already regarding the visual impact of the plant in the surrounding areas, the amount of smell and traffic congestion on the surrounding road infrastructures.
- o The proposed alterations and increase in size at the rear of the land over the brow would also increase greatly the visual impact to both neighbouring dwellings and the country side vista that exists at the moment.
- o The type of planting suggested for the site would in fact take many years to mature and obscure the manmade structures within the site and such would cause a unsightly blot to the natural surrounding and neighbouring dwellings for many years to come.

Further comments 14.06.2016:

Comments:

Objection on transport; smell and increased capacity - contrary to policy EN14 of the new local plan with regards to the smell and pollution and transport infrastructure.

#### Adjoining Parish (Clyst St George)

Parish Council objects to the application and supports the comments made by Bishops Clyst PC.

Further comments 15.06.2016:

Initial Comment; Object to Smell, and noise of equipment running 24 hrs. Agree with Bishops Clyst PC.

#### **Technical Consultations**

##### Environmental Health 10/08/2015

I have been to this site during construction and considered the additional elements applied for. I do not anticipate that the additional elements referred to in this



application will have a material increase in environmental health impact. There have been some odour issues during commissioning of the plant which are possibly not resolved, but the regulator in respect of issues occurring during operations is the Environment Agency.

Further comments 19/02/2016

I have provided detailed comments in relation to the related S73 variation application which is being considered alongside this application. The noise aspects of those comments will be relevant to this application too and should be taken into consideration when assessing this application:

A noise report was submitted by Atkins dated September 2015. The report refers to mitigation provided by building screening, a 2.5m bund and 3m acoustice fence around generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However he has not taken into account low frequency noise, or provided an assessment of new noise sources proposed in this application, notably the new pumping station, CHP unit, digestate drier or any other equipment which may cause noise audible beyond the boundary. I note that close by residents are already reporting a new noise from the plant occurring at night. It is for the applicant to be carrying out off-site assessments already to ensure compliance with the current approval but we could not conclude that we are satisfied that noise will not impact on local residents without a full evaluation of all noise sources.

It is my view that this noise update should be provided before the application is determined because the plant is already operational and noise impacts are being reported. In the absence of this and in the event that this application is approved, I recommend that the following condition is applied to any approval:

Any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises.

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

Further comments 17/06/2016:

These were my comments submitted in February. I have not received an updated noise report that addresses my concerns. If this application is recommended for approval I would require the noise condition below to be included, although we would have preferred this to be dealt with prior to determination so that it is clear to all parties how the noise requirements will be met.

I have provided detailed comments in relation to the related S73 variation application which is being considered alongside this application. The noise aspects of those

comments will be relevant to this application too and should be taken into consideration when assessing this application:

A noise report was submitted by Atkins dated September 2015. The report refers to mitigation provided by building screening, a 2.5m bund and 3m acoustice fence around generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However he has not taken into account low frequency noise, or provided an assessment of new noise sources proposed in this application, notably the new pumping station, CHP unit, digestate drier or any other equipment which may cause noise audible beyond the boundary. I note that close by residents are already reporting a new noise from the plant occurring at night. It is for the applicant to be carrying out off-site assessments already to ensure compliance with the current approval but we could not conclude that we are satisfied that noise will not impact on local residents without a full evaluation of all noise sources.

It is my view that this noise update should be provided before the application is determined because the plant is already operational and noise impacts are being reported. In the absence of this and in the event that this application is approved, I recommend that the following condition is applied to any approval:

Any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises.  
Reason: To protect the amenity of local residents from noise.

#### Environment Agency 20/08/2015

Environment Agency Position

We have no objections to the application.

We will be the lead environmental regulator for the activities at this anaerobic digester. We granted an environmental permit to Gorst Energy Ltd on 19 May 2015 (Reference EPR-DP3337WU). This environmental permit includes conditions that the operator must comply with to protect the environment. The permit already incorporates the amendments proposed in this planning application.

#### Further comments 30/09/2015:

Environment Agency Position

There are no objections to this proposal

We manage this site through the environmental permitting process and will deal with any amendments via this process.

Further comments 16/10/2015:

Thank you for your email received on 30 September 2015 consulting us on the amended plans submitted in relation to the above planning application.

Environment Agency position

We have no objections to the proposal. We refer you to our previous letter dated 19 August 2015 for advice relating to the Environmental Permit for the site.

Please contact us again if you require any further advice.

Further comments 02/02/2016:

Our earlier comments of 15th October 2015 and 19th August 2015 regarding the need for an Environmental Permit for the site remain unaltered.

Further comments 03/06/2016:

Thank you for your consultation dated 26 May 2016 regarding the amended plans submitted in relation to the above planning application.

Environment Agency position

We have no objections to the proposal. We refer you to our previous letter dated 19 August 2015 for advice relating to the Environmental Permit for the site.

Natural England 18/08/2015

Natural England has no comments to make regarding this application.

SSSI Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" remains in place (Schedule 4, w). Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the gov.uk website.

Please see the information below for further advice on when Natural England should be consulted and links to guidance on the gov.uk website. Unless there are additional local consultation arrangements in place, Natural England should be consulted for all developments where:

- o The proposal affects a protected species not covered by the Standing Advice
- o The proposal requires an environmental impact assessment

- o The proposal is likely to damage features of a Site of Special Scientific Interest (SSSI)
- o The proposal is likely to have a significant effect upon Special Area of Conservation (SAC), Special Protection Area (SPA) or Wetland of International Importance under the Ramsar Convention (Ramsar Sites)
- o The proposal could lead to the loss of more than 20 ha of the best and most versatile agricultural land
- o Any minerals and waste development where the land will be restored for agriculture

Further comments 01/10/2015:

Natural England has no comments to make on this application.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England.

Further comments 10.02.2016:

Natural England has previously commented on this proposal and made comments to the authority in our letters dated 07 May, 2014; 17 August, 2015 and 17 September 2015

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

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

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

### Highways England

Thank you for providing Highways England with the opportunity to comment on the revised planning statement submitted in support of the above applications. Of particular interest to us is the proposal to vary condition 7 of the original consent ref 14/0858/MFUL to increase the quantities of feedstock.

The applicant's revised assessment is that this will now equate to an additional 7 movements per day. The intention is still to source the bulk of this additional material locally and the primary impact will therefore be on the local road network, although there is the possibility that feedstock will be sourced from further afield. However, it remains unlikely that the proposals will create a severe impact on the operation of the strategic road network, in particular the M5 junction 30 and our previous formal recommendation of no objections in response to 15/1473/VAR dated 13 July 2015 therefore remains valid.

Regarding application 15/1512/FUL, we have no further comments to make and our previous recommendation of no objection dated 4 August 2015 applies.

### County Highway Authority

Observations:

The application is for the extension to anaerobic digester plant located at Oil Mill Lane Clyst St Mary. The road accessing the existing anaerobic digester is a narrow track which is potholed and the surface is breaking up, it is also restricted in width with no passing places. However there is inter-visibility from the end of the lane to the proposed site.

Swept path analyses indicate that HGVs attracted to the development can be accommodated at the access and within the site for turning and parking purposes.

Recommendation:

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

### Other Representations

There have been 38 respondents to this application (48 letters, some of which are multiple in response to amendments). These objections can be summarised as the following:

- Offensive odours
- Increase in traffic levels
- Mud on the road and congestion from tractors
- Blight on the landscape
- Concerns about explosions from gas
- Odour and noise impacts
- Loss of agricultural land from growing crops
- No regard for planning process/ system

- No screening
- Pink bubble in views
- Smells from pig farm and silage
- Humming noise from machinery at night
- Risk to public health
- Increase in flooding
- It was never the applicant's intention to run under approved capacity
- Works not in accordance with previous planning permission
- Increased visual impact
- Digester has been built higher than approved
- What enforcement action is being taken?
- EIA Screening opinion is flawed
- Cumulative impact on the character of the area has not been properly considered
- Inadequate on-site storage for digestate

## **POLICIES**

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

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 39 (Renewable and Low Carbon Energy Projects)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN22 (Surface Run-Off Implications of New Development)

E4 (Rural Diversification)

TC2 (Accessibility of New Development)

TC7 (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 application site occupies an elevated position on land to the south of the A3052 and to the east of Oil Mill Lane. It once comprised a pig farm and contained a range of life-worn buildings and a large circular silo which have now been removed and replaced by an anaerobic digester plant approved under 14/0858/MFUL. The site lies in open countryside approximately 500 metres from the boundary of Clyst St Mary. No landscape designations apply to the site.

The access into the site is currently a narrow track which joins the main road network close to Oil Mill Cross. The track passes next to Enfield, a bungalow property sited adjacent to Grovely; a further residential dwelling. The area is fairly busy with traffic movements owing to the proximity with the A3052 and the coach park located between the application site and the A3052.

### Planning History:

Prior to planning permission being granted for the anaerobic digester, a series of planning permissions were granted for the re-development of the site for the conversion and construction of agricultural buildings and land to B1 (Light Industrial) and B8 (Storage and Distribution) uses.

Planning permission was recently granted in 2014 (ref 14/0858/MFUL) for the construction of an anaerobic digester plant within the northern and eastern sides of the site, extended in an eastern direction to accommodate two tanks and storage clamps and which was to be operated in conjunction with the re-opened pig farm. The approved plant comprised a complex arrangement of structures, involving tanks, operation building, frames and clamps, pumping station, weighbridge and gas flare. Within the structures areas of hardstanding have been provided for access and the manoeuvring of vehicles.

This planning permission was granted subject to a number of conditions including an approved plans condition (2) and a condition ensuring the anaerobic digester is operated in accordance with feedstock quantities and deliveries outlined within a report prepared by E4environment.

### Proposed Development:

This application seeks retrospective planning permission for an extension to the consented anaerobic digester plant to provide a new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds.

The application essentially proposes an enlarged site area for the approved AD plant as follows:

- An additional 0.11 ha of land to the north which would house the new site entrance, gas upgrade plant, grid entry mechanism and other ancillary infrastructure

- An addition 0.17 ha of land to the east next to the approved silage clamps. This part of the site would house the propane tanks, a digestate storage lagoon and an underground leachate tank and an area for landscaping.
- An additional 0.05 ha of land to the south allowing for an increase in the turning circle for vehicles delivering feedstock to the digester tank, a surge wall and drainage channels.

Some of the equipment proposed within this enlarged site such as the propane tanks and the weighbridge was granted consent within the original red line application site.

Members will also note that related to this application are two further applications which are on the committee agenda:

15/1473/VAR- Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant- Enfield Farm, Oil Mill Lane, Clyst St Mary.

15/2522FUL- Construction of lined earth lagoon to store digestate and concrete hardstanding- Land East of Denbow Farm, Farringdon

#### Issues and Assessment:

The principle of the use of the site as an anaerobic digester plant has previously been accepted and the AD plant has been constructed on site, albeit not in accordance with the 2014 approval. The main issues to consider in determining this application are in terms of an assessment of any additional harm the enlarged AD plant has on the rural character and appearance of the landscape and the surrounding area and any additional impacts upon residential amenity.

### **ANALYSIS**

#### Character and Appearance:

It has always been acknowledged that the AD plant would have a degree of impact upon the prevailing character and appearance of the area particularly at its eastern and south eastern ends where the site extended the built development into an adjoining arable field. However during consideration of the previous application, it was considered that any landscape harm would be outweighed by the renewable energy benefits of the AD plant.

Whilst this application enlarges the size of the AD plant such that it encroaches further into the countryside, it is considered that its additional visual impact, in terms of views from public vantage points outside of the site, is limited. This is largely because the additional infrastructure is of limited height and scale or is underground such that it is read in the context of the larger structures such as the digester and digestate tanks and the concrete silage clamps. Whilst the unauthorised works to create an enlargement of the plant is not to be encouraged, in this case, it is considered that it results in little additional significant visual harm such that it would be difficult to sustain a refusal on these grounds.



In addition, it should be noted that the consented scheme included a large retaining wall which was to be constructed on the south and east boundaries. This would now be replaced by a large earth bund and graded bank on the eastern side which would be planted with woodland planting to provide a good levels of screening and to help assimilate the plant better into the existing landscape. The Council's Landscape Architect has been advising the applicants on the design of the bund and the planting, raises no objection and it is considered that a landscaping condition can be imposed to ensure the planting is carried out within the first available planting season with measures in place for its long term management.

On balance, it is considered that when read in the context of the consented AD plant, the enlarged areas of the plant do not cause significant additional harm to warrant a refusal. The proposal is considered to comply with Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the Local Plan.

#### Residential Amenity:

Policy EN14 (Control of Pollution) of the East Devon Local Plan states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including smell, fumes, dust, grit, smoke and soot
2. Pollution of surface or underground waters including:
  - a) Rivers or other watercourses, water bodies and wetlands
  - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas
  - c) Harbours, estuaries or the sea
3. Noise and/ or vibration
4. Light intrusion
5. Fly nuisance
6. Pollution of sites of wildlife value, especially European designated sites or species
7. Odour

Whilst the enlargement of plant would bring parts of the facility closer to some of the nearest neighbouring properties on the southern and eastern sides, it isn't considered that it would give rise to significant additional harm to residential amenity beyond that already permitted.

#### Noise:

A noise report was submitted by Atkins dated September 2015 and this refers to mitigation provided by building screening, a 2.5 metre bund and 3.0 metre high acoustic fence around the generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However the EHO advises that this has not taken into account low frequency noise or provided an assessment of new noise sources in this application.

In the absence of an updated noise report, it is recommended that a condition is imposed to ensure that any plant machinery or equipment is operated such that the noise generated at the boundary of the nearest neighbouring property does not exceed Noise Rating Curve 25 and that details of the scheme for mitigation shall be submitted within 2 months of the drier being installed. It should also be noted that noise from the plant will be regulated by the Environment Agency.

Whilst the concerns of local residents and those affected by odour are noted, any additional impacts on residential amenity must be assessed in the context of the previously approved scheme. The previous application was accompanied by an Odour Management Plan which addressed the issue of odour in some detail. The nature of the AD process requires the biomass to be broken down in the absence of oxygen which means that the buildings are sealed and the materials are not exposed to the open air. It is only at the start and end of the process that there would be any impact which would be during the storage and transportation to the silage clamps and the emissions from the CHP plant. A condition was imposed to ensure that the AD plant is operated in accordance with the Odour Management Plan.

It should be noted that this application would result in no change in the AD process and the quantities of throughput (pig slurry and crop feedstock) will remain as previously approved. Therefore, the final digestate product from the AD process should be a low odour liquid digestate and a virtually odourless solid digestate. The Council's EHO notes that the original application proposed the separation and drying of the digestate but to date this has not been occurring on site. As a result, it is understood that the digestate that is being tankered off the site is a wet odorous slurry and is likely to be the cause of odour which is the subject of local residents complaints.

Therefore whilst the concerns of residents who have been affected by odour are noted, it is considered that if the AD plant were to be operating as an entirely sealed system and were to be showing compliance with the odour management plan and carrying out the process of separating and drying the digestate such that it would become virtually odourless in a liquid and solid residue form, it is considered that the impacts from odour would not be harmful enough to refuse the application. This is not to play down the experiences residents have had to date, moreover this is an issue of compliance and the overall management of the AD plant.

The applicant commissioned an independent odour assessment to determine the potential odour impacts arising from Enfield Farm AD plant. The assessment identified that a number of odour impacts arose during the commissioning phase of the AD facility and because a number of measures including the installation of a bio-filter and flare, the covering of the mixing tank and piping of slurry between the piggery and the AD facility had not been implemented as the plant was partially operational and in the process of being commissioned. The odour report also identified odour release from the seeding of tanks which may have resulted in releases of high intensity odour, although it should be noted that this activity will not be carried out once the plant is fully commissioned. The report concludes that once all odour abatement is fully commissioned it is unlikely that significant odour impacts will be experienced at neighbouring properties.

The EHO is now satisfied that subject to a condition requiring the drying and separating process to be completed and operational within 6 months of any grant of planning permission and the development being carried out in accordance with the odour management plan that the odour impacts would be acceptable. Failure to operate and manage the AD plant would be an issue for Enforcement to ensure that the plant is being operated in accordance with the odour management plan/ conditions and for the Environment Agency using their Environmental Permit controls. The EA have raised no objections to the application and have advised that they would be the lead environmental regulator for activities at the AD plant. The environmental permit includes conditions that the operator must comply with to protect the environment and the EA advise that the permit already incorporates the amendments proposed in this application.

On balance and in the absence of any objections from Environmental Health and the Environment Agency it is considered that subject to a condition requiring the separation and drying of the digestate within 6 months and for the AD plant to adhere to the odour management plan, it is considered that the impacts from odour would be acceptable.

#### Highway Safety:

The AD plant would essentially operate in a similar manner to that previously approved, particularly in relation to transport movements. A condition was imposed on the original planning permission restricting the feedstock and feedstock delivery to slurry, farmyard manure, maize silage and wheat in proportions contained within a submitted report. This condition was imposed to define the type, sources and delivery of materials permitted to be managed and handled at the site and could be adequately accommodated within the overall site layout and on sustainability and transport movement grounds. It is considered necessary to re-impose this condition. There are no changes to the quantities of feedstock proposed as part of this application such that the transport movements remain unchanged from the previous consent.

However it is stated that because the Environment Agency regards rainwater that is captured via clamp storage within the permit of an AD facility as waste, there would be a resultant increase in digestate volume to be removed beyond that permitted by the current planning permission. Rainwater would be captured and processed through the AD system creating an additional 2000 m<sup>3</sup> of digestate which would require removal from the plant using a tractor and tanker (16 tonne capacity).

It should be noted that the original planning consent allowed for the on-site storage of digestate pending spreading onto nearby fields. The original transport statement identified that there would be 4 traffic movements each day for digestate leaving the site. The requirement for removal of the additional 2000 m<sup>3</sup> would result in the addition of 312 loads (625 movements per year) which would result in additional 2 movements per day. It is not considered that this increase in traffic movements would give rise to any significant highway safety concerns over the consented scheme.

The biggest change to how the approved AD plant will operate in term of digestate storage and removal is in relation to a proposal for a digestate storage lagoon at the nearby Denbow Farm to the rear of Hill Barton Industrial estate which is the subject of planning application 15/2522/FUL and is on this committee agenda. Whilst that application will be determined on its own merits, it is directly related to this AD plant as it is intended to be used to store 5000 m3 of liquid digestate from Enfield Farm which would then be spread onto surrounding land. The 2014 planning permission already allowed for digestate to be taken off-site for spreading onto land and therefore it isn't considered that the additional traffic movements from the site would be so significant to result in an impact that would be severe. The proposal would therefore comply with policy TC7 (Adequacy of Road Network and Site Access) and the NPPF.

## **RECOMMENDATION**

### **Approval with conditions:**

1. 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 30th April 2015.  
(Reason - To comply with Section 63 of the Act.)
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. In relation to materials, the development hereby permitted shall be carried out in accordance with the schedule of materials as discharged under condition 3 of planning permission 14/0858/MFUL. Details of the colours and finishes of the external surfaces of all additional buildings, fixed plant and machinery shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of this permission.  
(Reason: To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).
4. There shall be no external lighting associated with the development hereby permitted unless in accordance with details that have previously been submitted to and approved in writing by the local planning authority.  
(Reason - To safeguard the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).
5. The development hereby permitted shall be carried out in full accordance with the Odour Management Plan (Version 3) dated October 2015 and shall be complied with in perpetuity.  
(Reason - To comply with the requirements of Policy EN14 (Control of Pollution) to protect the amenity of local residents in terms of the control and management

of odour, noise, traffic management and construction management and Policy D1 (Design and Local Distinctiveness of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)

6. The storage of feedstock materials at the site in connection with the anaerobic digestion process hereby approved shall not take place other than in the silage clamp which is shown on the approved plans.

(Reason - To ensure that storage of feedstocks for the anaerobic digester can be adequately accommodated within the overall site layout and in the interests of general and visual amenity in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)

7. The feedstock and feedstock delivery for the anaerobic digester shall be as set out in the supporting information submitted with the application and shall comprise slurry, farmyard manure, maize silage and wheat in the proportions listed within Volume 1 of the report prepared by E4environment dated 10th June 2014 approved under 14/0858/MFUL. For the avoidance of doubt the proportions per annum are:

- o Pig slurry- 6000 tonnes
- o Farmyard manure- 1000 tonnes
- o Maize silage- 16,537 tonnes
- o Wheat- 3000 tonnes

The principal uses of the site shall thereafter be restricted to:

- i. the anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;
- ii. generation of electricity and heat and other ancillary operations associated with the above activities.

(Reason - To define the type, sources and delivery of materials permitted to be managed and handled at the site; to ensure that storage of feedstocks for the anaerobic digester are controlled and can be adequately accommodated within the overall site layout; and as the application is only considered to be acceptable and sustainable in this location on the basis that the waste being processed is sourced locally, in the interests of general and visual amenity in accordance with Policies EN14 (Control of Pollution), TC7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)

8. The landscaping of the site shall be carried out in accordance with the details shown on drawing no WIN01\_EN2\_PSnew\_015 figures 5 and 5b. The landscaping shall be carried out within the first planting season from the date of this decision unless otherwise agreed in writing by the Local Planning Authority. The landscaping shall thereafter be managed and maintained in accordance with the approved landscape management plan (v6- June 2016) for the lifetime of the development. 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 D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031)

9. Notwithstanding the requirements of conditions 5 and 10, the following noise attenuation measures shall be applied during operation of the site:
  - i. All vehicles and mechanical plant employed at the Site shall be fitted with effective exhaust silencers which shall be maintained in good efficient working order.
  - ii. Machines in intermittent use shall be shut down or throttled down in the intervening periods when not in use or throttled down to a minimum.
  - iv. All ancillary plant such as generators, compressors and pumps shall be positioned so as to cause minimum noise disturbance;
  - b. All fixed and mobile plant based at and operating within the Site shall be fitted with attenuated reversing alarms. Details of the types of reversing alarm proposed to be fitted to vehicles / plant under the terms of this condition shall be submitted for the approval in writing of the Local Planning Authority prior to the Commissioning Date.

(Reason - To minimise the possibility of adverse noise impact from site operations at the closest receptor locations in accordance with Policies D1 (Design and Distinctiveness) EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

10. Notwithstanding the submitted details, any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed, retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide when considered in combination with other equipment on the site. Details of any mitigation scheme shall be submitted to and approved by the Local Planning Authority within 2 months of the installation of any such plant and the development shall thereafter be carried out in accordance with the mitigation measures which shall be retained in perpetuity.

(Reason: To protect the amenity of local residents from noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no buildings, demountable structures, fixed plant, or structures of the nature of buildings or fixed plant, and no fence or soil mound, in addition to those shown on the approved plans, shall be erected at the site unless approval in writing for their details and specification has first been obtained from the Local Planning Authority.

(Reason - To maintain control over the appearance of the site and ensure that the development is in accordance with the permitted details in accordance with Policy D1 (Design and local Distinctiveness) of the East Devon local Plan 2013-2031)

12. Deliveries to and from the site shall only take place within the hours of 8am - 6pm on Mondays to Saturdays.

(Reason - To ensure there is no unacceptable impact from traffic noise on the local community outside of standard working hours, in accordance with Policies D1 (Design and Distinctiveness) EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

13. There shall be no burning of any kind on site during construction, demolition or site preparation works, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays and dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance

(Reason - To protect the amenity of local residents from smoke, noise and dust in accordance with Policies D1 (Design and Distinctiveness) EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

14. Within two months of the date of this planning permission, details of a scheme for the management of the site's surface water shall be submitted to and approved in writing by the Local Planning Authority. The details shall include as a minimum:

- o Details of the final drainage scheme, including pathways and flow routes for excess surface water during extreme weather;
- o A construction quality control procedure;
- o A plan for the future maintenance of the system and of any overland flow routes.

The surface water drainage system shall be completed in accordance with the approved details and timetable and it shall be retained and operated as such thereafter.

(Reason - To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development in accordance with Policies D1 (Design and Distinctiveness), EN14 (Control of Pollution) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031)

15. The separation and drying of the digestate produced by the anaerobic digestion process shall be carried out within 6 months of the date of this permission and the plant shall thereafter carry out this process in perpetuity.

(Reason: To protect the amenity of local residents in terms of the control and management of odour in accordance with policy D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

## 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:

ANAEROBIC DIGESTION PLANT	Planning Support Statement	25.05.16
WIN01_EN2_SL NEW_005	Location Plan	25.05.16
WIN01_EN2_SP ALL_007	Proposed Site Plan	25.05.16
WIN01_EN2_SP NEW_007	Proposed Site Plan	25.05.16
WIN01_EN2_EL NEW_W_005	Proposed Elevation	23.05.16
WIN01_EN2_EL NEW_E_004	Proposed Elevation	23.05.16
WIN01_EN2_EL NEW_S_004	Proposed Elevation	23.05.16
WIN01_EN2_EL NEW_N_004	Proposed Elevation	23.05.16
WIN01_EN2_CS _004	Sections	23.05.16
WIN01_EN2_PS NEW_015 FIGURE 5	Landscaping	06.07.16
WIN01_EN2_PS NEW_015 FIGURE 5B	Landscaping	06.07.16
MANAGEMENT PLAN VERSION 6	Landscaping	06.07.16



List of Background Papers

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

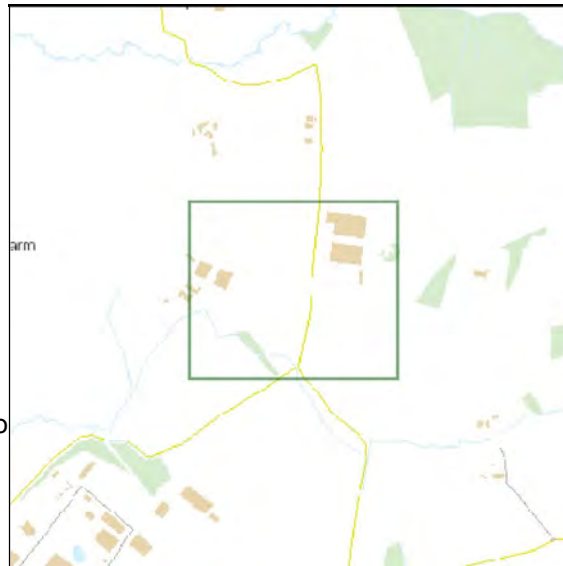
**Ward** Clyst Valley

**Reference** 15/2522/FUL

**Applicant** Stuart Partners

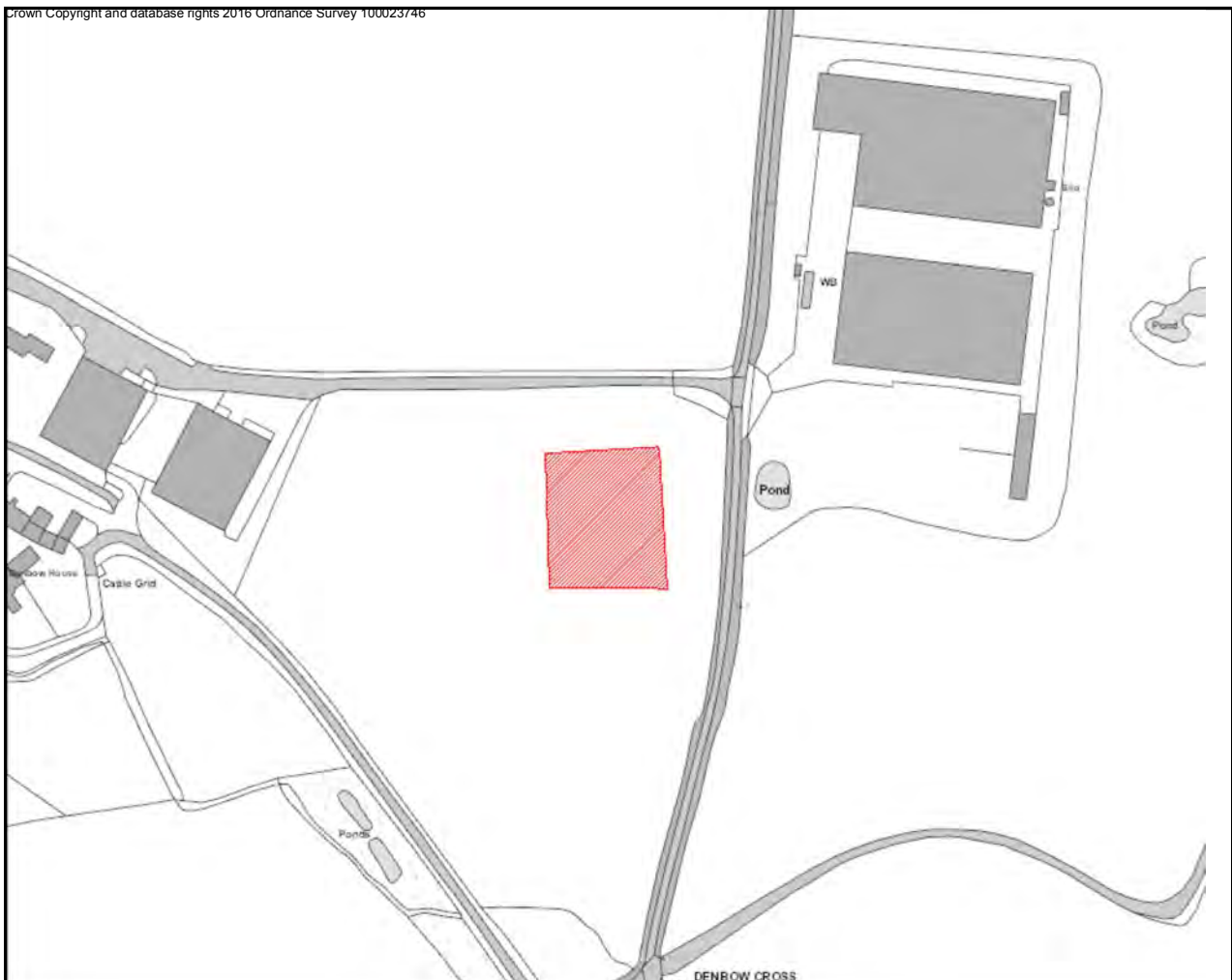
**Location** Land East Of Denbow Farm  
Farringdon

**Proposal** Construction of lined earth lagoon to  
store digestate and concrete  
hardstanding



**RECOMMENDATION: Approval with conditions**

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		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Clyst Valley (FARRINGDON)</b>	<b>15/2522/FUL</b>	<b>Target Date: 02.02.2016</b>
<b>Applicant:</b>	<b>Stuart Partners</b>	
<b>Location:</b>	<b>Land East Of Denbow Farm Farringdon</b>	
<b>Proposal:</b>	<b>Construction of lined earth lagoon to store digestate and concrete hardstanding</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

Planning permission is sought for the construction of a lined earth lagoon to store digestate along with a concrete hardstanding. The application is being reported to committee as officer's recommendation differs from the views of the Parish Council and Ward Member.

The proposed lagoon would have a capacity of 8000m<sup>3</sup> and would act as an additional storage facility for the anaerobic digester plant at Enfield Farm where it would accommodate 3000m<sup>3</sup> of separated liquid digestate as well as rainwater from the plant due to increased containment as required by the Environment Agency. The remaining volume is required as contingency storage in the event of severe weather.

On the basis that the digestate that would be stored within the lagoon would be separated as part of the process on the Enfield Farm AD plant such that it would be an odourless liquid, no objections have been received by the Council's Environmental Health Team or the Environment Agency. It is considered necessary and reasonable to impose a condition restricting the use of the lagoon to the low odour, separated liquid digestate which is the final product from the AD plant to align with the description for the AD plant. The reason for this is to protect the amenity of local residents from unacceptable odour.

In addition, it is not considered that the lagoon would have a significant harmful impact on the rural landscape character and appearance of the area or result in a severe impact on the local highway network. A condition is also recommended to ensure that the digestate tankers follow the transportation route provided by the applicant which would be a route that would have least impact upon the local highway network and local residents. The application is recommended for approval subject to conditions.

## **CONSULTATIONS**

### **Local Consultations**

Clyst Valley - Cllr M Howe

FROM COUNCILLOR: ...Mike Howe.....

PLANNING APPLICATION NO: 15/2522/FUL.....

ADDRESS: Land East Of Denbow Farm Farrington

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

Object to the application - Yes

In the event my recommendation and that of the Planning Officer differs, I wish the application to be referred to Development Control Committee Yes

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

I see no need for this development and as no cover is being proposed against the EA guidelines.

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

Farrington Parish Council

Clerk To Farrington Parish Council 04/01/2016

Farrington Parish Council wish to object to this application on the following grounds:

1. This digestate should go back on the same lorries that delivered the feedstock, directly to the farms where it was produced, as detailed in their original planning application. Their original application for the Anaerobic Digester clearly stated that this was the intention, in order to minimise vehicle movements. If there is any need to store digestate it should be done at the plant where it was produced.

2. It does not comply with the E.A. regulations as there are houses within 200 metres of the proposed lagoon. The regulations also state there should not be any water course within 50 metres. There is a drainage ditch close by. Quote "EA Standard Rules SR2010No17 Storage of digestate from anaerobic digestion plants (storage of digestate in containers or lagoons) The permitted activities must not be carried out within 200 metres of any off site building used by the public including dwelling houses.

3. There are already complaints regarding smell and odours from the anaerobic digester. This storage lagoon will undoubtedly create a similar smell issue causing a further loss of amenity to the local residents. The application says there is a low

odour risk and a cover is not necessary. Again, EA standard rules clearly state a cover MUST be incorporated.

4. There will be an increase in noise from heavy farm vehicles pumping the digestate into the tankers for field distribution, again causing a loss of amenity to nearby residents.

5. The access lane is totally unsuitable for these large vehicles. Recently two large farm vehicles slipped into the ditch and needing rescuing. This lane is a totally unsuitable unclassified road and a totally unsuitable access.

6. This application would cause a further visual impact on nearby houses, (some of historic importance and listed) already severely affected by the near-by Hill Barton Industrial estate.

This application should be refused

Further comments 25/02/2016:

Farringdon Parish Council have been informed of an application 15/1512/FUL which greatly increases the traffic that would serve the proposed lagoon for digestate 15/2522/FUL on land east of Denbow Farm.

The application 15/1512/FUL requests variations to earlier planning conditions for an anaerobic digestion plant at Enfield Farm Clyst St Mary which Farringdon PC was not notified about as it is in a different parish. Of major concern is the fact that it proposes an increase of more than double the quantity of crop feedstock required by the plant, and a significant rise in the amount required from Denbow Farm. Consequently there would now be a major increase in the movements of heavy lorries carrying feedstock and returning with digestate . These would increase from 360 movements a year under the first planning application to 640 movements under the application 15/1512/FUL.

The traffic would follow the route described in 15/2522/FUL essentially from Oil Mill Lane , A3052 Sidmouth Road, through to Hill Barton /Spain Lane and other lanes. It would have a severe impact on all those residents living nearby and other local parishioners who use the lanes.

We strongly object to the further expansion of the digester that will considerably increase HGV movements in the whole area particularly on the narrow totally unsuitable back lanes and makes a mockery of a green energy concept that collects purpose grown crops over a 25 mile radius, with all the environmental issues associated with heavy diesel transport.

Further comments 14/06/2016:

15/2522/FUL Proposal: Construction of Lined Earth Lagoon to store digestate and concrete hardstanding. Location: Land East of Denbow Farm Farringdon  
Applicant: Stuart Partners Hill Barton Business Park

The Parish Council strongly objects to this application. For the last two days 12 and 13 /06/16 there has been the spreading of digestate at Windmill Field and the field opposite. The stench has been horrendous and lasts for several days. The parish

council has no confidence in the Odour Management Report submitted and does not believe there is a low risk of odour. ((We also note NO COVER) This application involves enormous volumes of storage quote" 8 MILLION LITRES"! This is far too close to the residential settlement of Farringdon . THIS IS NOT A SUITABLE LOCATION IT IS TOO CLOSE TO RESIDENTIAL HOMES

Adjoining Parish (Bishops Clyst) 18/03/2016

We would like to support our fellow Parish in whatever decision they have made.

### **Technical Consultations**

Environmental Health 23/02/2016

We are very concerned about this application and another similar allied application on Venmore farm in Woodbury (15/2520/FUL). Both applications stem from the desire of the nearby AD plant to expand beyond its boundaries by establishing stores of crop feedstock and liquid digestate off-site. This gives us serious concerns about the potential of the AD plant to be sustainable in its consented location, and moves it far from being the on-farm system described in the original planning application for the plant. The approved application indicated on-site storage for sufficient crop feedstock and liquid digestate such that locally harvested crops would be brought straight to the site for storage and then use, and conversely the liquid digestate final product would be stored on-site for several months until being tankered away for direct spreading on the nearby land used to grow the crop feedstock. Clearly the loss of that land for traditional agricultural purposes is beyond the scope of Environmental Health, but we feel strongly that this application, the Venmore Farm application, the undetermined S73 application for the AD plant and associated expansion application ( 15/1473/VAR and 15/1512/FUL) should all be considered together. The system proposed now is that crops will be harvested in the field using a forager, tractor and trailer and then transported to the new store. A second, much larger, vehicle (a "Duoliner") would then access the store and re-load the crop feedstock in bulk loads for transporting to the AD plant. This same large vehicle is then intended to transport liquid digestate back from the AD plant to the new open storage lagoon, and then at some point in the future a traditional tractor and tanker will empty the lagoon for spreading on land. In view of the very short distance between this lagoon/storage area and the AD plant I doubt whether the use of such a large vehicle is sustainable. We cannot tell from the application whether this duoliner vehicle will be based at and dedicated to the Enfield AD plant and therefore I suspect that in reality tractors and trailers will bring the feedstock in and tractors and tankers will take the liquid digestate out as required. This would therefore involve double handling of all the crop feedstock and all the digestate - increasing the vehicle movements in and out of the plant by perhaps 4 times the number suggested in the application (trailers and tankers being smaller than the proposed Duoliner). A transport route is indicated but inevitably this proposal will increase the number of large vehicles on the country lanes, particularly during harvest times and we are not satisfied that this is justified. Clearly should the current Enfield Farm AD applications not be successful neither the Venmore Farm nor Denbow Farm facilities will be required. We therefore recommend that this application should not be approved for the reasons stated above.

Further comments 22/06/2016

I would like one point clarified regarding this application which is closely aligned to applications to be determined at the Enfield AD plant. The lagoon is intended to take "digestate". This is a general term for 3 forms of final product from the AD plant - a dry solid digestate, a liquid digestate (solids removed) and the current final product which is a highly odourous slurry-type digestate being removed from site prior to separation and drying. The plant assures that their intention is to separate this into a low odour liquid and low odour solids. I consider it is essential that this applicant clarify exactly which type is intended for this lagoon as in the AD plant application they state that both liquid and solid digestates will be taken to Denbow. The original application for the AD plant clearly states that the final products to be exported from site will be a low odour liquid and a low odour solid, NOT the highly odourous slurry currently being removed from site. This slurry will release odour both when it is discharged into the lagoon, when it is removed and when it is spread, all potentially more regularly throughout the year than at present. Although we appreciate that pig slurry is habitually stored in lagoons and then applied to land the quantities involved in this proposal are more significant as the pig slurry has been mixed with a high proportion of silage which produces a distinctly different odour. In principle I have no objection to the application for a lagoon but consider that a condition should be applied restricting its use only to "the low odour, separated liquid digestate which is the final product from the AD plant" which is a more accurate way of describing what has been applied for and which should present no difficulty to the applicant as it aligns with the description approved for the AD plant. The reason for this is to protect the amenity of local residents from unacceptable odour.

#### Environment Agency

Environment Agency position:

We have no objections in principle to the proposed development. The applicant should be aware that a waste operation permit is required however and this will necessitate certain design criteria. We would, for example, except any installation to comply with the Slurry, Sludge and Agricultural Fuel Oil Regulations and CIRIA.

Comments received 24/12/15

I refer to the above proposal and my response dated 17th December 2015, and would like to add the following comments.

We do not consider the AD digestate output to be waste (and therefore the storage facility would not require a permit) if:

- o the only waste feedstock to an AD plant is agricultural manure and slurry and it is spread as a fertiliser on agricultural land
- o agricultural manure and slurry is mixed with a non-waste feedstock e.g. crops grown specifically for AD and it is spread as a fertiliser on agricultural land.

If the manure and slurry feedstock is mixed with other waste feedstocks, then the resultant digestate will be waste and subject to environmental permitting controls.

Further comments 04/07/2016:

Thank you for your consultation dated 14 June 2016 regarding the above application.

#### Environment Agency Position

We have no objection to the application as submitted.

#### Information for the Applicant

The applicant must refer to the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO), amended 2010, available at <http://www.legislation.gov.uk/ukxi/2010/1091/contents/made>

It is a requirement that the Environment Agency is notified at least 14 days prior to construction works commencing, and it is advisable that the Land & Water Team is consulted prior to the design being finalised

It is advisable that the applicant refers to CIRIA guidance C759b on design and construction of the lagoon. This document may be downloaded from [http://www.ciria.org/Resources/Free\\_publications/Farms.aspx](http://www.ciria.org/Resources/Free_publications/Farms.aspx)

Any requirement for a SR2010No4 Mobile Plant permit will be addressed by our Devon Waste Team.

#### County Highway Authority

Does not wish to comment

#### Conservation

We do not wish to comment on this application.

#### Devon County Council, Minerals & Waste 03/02/2016

Many thanks for consulting us on the above application. Please be advised that we have no comments to make given that we, in line with the Environment Agency's response dated 23/12/2015, do not consider the AD digestate output to be waste. We are also of the opinion that this proposal will not impact upon the current waste operations at Hill Barton Business Park.

#### Further comments 14/06/2016

Many thanks for re-consulting us on the above application. Please be advised that we have no comments to make given that we, in line with the Environment Agency's response dated 23/12/2015, do not consider the AD digestate output to be waste. Overall we consider that this proposal will not impact upon the current waste operations at Hill Barton Business Park but would like to add that Policies W1 and W2 of the Devon Waste Plan, as quoted on the penultimate page of the amended Planning Statement, stamped 31/05/2016, would not be relevant in this instance, being that this is not a waste operation.

#### Other Representations

There have been 4 respondents to this application (8 letters some of which are multiple in response to amendments). The objections raise concerns which can be summarised as the following:



- Environmental impact
- Increased traffic on unsuitable roads
- Could lagoon be located elsewhere?
- Impacts on amenity from odour and noise
- Odours when digestate spread onto land
- Pollution to watercourses
- Vermin will be attracted
- What happens to digestate when it floods?
- Liquid digestate from Enfield Farm would be not be treated

## **POLICIES**

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

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (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 refers to a relatively flat area of agricultural land located behind Hill Barton Industrial Estate. The field sits to the west of Hill Barton Farm and is accessed off an unclassified road from Denbow Cross to Wares Farm. To the north of the site is a gravelled driveway which leads to Denbow Farm and a small cluster of residential properties including Denbow House which is grade II listed. The site is located in the countryside and is not the subject of any national or local landscape designations.

## **Planning History:**

The site was the subject of a County Matter application (ref 11/0580/CM) to use the land for the composting of green waste.

### **Proposed Development:**

This application seeks planning permission for the construction of an earth banked lagoon with the capacity to hold 8000 cubic metres of digestate. The lagoon would be constructed partially underground with 2.1 m excavations below ground level and a 3.3 metre high earth bank would be constructed. It would measure 82.5 m x 40 m. To the north of the lagoon would be a concrete hardstanding for vehicles to off load the digestate. The proposal is required to store digestate from the Anerobic Digester plant at Enfield Farm.

Members will also note that related to this application are two further applications which are on the committee agenda:

15/1473/VAR- Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant- Enfield Farm, Oil Mill Lane, Clyst St Mary.

15/1512/FUL- Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds- Enfield Farm, Oil Mill Lane, Clyst St Mary.

### **ANALYSIS**

#### **Issues and Assessment:**

The main issues to consider in determining this application are in terms of the principle and need for the development, the impact of the lagoon upon the character and appearance of the area, the impact upon the residential amenities of the occupiers of surrounding properties and whether there are any implications for highway safety.

#### **Justification:**

The proposed lagoon would be used for the storage of digestate and would be used as an additional storage facility for the anaerobic digester at Enfield Farm. It is stated that the lagoon is required to facilitate the storage of digestate, volumes comprised of:

- 3000 m3 of digestate from the AD plant that was to be spread on surrounding land.
- 2000 m3 to address additional digestate at Enfield Farm arising from additional surface water run-off due to increased containment.
- 1000 m3 to allow for annual rainwater collected within the lagoon.
- 2000 m3 contingency in-line with Environment Agency advice.

It is stated that the 8000m3 size of the lagoon is required to accommodate the additional waste rain water volume arising from significantly more containment required by the Environment Agency on the Enfield Farm site due to more stringent

EA regulations introduced since the originally consented plant. In addition, it is understood that the EA require contingency plans to be in place for digestate management during periods of extreme weather which this lagoon would also provide storage for. The EA have been consulted on the application and raise no objections to the proposal. They have advised that they do not consider the AD digestate output to be waste and therefore the storage facility would not require a permit if:

- The only waste feedstock to an AD plant is agricultural manure and slurry and it is spread as a fertiliser on agricultural land
- Agricultural manure and slurry is mixed with a non-waste feedstock e.g. crops grown specifically for AD and it is spread as a fertiliser on agricultural land.

As well as meeting the surface water run-off requirements of the EA, the operator of the AD plant at Enfield Farm intends to transport 3000m<sup>3</sup> of digestate to be stored in the lagoon where it would be spread onto surrounding land. The digestate would be a mix of agricultural manure and slurry mixed with crops specifically for the AD plant and would therefore comply with the EA's definition of waste as above.

It should be noted that an integral part of the originally consented AD plant proposed the storage and disposal of digestate on trailers for immediate spreading onto agricultural land as a soil enhancer and this process would continue albeit the digestate would be stored externally before spreading onto the land.

#### Character and Appearance:

The site is currently an open field located in an area characterised by farmsteads and sporadic residential development. It is located to the rear of the Hill Barton Industrial Estate and is not constrained by any landscape designations.

The proposed lagoon would be partially excavated although it would be visible from outside of the site. Whilst this would be the case, it is considered that any visual impact or harm to the character and appearance of the area would be localised and limited to along the road that leads to Wares Farm. The lagoon would be read in the context of existing farmsteads and would not appear out of place within the rural environment within which it would be situated.

Whilst the site is in the open countryside, it is not considered that the proposed lagoon would harm the distinctive landscape ,amenity and environmental qualities within which it is located and is therefore considered to comply with Strategy 7 (Development in the Countryside) and policy D1 (Design and Local Distinctiveness) of the Local Plan. A condition requiring details for the protection of the hedgerow along the eastern boundary of the site is recommended.

#### Residential Amenity:

The application has raised a number of concerns from local residents, in particular those to the west of the site. In this respect it is noted that the nearest residential property is located 210 metres from the site.

The Council's Environmental Health Officer has been consulted on the application and raises no objections to the proposal on odour or environmental grounds. The consented AD plant is supposed to separate the digestate on-site into a low odour liquid and low odour solids and it is the separated digestate that would be stored within the lagoon.

It should be noted that the original application for the AD plant clearly stated that the final products to be exported from site will be a low odour liquid and a low odour solid and it is considered that this is necessary to ensure no adverse impacts to local residents. If this process is not followed, then it is acknowledged that the slurry would release odour both when it is discharged into the lagoon, when it is removed and when it is spread, all potentially more regularly throughout the year than at present.

The EHO has raised no objections to the digestate lagoon but considers it essential that a condition is applied restricting its use only to "the low odour, separated liquid digestate which is the final product from the AD plant" which is a more accurate way of describing what has been applied for and which should present no difficulty to the applicant as it aligns with the description approved for the AD plant. The reason for this is to protect the amenity of local residents from unacceptable odour.

In addition, the planning statement suggests that odours associated with the use of liquid digestate on the land would be mitigated by the intended direct injection into the soil. To prevent unacceptable nuisance, a condition is recommended to ensure that the liquid digestate is only used this way.

So whilst the concerns about odour are noted, if the Enfield Farm AD plant is completed and operated as designed and is compliant with the conditions imposed then the digestate product that would be stored in the lagoon and spread on surrounding land would be odourless. On this basis, it is not considered that an objection could be sustained on the grounds of harm to the residential amenity of occupiers of surrounding properties and that the proposal complies with Policy EN14 (Control of Pollution) of the East Devon Local Plan.

#### Highway Safety:

The digestate comprising of surface water run-off and waste product from the anaerobic digestion process would be transported from the Enfield Farm AD plant to the lagoon via tractor and tanker with a 16 tonne capacity. This equates to two additional highway movements per day. It should be noted that an integral component of the originally consented AD plant was for the storage and transportation of the digestate off site with a view to spreading onto adjoining land as a soil enhancer. No conditions on the original planning permission appear to have restricted the distance or the routes the digestate product would travel. Therefore it is broadly accepted that 3000m<sup>3</sup> of digestate would be travelling a shorter distance to the lagoon than that in the original application making the process more sustainable in transportation terms and in-turn reducing the impact on the local highway network.

The application is accompanied by a transport plan which sets out the transport route from the AD plant to the lagoon. The transport route would exit the AD plant

and turn onto the A3052 down to the turning into the Hill Barton Business Park. A road leads through the business park directly to the site for the lagoon.

The County Highway Authority has raised no objections to the proposal and it is considered that the proposed transport route would not impact significantly on the local highway network or highway safety that would be severe. The route to the storage lagoon would be a short distance along an A road and would lead through the business park to the lagoon which would ensure minimal disturbance to local residents and would be a preferred route for the digestate than for example along country lanes or unclassified roads.

On the basis that the consented AD plant already permitted the removal of digestate from the site, it is considered that the proposed lagoon would encourage shorter journeys which would in-turn render the operation more sustainable in transportation terms. The application is therefore considered to comply with policy TC7 (Adequacy of Road Network and Site Access) of the Local Plan however, it is considered necessary to impose a condition requiring the digestate to follow the transport route as submitted with the application.

## **RECOMMENDATION**

### **Approval with conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. The lagoon hereby approved shall only be used to store the low odour separated liquid digestate that has been separated and treated from the Enfield Farm Anaerobic digester plant and is the final product from the AD plant and for no other purpose. The development shall adhere to the odour management plan dated 2nd June 2016.  
(Reason: To protect the amenity of local residents in terms of the control and management of odour in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).
4. Liquid digestate shall not be spread on the surrounding farmland other than by umbilical direct injection into the soil.  
Reason: To protect the amenity of local residents and to minimise the impacts on the local highway network in accordance with Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031).

5. The transportation of the liquid digestate from the Enfield Farm anaerobic digester shall be undertaken in accordance with the route plan approved as part of this application.

(Reason: To protect the amenity of local residents and to minimise the impacts on the local highway network in accordance with Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031).

#### 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:

AMENDED	Planning Support Statement	21.05.16
	Foul Drainage Assessment	26.05.16
ODOUR MANAGEMENT PLAN	General Correspondence	02.06.16
1	Block Plan	16.11.15
	Location Plan	10.12.15
3 GROUND	Proposed Floor Plans	16.11.15
4	Proposed Elevation	16.11.15
5	Sections	16.11.15
ROUTE PLAN	Other Plans	27.01.16
ODOUR MANAGEMENT PLAN	Other Plans	02.06.16

List of Background Papers

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

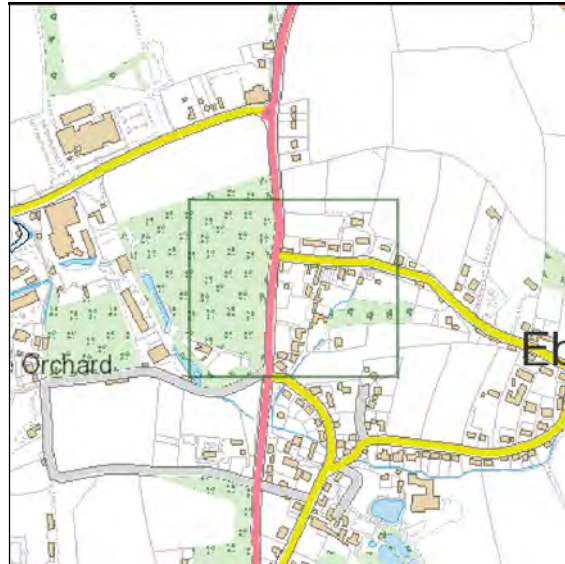
**Ward** Clyst Valley

**Reference** 16/0871/FUL

**Applicant** Mr & Mrs Ian White

**Location** Rosario Ebford EX3 0QN

**Proposal** Construction of detached garage, home office and games room ancillary to detached dwelling approved under 15/0805/FUL



**RECOMMENDATION: Approval with conditions**





		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Clyst Valley (CLYST ST GEORGE)</b>	<b>16/0871/FUL</b>	<b>Target Date: 07.06.2016</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs Ian White</b>	
<b>Location:</b>	<b>Rosario Ebford</b>	
<b>Proposal:</b>	<b>Construction of detached garage, home office and games room ancillary to detached dwelling approved under 15/0805/FUL</b>	

**RECOMMENDATION:** APPROVE subject to conditions

#### **EXECUTIVE SUMMARY**

This application is before Members as the officer recommendation differs from the view of the Ward Member.

This application seeks permission for the erection of a garage, home office and games room to be erected within the curtilage of a replacement dwelling on a site in Ebford and to be used incidental to the main house. The layout of the new dwelling has been amended to allow the use of the internal garage of the property as additional living accommodation.

The proposed building is located adjacent to Ebford Lane to the front of the new property and is a large building, measuring 13.4m by 6.65m, with a height of 6.2m. However provided that it is ancillary to the main dwelling and only occupied and used in conjunction with the main house, there is no objection to the principle of the development.

It is not considered that the proposal would be unreasonably prominent within the street scene or result in any harm to residential amenity and as such the application is recommended for approval.

#### **CONSULTATIONS**

##### **Local Consultations**

Clyst Valley - Cllr M Howe  
ADDRESS: Rosario Ebford

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

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

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

This ancillary building does not sit well with its Main house, the main problem is its size as an ancillary building it should be seen to be subservient to its main building this structure blatantly does not do this, this is made worse by its more prominent position closer to the road.

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

#### Parish/Town Council

16/0871/FUL Rosario, Ebford, Garage and Games Room

The Parish Council has a number of concerns with this proposal:

- 1). The scale and size is unacceptable. The proposal is the size of a house, with its own front door, services and the like.
- 2). The inclusion of an office suggests it could also be used for Business purposes which could lead to an increase in traffic.
- 3). The proximity to neighbours will be overbearing, potentially affecting light and amenity.
- 4) The size of the building is such that it could easily be turned into 2 semi-detached houses which would be contrary to the Local Plan which is of a concern, as this approach (of gaining additional dwellings through existing consents) would be similar to previous developments carried out by this developer in Ebford.

'Cllr Ackland-Smith has no pecuniary or any other interest in this application but does live close to the site at Farthings in Ebford Lane.'

#### **Technical Consultations**

##### County Highway Authority

Does not wish to comment

##### Other Representations

11 representations have been received all raising objections to the proposal. These are summarised below

- The building is too large
- It has the appearance of two dwellings

- Visually intrusive
- Represents an attempt to circumvent the planning system
- Tantamount to a new dwelling
- Could be operated as a business
- Building unrelated to the new dwelling
- Inappropriate location
- Building is not ancillary to main dwelling
- Building is too high
- Out of character with the area
- Additional traffic generation
- Represents new development in the countryside
- Increasing suburbanisation of the area
- Overlooking and loss of privacy
- Building is located too close to neighbouring properties

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
16/0562/FUL	Demolition of bungalow and construction of two storey dwelling and provision of paddock (revised design to planning approval 15/0605/FUL to include addition of two chimneys and alterations to fenestration)	Approved	08.06.2016
16/0080/FUL	Erection of three detached dwellings and garage to serve property approved under 15/0805/FUL; creation of 7 no. additional off-street parking spaces and pedestrian access to A376; removal of hedgerow and repositioning of boundary with new Devon hedgebank to facilitate widening of public footpath to A376 Exmouth Road	Withdrawn	17.03.2016
15/0805/FUL	Demolition of existing bungalow and construction of two storey dwelling and provision of paddock	Approved	07.08.2015

14/1430/FUL	Construction of 4 detached dwellings	Refused Appeal dismissed	16.01.2015 13.08.2015
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## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies Strategy 7 (Development in the Countryside)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

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

EN9 (Development Affecting a Designated Heritage Asset)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### Government Planning Documents

National Planning Practice Framework

National Planning Practice Guidance

## **Site Location and Description**

The application site comprise part of a large plot of land which was previously occupied by a property know as Rosario which has been demolished and upon which a replacement dwelling is being constructed.

It is located close to the junction of Ebford Lane and the A376 Exmouth Road, with access to the site onto Ebford Lane from the driveway associated with the new dwelling under construction.

### Proposed Development

Planning permission is sought for the erection of a large detached building with a home office and double garage on the ground floor and a games room above. The building extends to 13.38m in length by 6.65m in width and an overall height of 6.2m.

A Devon Bank is proposed to be constructed adjacent to the road following the visibility splay to Ebford Lane. As submitted the application also indicated that a gated entrance, including brick entrance piers was proposed, however the position of the proposed gate and one of the piers was outside of the defined application site and this element has been withdrawn from the application.

The design is somewhat residential with dormer windows in the roof and materials comprising a stone plinth with rendered walls under a slate roof.

## **ANALYSIS**

The main issues to be considered are the principle and use of the proposed building; its scale and design; and impact of this on the character and appearance of the area, on residential amenity or highway safety.

### Principle

There is no objection to the principle of domestic properties having detached garages or other outbuildings within their curtilage where these are ancillary to the main dwelling. Indeed there is a growing trend for more homeworking and the provision of domestic office space in the garden of a dwelling is now very common. Similarly with more leisure time many dwellings have other ancillary games or leisure rooms within their curtilage. As such it is not considered to be reasonable to refuse the current application as a matter of principle given this established and accepted trend.

The concerns expressed regarding this being a route to gaining planning permission for a second dwelling are noted. However, the use of the building as ancillary accommodation to the main house can be conditioned and on the basis of current local plan policies an application to use the building as a separate dwelling house would be refused as it is in an isolated location that would be considered to be unsustainable.

### Scale and Design and visual impact

The new dwelling is a large building occupying a spacious plot, and whilst it would appear to be more logical to site an ancillary building closer to the house with which it is associated, there are many examples where this logic has not been followed and again this is not considered to be a reasonable ground for withholding permission.

With regard to the scale and size of the ancillary building, in recent appeal decisions, most notably proposals at Somerleigh in Upton Pyne and Elmdene in Aylesbeare, the Inspector has found that the scale of an outbuilding is not necessarily a reason for refusal and it is its visual impact and the nature of the use which should be considered.

Concerns have been raised in respect of the proposed design and scale which is similar to that of an independent dwelling. In this respect the building is large, however regard should be had to the previous planning history of this site. There was no 'street scene' objection raised during the previous application for four dwellings (14/1430/FUL). Whilst this application was refused, and subsequently dismissed on appeal, the Planning Inspector did not consider that the buildings were inappropriate within their context. In terms of the position and scale of the dwellings (one of which was in a similar position as the proposed building) this was considered

to be acceptable, both within the street scene and in terms of any impact on residential amenity.

The plans show a planted Devon Bank at the entrance and this will to some extent help to soften the site entrance and visual impact. This hedge can be conditioned to be provided.

#### Amenity

Having regard to residential amenity, properties to the north and west of the site are a sufficient distance (in excess of 21m) for there to be no detrimental levels of overlooking or loss of privacy.

The property to the immediate east of the site (Orchard Cottage) has no windows on their western elevation which would be overshadowed or overlooked from the proposed building, and a driveway is located between the boundary of the application site and this property. There are two windows within the gable elevation of the building which is attached to Orchard Cottage, however this building is understood to be an outbuilding with no habitable rooms, and whilst the proposed garage would be relatively close to the gable wall its relationship is not considered to be unreasonable, particularly given the height of the proposed building at 6.2m.

#### Conclusion

Bearing the above in mind, it is not considered that the scale, design or proposed use of the building would be reasonable grounds on which to refuse the application and whilst it is proposed to locate the building close to the boundary of the site, there are no windows on the rear elevation to the neighbouring property such that there would be any detrimental loss of residential amenity.

There is no objection to the provision of a garage for the replacement dwelling from a highways perspective as there is no increase in the number of dwellings.

### **RECOMMENDATION**

APPROVE subject to the following conditions.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. The building hereby permitted shall be used only in conjunction with, and ancillary to the use of the replacement dwelling being constructed on the site of the former bungalow known as Rosario, as a single dwelling house and shall

not be used as a separate dwelling or for any commercial, industrial or business purpose.

(Reason – The building is unsuitable for independent residential occupation due to its relationship with adjacent dwellings and its unsustainable location where a separate unit of accommodation would not be adequately served by a range of services and facilities and a commercial use could cause undue noise to adjoining occupiers in accordance with the requirements of Policy D1 - Design and Local Distinctiveness and Strategy 3 – Sustainable Development of the Adopted East Devon Local Plan 2013-2031.

4. Prior to the first use of the building hereby approved, the Devon bank to the entrance as shown on drawing number 162:10:01 K and 162:3:03A shall have been provided and shall thereafter be retained.

(Reason: In the interests of the visual amenity of the area in accordance with Policy D1 – Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

Plans relating to this application:

	Location Plan	05.04.16
162:10:01K	Proposed Site Plan	28.06.16
162:10:05C	Proposed Combined Plans	28.06.16

List of Background Papers

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

**Ward** Exmouth Brixington

**Reference** 16/0969/FUL

**Applicant** Mrs Alison Rogers

**Location** 30 Little Meadow Exmouth EX8 4LU

**Proposal** Erection of detached dwelling and garage (revised proposal to that under reference 15/2079/FUL)



**RECOMMENDATION: Approval with conditions**





		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Exmouth Brixington (EXMOUTH)</b>	<b>16/0969/FUL</b>	<b>Target Date: 21.07.2016</b>
<b>Applicant:</b>	<b>Mrs Alison Rogers</b>	
<b>Location:</b>	<b>30 Little Meadow Exmouth</b>	
<b>Proposal:</b>	<b>Erection of detached dwelling and garage (revised proposal to that under reference 15/2079/FUL)</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation is contrary to the view of the Ward Members.**

**Planning permission is sought for the construction of a detached dwelling and detached garage within the garden of 30 Little Meadow, Exmouth. Planning permission was granted for an attached dwelling in March 2016.**

**Concerns have been raised to the proposal from the Town Council, Ward Member and neighbouring residents in relation to parking and access issues, loss of residential amenity and impact on the character and appearance of the area.**

**Notwithstanding these concerns it is considered that there is sufficient space within the plot to accommodate a new detached dwelling and garage without causing harm to the character and appearance of the area, residential amenity or highway safety. In addition, the design of the proposed dwelling and garage are considered to be acceptable in their context, particularly given the presence of a detached dwelling forming number 32 and planning permission having been granted for a new dwelling attached to number 30.**

#### **CONSULTATIONS**

##### **Local Consultations**

**Exmouth Brixington - Cllr C Nicholas**

I have just had a conversation with planning west. Apologies, but I forgot to write down who I was talking to.

The above application was an amendment to planning permission which was granted for a attached house etc. which went to DMC last year.

The amendment would seem to be identical to the original planning permission for a detached house and garage which was refused by town council and EDDC. It went to appeal and was refused. The plans are dated 2010 and I can only presume that the applicant has thought that now would be a good time to resurrect this. Exmouth town council objected to the last application and it went to DMC who gave permission for an attached house and garage. The attachment meant that a pair of semis were turned into a terrace even though the other owner objected.

I would like it recorded that I object to this new planning amendment as do the other Brixington councillors. It was also refused by Exmouth Town Council.

Further comments:

I am writing in response to the email advising me that the above planning application is listed for a hearing at the next DMC.

This is an amendment to the planning permission just recently obtained for an attached house and garage, which would have turned a pair of semis into a terrace row of three houses.

It appears now that the applicant has decided to resurrect a previous planning application which was for a detached house and garage. This planning application went to appeal and the planning inspector dismissed the appeal in 2010. The grounds for dismissal were the very same grounds that we had quoted previously. Does this mean that in the six years since the appeal the rules have changed so drastically that this appeal dismissal can be overturned locally by DMC? I know that I was quite shocked to find out during my research that anyone can turn a pair of semis into a terrace even if one of the owners objected!

Parish/Town Council  
Meeting 13.06.16

Objection on the grounds it was out of keeping with the streetscene and spacious character of the neighbourhood. It was over development of the site. Access on a blind bend on the narrowest part of the road was dangerous. Intrusive, resulting in the loss of amenity and privacy to adjacent dwellings and would contribute to further on street parking pressure.

### **Technical Consultations**

South West Water  
No objection

County Highway Authority  
Highways Standing Advice

## Other Representations

6 letters of objection have been received and the reasons for objection can be summarised as follows:

- Loss of light / privacy (to 53 Little Meadow)
- Highways
- Proximity (to 49 Little Meadow (stated as 7m distant)
- Out of Character
- Building is too big
- Overlooking (to garden / patio of 32 Little Meadow)

## PLANNING HISTORY

Reference	Description	Decision	Date
15/2079/FUL	Erection of attached dwelling and detached garage	Approval with conditions following Committee Site Inspection	10.03.2016
97/P1789	Erection of Dwelling	Refused with Appeal dismissed	20/07/1998

## POLICIES

### New East Devon Local Plan Policies

Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

## Site Location and Description

The application site comprises the side and part of the rear garden associated with 30 Little Meadow, a semi-detached property occupying a corner site within a generally open-plan housing estate within the built-up area of Exmouth.

Little Meadow is a crescent road which loops round to the north of Parkside Drive. It is located towards the northern western boundary of Exmouth and forms part of a

large relatively modern housing estate development comprising a wide variety of properties, although the properties within Little Meadow itself, with the exception of No. 32 to the south east of the site which is a detached dwelling, are semi-detached properties of various sizes and designs.

The site has a fall from the north west to south east with the current rear and side garden at a lower level than the existing property. The garden is currently enclosed by a 1.8m close boarded fence and planting adjacent to the back edge of the pavement.

### **Proposed Development**

Planning permission is sought for the construction of a two storey detached dwelling of a similar design to No. 30. The proposal is an amended application to the proposal approved early this year for a dwelling attached to the side of number 30.

It is proposed that the new dwelling would be approximately 5.7m wide (approximately 0.5m wider than number 30) and 9.4m deep with a detached garage to the rear. The dwelling is of a similar design to number 30 comprising a 3 bedroom property.

Parking is proposed via a detached single garage with a parking area to the front. As with the proposal for the attached property, there would be no off-street parking for number 30 although it would benefit from permitted development rights to create parking to its frontage.

### **ANALYSIS**

The main issues are considered to be the principle of the proposed development and the impact on the character and appearance of the area and neighbouring amenity.

#### **Principle of Development:**

The application site is located within the built-up area of Exmouth, within an existing housing development and located in a sustainable location. There is therefore no objection to the principle of further development, including the construction of additional dwellings in this location, subject to amenity and other issues being considered to be acceptable.

The site also benefits from planning permission for a new attached dwelling and as such the principle of further residential development has already been established on the site.

#### **Design and impact upon the character of the area**

As with the previous application on the site, the proposal would reflect the design of the existing dwelling, albeit 0.5m wider than that currently existing. As with the previous application, the dwelling would inevitably have some impact but the issue is whether the scale and design of the proposed development would be so dominant or out of character to be unreasonable within its context.

The principle of an attached dwelling has already been granted and considered to have an acceptable visual impact. The application site is larger than other plots within the street and is located on a corner. The introduction of a detached dwelling would to some extent mirror the development at number 32 where a detached dwelling sits on its corner plot. As a result, it is considered that the site is capable of accommodating a detached dwelling without causing an unacceptable impact on the character and appearance of the area and whilst still retaining a large garden and adequate amenity space for the proposed dwelling and number 30.

It is fully appreciated that the proposal is for the formation of a detached dwelling compared to permission for a new end of terrace property but there is considered to be little harm to the character and appearance of the area from the additional dwelling given the size of the plot, its corner location and the proposed design matching number 30 and other dwellings in the area. It is therefore considered that any visual impact would be minimal with any harm far outweighed by the benefit of the provision of an additional dwelling.

The appeal dismissed in 1998 related to a detached dwelling larger than number 30 set back further within the site and not following the building line. The application was therefore considered to be out of character with the area with a detrimental impact upon the neighbouring dwellings.

#### Neighbour Amenity:

The proposed detached dwelling would extend the built form such that it would be closer to existing properties to the east which will inevitably alter the current situation. A number of concerns have been expressed regarding this including visual intrusion, loss of privacy and an increase in noise and disturbance. Whilst the proposed dwelling would come closer to the properties to the east, a distance of at least 18m across the road would remain. Window to window distances from the first floor landing window and ground floor doors and windows of at least 18m across the road is considered to be acceptable and not uncharacteristic of similar relationships in the area.

It is considered that the property which may be most affected by the proposal would be No. 32 Little Meadow which is to the south of the proposed dwelling and at a lower ground level. Having said this the building would not extend across the full width of the rear of this property, being located to the north of the existing garage, and given that the back to back distance between the proposal and No.32 would be the same as that which exists for the other properties between Little Meadow and Parkside Drive, it is not considered to result in an unacceptable relationship or a relationship materially worse than from the approved attached dwelling.

The proposed garage would again be located relatively close to the southern boundary of the site, and being at a higher level than the property to the south has the potential to affect the amenities of the occupiers of this dwelling. However it is a modest structure with a very shallow pitch, extending to less than 3m in height at its maximum, and being set 900mm from the boundary is not considered to have an unacceptable impact.

One of the issues with the application site appears to arise from the presence of the 1.8m fence on the boundary of the property which will not be altered by the proposed development. The erection of the proposed building will not affect the visibility on this corner.

There are a number of trees on the site although none are of any particular merit or have any form of protection. These were formally assessed 5 years ago and were found to be not worthy of a preservation order. Whilst the removal of these would be unfortunate, it is not considered that it is necessary to require their retention.

#### Drainage / Flooding

The previous planning application necessitated consultation with South West Water (SWW) due to concerns of the development on the foul and surface water infrastructure.

To ensure a cohesive and inclusive approach to consideration is followed, SWW have also been consulted on the current application.

In response SWW have not raised an objection to the scheme and as such a recommendation of refusal on drainage / flooding grounds is not considered justified in this instance.

#### Highways / Parking:

The previous planning application raised concerns in relation to parking and highways access. In this instance DCC Highways (the statutory consultee on these matters) has raised no objection subject to accordance of the scheme with their Standing Advice).

The development proposes a garage with a parking area to the front in a similar arrangement to the previous application and approval.

As there have been no material changes in circumstance since the previous approval, the highway and parking situation is again considered to be acceptable.

#### Contributions

The application is accompanied by an appropriate Unilateral Undertaking which makes provision for a contribution towards habitats mitigation measures arising from the additional demands being placed upon the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

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

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 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.

This planning permission shall be read in conjunction with a Unilateral Undertaking securing financial contributions towards Exe Estuary and Pebblebed Heaths mitigation signed and dated on the 25.05.2016.

##### Plans relating to this application:

1A	Proposed Combined Plans	22.04.16
2A	Proposed Combined Plans	22.04.16
3A	Proposed Combined Plans	22.04.16
4A	Proposed Combined Plans	22.04.16
5A	Other Plans	22.04.16
6A	Proposed Combined Plans	22.04.16
7	Sections	22.04.16

8A                      Proposed Combined              22.04.16  
                                 Plans

List of Background Papers

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



**Ward** Exmouth Littleham

**Reference** 16/0787/MOUT

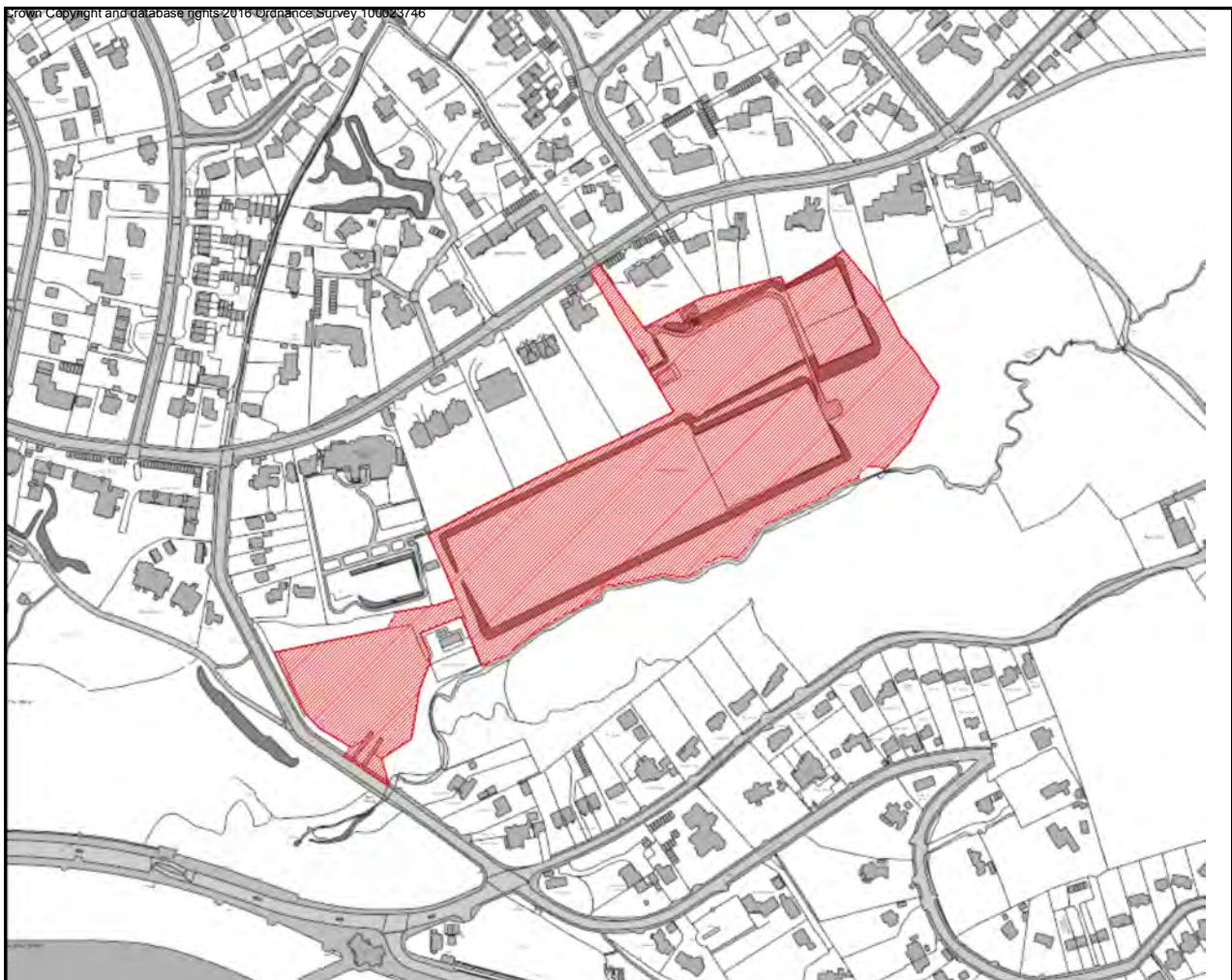
**Applicant** Mr Bill Richardson

**Location** Rolle College Playing Field Douglas Avenue Exmouth

**Proposal** Upgrading of the former Rolle College pitches, construction of changing pavilion, associated playing pitch access (via Maer Road car park) and construction of 23 age-restricted dwellings on land to the rear of Douglas Avenue (Outline application seeking approval of access only)



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Exmouth Littleham (EXMOUTH)</b>	<b>16/0787/MOUT</b>	<b>Target Date: 05.07.2016</b>
<b>Applicant:</b>	<b>Mr Bill Richardson</b>	
<b>Location:</b>	<b>Rolle College Playing Field Douglas Avenue</b>	
<b>Proposal:</b>	<b>Upgrading of the former Rolle College pitches, construction of changing pavilion, associated playing pitch access (via Maer Road car park) and construction of 23 age-restricted dwellings on land to the rear of Douglas Avenue (Outline application seeking approval of access only)</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is before Members as the application represents a departure from the adopted Local Plan policies.

The application seeks outline approval for the refurbishment of the existing playing pitches and construction of a changing pavilion to the rear of Douglas Avenue, and the construction of 23 age restricted dwellings on the uppermost part of the site.

The application seeks to discharge means of access only with all other matters (layout, scale, appearance and landscaping) reserved for future consideration. It is proposed to access the residential element of the site utilising the existing access from Douglas Avenue, and to create a new access for the playing fields and pavilion through the Maer Road Car Park. These accesses are considered acceptable to the Highways Authority.

Information has been submitted with the application which demonstrates how the pitches and dwellings might be laid out, what landscaping could be introduced and an indication of how the buildings might look. There are no indications at this stage that a development of an appropriate layout, scale, appearance and with suitable landscaping could not be achieved.

Although it is considered to relate well to the built up area of Exmouth, the application site is outside of the Built-up Area Boundary and therefore the introduction of residential development would be contrary to the Local Plan. Furthermore, the applicant is not proposing any on-site affordable housing

which would normally be sought and it is not possible to provide full financial compensation for the loss of part of the site from recreation to housing. The reasons for this are the viability of the redevelopment of the site to provide the improved pitches and pavilion.

Balanced against this is the fact that the application provides an opportunity for the playing pitches to be upgraded (including levelling, drainage and parking improvements and provision of a pavilion), that the proposal will bring the land back into active use by the community, will assist the Council in meeting the needs identified in its playing pitch strategy and that redevelopment to provide an overall gain to the sport offer is in accordance with one of the criteria to Policy RC1. The applicant has been working with Exmouth United Football Club, currently without a permanent home, who have stated that the proposed changes to the playing pitches meet its requirements for adult and junior football, and that the proposed pavilion would be well used.

The applicant has agreed to provide contributions towards habitat mitigation, the provision of a changing pavilion, a community use agreement, and clauses regarding opening times of the pitches and the age of the residents of the homes.

In consideration of all of the matters raised within the report the proposal, although a departure from the Adopted Local Plan, is considered to represent an opportunity for existing playing pitches to be upgraded and brought back into use for the community, and as such, despite the shortfalls against adopted policy, the application is recommended for approval subject to a legal agreement and conditions to secure the matters set out at the end of the report.

## **CONSULTATIONS**

### **Local Consultations**

#### **Exmouth Littleham - Cllr M Williamson**

This is a balanced application which, as a departure application, will in any event be rightly determined by Committee. The arguments for approval are essentially pragmatic. This development would secure the viability of the playing fields in perpetuity. That is to be welcomed because the site is protected for Recreation and Exmouth is short of such facilities.

However, in pure planning terms this application raises difficult issues:

1. A departure application so soon after the Local Plan has been approved could be open to challenge.
2. It would permit building in the Maer Valley, outside the Exmouth BUAB and in the open countryside. These were among the grounds why the 'Douglas Gardens' application to the east of this site was recommended for Refusal and unanimously Refused.
3. This being an age-restricted development there is no contribution to affordable housing.

4. In housing terms this does not make a contribution to meeting Exmouth's identified needs, namely affordable family housing.

5. There are 5 age restricted residences within a 2km radius plus many apartment blocks, care and nursing homes. This application if approved will increase the imbalance of Littleham's demography.

6. The access from Douglas Avenue was adequate for occasional use by players and spectators when it was for College use. Unless its use is restricted to residents it would have a severely detrimental affect on the residents of Jasmine Cottage if used in connection with the sporting facilities as well as the development.

7. If there is to be genuine community benefit from this application then the terms of the agreement should be made known to the Committee because this would be material in assessing the weighting of the arguments in favour and those against.

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

#### Exmouth Littleham - Cllr A Greenhalgh

I am supporting this application as it goes towards addressing the identified shortage of playing pitches in Exmouth as identified in the East Devon Playing Pitch Strategy. The "Community Use Agreement" ensures improved facilities and pitches are made available for the wider community to use, including other sports clubs and local schools. RC1 Retention of Land for Sport and Recreation in the East Devon Local Plan acknowledges that sometimes "sports and recreational facilities can best be retained and enhanced through the redevelopment of a small part of the site." The use of The Maer Car Park as the main entrance to the sports pitches is the safest and least disruptive option for residents living on Douglas Avenue. The positioning of the pavillion away from residential properties is also the most acceptable option for neighbours.

The proposed age restricted residential component of 22 bungalows and cottage style 1.5 storey homes would cover one fifth of the site. However they would be outside the built up area boundary and would have to show that the development does "not harm the distinctive landscape, amenity and environmental qualities within which it is located." (Strategy 7. Development in the Countryside. ED Local Plan), to justify a departure from the Local Plan. On balance I consider the advantages of this development outweigh the disadvantages.

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

#### Parish/Town Council

Meeting 18.04.16

No Objection

Further comments 13.06.16:

No Objection to amended plans (Design & Access Statement additional content 8.2 Green Infrastructure)

## **Technical Consultations**

### **Natural England**

#### **EUROPEAN WILDLIFE SITES**

The application site is in close proximity to three European Wildlife Sites (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect their ecological interest. European wildlife 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 Exe Estuary Special Protection Area (SPA) and Ramsar site<sup>1</sup> and the East Devon Pebblebed Heaths Special Area of Conservation (SAC) and East Devon Heaths Special Protection Area (SPA), which are European wildlife sites. The sites are also notified at the national level as Sites of Special Scientific Interest (SSSIs).

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.

#### **East Devon Pebblebed Heaths SAC and East Devon Heaths SPA Exe Estuary SPA and Ramsar site**

The application site lies in close proximity to the Exe Estuary Special Protection Area (SPA) and Ramsar Site and approximately 3.8km from the East Devon Pebblebed Heaths SAC and East Devon Heaths SPA. This is within the 10km zone within which impacts of residential development on the aforementioned sites could reasonably be expected to arise in the absence of appropriate mitigation.

In the case of the European sites referred to above, your authority cannot grant permission for this proposal in the absence of a Habitat Regulations Assessment which concludes either i) no likely significant effect due to mitigation included by the applicant or, ii) no adverse effect on integrity following an Appropriate Assessment. Please note that Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process.

We therefore recommend you secure confirmation of the following to assist you in reaching a positive conclusion to your Habitats Regulations Assessment:

1. Clarification from the applicant regarding any mitigation they propose to offer, whether contributions and/or provision of Suitable Alternative Natural Greenspace (SANGS) in line with the South East Devon European Sites Mitigation Strategy (SEDESMS) and the Joint Approach of your authority, Teignbridge and Exeter to implementing that strategy.

2. For any SANGS which is to be delivered as part of the mitigation package, whether by the applicant or your Authority, a site must be identified and confirmed as suitable and deliverable prior to granting of permission.

2. A condition must be included on the permission preventing occupancy of any dwellings until an appropriate quantum of SANGS has been provided.

3.

### SITES OF SPECIAL SCIENTIFIC INTEREST (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 the Exe Estuary and East Devon Pebblebed Heaths.

### Green Infrastructure potential

We are pleased to see that Sustainable drainage systems (SuDS) will be incorporated into this proposed scheme.

Well-designed green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement.

Additional evidence and case studies on green infrastructure, including the economic benefits of GI can be found on the Natural England Green Infrastructure web pages.

### PROTECTED LANDSCAPES

Having reviewed the application, Natural England does not wish to comment on this development proposal. The application site is on the south-eastern edge of Exmouth, adjacent to the East Devon Area of Outstanding Natural Beauty (AONB). We therefore advise you to seek the advice of the AONB Partnership. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB Management Plan.

### OTHER ADVICE

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- o local sites (biodiversity and geodiversity)
- o local landscape character
- o local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

### 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. 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 is needed (which is the developer's responsibility) or 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 with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

#### BIODIVERSITY ENHANCEMENTS

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

#### SSSI Impact Risk Zones

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

If you have any queries or suggestions regarding the IRZs, please send an email to the NE IRZs Mailbox.

We would also like to highlight the Wildlife and Geology Planning Guidance available on Devon County Council's website.

#### Further Comments:

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 19 April 2016 (attached).

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

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

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

Housing Strategy Officer Paul Lowe

As the application site falls outside of the Built Up Area Boundary of Exmouth and does not appear to be allocated for residential development within the new Local Plan. We will in accordance with Strategy 34 be seeking 50% affordable housing provision on site.

Should this proposal secure planning permission 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.

The predominate need in Exmouth is for properties with 1 or 2 bedrooms together with some family sized accommodation.

Once completed the affordable homes should be transferred to and managed by a preferred Registered Provider. We also recommend that the applicant engage with a Registered Provider as soon as possible to ensure the affordable dwellings meet the relevant design standards.

We expect all the affordable homes to be constructed in accordance with part M4(2) of the Building Regulations, Category 2, as stated in Strategy 36 of the Local Plan. All the affordable dwellings should be tenure blind, remain affordable in perpetuity and be dispersed throughout the development.

We 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 Exmouth, then cascading to surrounding Parishes and finally the District.

Any deviation from the amount of affordable housing sought 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.

Further comments:

Comments previously made on the 20 April 2016 still apply, in particular, that an Overage clause be secured in the event that affordable housing is not provided as part of this application.



### Contaminated Land Officer

I have considered the application and the contaminated land report prepared by Geoconsulting Ltd. The report identifies that this land was subjected to major cut and fill operations in the past in order to achieve level pitches. The intrusive investigations do not identify any major concerns and some local elevated levels of some parameters could indicate surface contamination for example by minor oil spillage or local burning. This material would be removed during oversite works. I do not anticipate that there will be a contaminated land concern but in view of the history I recommend that the following condition is brought to the attention of the applicant, any agents and developers in order that they react appropriately if any contaminated material is encountered and in order that no material is removed or groundworks decisions made until agreement has been received from the contaminated land officer:

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.

### Environmental Health

My service lead (Andrew Ennis) met with the developers for Rolle Playing Fields. Concerns were expressed about the following:

Surface / Road access provision to the playing pitches

In order to reduce the impact of traffic noise, access would be best provided via Maer Road car park.

Noise and disturbance from the proposed club house

In order to mitigate noise from activities inside the clubhouse, it would need to be built to an appropriate acoustic standard. It would need to be designed with a detailed acoustic specification (with an appropriate noise report) and the building would need to include the following features:

Appropriate sound insulated club room areas (with appropriate sound insulated roof space etc) lobbied doors, noise limiter, non-openable windows in some areas etc

Noise from vehicles and people coming and going

Noise from vehicles and people coming and going could be mitigated (by the use of barriers and good design etc), but from time to time "people noise" will be a problem to local residents as it is impossible to completely control these impacts.

Electro mechanical and other plant

This could be conditioned as follows:

Any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed prior to the

first use of the premises and be so retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises.

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

#### Flood lighting

This could be a significant issue, the impact of the lighting itself could be conditioned as follows:

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

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

#### BUT

The use of pitches later in the evening will, from time to time, be a problem to local residents as it is impossible to control the noise from people playing on the pitches.

#### Devon County Archaeologist

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

The Historic Environment Team has no comments to make on this planning application.

#### Environment Agency

We have no objections in principle to this application. However part of the site lies within Flood Zone 3. We would object to any land raising or structures within the Flood Zone Area.

Further comments:

#### Environment Agency Position

We have nothing to add to our letter dated 3 May 2016.

#### South West Water

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

#### DCC Flood Risk SuDS Consultation

Devon County Council Flood and Coastal Risk Management Position.

At this stage, we object to this planning application because we believe that it does not satisfactorily conform to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013 to 2031). The applicant will therefore be required to submit additional information, as detailed below, to demonstrate that all aspects of the development's surface water drainage management plan have been considered.

Section 2.2 of the Phase 1 Desk Study and Phase 2 Preliminary Ground Investigation Report (Report Ref. GCE00650/R1, Rev. 1, dated March 2016) states that a possible spring feature was inferred from standing water in the north-east corner of the site. Further detail regarding the location of this is required because it appears to be where dwellings are currently proposed; there needs to be an assurance that there will not be a heightened risk of groundwater or surface water flooding in this location.

Furthermore, section 8.6 of the Phase 1 Desk Study and Phase 2 Preliminary Ground Investigation Report states that infiltration is unlikely to be viable on this site. However, the applicant must provide a plan showing the locations of the test pits to demonstrate that the testing was undertaken in locations where infiltration could practicably be utilised given the site layout, as presented in the Illustrative Masterplan (Drawing No. 15067 L 02.02, Rev. A, dated 24th March 2016).

Section 8.2 of the Flood Risk Assessment (Report Ref. R/C151898/001.02, Rev. 2, dated 22nd March 2016) states that the land drainage features serving the existing sports pitches will be upgraded, but further detail must be provided to demonstrate that they will have sufficient capacity to manage the surface water runoff from these areas.

Although section 7.1 of the Flood Risk Assessment states that a 40% allowance for climate change will be used for peak rainfall intensity calculations, the MicroDrainage calculations presented in Appendix F show a 30% uplift. The applicant must therefore clarify which value is being proposed for formal review.

I would also note that Appendix F of the Flood Risk Assessment presents greenfield runoff rates calculated using the ADAS 345 method. However, we require these rates to be calculated in accordance with the methods outlined in Chapter 24 of CIRIA's SuDS Manual (C753). The applicant will therefore be required to revise these calculations in accordance with this industry best-practice and make any necessary changes to the surface water drainage management plan.

In accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of above-ground source control features to avoid managing all of the surface water from the proposed residential development at one concentrated point (i.e. the attenuation pond). A variety of SuDS features should therefore be employed across the site, with the ponds forming one element of this system. Other additional features could include permeable paving (which could be underdrained), green roofs for the garages, swales, filter strips, or bio-retention areas or raingardens, for example.

I would also note that the Levels and Drainage Layout Drawing (Sheet 1) (Drawing No. C151898/C/100, Rev. C, dated 29th March 2016) shows the outfall into the pond, and the outfall from the pond to the discharge point, to be opposite each other. Consequently, there will be little opportunity, particularly during low flows, for sediment-associated pollutants and contaminants to settle out in the system. The applicant will therefore be required to alter the design of the outfall locations to allow water to pass along the entire length of the pond before reaching the discharge point.

Furthermore, the applicant will be required to explore the possibility of incorporating a green roof on the proposed changing room and clubhouse buildings, alongside permeable paving (which could be underdrained) for the emergency access road and associated parking spaces. Indeed, section 8.2 of the Flood Risk Assessment states that the current proposals for draining these buildings are by means of an attenuation storage tank, but these systems cannot be considered as a truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground attenuation features should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground features can be used in combination where development area is limited.

The applicant will also be required to submit information regarding the maintenance of the proposed surface water drainage management system to demonstrate that all components will remain fully operational throughout the lifetime of the development. I would be happy to provide a further substantive response when the applicant has provided the information requested above.

Re: Additional information for the upgrading of the former Rolle College pitches, construction of changing pavilion, associated playing pitch access (via Maer Road car park) and construction of 23 age-restricted dwellings on land to the rear of Douglas Avenue (Outline application seeking approval of access only).

Further comments:

Thank you for referring the above application which was received on 10/04/2016.  
Devon County Council Flood and Coastal Risk Management Position.

Following my recent correspondence (FRM/2016/555, dated 27th April 2016), the applicant has provided additional information in respect of the surface water drainage aspects of the above planning application, via an e-mail dated 6th May 2016, for which I am grateful.

The applicant has confirmed that further investigations will be required in the north-east corner of the site to determine whether a spring feature is present. The presence of standing water in this location has now been noted on the updated Levels and Drainage Layout Sheet 1 (Drawing No. C151898/C/100, Rev. D, dated 24th March 2016), and I am satisfied that these investigations can be secured by a suitably worded pre-commencement planning condition, which I will outline in a future consultation response.

The applicant has also submitted an Exploratory Hole Location Plan (Topo Survey Layout) (Drawing No. GCE00650-Fig2, Rev. -, dated February 2016) and an Exploratory Hole Location Plan (Proposed Layout) (Drawing No. GCE00650-Fig3, Rev. -, dated February 2016), both of which adequately demonstrate that testing was undertaken in locations where infiltration could practicably be utilised given the proposed site layout.

The applicant has also provided updated MicroDrainage model results, dated 24th March 2016, which show that the proposed surface water drainage management system has been designed to accommodate the 1 in 100 year (+40% allowance for climate change) rainfall event, which is acceptable.

However, although I appreciate that the ADAS 345 method for calculating greenfield runoff rates has previously been agreed for development sites in Devon, since November 2015, Devon County Council's Flood and Coastal Risk Management Team has required these rates to be calculated in accordance with the methods outlined in Chapter 24 of CIRIA's SuDS Manual (C753). This is in response to recent changes to industry best-practice, so the applicant will be required to revise these calculations and make any necessary changes to the proposed surface water drainage management plan.

Additionally, although I appreciate that the site's gradient may preclude the use of some source control features on this site, Devon County Council's Flood and Coastal Risk Management Team still requires applicants to explore their use to avoid managing all of the surface water from the proposed residential development at one concentrated point (i.e. the attenuation pond), in accordance with recent changes to industry best-practice. However, I am satisfied that the potential to include such features can be further investigated at a later stage, secured by a suitably worded pre-commencement planning condition, which I will outline in a future consultation response.

The applicant has also provided an updated Levels and Drainage Layout Sheet 1 (Drawing No. C151898/C/100, Rev. D, dated 24th March 2016) to show the amended outfall from the proposed attenuation pond. The revised arrangement will now allow water to pass along a greater length of the pond before reaching the discharge point, enabling more sediment-associated pollutants and contaminants to settle out of the water column.

The applicant has also demonstrated that the installation of a green roof onto the proposed changing room and clubhouse buildings is not viable in this instance, which is acceptable. Although the potential for permeable paving has not been considered for the emergency access road and associated parking spaces to date, I am satisfied that this can be explored at a later date, secured by one of the pre-commencement planning conditions referred to above.

Furthermore, the applicant has confirmed that although the land drainage features serving the existing sports pitches will be upgraded, the mechanism of management will be similar to the existing arrangement. I am therefore satisfied that the detailed design of the proposed land drainage features can be secured by a suitably worded

pre-commencement planning condition, which I will outline in a future consultation response.

Although I am happy for a detailed maintenance schedule to be submitted as part of the discharge of conditions application, the applicant must provide a brief outline of the proposed adoption arrangements for the surface water drainage management system at this outline stage.

Consequently, our objection has to remain until the applicant has addressed the concerns regarding the greenfield runoff rates, and provided a brief description of the proposed adoption arrangements for the proposed surface water drainage management plan.

I would be happy to provide a further substantive response when the applicant has provided the information requested above.

Further comments:

Re: Amended plans for the upgrading of the former Rolle College pitches, construction of changing pavilion, associated playing pitch access (via Maer Road car park) and construction of 23 age-restricted dwellings on land to the rear of Douglas Avenue (Outline application seeking approval of access only).

Thank you for referring the above application which was received on 06/06/2016.

Devon County Council Flood and Coastal Risk Management Position.

Following my recent correspondence (FRM/2016/635, dated 24th May 2016), the applicant has provided additional information in respect of the surface water drainage aspects of the above planning application, via an e-mail dated 7th June 2016, for which I am grateful.

The applicant has provided the following documents:

- Levels and Drainage Layout Sheet 1 (Drawing No. C151898/C/100, Rev. E, dated 7th June 2016);

- Levels and Drainage Layout Sheet 2 (Drawing No. C151898/C/101, Rev. C, dated 7th June 2016);

- MicroDrainage Greenfield Runoff Rate Model Output (dated 7th June 2016);

- MicroDrainage Attenuation Basin 1 Year Return Period (+40%) Model Output (dated 7th June 2016);

- MicroDrainage Attenuation Basin 30 Year Return Period (+40%) Model Output (dated 7th June 2016);

- MicroDrainage Attenuation Basin 100 Year Return Period (+40%) Model Output (dated 7th June 2016);

- MicroDrainage Attenuation Tank 100 Year Return Period (+40%) Model Output (dated 7th June 2016).

I am happy to confirm that the above documents fully satisfy my previously raised concerns, and therefore my objection is withdrawn.

If the Planning Case Officer is minded to grant planning permission in this instance, I request that the following pre-commencement planning conditions are imposed:

No part of the development hereby permitted shall be commenced until a detailed permanent surface water drainage management plan is submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This detailed permanent surface water drainage management plan will be in accordance with the principles of sustainable drainage systems, and those set out in the and Levels and Drainage Layout Sheet 1 (Drawing No. C151898/C/100, Rev. E, dated 7th June 2016) and the Levels and Drainage Layout Sheet 2 (Drawing No. C151898/C/101, Rev. C, dated 7th June 2016);

Reason: To ensure that surface water from the development is managed in accordance with the principles of sustainable drainage systems.

No part of the development hereby permitted shall be commenced until details of the adoption and maintenance arrangements for the entire site's permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority.

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

#### Sport England

In accordance with Paragraph 011 of NPPG (Article 22 of the Development Management Procedure (England) Order 2015), Sport England will respond to this consultation within 21 days of the date of acceptance.

Thank you for consulting Sport England on the above application.

Sport England raises no objection to this outline application, subject to a condition relating to pitch provision and community use.

#### Sport England -Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in the light of the National Planning Policy Framework (particularly Para 74) and Sport England's policy to protect playing fields, 'A Sporting Future for the Playing Fields of England' (see link below): [www.sportengland.org/playingfieldspolicy](http://www.sportengland.org/playingfieldspolicy)

### The Proposal and Impact on Playing Field

The proposal is an outline planning application - with suggested parameters - for the proposed sporting provision [and housing]. The playing fields have been in recent community sport use and are identified to be retained to meet the pitch demands as identified in the Council's adopted Playing Pitch Strategy.

### Assessment of the Proposal

We note the following:

- o It is an outline application suggesting a number of parameters. The housing developers / agent suggests that the housing element moves forward in conjunction with the playing field being developed - pitch improvements, with changing (2 team and social & kitchen provision), management & maintenance with community sport access secured by a community use agreement. The timing of pitches / changing alongside the provision of the housing element is unclear.
- o Given the nature of the site, the playing fields should remain as playing fields with community access to help meet shortfalls identified in Exmouth.
- o The NPPF is very clear on what it considers replacement sports facilities in para 74 - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location
- o Additionally, Sport England's policy on playing fields seeks a replacement playing field that meets exception E4 "The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development."

In relation to meeting E4 of the Sport England policy, we have assessed this in the table below:

#### E4 comparison table

Existing	Proposed	Comment
Quantity - playing field area	207m x 83m approx.	207m x 83m approx. No reduction in pitch area. Some loss to car parking and changing - ancillary provision.
Quantity - playing pitches	Grass 1 96m x 56m Grass 2 93m x 60m Redgra 95m x 56m	

Source Google 2014      1x grass adult FA pitch 100m x 64m  
 1x grass u15/u16 FA pitch 91m x 55m  
 1x mini u7/u8 FA pitch 37m x 27m



Ideally the mini soccer pitch shown should be increased to the recommended pitch size of 40m x 30m. And the agent should be encouraged to look at increasing it to 60m x 40m for u9/u10 us as well as u7/u8.

Quality Unknown The STRI have been advising the applicant to ensure good quality pitches.

A changing pavilion with 2 teams and social area is proposed with details to be secured in a timely manner. The former redgra pitch will be replaced with natural turf. This will need to be implemented as envisaged to ensure being 'fit for purpose' as per the STRI's report.

The changing pavilion is welcomed in the delivery of community sport and given the mix of pitches, 2 team change is adequate. The social and kitchen provision is needed to make this a vibrant project. The final spec will need to be signed off by Sport England and The FA.

Suitable Location Same site. Better community access proposed.  
Management / maintenance . There is a proposed Community Use Agreement based off the Sport England template. It will need to be reviewed by signatories and signed off and implementation ensured. The selection of signatories to the Community Use Agreement will need to ensure access to all community sports teams and not just the 'tenant' club.

Prior to commencement of development Unknown. Sport England's ideal position is the provision of pitches and changing are provided prior to commencement of development. We are prepared to negotiate this provision e.g. completion of pitches/changing prior to occupation of 5th dwelling. See condition below.

Given the nature of the proposal, we have sought the views of the Football Association (FA):

The FA are supportive and advise that:

1. The East Devon PPS has identified a need for the Rolle College site to either be retained for use as football pitches or be replaced elsewhere like for like as per the NPPF. The FA welcome the current plans that have been discussed to retain 1 adult pitch, 1 youth pitch and 1 mini soccer pitch on the former Rolle College site. A local club who have used the site in the past are extremely interested in agreeing a long term usage agreement on the site, possibly a lease.
2. The FA and County FA are working with the housing developer on the specification of pitches and will be expecting all pitches to be submitted as part of their full planning application with the full technical specifications on construction and maintenance from the STRI who have been commissioned along with technically compliant changing provision that we have comment on and a commuted sum towards the initial 3 to 5 years maintenance of the facility. Once this is submitted we will comment on the full specification provided as part of this process.
3. The FA and County FA have been working with the housing developer who has now drafted a Community Use Agreement and will wait to see a full planning application to formally comment on the final CUA. The FA and County FA would

expect to see a clear CUA in place to ensure all three grass pitches and changing pavilion are accessible to football clubs in the community.

It was unclear on what access we are commenting on, but agree with both different access points. Access to the pitches from the Maer Car park and a separate access to the housing development off Douglas Avenue.

## Conclusions and Recommendation

Having assessed the application, Sport England is satisfied that the proposed development meets the following Sport England Policy exception:

### E4

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

This being the case, Sport England does not wish to raise an objection to this application subject to the following conditions:

1. The playing field/s and pitch/es shall be constructed and laid out in accordance with the [planning application \*, Section \* and Drawing No. \*\*] and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011) and The FA's 'Performance Quality Standard', and shall be made available for use before occupation of the 5th dwelling [or other specified timeframe] of the development [or specified part of the development/] hereby permitted.

Reason: To ensure the quality of pitches is satisfactory and they are available for use before development (or agreed timescale) and to accord with LP Policy \*\*.

2. No development shall commence [or such other timescale] until a community use scheme has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The scheme shall apply to [describe facilities] and shall include details of pricing policy, hours of use, access by non-educational establishment users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the development [or other agreed timescale] and shall be complied with for the duration of the use of the development.

Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with LP Policy \*\*.

Our comments to this application are in the context of the Town and Country Planning Act, and does not in any way commit Sport England or any National Governing Body of Sport to support any related funding application.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and

committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

The absence of an objection to this application in the context of the Town and Country Planning Act, does not in any way commit Sport England or any National Governing Body of Sport to support for any related funding application.

Further comments:

Sport England has no additional comment to the latest consultation.

#### County Highway Authority

Observations:

The application is for the construction of a changing pavilion, associated playing pitch which will be accessed from Maer Road car park using an existing access. Construction of 23 age-restricted dwellings land to the rear of Douglas Avenue. The dwellings will be access off of Douglas Avenue it is proposed to use an existing access on to the highway. Which is wide enough for two vehicles to pass one another. Suitable visibility of 2.4 x 43 metres can be achieved in each direction. As the dwellings will be age-restricted this will produce a low number of trips.

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 1511-70 FIGURE 4.1 where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6metres above the adjacent carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be C) 43 metres in both directions.

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

2. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

3. No part of the development hereby approved shall be brought into its intended use until the

C) access

D) parking facilities

F) visibility splays

G) turning area

H) parking space and garage/hardstanding

I) access drive

J) and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure that adequate facilities are available for the traffic attracted to the site

### **Other Representations**

63 representations have been received, including 43 in support of the application, and 17 in opposition.

The reasons for support include:

1. The need for playing pitches in this part of Exmouth
2. Well designed
3. Support separate access to the houses.

Reasons for objection include:

1. Reduction in amount of playing pitches
2. Contrary to the Local Plan
3. Poor access
4. Loss and privacy and increased overlooking
5. In breach of covenant
6. Sets a precedent for development in the Maer Valley
7. Concern that playing pitches are not in perpetuity
8. Excludes the use of tennis courts or any sport other than football
9. No affordable homes are proposed

A comment from Cllr J Elson has also been received stating:

Access to playing pitches should only be via Maer Car Park. The other access is very narrow and could cause disturbance to the proposed housing development and the existing homes alongside the access from Douglas Avenue.

### **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
EN22 (Surface Run-Off Implications of New Development)

RC1 (Retention of Land for Sport and Recreation)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 7 (Development in the Countryside)

Strategy 22 (Development at Exmouth)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

## **ANALYSIS**

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

The site is located on the southern side of Exmouth, immediately east of the Maer Road Car park and to the south of Douglas Avenue where there is an existing vehicular access onto the upper plateau of the site. The site is characterised by two plateaux formed as part of a site cut and fill exercise at the time the sports grounds and pitches were laid out for use by the former Rolle College in the 1970s.

The lower plateau consists of approximately 4.25 hectares and accommodates a number of disused sports pitches including:

2 x football pitches of 90 x 60 m

A redgra area formerly used for hockey

An area of undisturbed ground to the east of the site which was not previously used for sport or recreation.

The upper plateau consists of approximately 1.52 hectares which accommodates the main access route into the site from Douglas Avenue, a derelict former changing room building, hardstanding for a former above ground swimming pool, an access track to the lower part of the site and two tennis courts.

The site's north and western boundaries adjoin the back gardens of residential properties on Douglas Avenue, to the south-west of the site is a pumping station and the Maer Road Car Park. Littleham brook bounds the southern boundary with countryside to the east.

In planning terms, the site is located in the countryside, outside of the built-up area boundary of Exmouth, as defined by the East Devon Local Plan and the application has therefore been advertised as a 'departure' from the Local Plan. The site is located in between 'The Avenues' and 'Foxholes' on a south east facing slope, set within the Maer Valley. Whilst the site itself is not constrained by any national or local landscape designations, to the south and the east, the site's context contains the East Devon AONB, The Maer, a County Wildlife Site and Local Nature Reserve; and the Exe Estuary, A Ramsar, SPA and SSSI site.

The playing pitches are designated as a Recreation Area and Accessible Open Space on the Proposals Map accompanying the Adopted East Devon Local Plan.

#### Planning History:

Proposals for the re-development of the site were presented to a Members Advisory Panel in November 2015 in which two options for enabling residential development on the upper part of the site and the upgrading of the sports pitches were presented. Two options were submitted, one of which showed an access from the playing pitches to the Maer Road Car Park and the other with an access using the existing Douglas Avenue entrance.

#### Proposed Development:

This application seeks planning permission for the upgrading of the former Rolle College playing pitches, the construction of a new changing pavillion and the construction of 23 age restricted dwellings on the upper plateau of the site.

The application is in outline seeking approval of access only (matters of appearance, landscaping, layout and scale are reserved). Whilst the application is in outline, it is accompanied by an indicative layout which shows the following:

- A full size adult pitch 100m x 64m with additional run-off area and extended technical areas;
- A Youth pitch (U15 & U16- 11 v 11) 91m x 55m with appropriate run-off, spectator and technical areas with new drainage and part removal of the Redgra area and conversion to turf;
- A mini soccer pitch (U7 & U8- 5 v 5) 37m x 27m again with appropriate run-off, spectator and technical area with new drainage and part removal of the Redgra area and conversion to turf;
- New changing pavillion, 255 sqm to provide 2 no changing rooms with shower and wc facilities, 2 no officials changing rooms with shower and w/c facilities, kitchen facilities and education/ meeting rooms.
- Pitch Safeguard Area to the west of the Mini Soccer Area for retention for future sports land.
- SUDS ponds.

The site plan also shows the provision of 3 no car parking spaces, 2 disabled car parking spaces, a minibus and ambulance parking area and a new spectator/ pedestrian access from the Maer Road car park.

The upper part of the site would accommodate up-to 23 age restricted dwellings that would be accessed from Douglas Avenue. The site plan shows the residential development to be linear forming two distinctive areas around small grassed communal garden areas. The Design and Access statement suggests that 20 of the dwellings would be 1.5 storey cottage style homes and 3 would be bungalows.

#### Issues and Assessment:

The main issues to consider in determining this application are in terms of the principle of development, having regard for the fact that the site is located outside of the built-up area boundary of Exmouth, which will need to be carefully balanced against the benefits to be derived from the upgrading of the sports pitches and facilities, the likelihood and mechanism for delivery and the contribution this would make towards the delivery of the Council's recently adopted Playing Pitch Strategy.

In addition, consideration is required regarding the impacts of the development on the landscape character and appearance of the area and the residential amenities of the occupiers of surrounding properties, whether there are any implications for highway safety, the ecological, arboricultural and archaeological impacts, impacts on flood risk, issues of viability including whether the proposal makes adequate provision for affordable housing and financial contributions to mitigate the impacts of the development.

#### Principle of Development:

The Council has recently adopted its Local Plan and can at the time of writing demonstrate having a five year land supply for housing. As such, in accordance with paragraph 49 of the NPPF, relevant policies for the supply of housing are considered to be up-to-date and can be given full weight. In planning policy terms, the application site is located in open countryside, in so far as it lies outside of the built-up area boundary of Exmouth, as defined by the Local Plan. As an overarching starting point it is relevant to turn to Strategy 6 and Strategy 7 of the adopted Local Plan. These policies explicitly refer to Built-up Area Boundaries and set out a degree of in-principle acceptability for development in boundaries and a much more restrictive policy approach for development outside of boundaries; outside of boundaries being classified in policy terms as "countryside". Strategy 7 also advises: "Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development.

Strategy 22 – Development at Exmouth sets out the policies for large scale development within the town and refers specifically to three land allocations for residential and employment uses over the Local Plan period. The application site does not fall within these land allocations and land to the north-east of the site off Douglas Avenue has recently been the subject of a refused application for residential development with the subsequent appeal dismissed on the basis of its location outside the built-up area boundary for Exmouth with a local landscape impact. The proposal does not therefore comply with this Strategy.

However, Policy RC1 – Retention of Land for Sport and Recreation, states that proposals for the loss of land used for recreation can be supported where facilities can be best retained and enhanced through redevelopment of a small part of the site.

An assessment is therefore required regarding whether the provision of the housing outside of a build-up area boundary in a location that would not usually be supported for housing is outweighed by the benefits from the retention and enhancement of the remaining sport provision.

### Playing pitches

The three pitches will be orientated as present, with an East to West orientation. The pitches have been assessed as an appropriate use in conjunction with Sport England and Exmouth United, and include run off areas and technical areas. The pitches require a changing facility and 6 disabled parking spaces including 2 oversize spaces for minibus parking and emergency vehicles. Access to the playing pitches would be via the Maer Road Car Park and requires the bridging of an area between the car park and the pitches. A section has been included to show how this will be constructed. The legal agreement submitted with the application states that the playing pitches will only be used for sporting activities (and therefore excluding camping, concerts etc.) between the hours and 8:30am and 8:30pm, and that there will be no floodlights at the site. Whilst it is proposed that the pavilion would be able to have amplified music it is proposed that this would not be audible beyond the boundaries of the playing pitches.

Policy RC1 (Retention of Land for Sport and Recreation) states that proposals that would result in the loss of open space currently or previously used for recreation and/or sports uses, play areas or playing fields will not be permitted unless:

1. Alternative provision of equivalent community benefit is made available and will be appropriately laid out by the applicant as a replacement. Or
2. Sports and recreational facilities can be best retained and enhanced through the redevelopment of a small part of the site. Or
3. Locally there is an excess of public open space, children's play areas or sports pitch provision in the area as the case may be.

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the material considerations which weigh in favour of the proposal is the delivery of upgraded sports pitches and facilities and the contribution this would make to the delivery of the Council's Playing Pitch Strategy which identifies a significant shortfall in the amount of sports pitches available in Exmouth and the work which is currently being done to identify land for additional pitches.

It is clearly critical that if the proposal is secured despite being contrary to the settlement policy of East Devon, that the playing pitches are secured and made available for use as part of any housing development. The applicant submitted with the proposal a form of wording within a Section 106 agreement which would be signed by all parties as part of the planning consent.



It is noted that in this respect there is no objection from Sport England, who would appear broadly supportive of the need for the upgrading of the playing pitches, and the mechanism by which the football club and community will be able to access the facilities.

The East Devon Playing Pitch Strategy includes a Draft Exmouth Sports Pitch Strategy, which was produced in May 2016. This assesses a number of options and makes draft recommendations on how to deliver the sports pitch needs for Exmouth to 2024. It identifies a need for a number of new sites and an assumption that existing pitch sites will remain or be upgraded.

Consultants employed to undertake the study have produced a plan showing how potentially it would be feasible to accommodate 3 x adult and 1 x mini pitch on the lower plateau, and 1 x mini pitch on the upper plateau. No new clubhouse is shown on these plans but in this scenario the existing clubhouse could be replaced with a suitable facility of the upper plateau.

The current proposal, showing 1 x adult 11v11, 1 x youth 11v11 and 1 x mini 5v5 football pitch and a new clubhouse falls short of what the playing pitch strategy states could be accommodated on site with the applicant explaining that the consultants feasibility is unrealistic.

The Council has previously sought to purchase the site for sports pitch uses and this proved to be unviable (and would potentially require a lengthy and costly CPO process), under these circumstances it is considered that the best way to retain and enhance the existing provision on site may well be to allow for some development on site. However, considering this would frustrate the ability to deliver the maximised facilities on site, to be acceptable in terms of Policy RC1 it would be reasonable to require the pitches being provided to be up to FA performance quality standards, as well as contributions towards delivering the quantum of pitches that aren't able to be delivered on site elsewhere. The difference in pitch areas between the plans produced by the consultants and that being proposed by the developers is approximately 11,546m<sup>2</sup>. Using the costing included in the Open Space Study (£21.00 per square metre) this would equate to a potential contribution of £242,466 excluding land costs. In effect this would help to compensate for the land lost from recreational use to housing.

The issue regarding viability is explained below, however officers consider that on balance the proposal satisfies the second criterion of Policy RC1, in that sports facilities can best be retained and enhanced through the redevelopment of a small part of the site, and that the proposal generally accords with the playing pitch strategy and will provide a facility which will be of benefit to the community. This position is supported by the comments from Sport England.

### Proposed Layout - Housing

The proposal is in two parts. The housing would be on the upper level accessed from the existing entrance to the playing pitches on Douglas Avenue, and the form, whilst indicative, shows 23 no. detached homes grouped along a single street, with 2 and 3 bedroom homes all with garages. Gardens will all be the rear, therefore backing onto

either the playing pitches or the garden areas of the housing on Douglas Avenue to the North. The properties are generally positioned on an east west orientation and will be to a maximum of 1.5 storeys. It is proposed that there would be no vehicular access to the playing pitches, though there would be an access to the attenuation ponds to the south, to allow for maintenance.

The housing is situated at a lower level than existing development on Douglas Avenue. Due to this, and the proposed heights of the dwellings, it is not considered that there will be issues relating to overlooking that could not be overcome at the reserve matters stage.

There are two central 'greens' which form focal points for the development, landscaped shared surface streets and large rear gardens. Some cues are taken from the general area of 'The Avenues' however it is acknowledged that the area has a number of recent developments which are of a variety of forms. In addition, the form and density of the housing layout is at odds with the character of development off Douglas Avenue that is represented by larger buildings in large plots. The development of 23 dwellings would be out of character with this although it will not be highly visible from Douglas Avenue and if well landscaped should not be harmful to the character and appearance of the area when balanced against the benefits from the proposal.

As such it is considered that subject to a suitable design, layout and landscaping at any reserve matters stage, the proposed residential layout could be made to be acceptable.

### Viability

Due to its location outside of the development boundary Strategy 34 states that the site should provide for 50% of the units to be affordable. The application has been submitted without any proposal to include affordable housing.

A twenty-three house development outside of the built-up area boundary would therefore be required to provide 11 affordable units on site and 0.5 of a unit as a financial contribution. It is the applicant's contention that for various reasons relating to the nature of their product, the layout of their scheme and its day to day management, on-site affordable housing is not acceptable. If this was accepted then the scheme would generate an off-site contribution towards affordable housing.

The applicant argues that such a level of contribution would make the scheme unviable, and has submitted various reports about the viability and deliverability of their scheme, to support and evidence their argument.

Delivery of the scheme requires securing access over land belonging to East Devon District Council for emergency vehicles. Discussions on this issue have been ongoing during the consideration of the application. They have been undertaken by the Estates Team independently of any consideration of the planning application, and an agreement has only very recently been reached. The costs of securing this access is a key part of any viability considerations and the fact it was not agreed

before the application was submitted or the viability work undertaken has complicated the matters significantly.

Due to the conflict of interest arising from East Devon District Council being the owner of the land needed for access the viability information has been sent to the District Valuer for independent assessment. During the course of his consideration the applicant and the District Valuer also met to discuss the scheme.

As the negotiations around the price of the access were ongoing, it was not possible to reach a final conclusion in terms of the viability whilst this figure remained unknown. In an effort to move things forward and support the timely determination of the application a pragmatic solution was reached. The District Valuer's final report therefore included reference to the ongoing discussions on the value of the access strip and is written in such a way that the costs of this could be deducted from the bottom line. Having undertaken this calculation the District Valuer's viability report shows £52k as being available for contributions towards affordable housing or playing pitches.

The viability therefore shows £52k is the maximum available for other section 106 contributions due to the costs of providing the pavilion and improvements to the retained/new pitches. There are various competing demands for this funding as the scheme is also not delivering all of the requirements for open space, so there are requests for section 106 contributions to off-site open space to help meet the £242,466 figure identified above to compensate for the loss of part of the site to housing. However the viability is clear that the scheme can only afford so much, and still be viable. There is therefore a question of prioritising the Section 106 monies available against the requirements for affordable housing and open space.

Whilst considerably lower than the amount that would be required by a policy compliant scheme, the Residual Land Valuation and supporting information has been assessed by the District Valuer as representing a fair assessment of costs and values of the scheme at this current point in time. The District Valuer's conclusions are however still disputed by the applicant who is arguing that uncertainty going forward means that no contributions should be sort. Planning Guidance is clear that "viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today's circumstances".

It should also be noted that the assumptions used in the viability include no allowance for grant funding, which may be available to help deliver the sport pitches and/or affordable housing.

Blue Cedar's current position is that they cannot afford to make any payments and they argue the £52k left is in fact not available as their viability assessment results in lower sales values, eliminating any potential residual value which could be spent on necessary contributions.

The applicant has been pressing for the determination of this application before the introduction of CIL on September 1st as they suspect that CIL would make the scheme unviable. However, no information, evidence or revised viability for a CIL liable scheme has been undertaken, so this may or may not be a reasonable

assertion. What is clear is that the introduction of CIL may make it more difficult to secure the redevelopment of the playing pitches. The current Section 106 agreements process allows greater flexibility in terms of securing infrastructure, and from a viability perspective, unlike affordable housing and other Section 106 contributions, CIL is non-negotiable.

It is therefore reluctantly accepted that there is no prospect of any affordable housing, or affordable housing contribution, coming forward with this scheme, and the recommendation of officers is that the £52k which the DV states is available for contributions should be secured and spent on upgrading playing pitches elsewhere in Exmouth, to mitigate the loss of the pitch on the upper plateau.

### Access

The dwellings will be accessed from the existing access on Douglas Avenue. It is considered that this is wide enough for two vehicles to pass one another. In addition, suitable visibility of 2.4 x 43 metres can be achieved in each direction. The dwellings will be age-restricted which may produce a lower number of trips than unrestricted housing, this is the evidence collated from other schemes owned by Blue Cedar Homes.

Access through the Maer Road car park is also considered to be safe and acceptable.

### Landscaping

The proposal seeks to retain the existing landscaping, but replace the existing leylandii hedge with a native species hedge. The proposals also introduce a further native hedgerow between the pitches and the SUDs attenuation feature, and to reinforce the existing Eastern boundary of the site. Whilst landscaping is a matter to be reserved it is considered that these measures are acceptable and will retain the existing feel of the site, which is generally open but comprised of well-defined boundaries.

Suitable landscaping to the residential development will be required to ensure a suitable appearance from the pitches and from the AONB across the valley and this can again be considered as part of any reserve matters application.

### Drainage

Part of the site is within Flood Zone 3 but this relates to a very small area to the south-eastern boundary that is generally unaffected by the proposals.

The space to the East of the pitches is proposed as an area for Sustainable Drainage System and wildlife habitat. This comprises a pond and an open space area which will be available for use by residents and the wider community. Initial concerns were raised about the capacity and run-off from this system. Subsequent details submitted later in the application process resolved the matter and the Drainage Officer at DCC is satisfied that providing a detailed surface water

management plan is submitted via a condition, and adoption details are agreed, that the drainage system can be approved.

### Ecology, Trees and Archaeology

There are not considered to be any ecological or archaeological constraints to development of the site.

A couple of existing trees will be required to be removed to provide the access through the Maer Road Car Park but the works can be kept to a minimum and are not harmful enough to justify refusal of the proposal, particularly as compensatory planting can be secured as part of a full landscaping scheme at the reserve matters stage.

### Planning Obligations

The applicant has submitted a Section 106 agreement which provides for the following:

- Occupants of the residential units to be aged 55 or older
- The size of the pitches to be agreed
- The timing of the laying out of the pitches (no more than 50% of dwellings to be occupied prior to the pitches being laid out)
- Details of the size and composition of the changing pavilion, and parking spaces
- A community use agreement
- Details of the lease agreement - a 99 year lease to Exmouth United FC or another named football club to be agreed
- A commuted sum towards the playing pitches
- Safeguarding of the SUDS/ wildlife area
- Construction Working Hours
- Times for the use of the pitches
- Prohibition of floodlights, uses other than for sport, and amplified music beyond the pitch boundary

In addition to these, it is recommended that the £52,000 towards off-site provision of recreation facilities be secured and that the S.106 agreement include an overage clause.

### CONCLUSION

The application is finely balanced in that whilst the site is outside of the development boundary and does not offer any on-site affordable housing or full contribution to mitigate for the loss of space to housing, the proposal does enable the delivery of the enhancement of existing playing pitches, whilst allowing for a limited number of well-designed houses to be built in a fairly accessible part of Exmouth. The proposal is generally supported by Sport England.

The applicant has agreed to a substantial number of conditions and planning obligations which ensure that the pitches are suitably used and made available for the community for a considerable length of time (99 years).

In the officer's opinion, the balance is in favour of approving the scheme in outline, subject to conditions and the signing of a legal agreement to secure the matters referred to above.

## RECOMMENDATION

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

1. Approval of the details of the layout, scale and appearance of the buildings, and 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 an outline with one or more matters reserved.)
2. Application for the approval of 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 three years from the date of the approval of the last reserved matters.  
(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.)
3. 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).
4. Any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises.  
(Reason: To protect the amenity of local residents from noise).
5. No development shall commence until a community use scheme has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The scheme shall apply to the proposed

pavilion and playing pitches and shall include details of pricing policy, hours of use, access by non-educational establishment users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the development and shall be complied with for the duration of the use of the development.

(Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with Policy RC7 of the Adopted East Devon Local Plan 2013-2031)

6. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram 1511-70 FIGURE 4.1 where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6metres above the adjacent carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.

(Reason: To provide adequate visibility from and of emerging vehicles)

7. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

(Reason: In the interest of public safety and to prevent damage to the highway)

8. No part of the development hereby approved shall be brought into its intended use until the

- A) access
- B) parking facilities
- C) visibility splays
- D) turning area
- E) parking spaces and garage/hardstanding
- F) access drive
- G) and access drainage

have been provided and maintained in accordance with details that shall have first been submitted to, and approved in writing by, the Local Planning Authority. Following their construction the above elements shall be maintained and retained for the relevant purpose at all times

(Reason: To ensure that adequate facilities are available for the traffic attracted to the site)

9. No part of the development hereby permitted shall be commenced until a detailed permanent surface water drainage management plan is submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This detailed permanent surface water drainage management plan will be in accordance with the principles of sustainable drainage systems, and those set out in the and

Levels and Drainage Layout Sheet 1 (Drawing No. C151898/C/100, Rev. E, dated 7th June 2016) and the Levels and Drainage Layout Sheet 2 (Drawing No. C151898/C/101, Rev. C, dated 7th June 2016);

(Reason: To ensure that surface water from the development is managed in accordance with the principles of sustainable drainage systems)

10. No part of the development hereby permitted shall be commenced until details of the adoption and maintenance arrangements for the entire site's permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority.  
(Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development)
11. No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority.  
(Reason: To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.)

Plans relating to this application:

REVISED	Design and Access Statement	24.05.16
15067L94.01 REV A	Other Plans	24.05.16
	Flood Risk Assessment	04.04.16
COMMUNITY USE AGREEMENT	General Correspondence	04.04.16
C151898/C/100 REV C	Other Plans	04.04.16
C151898/C/101 REV B	Other Plans	04.04.16
& TRIP RATE STUDY	Transport Statement	04.04.16
15067 L 01. REV A	Location Plan	04.04.16



15067 L 02. REV A	Other Plans	04.04.16
GROUND INVESTIGATION GCE00650/R1	General Correspondence	04.04.16
REF 0043A V00	Ecological Assessment	04.04.16
REF:04569 &TREE SURVEY	Arboriculturist Report	04.04.16
04569 TCP 1 OF 2	Landscaping	04.04.16
04569 TCP 2 OF 2	Landscaping	04.04.16
SP01	Other Plans	04.04.16
SP02	Other Plans	04.04.16
SK01	Other Plans	04.04.16
FIGURE 4.4	Other Plans	04.04.16
ADVISORY REPORT	General Correspondence	05.04.16
C151898/C/102 REV A	Other Plans	05.04.16

#### List of Background Papers

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

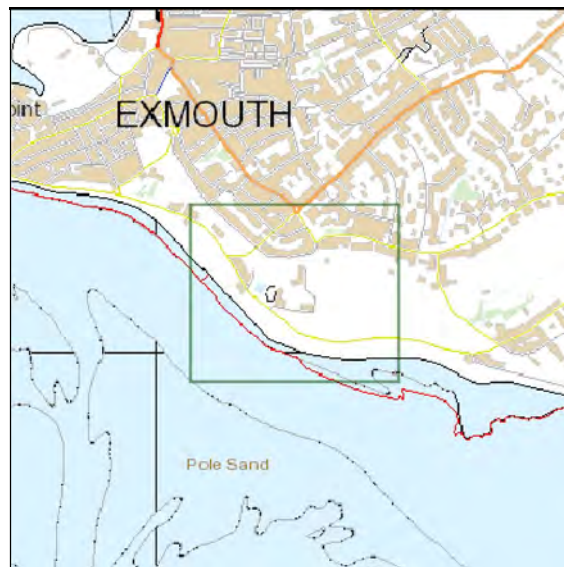
**Ward** Exmouth Littleham

**Reference** 15/2202/COU

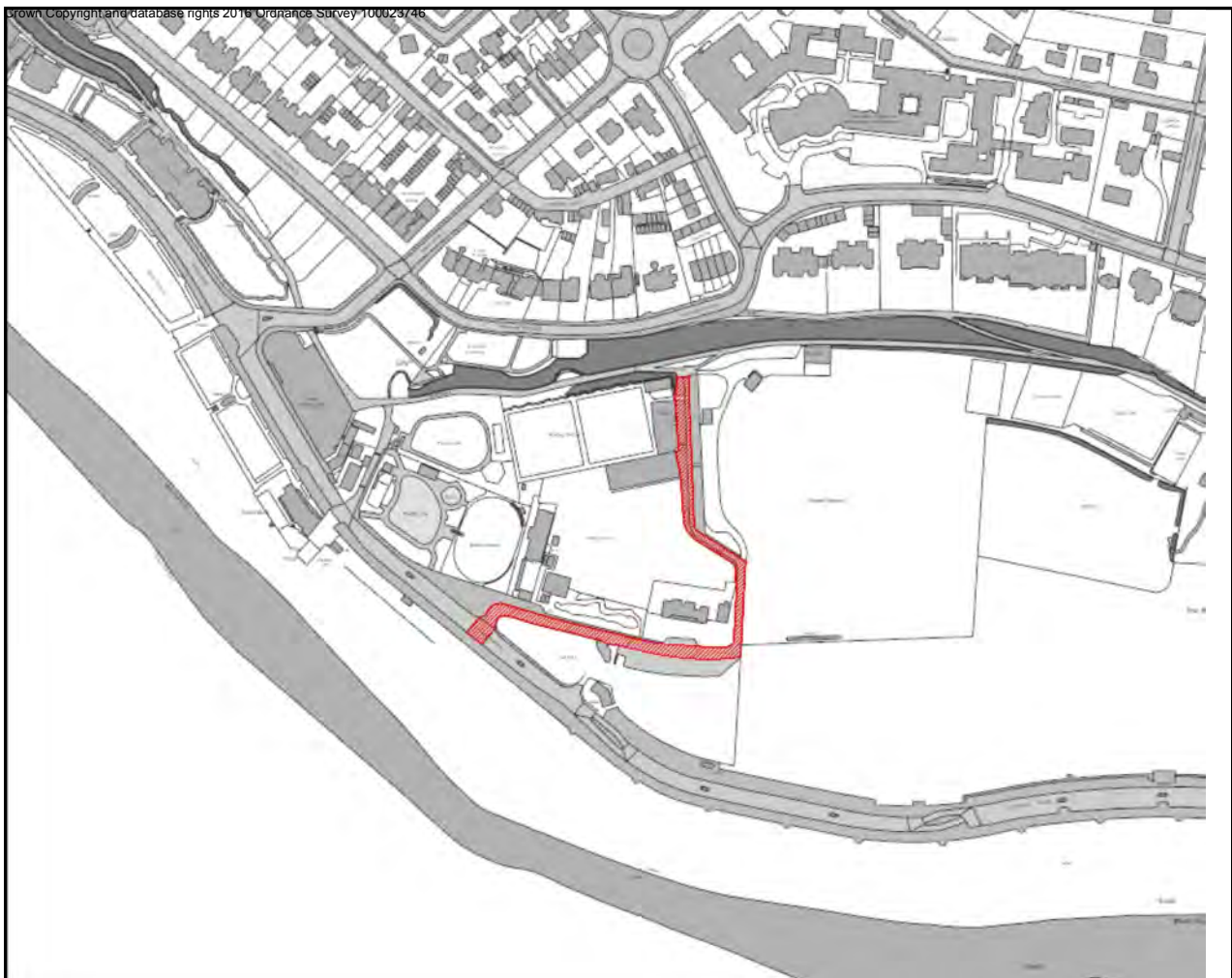
**Applicant** Madeira Bowling Club

**Location** Madeira Bowling Club Queens Drive Exmouth EX8 2AY

**Proposal** Change of use of land to create additional car parking spaces



**RECOMMENDATION: Approval with conditions**



maderia		Committee Date: 2 <sup>nd</sup> August 2016
Exmouth Littleham (EXMOUTH)	15/2202/COU	Target Date: 18.11.2015
Applicant:	Madeira Bowling Club	
Location:	Madeira Bowling Club Queens Drive	
Proposal:	Change of use of land to create additional car parking spaces	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is before members as site is in the ownership of East Devon District Council and objections have been received to the application from the public.

The site refers to a grass verge which sits to the front of the Madeira Bowling Club, Exmouth. It is set within an attractive area and the road that runs to the front has a pleasant open character and is used as a footpath between Queens Drive and Madeira Walk.

The proposal is to utilise some of the grass verge for car parking for the use of the Bowling Club. The proposals have been revised to cater for 21 vehicles. The originally proposed scheme showed parking along all of the verges on both sides of the road and proposed 56 spaces.

The parking areas would be located at an angle to allow vehicles to turn into the spaces. The details appear to show pavements for the parking area. Parking is currently created with an arrangement with the Cricket Club which is located on the other side of the hedge separating the two sites.

It is considered that there would be some visual harm from the proposed parking areas given the open character of the area. However the club have made a case that if they are to remain viable that they must have their own dedicated parking. The area will be subject to change including a new car park that runs up to the Madeira Bowls Club building as part of the Queens Drive redevelopment. It is considered that the type of surfacing could be conditioned to a grass crete type surface and areas of landscaping would be left in between the parking areas to help soften the visual appearance.

No agreement has been made by East Devon Estates Team and there are some

issues relating to the lease of particular areas of land, however these are private not planning matters for consideration as part of this application.

No objections have been received from the Highway Authority or from the Environment Agency and on balance the application is recommended for approval.

## **CONSULTATIONS**

### **Local Consultations**

#### Exmouth Littleham - Cllr M Williamson

I support this application which appears to be without detriment in planning terms to any affected parties.

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

#### Parish/Town Council

Meeting 27.06.16

No Objection to the amended plans.

### **Technical Consultations**

#### County Highway Authority

The County Highway Authority has looked at the plans and visited the site.

Access to the site is presently from Queens Drive which is itself subject of outline planning permission 13/1819/MOU. Part of the land indicated in the bowling club application is within the boundaries of the Queens Drive leisure area which is required for car parking area of the reserved matters application and I understand that the Senior Manager of Regeneration and Economic Development EDDC has pointed this out in consultation with the Planning Team.

With regard to the proposed layout of the car parking spaces the CHA considers that the width between the parallel parking to the west and the perpendicular parking to the east is a little short, 6m is usually recommended between rows of car parking for vehicle manoeuvrability. This is not necessarily a problem in this case as the proposed parking is on a private street, therefore not under the control of the CHA, and that I do not believe that it will have any residual vehicular traffic concerns on the existing or proposed altered access to the private lane from the public highway at Queens Drive. It may however have an impact on the safe thoroughfare for pedestrians accessing Madeira Walk, which is also not highway maintainable at public expense, but is regularly used by members of the public.

In conclusion the proposed development is on a private lane and it will not affect the existing or proposed adopted highway, therefore the CHA can raise no objection to the development proposals.

Recommendation:

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

#### Environment Agency

We have no objections to the proposal providing development proceeds in accordance with the submitted Flood Risk Assessment.

#### Other Representations

23 letters of representation have been received (6 of support).

The reasons for objection can be summarised as follows:

- This area should not become a car park.
- It is a footpath used by many people including elderly and young children
- Has blind corners and no adequate area to turn and exit.
- will be more used by walkers once the seafront is redeveloped.
- Think ahead to how this would be used for parking cars, entering and exiting using this historic public right of way once the road has been rerouted.
- This footpath will become even busier for pedestrians and risks someone getting run over by manoeuvring vehicles.
- Please protect this very popular public access path from the seafront to Madeira Walk.
- It has served the people of Exmouth and its visitors for many generations and brought great pleasure.
- Would be wholly wrong for that lovely little space to be given over to traffic and to be a carpark which will benefit only a small proportion of Exmouth people.
- There must be a point at which it is right and desirable to say "No" to further intrusion by the car.
- It is not onerous for people to walk a short distance to pay bowls or to watch.
- The traffic generated by parking and reversing (as there is no turning circle space) will become a hazard
- The applicant, in Section 29 Page 10, has ticked NO thereby indicating that the site cannot be seen from a public road, public footpath, bridleway or other public land. This is incorrect and misleading to the planning decision-makers.
- This is a public footpath. A successful application would change this from a walkway with occasional vehicular access into a car park with frequent vehicular road use.
- This would change the very nature of this public amenity

- This change would introduce unnecessary road dangers to walkers, families with young children and dogs.
- Altering the hedgerows is an unacceptable precedent for removal of the hedgerows in this area.
- Madeira Bowls already have car parking arrangements in place making it unnecessary for the public to lose this footpath
- Please protect this very popular public access path from the seafront to Madeira Walk. It has served the people of Exmouth and its visitors for many generations and brought great pleasure.
- It is not onerous for people to walk a short distance to play bowls or to watch.
- The "additional car parking" to which the application refers is in relation to the current allocation outlined below.
- The Cricket Club believes that the much improved provision of car parking spaces on the Cricket Ground is more than sufficient for the Bowling Club needs
- The application is, therefore, unnecessary, and should be refused.
- The grass verges adjoining this route are shown on maps dating back to 1936.
- The status of the route is unclear as it is not identified on the OS Explorer Map series.
- The grass verges on either side of the walkway are maintained by EDDC and add to the walking experience.
- To lose this green and pleasant environment to an unnecessary car park with a "permeable surface to be agreed" is just not acceptable.
- Will impinge physically on the walkway, especially at the seaward end, where there would also be the loss of hedge rows.
- Current ingress/egress road at the lower gate into the Cricket Ground provides a relatively safe junction for traffic entering or leaving the Cricket Ground.
- To create a split in traffic at this junction will create a potentially dangerous traffic point for traffic leaving both Clubs, given that the angle of the route leading to the Bowling Club creates a "blind spot".
- This could only be resolved through substantial works to the hedges and existing entrance to the Cricket Club.
- Given that the entrance to the main car park to the "Splash" proposals will be in this immediate vicinity it seems premature to create another significant traffic flow at this point in time
- It has quick access to and from the beach on a flat surface.
- It also provides access to the toilet at the Maer which is sometimes needed in a hurry
- There is also no indication as to how the cars are going to manoeuvre into these spaces
- There is no turning space at the end of the parking area
- The alternative is to use the grass verge opposite for this operation,
- Much of this area is already earmarked as part of a new Council Owned Car park under the Splash Development Scheme
- Until that time however, in periods of wet weather, these grass verges are prone to flooding which will be exacerbated by the impervious surface of the proposed car park under this application.

- The retaining hedges shown in the plan are also part of the curtilages of the Cricket Ground, as defined by its lease
- Notice that the application states that it is not in a zone for flooding and yet the attached flooding document actually states that it is and for the past two years sand bags have been stored near the entrance to the club?
- Also other parts of the application have not been filled in properly, questions have been left un answered.
- At a time when there is more and more pressure on climate change and the depletion of oil reserves additional it will encourage car use
- I can not see any good reason for allowing this application, perhaps someone can enlighten me.
- This is and always has been a public footpath.
- It is not acceptable for a private party to take over a public asset.
- The plan submitted shows alterations to the footpath on the opposite side of the footpath to the bowling club. Why are they not using their own land?
- Where do they have the right to change a footpath into a two way highway?
- There is parking at the start of the footpath so there is no need for this .
- There is a perfectly adequate public carpark 200 yards away.
- This is a public access footpath they want to make into parking spaces.
- There is no need. It will be dangerous, it's too narrow.
- They have an arrangement, when required with the cricket club.
- It seems that it is laziness to want to park by the door and take away the use for the majority. It's a natural area on the edge of the Maer.

The reasons for supporting the application can be summarised as follows:

- Will enhance the area as already used for vehicular access
- No conflict in recent years between pedestrians and vehicles.
- Area is looked after by the bowls club voluntarily
- Vehicles stay for three hours then depart.
- Do not dominate the landscape

## **POLICIES**

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

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

D1 (Design and Local Distinctiveness)

Strategy 6 (Development within Built-up Area Boundaries)

EN22 (Surface Run-Off Implications of New Development)

### Site Location and Description

The site refers to a grass verge which sits to the front of the Madeira Bowling Club, Exmouth. It is set within an attractive area and the road that runs to the front serves

which has a pleasant open character and is used as a footpath between Queens Drive and Madeira Walk. To the north of the site is the edge of the Exmouth Conservation Area.

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

### Proposal

The proposal is to utilise some of the grass verge for car parking for the use of the Bowling Club. The proposals have been revised to cater for 21 vehicles. The originally proposed scheme showed parking for 56 vehicles along all of the verges on both sides of the road.

The parking areas would be located at an angle to allow vehicles to turn into the spaces. The details appear to show pavements for the parking area. Parking is currently created with an arrangement with the Cricket Club which is located on the other side of the hedge separating the two sites. The proposed parking is required in addition to the spaces provided within the Cricket Club.

### **ANALYSIS**

The main considerations relate to visual amenity, highways safety and flooding concerns.

#### Visual appearance

In visual appearance terms the site is considered to be relatively open and is an attractive pedestrian thoroughfare. The proposal has been significantly amended to reduce the amount of parking proposed which it is considered would have resulted in a significant urbanising effect on the appearance of the site and surrounding area.

The reduced scheme shows parking areas interspersed with areas of landscaping. It is considered that given the pleasantness, and its value as a local amenity that some harm would occur. There is parking available within the surrounding area and therefore it is considered that a justified case would need to be made to provide a parking facility for the Club.

#### Justification

Madeira Bowling club is a long established within Exmouth and within further supporting information it is stated that it must remain an attractive prospect for new members. It currently has 268 Members and is open all day every day except for Christmas Day from 08.30 until 10pm, with playing time divided into a number of sessions. The club consider that the lack of parking at the site hinders recruitment and puts off other clubs from visiting. They offer the following reasons for the need for parking:

- the cost of membership is an impediment and the lack of a car park is the reason for the most part the members are retired. When the club was established and until modern times public car parking was available and



cheap. It is convention in bowls that the host pays hospitality for teas and after games drinks. Basing the calculation on the EDDC car park charge and hospitality costs within the club the average cost per game for one of our members is now is about £9, in addition to the annual fee of c£200. For a couple it is expensive. For our players if someone plays four times a week the cost is now becoming prohibitive to people on fixed incomes. We are reducing our costs of energy supply and volunteers now maintain our greens rather than an employee. If people do not get value for money they will not join and we are fighting hard to recruit new members. We have an arrangement for some parking on the cricket club grounds at a cost not affordable by all.

- We are the only bowls club in East Devon without our own car parking. Others like Budleigh and Seaton, have on street availability, which we do not. We are finding visiting clubs do not want to come to us for reasons of cost. We had to close an evening league for this reason. Visitors have to pay us a modest rink fee, petrol to travel and are then hit with a £3 parking fee. In the summer the car park is full and nearest other car park is too far away. A bowls bag weighs a minimum of 16 pounds and has to be carried. For example in our club we have a range of ages with some in their early nineties and our visitors have similar membership. This is a health and safety issue as we do not have our own car park. We have already lost one Plymouth club who cited lack of parking as a reason for cancelling annual fixtures. Clubs visit us from all over Devon and nearly all give us free parking which we cannot reciprocate.
- The club offers significant economic prosperity to Exmouth. The Town Council are aware of this and we believe Members supported our application. This year we will welcome about 30 touring clubs many of whom stay in local hotels, and often go on a Stuart Line Cruise. We can on occasions accommodate as many as 48 visiting players at any one time. The majority travel by car and others come by coach. Most arrive early morning, visiting and spending in the town, and supporting local restaurants. The Manor Hotel recognises the potential and sponsors events as do other businesses. The hotels offer bowls tour packages. Annually, in July, we hold a tournament week with visitors coming from all over the country staying in hotels and holiday parks. The lack of car parking is a constant complaint we receive as in the summer the nearest car park is full.
- Traffic flow to the Club will not be a problem as there is overlapping timed bowls sessions to allow departure and arrival for bowlers. Two-way traffic should be avoided. Traffic flow in the mornings will be low as the sessions are reserved for internal leagues and competitions. The higher volume will be 12-45hrs to 13-00hrs when players arrive for the 14-00hrs start time. There should be minimal traffic movement until they leave between 17-30hrs and 18-00 hrs. We have noticed that pedestrians would not be inconvenienced as traffic movement is over lunchtime and tea time when fewer people are about.
- The Club is regarded as having some of the best bowling greens in the county and we host many county competitions. Our visitors include the Bowls Devon hierarchy and they are expecting to find car parking available, and these

administrators hold the decision making as to whether or not we continue to host high level competition. Players attending are the elite of Devon including England internationals. Currently these visitors are forced to pay the cricket club a fee to park, even if we clear the space for them in our reserved area. This is not good. These events attract spectators so we are yet another tourist attraction for the town. Over the next few years three of our members will hold the office of Devon President and hospitality is crucial to our continued success.

- the entrance environs to our club house are important and we currently maintain the boundaries to enhance the attraction. We have won Exmouth in Bloom. We want keep the area outside green and propose using a grass-concrete surface with bushes and hedges. The main hedge will be cut back by a metre to almost to the centre line creating more space and it would be less unkempt as it is now. The area will be much improved and landscaping is important to us. We would need to conclude satisfactory lease arrangements with EDDC and the relevant department has been consulted. We are prepared to seek guidance as to the best way to enhance this area.

In terms of the economic benefits of providing parking for the club, it has been difficult by Officers to envisage how additional parking for the club would provide for economic input within the Town because it is thought that once a game is over that competitors would either drive home, or drive directly into Town to take them to their next destination, rather than return back down to the seafront.

The Club have stated that:

Each year in July a Bowls Tournament which attracts significant interest and last year there were 165 participants. These competitors stay for the whole week as they enter many competitions and they may progress to the finals which take place on the Saturday. Of this number 82 had addresses outside EDDC coming from places such as Wiltshire, Gloucestershire, Wales, and Bristol with the furthest from Bradford, Leicester and Kent. Most come with partners and many also come as a family party.

The Club state that they know that players stay at such place as Devon Cliffs, Ladram Bay and in hotels and self catering places in Exmouth. These competitors come and go throughout the week and the lack of a car park is considered to be a restriction on them securing more people to visit the club for that week as the main public car park is considered to be full in July.

The views of the Economic Development Officer have been sought. who considers that there is an economic link between providing parking for the club and spend within the Town.

On balance, and whilst recognising the harm, the club has made a good case as to why parking is needed in this location and this needs to be balanced against any visual harm.

## Highways Impact

Concerns have been raised regarding an increased number of vehicles using the road to park vehicles. No comments have been received from the highway authority on the amended plans, but they did comment on the previously proposed plans and raised no objection.

Given the significant reduction in parking spaces since Devon County Highways commented, it is considered that the application is acceptable in highway safety terms.

## Flooding concerns

The Environment Agency have been consulted on the application and have not raised an objection to the scheme.

## Other issues

It has been clear throughout the application that the club have not formally got the consent of East Devon as landowner to carry out the works and would need to approach the Estates department in terms of buying or leasing this area of land. There also appears to be the issue that the hedge that is shown within the application site is within the lease hold area of the Cricket Club.

It has been argued that the bowling club, in terms of its parking provision at the site would be able to increase capacity by better management of their existing spaces. In particular, it is suggested, by preventing visiting Bowling teams using the Bowling Club's allocation which is not allowed in the terms of the Lease.

It is considered that there are clearly issues around the lack of any agreement with the Estates Department to lease or purchase the land from EDDC. Any subsequent approval would need to be reached with the Council as landowner, as would the lease of the hedge which it is proposed to cut back. However these are considered to be separate private legal matter outside of the planning application itself.

It has been raised that the application form has been filled out incorrectly because it states the site cannot be seen from a public road or footpath. In this case the path itself is not designated as a formal public footpath, but does form a link between two areas of Exmouth. This has not clouded officers consideration of the application.

## Conclusion

On balance and having considered all the issues officers are of the opinion that there would be some visual impact from the proposal. However, this must be balanced with the needs and benefits to the club and the provision of further planting that will help to soften the visual impact of the additional spaces. On balance and having weighed up all the considerations, it is recommended that the application be approved with conditions.

## **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. Prior to commencement of development details of the surface material to the parking area shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the agreed details.  
(Reason - It is necessary to consider the details at an early stage 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 East Devon Local plan.
4. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason – To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 – Design and Local Distinctiveness and D2 – Landscape Requirements of the Adopted New East Devon Local Plan 2016.)

Plans relating to this application:

7222-01 REV B	Proposed Site Plan	16.06.16
	Flood Risk Assessment	23.09.15
7222-03	Existing Site Plan	17.09.15

List of Background Papers

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

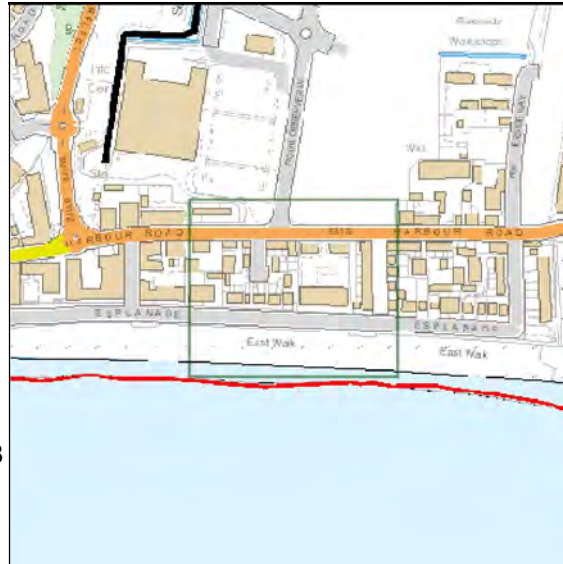
**Ward** Seaton

**Reference** 16/0997/MFUL

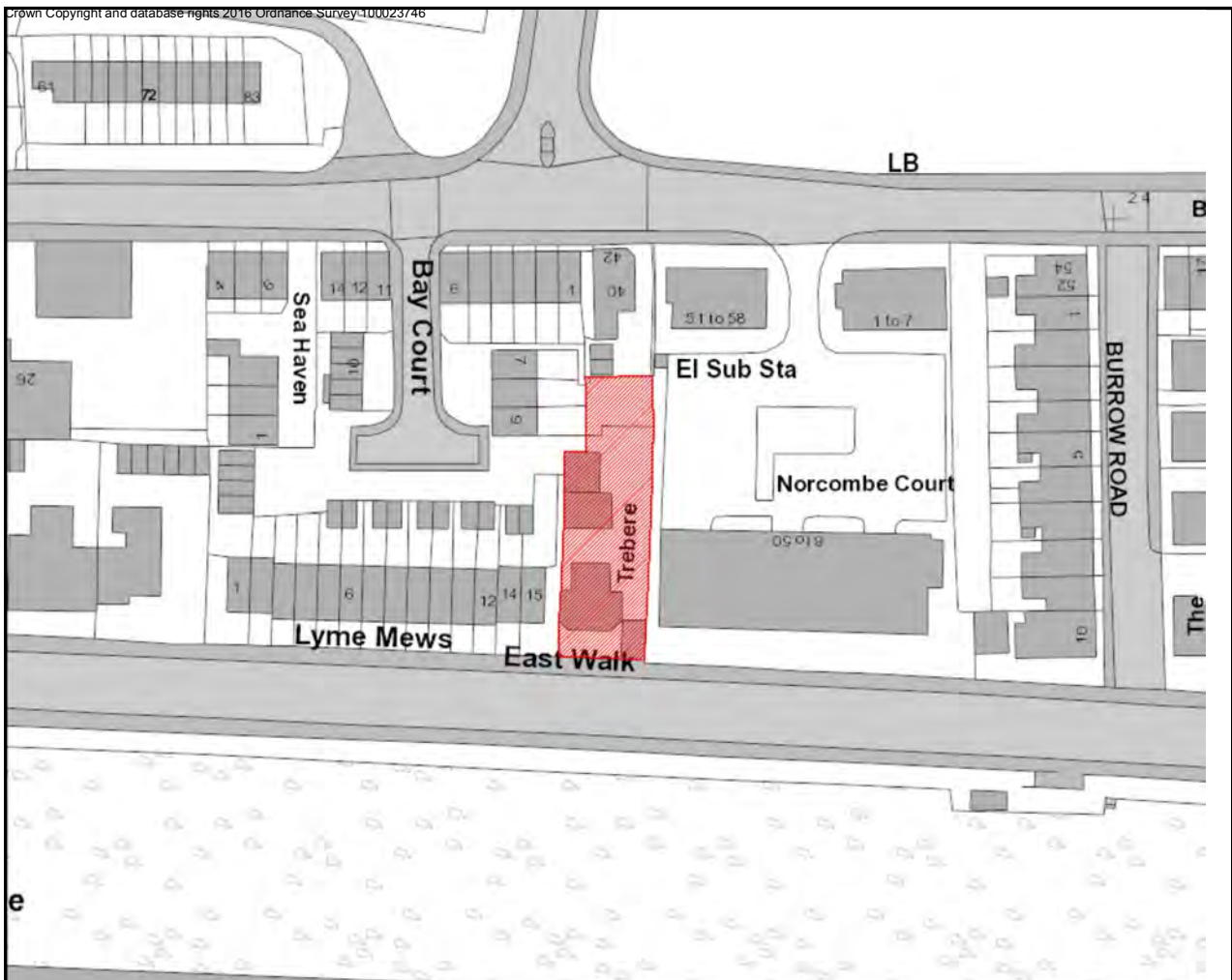
**Applicant** Mike Dowling (Seaton Beach Developments Ltd)

**Location** Seaton Beach (Trebere) East Walk  
Seaton EX12 2NP

**Proposal** Demolition of 2 no. residential properties and replacement with a 8 unit apartment building



**RECOMMENDATION: Refusal**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Seaton (SEATON)</b>	<b>16/0997/MFUL</b>	<b>Target Date: 09.08.2016</b>
<b>Applicant:</b>	<b>Mike Dowling (Seaton Beach Developments Ltd)</b>	
<b>Location:</b>	<b>Seaton Beach (Treberre) East Walk</b>	
<b>Proposal:</b>	<b>Demolition of 2 no. residential properties and replacement with a 8 unit apartment building</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

The application is before committee as the officer recommendation differs from the view of one of the ward members and Town Council.

The application proposes the redevelopment of a seafront site that currently houses a traditional 2 storey house and additional single storey property to its rear. The proposal is to replace this with a 5 storey high apartment block of contemporary design.

The site is considered to be well related to the town centre in terms of accessibility and lies within the built-up area boundary of the town where the principle of development is accepted. Furthermore, whilst the existing building on the site is reflective of its time and has some charm, it is of no particular architectural merit and there is no objection in principle to its removal.

However, the site lies within a high risk flood zone – relating to tidal flooding in extreme weather events – and as such proposals for redevelopment (for residential purposes) are required to pass the sequential and exceptions tests relating to flooding. These tests firstly, seek to locate development in areas at lower risks of flooding. Where it is demonstrated this is not possible they must then also demonstrate that they provide wider sustainability benefits to the community that outweigh the flood risk and that they can be made safe for the lifetime of the development without increasing flood risk elsewhere. In this case, it is considered that it has not been demonstrated that there aren't other areas at lower risk of flooding that could accommodate the development proposed (i.e. 8 open market dwellings) and even were this to be the case the proposal would not secure wider sustainability benefits that would outweigh the flood risk. This being the case the proposal is considered to fail the sequential test (and where engaged the exceptions test) for site selection and as such is contrary to Local and National Planning Policy in relation to flood risk.

**In other respect the scale of development and its contemporary design have drawn mixed reactions from the local community but the concept of a contemporary building of this scale in this location has received the qualified support of a Design Review Panel and despite the contrasts with existing development on the seafront it is not considered that the design of the proposal in itself is objectionable and has the potential to contribute towards raising the general design standards in the area.**

**In terms of amenity though the scale (in particular the height and depth) of the development would result in it having an overbearing and oppressive impact on existing properties as well as a loss of sunlight to amenity areas, these impacts would be sufficiently harmful to warrant refusal on these grounds in addition to the flood risk concerns.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Seaton - Cllr P Burrows**

I would like the Seaton beach application 16/0997/mful to go to the DMC to be debated. The Town Council are in full support and I feel it would not be right to be decided by a delegated refusal.

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

Object to the application

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

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

The Seaton Design Statement, which was adopted for Development Management purposes in March 2009, states that future developments on the seafront should return to the smaller scale and sky-lines of the pre-war style seafront properties. This application 'Flies in the Face' of this statement. The height of the proposed building would dominate the sky-line in the immediate vicinity, where properties are between two to four storeys high, and it is certainly not on the smaller scale which the public said they would like to see for this area of Seaton at the many public consultations that were held during the production of the Design Statement.

The applicants Design and Access Statement contains a few confusing statements. On page 6 it states 'The wider context consists of a mixture of uses and building heights. A large proportion of these consist of residential properties which vary from individual two-storey properties to up to seven storeys in height'. There are NO seven storey properties in the immediate vicinity. Norcombe Court to the east of the site peaks at four storeys, but at its east and west ends lowers in height to three storeys. The Design and Access Statement also states 'Today 'Seaton Beach'

appears insignificant compared to its residential neighbours'. This development will tower over both Lyme Mews and Norcombe Court and due to its height will be a dominant feature on the seafront. The apartments to the western end of Norcombe Court, which are adjacent to this development, are going to be those most affected. According to Proposed Site Plan, document no. 2272204, the south facing balconies are set to project approximately three and a half metres beyond the existing building line. This extreme projection of the balconies will have an adverse effect on Norcombe Court insomuch that it will give rise to loss of privacy, loss of light, overshadowing, noise and the loss of a view. The applicants Design and Access Statement quotes 'Any new development proposals should be designed to ensure that the amenity of neighbouring properties is well considered'. The developers obviously have no idea whatsoever of the adverse impact their development will have on the residents of Norcombe Court and Lyme Mews. If they had considered the effect their proposals would have on these neighbouring properties, they would have submitted a plan for a building with a lower sky-line and balconies without such an extreme projection.

Consideration should be given to the access and parking arrangements. The developers wish to retain the access point onto East Walk to provide a vehicular entrance to the site for car parking at the rear. This will mean that the number of traffic movements will greatly increase on East Walk with the potential for increase in noise nuisance. At the time of writing this report I note that the County Highway Authority state their comments will follow within twenty-one days. Does this indicate a potential issue as they have not submitted their usual comments of 'Does not wish to comment' or 'Highways Standing Advice'?

Planning application 00/P0682 was submitted in March 2000 for the erection of a balcony on 14-15 Lyme Mews. This application was submitted to address the objection's to planning application 99/P0927 for the erection of balconies on 14-15 Lyme Mews. Planning application 99/P0927 was refused on the grounds that 'The proposed balconies by reason of their length and forward projection and vertical supports will affect the overall design and symmetry of their comparatively recent building Lyme Mews, to the overall detriment of its appearance'. This was subsequently taken to appeal and was dismissed by a Planning Inspector. However, despite this application addressing the reasons for objection to the previous one it was still refused, the reason given as 'The proposed balcony will spoil the symmetry of the building, reduce the subservient nature of the set-back of the end properties and undermine the successful relationship with the adjoining property to the east. The proposal is thus detrimental to the street-scene and does not overcome the Appeal Inspector's reasons for rejecting the previous appeal'.

Therefore, I object to this planning application for the following reasons:

- o Adverse effect on the residential amenity of neighbours, by reason of noise, disturbance, overlooking, loss of privacy, overshadowing etc. (Contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031).
- o Visual impact of the development as the scale, massing, density, height and fenestration do not relate well to their context. (Contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031).



- o Effect of the development on the character of the neighbourhood. Properties to the east and west of the development site are three to four storeys in height not six. (Contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031).
- o Design (including scale, bulk and massing, density, height, fenestration and materials do not relate well to their context. (Contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031).
- o The loss of existing views from neighbouring properties would adversely affect the residential amenity of neighbouring owners. (Contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031).
- o The development could adversely affect highway safety or the convenience of road users. (Contrary to Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013 - 2031).

Surely it is possible to design a building that is a good quality design and aesthetically pleasing without it having to dominate the area and have an adverse effect on the residential amenity of neighbouring properties.

For these reasons I object to this application and in the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

#### Parish/Town Council

The Town Council supports this application but requests that if local residents raise concerns, then the application be considered by the District Council Planning Committee and the Town Council's Planning Chairman attend the meeting

#### Other Representations

At the time of writing 31 representations have been received in relation to the application, of these 27 raise objections to the scheme and four are in support. The concerns and reasons for support are summarised below.

Reasons for objection:

- Loss of view
- Overdevelopment of site and inappropriate height in this context.
- Design out of keeping with distinctive character of Esplanade where existing properties are 2-4 stories in height.
- Excessive height and depth
- Noise pollution from development
- Impact of additional development in flood zone
- Overshadowing of neighbouring buildings from increased height and depth
- Level of parking provision considered to be inadequate
- Loss of privacy, loss of light and overshadowing of adjoining properties
- Construction difficulties and impacts on such a small and constrained site
- Proposal would dwarf development to either side
- Distraction to motorists on Harbour road.
- Overlooking of adjoining properties from projecting balconies
- Projection forward of established building line

- Reduction in height proposed is not sufficient to overcome previous concerns
- The balconies still project too far forward
- A modern approach has some merits but the proposal would stick out and appear incongruous in its setting
- There is an existing Right of Way across the site for the residents of Bay Court this should not be compromised
- Amendments do not address earlier concerns.
- Existing building is an attractive traditional seaside house and its loss would upset the balance with other buildings on the seafront.

Reasons for support:

- The potential of the scheme to kickstart re-development of the sea front and compliment the regeneration strategy.
- Proposal would benefit Seaton and compliment the sea front
- Parts of the seafront are tired looking, including the application site and the proposal will build on regeneration schemes happening elsewhere in the town.

### **Technical Consultations**

#### Environment Agency

Thank you for consulting us on this application.

Environment Agency position

We have no objections to this application as proposed provided any development is in accordance with the Flood Risk Assessment submitted dated 18th January 2016.

Advice to LPA

Your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with current Government guidance within the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

#### DCC Flood Risk SuDS Consultation

Further to the surface water strategy outlined within Drawing No. 0425-PDL-100-B (dated 16/01/2016) we have no further objection to the proposed development.

#### County Highway Authority

Observations:

I have looked at the application plans and read the Design & Access Statement. The site is fairly central to the centre of Seaton with good and easy access to the amenities provided therein.

From the Proposed Site Plan the vehicular access appears to be adequate in width for a family sized car, although I do not see any mention of the height of the access way through the undercroft?

Car parking at one per dwelling is on the minimal side, however because of the central location of the site I do not have any great concerns with the 10 proposed. I have some concerns about the size of the individual parking bays and also the amount of turning space in front of some of the spaces. The recommended parking spaces should be 2.4m wide and 4.8m long with ideally 6m of turning space in front of each space. Scaling from the plan shows widths of only 2.3m, lengths of only 4.6m and in places only 5.2m of turning space. Whilst the category of East Walk may be below that where I can insist on on-site vehicle parking and turning facilities. Where they form part of the application proposal. Then they must be of suitable size and dimensions for the type of vehicles that will be attracted to the site. For this reason before I could give an unreserved comment, I would need to see parking and turning overlay depictions to scale for an average family sized vehicle to be happy that the parking proposed will successfully meet the requirements of the residents. Also details of hard surface drainage proposals will need careful designing to avoid possible flooding issues to the north of the site.

Until the CHA can be satisfied that the above comments and concerns have been catered for within the application. Unfortunately I must recommend refusal on Inadequacy of Submitted Information.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access (height), off-street parking, surface water drainage and on site turning

#### Design Review Panel Comments

### **POLICIES**

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

Strategy 3 (Sustainable Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 25 (Development at Seaton)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

### **SITE LOCATION AND DESCRIPTION**

Trebere is a traditional 2 storey residential property occupying a central location on Seaton seafront and sitting between adjoining residential development to either side. The site is broadly rectangular in shape occupying a narrow frontage but extending back to the north. Between Trebere and Norcombe Court, to the east side of the property, is a vehicular access leading to the rear of the site where there is a separate single storey annexe building, as well as associated hardstanding, garaging and garden areas. The site slopes down to the north with an overall fall in height from south to north of approximately 2.9 metres.

To the west is a relatively recent terrace development of 3 storey properties (dropping to 2/12 storeys at either end) known as Lyme Mews and to the east is a large apartment block, Norcombe Court, which extends up to 4 storeys in height but again with lower sections at either end of the building. To the north the site adjoins the rear garden of another detached two storey building, Nos.40-42 Harbour road, this contains a restaurant at ground floor level with a number of flats above. To the west of the rear part of the site is further residential development with the rear elevations of Nos. 7-9 viewing toward the site. To the east the rear part of the site adjoins the parking court at the back of Norcombe Court.

The site is located to the east of the town centre and the town conservation area and to the south of the Seaton Regeneration Area, which lies north of Harbour Road. The site lies within a designated high risk flood zone Flood Zone 3.

## **BACKGROUND**

There is no relevant planning history related to the site. However, it is advised that pre-application advice has been given for the development of this site and as part of the pre-application process the proposal to redevelop the site with a small apartment block was considered by the Devon and Somerset Design Review Panel (DRP). At the time the proposal was very much at a concept stage, nevertheless the advice given by the DRP is referred to within this report.

## **PROPOSED DEVELOPMENT**

Planning permission was originally sought for the demolition of the existing buildings on site and the re-development of the site for 10 no. 2 to 3 bed apartments, as a result of amendments to the scheme a storey has been removed from the building and the depth of the building reduced, the application now proposes 8 no. 2 to 3 bed apartments.

The apartments would be contained within a single block constructed on the same part of the site as the existing building albeit with an increased footprint (to the existing main building) extending deeper into the site and extending up to 5 storeys in height (the upper storey being a recessed penthouse).

The building would be a single mass of cuboid form but with a contemporary appearance and flowing lines, projecting balconies and large areas of glazing to the front and rear elevations. The ground floor of the building would be pebble clad with the middle floors (1 to 3) all being of the same appearance i.e white polished concrete panelling with some sandstone cladding detailing and large glazed balconies to the front of the building. The penthouse apartment would be set in from the elevations below, would feature large areas of glazing on all elevations and would have a low mono-pitch, pressed metal standing seam roof.

At ground floor level on the east side of the building would be a gated covered way leading under the building to the rear of the site. The rear of the site would be almost exclusively hardsurfaced with parking provision in the form of 1 no. space per apartment.

## **ANALYSIS**

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

- The principle of the proposed development
- Flood Risk and Sequential/Exceptions Tests
- Design and impact on the character and appearance of the area
- The wider landscape/townscape impact
- Economic benefits of the scheme
- Impact on residential amenity
- Ecological Impact
- Access and Highways Issues
- S.106 Matters
- Other Matters

## THE PRINCIPLE OF THE PROPOSED DEVELOPMENT

The site lies within the built-up area boundary of the town close to and within level walking distance of a range of local facilities, shops, services and public transport options. The site is currently in residential use, lies within an area which is predominantly residential in character and a redevelopment of the site for such a use is, subject to other considerations set out below, considered to be acceptable.

## FLOOD RISK AND SEQUENTIAL/EXCEPTIONS TESTS

The application site lies on Seaton seafront located to the north side of the Esplanade on the opposite side of the Esplanade from the public walkway and beyond this the sea wall and beach. The site and indeed the entire seafront and much of the land to the north (with the exception of the regeneration site) is classified as Flood Zone 3 - High Risk. The main flood risk to the site arises from the potential for overtopping the sea wall in extreme weather events.

The application is accompanied by a Flood Risk Assessment which examines the potential flood risks in more detail and which considers that the development can be made safe from a flood risk point of view during the lifetime of the development. The proposed measures to ensure this include raising of internal floor levels above existing and improving the existing surface water drainage through the use of permeable surfacing to the rear parking court. These measures, it explains, would ensure future residents would be safe during any extreme flood event and would maintain/improve on existing overland flows to the north through which any flood waters would dissipate.

Residential development is classified as more vulnerable development, in accordance with flood risk vulnerability classification set out in the National Planning Practice Guidance (NPPG) which accompanies the National Planning Policy Framework (NPPF). As such, any such proposals within High Risk Flood Zones are required to pass two tests prior to them being considered acceptable in flood risk terms. These tests are known as the 'Sequential' and 'Exceptions' Tests.

### **Sequential Test**

In relation to the sequential test para. 101 of the NPPF states:

*"The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."*

In order to pass the sequential test it must therefore be demonstrated that there are no reasonably available (and appropriate) sites which could provide the development proposed in an area of lower flood risk. The first stage of the sequential test is therefore to define the area over which it is appropriate to carry out an alternative site search. The NPPG in relation to the carrying out of sequential tests advises that,

*'The developer should justify with evidence to the local planning authority what area of search has been used when making the application.'* para. 34.

In this case the submitted Flood Risk Assessment on the matter of the sequential test does not appear to explicitly consider a search area but instead states, *'It is not considered practical to abandon this part (the eastern part of town) of Seaton.'* However a separate Sequential and Exceptions Test Assessment submitted with the application does address this point. It suggests that due to the regeneration agenda in the town, the lack of architectural or historic merit of the existing building, the prominent location of the site on the sea front and Local Plan policies that seek to support regeneration that the area of search should be restricted to the sea front.

It is accepted that Local Plan policies for Seaton seek to secure completion of the regeneration area, look to secure improvements in design quality and to improve business opportunities in the town. However, in order to define the correct search area it is necessary to consider what development is being proposed. In this case the development proposes 10 no. open market dwellings, the case has not been made that there is a specific need for apartments and as such it is considered that there are numerous alternative sites within Seaton where such development could be delivered (including on consented residential sites on land to the north of Harbour Road, Seaton Quay, Land north of Rowans Drive and Land off Barnards Hill). All of these alternative sites are on land of lower flood risk and/or where the sequential test has been passed as they form part of a wider regeneration scheme for the town. In relation to the area of search the submitted Sequential and Exceptions Test Assessment suggests that no other sites could deliver the same benefits as the proposal site. However, there is no reason to suggest that other prominent brownfield sites (such as those mentioned above) wouldn't equally deliver similar benefits albeit in a different location. Furthermore, as the development is not seeking to meet a specified local need i.e. for affordable housing there would be no need to restrain the search to Seaton and the development could potentially be delivered anywhere else in the district in a lower flood zone and subject to other planning criteria being satisfied.

In support of their view that the site should pass the sequential test reference is made to 2 no. recent developments in the town which are also located in the high risk flood zone, these being Fosseyway Court (14/0187/MFUL) at the western end of the sea front and the residential development to the north of Harbour Road (09/0022/MOUT and 13/2292/MRES). Whilst neither site is directly comparable and each application needs to be considered on its merits it is worth noting here the main difference between the application and these other schemes. The residential development north of Harbour road forms part of a wider regeneration site including land to the west adjoining the river Axe estuary and to the east where the Tesco superstore is located. As such the development of these sites were considered under a regeneration policy that covered the former holiday park and adjoining uses and where the sequential test was considered strategically to secure wider community benefits. In relation to the Fosseyway Court development this is arguably more similar but nonetheless still differs, that development was for a larger scheme and in that case the proposal involved development of existing apartment blocks through the extension of them to form additional apartments. The development did not involve any additional physical development in the flood zone, the proposals

were to build over the existing car parks and apartment blocks and as such all existing and proposed residential units (and their main access points) were above flood risk levels and the footprint of that building was not changing. In addition there were clear wider benefits through the refurbishment of the existing highly prominent and tired buildings which would not otherwise have been viable.

In conclusion on the matter of the sequential test it is considered that this must be applied and the application acknowledges this. However, it is not considered that this test is passed as there are other sites at lower risk that could provide the development proposed. Whilst it is accepted that other sites would be located away from the sea front and would not have the potential to deliver the purported benefits of the application, those benefits are largely aesthetic and objective and are not for consideration under the sequential test but rather are matters for consideration under the exceptions test if the sequential test is passed.

### **Exceptions Test**

The requirements of this test are only engaged in the event that the sequential test is passed and in this case therefore it is considered the test need not be applied, however for completeness the relevant issues are considered.

Para. 102 of the NPPF states:

*"If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:*

- o it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*
- o a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Both elements of the test will have to be passed for development to be allocated or permitted."*

Taking the two matters in reverse order, it is considered that if the exceptions test were to be engaged that the development could be made safe for its lifetime without increasing flood risk elsewhere. The Environment Agency has responded on the application to the effect that they have no objections to the application subject to development proceeding in accordance with the submitted flood risk assessment. This being the case it is considered that the second part of the exceptions test could be met. However, it is worth noting that the Environment Agency has flagged up in their response the need to apply the sequential test to the development and that the failure of this is sufficient justification to refuse a planning application.

In relation to the first part of the test and the wider sustainability benefits to the community that outweigh flood risk the submitted Sequential and Exceptions Test Assessment summarises these as follows:

- o economic benefits through investment in and regeneration of the sea front and encouragement of further economic activity*



- o economic benefits through jobs created from the construction project
- o environmental benefits through removal of a building of little architectural merit with a high quality design on a prominent site in need of substantial investment
- o environmental benefits through a more efficient use of a brownfield site
- o environmental benefits through raising the threshold by 500mm, meaning the new development would present a significantly lower flood risk to future inhabitants
- o social benefits in terms of delivery of housing to help meet the requirements of the local plan (which includes a windfall requirement in Seaton)

These are considered in turn:

It is acknowledged that the Town Council are looking to bring forward regeneration works at the western end of the seafront and that there is some support in the Local Plan for this under Strategy 25. However, whilst investment in and regeneration of the sea front is recognised as a potential benefit, the specific benefits arising from this proposal would be limited only to this site as there is no guarantee that wider re-investment would follow.

It is recognised that the proposal would support the construction industry in terms of job creation or sustaining existing jobs, however, this would equally be true of development on an alternative site.

The existing building is not listed but is not without character, nor is it in such a state of disrepair that its re-use or rejuvenation could not in itself bring about some visual improvement to the site. The proposed design is considered further below but in general terms whether a particular design improves or detracts from the character of the area is a largely subjective judgement.

It is accepted that the more efficient use of a brownfield site would be a benefit that would arise from the proposal.

The raising of the development outside of the flood zone would reduce the potential for flooding to future occupiers however as the site lies within a designated high risk flood zone and is for a more intensive form of development it would also increase the number of occupiers that could potentially be affected by flooding.

The social benefits that could arise through delivery of additional housing are noted but equally such benefits would also arise from any other development for the same number of units on sites of lower flood risk. In this regard the Council is able to demonstrate a five year housing land supply and as such there is no requirement to look to provide new residential development in areas of high flood risk. Whilst the Local Plan does include for Seaton, 'a modest future windfall component in housing numbers' it is considered that these numbers could be brought forward through development in areas at lower risk of flooding and where this is not the case the Local Plan advises that allocations will be brought forward in future plan work. In this regard housing completion figures for Seaton since 2011/12 indicate an average of 9 dwellings coming forward as windfalls in Seaton. If this trend were to continue it would bring forward 45 windfall dwellings over the five year period and 139.5 over the remainder of the plan period (1 Oct 2015 – 31 March 2031). This is in addition to the windfall sites which already have permission and have not yet been completed

(as at 30 Sept 2015). These figures support the view that windfall developments together with existing allocations can comfortably meet Seaton's housing needs looking forward across the plan period.

In summary on this matter it is recognised that the development could bring about some potential benefits, most of these however, are not considered to be mutually exclusive to this site and similar benefits would arise from development on other sites within the town or wider area. The potential investment in and catalyst for further regeneration to the seafront would not arise on other sites, that were not also on the seafront, but neither could any such benefits guarantee such further re-development. There may be a case for a regeneration policy for the sea front in Seaton which seeks to strategically deal with flood risk for the area and to secure wider regeneration benefits but there is none such in place at present. In this case any benefits that may arise are considered to be largely limited to the site itself and as such they would not be sufficient to pass the sequential and if engaged the exceptions test.

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

The application originally proposed the construction of a 6 storey apartment block but following initial consultation responses this has been reduced by a storey and now a 5 storey block is proposed. The footprint of the building would cover the full width of the site and extend by approximately 16 metres from front to rear, not including the forward projecting balconies that extend out by a further 3 metres at their furthest point. A covered way on the right hand side of the building would lead to the rear of the site which would be hardsurfaced and utilised to provide car parking to serve the units. The layout therefore largely reflects existing and surrounding development on the Esplanade where buildings are set back in a line from the pavement and where parking is provided to the rear of the site, albeit often accessed from the rear.

In terms of scale and massing the proposal seeks a building which clearly differs in form to those immediately surrounding it. Whilst there are taller buildings on Seaton's seafront these are located closer to the town centre at the western end of The Esplanade. The existing development immediately adjoining the site is 3 storey in height to the west and four storey in height to the east and comprises of a terrace of dwellings and a large apartment complex respectively. To both sides however the neighbouring buildings have similar qualities having very much a linear nature with a horizontal emphasis. In addition both also step down in height where they adjoin the site to provide a transition down to the two storey height of the existing building on site. The application suggests that in order to make a positive statement on the sea front that development needs to counteract the character of the adjoining buildings in order to make a positive contribution. The design approach is therefore for a tall vertically emphasised building to stand out from the development to either side. In addition the curved balcony structures to the front would break the building line and again make the building appear more prominent, standing out from the development to either side.

The proposed reduction in height from 6 to 5 storeys would serve to reduce the prominence of the building and to enable it to relate more positively in scale to

adjoining buildings, there is however no doubt that the building would still appear conspicuous both on the sea front and in views towards it from land to the north, however as the townscape evolves with development approved both on the seafront and the regeneration site coming forward the prominence of the building would be expected to reduce over time.

The applicant has taken a concept design for a building of this scale to the Devon and Somerset Design Review Panel for consideration. At the time there was no detailed design for consideration and therefore the Panel's comments were focussed on the principle of developing a building of this scale/height in this location, in relation to height they made the following comments:

*"...The panel recognises the need for the proposals to be financially viable, and, assuming additional development is enabling the funding of a higher quality proposal, would in principle support a taller building of up to 6 storeys as a maximum. The panel's support in this regard would be subject to detailed design proposals,"*

They go on to say,

*"In order to support a 6 storey building to the Panel feels that the proposals would need to be of an extremely high quality design."*

Whilst the massing of the building does not conform to the character of the area in terms of its vertical emphasis the existing buildings to either side do have significant bulk, particularly Norcombe Court to the east. In addition these buildings and others along the seafront are not of uniform appearance and are of no particular architectural merit such that new development should be required to conform to this. The proposed building therefore whilst not considered to be particularly in-keeping with the existing character of development in the area is considered to be acceptable in relation to its impact on the streetscene and has the potential to lift the appearance of the area through the introduction of a building of modern contemporary design.

In terms of its detailed appearance the proposal would feature clean simple lines with flowing balconies to the front of the building, curved corners to the building elevations and the recessed penthouse apartment serving to articulate its massing in a manner that would soften the appearance of the building. The palette of materials proposed is designed to reflect the geology of the area with a lower level of pebble clad elevations followed by reconstituted stone pre-cast panels to the upper part of the elevations. The penthouse building would be clad in standing seam metal cladding. The materials therefore have some relevance to the area whilst also offering a modern interpretation of the render and slate finish that predominates on properties in the town centre.

## THE WIDER LANDSCAPE/TOWNSCAPE IMPACT

The application is accompanied by some supporting information that considers the building in its context, however this is not a full LVIA or TVIA (Landscape/Townscape Visual Impact Assessment which the applicants were advised should be provided at

pre-application stage in order to fully consider the wider impact of the building on its surroundings.

The height of the building as well as the projecting nature of the balconies will clearly make it foremost in views along the Esplanade, Particularly in an easterly direction where the taller Fosseyway Court development would not be seen. The Council's landscape Architect has considered the proposals and has raised concerns in relation to the lack of information provided to assess the application. They have also raised specific concerns in relation to the design of the building with the building plinth projecting into the front garden and the failure of the building to respond appropriately to its townscape setting. Overall the view expressed is that the proposal is considered to be unacceptable in landscape design terms.

The reduction in height of the building from 6 to 5 storeys brings the overall height of the building closer to that of the adjoining property to the east (Norcombe Court) although the vertical emphasis and narrower nature of the building are likely to accentuate its height in relation to that building. However, the change is considered to be sufficient to reduce the overall impact of the building such that whilst it would still appear prominent in views along the sea front it would not stand out to the degree that it would be unacceptable in scale in relation to surrounding development.

#### BENEFITS OF THE SCHEME

The application includes within the submitted planning statement consideration of the benefits considered to arise as a result of the development, these, it is suggested, include; economic, social and environmental benefits.

In terms of economic benefits these include: investment in and regeneration of the sea front and encouragement of further economic activity; jobs created from the construction project.

In environmental terms it is suggested that a benefit would arise through removal of a building of little architectural merit and its replacement with a high quality design on a prominent site, such a benefit is however somewhat subjective, the proposal would however represent a more efficient use of a brownfield site within a location where it would be well located in relation to the town centre and access to shops, services and public transport. Finally, in environmental terms it is suggested that by raising the threshold by 500mm the new development would present a significantly lower flood risk to future inhabitants and other flood alleviation measures would reduce off-site floodrisk, these issues are considered above.

In terms of social benefits it is suggested that delivery of additional housing (irrespective or not of whether a five year housing land supply can be demonstrated) would assist in meeting the overall housing requirements of the Local Plan which include a windfall element for Seaton. Whilst it is acknowledged that a windfall element is required within the Local Plan Seaton has historically brought forward a number of windfall sites annually such that the proposed development would not be necessary to boost these numbers (see above).

## IMPACT ON RESIDENTIAL AMENITY

The application site is surrounded on three sides by existing residential properties and therefore development on the site, particularly on the scale proposed, has the potential to impact adversely on adjoining occupiers.

The existing main building on site is two storey in height and sits between taller development to either side. It does not project significantly beyond either the front or rear building lines formed by those buildings and whilst it is constructed up to the western boundary there is a gap of a minimum of 4 metres to the eastern boundary. To the rear of the main building there is a gap of approximately 4 metres to the detached single storey building that serves as a separate dwelling and beyond this a garage block linked by a flat roof extension, both of these buildings are built adjacent to the western boundary of the site.

Consideration is given below to potential impacts on neighbouring properties as follows:

### **Lyme Mews**

This is a terrace of dwellinghouses that run west from the site, the properties are predominantly 3 storey in nature but the closest property to the site drops down 2 ½ storey level. The properties in the terrace have private rear gardens to their northern side with detached garages serving pairs of properties situated at the far end of the gardens and accessed via Bay Court. No. 15 is the property closest to the site and the garden of this property extends further to the north than the others in the terrace. The proposed apartment building would be constructed immediately adjacent to but inside the line of the existing western boundary wall. A private footpath runs to the immediate west of the site between it and no. 15 Lyme Mews, it is understood this is a right of way for residents of Bay Court to the Esplanade.

At present the existing main building on site has its rear elevation in line with the rear of Lyme Mews and whilst the other buildings to the rear extend beyond this there is a physical gap in the development and the outbuildings are of single storey form. The proposed development extends approximately 6.5 metres beyond the rear elevation of No.15 Lyme Mews within approx. 2.5 metres of its rear boundary and would extend to over 13 metres in height (not including the penthouse apartment) in an elevation broken only by thin horizontal strips of glazing. Whilst it is recognised that materials have been chosen which are likely to reflect light and serve to reduce the potential impact it is still considered that the proximity to the boundary, the height and the projection of the building beyond the existing rear building line would have a dominating and oppressive impact on the amenity of properties to the west, particularly No. 15, but to a lesser extent other properties in the terrace. In particular No. 14 (immediately west of No.15) would be impacted due to the fact that its garden does not extend as far to the north. It is recognised that the applicant has sought to reduce the impact by foreshortening the building over that originally submitted but the impact is still considered to go far beyond what is considered to be acceptable in the circumstances.

In addition to concerns over the overbearing impact of the proposal there is also the potential for a building of this height to cause a loss of light to neighbouring

properties. The applicant has provided some information, in the form of a sun path study, that looks to assess this issue. The information submitted considers the shadow cast of the building at different times of the day (9 am, 1 pm and 5 pm) and different periods of the year (March, June, September). The results show that the shadow cast would be more significant in the morning and more so in summer, as at other times of the year the shadow cast by Lyme Mews itself shows the rear gardens of those properties in shade. In June during the a.m. period it would appear that the building would put the gardens of the nearest properties to the site in shade, albeit reducing during the course of the morning. This impact represents a further reduction to the amenity of adjoining occupiers.

In terms of potential loss of privacy it is not considered that the Lyme Mews properties would be significantly affected by windows in the rear elevation of the building due to existing levels of mutual overlooking and the fact that only bathroom windows (which could be conditioned to be obscure glazed) and the penthouse terrace would view towards the adjoining rear gardens. In respect of the penthouse terrace whilst this wraps around the whole of the building the primary views would be to the north and south as opposed to east or west. At the front of the building there have been concerns raised in relation to the impact of the proposed projecting balconies. These balconies are curved in nature projecting further forward to the west side than to the east. They have two potential impacts, firstly loss of privacy amenity and secondly loss of view/outlook. In the first respect the balconies have the potential to afford views from them back towards the neighbouring properties and to cause a loss of amenity through noise and activity associated with their use in close proximity to neighbouring properties. In this respect it is considered that the separation distance and angle of view would be such that no significant impact would occur. In relation to loss of outlook/view the applicant has provided plans that indicate the angle of view/outlook that would be affected by the proposal. It is clear that the angle of view from windows in the south elevation of No.15 Lyme Mews (and to a decreasing extent those further to the west) would be reduced but the outlook from this and other properties would not be significantly diminished.

## **Bay Court**

Nos. 7-9 Bay Court run perpendicular to the Esplanade and Harbour Road such that their rear gardens adjoin the western boundary of the site. These properties are considered to be sufficiently distant from the proposed building such that the building would not be significantly overbearing, particularly as the windows in these existing properties would not view towards it. However, the sun path study indicates that the proposed building would cast shadow on the rear gardens of this property at all times of the year at 5 p.m. The submitted information is not sufficiently comprehensive to demonstrate how long this shadow would be in place but it is evident that it would at least have some impact on the use of the garden during a period of the day when occupiers might reasonably expect to enjoy their gardens, this adds weight to the concerns expressed in relation to the impact on occupiers of Lyme Mews.

The proposal would introduce large amounts of glazing to the rear elevation as well as a penthouse terrace all of which would afford views northwards towards the rear gardens of Nos. 7-9. However, the windows in the rear of the building serve bedrooms only and are considered to be sufficiently distant that they would not

cause any significant loss of privacy particularly when existing levels of mutual overlooking are taken into account.

### **Harbour Road Fronting Properties**

Properties to the north of the site front onto Harbour Road and have their rear elevations/gardens facing the site, these properties include: Nos. 1-3 Bay Court, 42 Harbour Road (which includes commercial use at ground floor level as well as a number of flats) and 51 - 58 Norcombe Court. All of these properties are considered to be sufficiently separated from the proposed building- the distance from the rear elevation of the proposal to the nearest garden boundary being 27m, with a minimum 34m between facing elevations - that their amenity would not be affected to any significant extent.

### **Norcombe Court Properties**

Unlike Lyme Mews to the west, Norcombe Court extends deeper into its respective site such that the proposed building would not extend beyond the existing rear elevation of this property and as such there are not the same concerns in relation to overshadowing or overbearing impact. Norcombe Court is also an existing apartment block where to the rear of the building is a communal parking court as opposed to private rear gardens. There are a series of windows in a vertical line on the central part of the west elevation facing toward the site and these would suffer some loss of light as a result of the height and proximity of the building to this boundary but these windows do not appear to serve habitable accommodation and some separation would be maintained (minimum 2 metres), again the light colours proposed for the elevations would serve to reflect light reducing this potential impact.

To the front concerns have been raised in relation to the impact of the proposed balconies on the windows/balconies that currently exist on the south elevation of Norcombe Court, in particular No. 38 closest to the site, at 3rd floor level. The neighbouring occupiers consider that they would experience an extreme loss of view as well as loss of privacy/amenity through the use of the proposed balconies as well as that associated with the use of the access on the boundary. The applicant's analysis of the proposed balconies does show that there would be a reduction in the angle of view from neighbouring balconies/windows however as with the impact on Lyme Mews this loss of view is not something that can be taken into consideration and any loss of outlook would be limited. In terms of privacy there is some potential for views back toward windows on the front elevation of Norcombe Court but if the application was considered to be acceptable in all other respects obscure glazed screens could be required by condition if considered necessary.

### **ECOLOGICAL IMPACT**

The application is accompanied by a Preliminary Ecological Appraisal and Bat Scoping and Emergence Survey Report. The report advises that following an initial inspection of the site a single emergency survey was undertaken to establish the presence or not of bats on site. The survey recorded no bat activity and given the exposed location of the site the report considers that the site has negligible to low bat potential and advises that no further survey work is required. In addition no bat

enhancement proposals are provided due to the exposed location, however integrated starling boxes are proposed as a biodiversity enhancement.

## ACCESS AND HIGHWAYS ISSUES

The application proposes a new access to the rear of the site via a covered way to the east side of the building, this however would largely follow the route of the existing access which leads to the rear of the site. The highways authority has commented that the access way is considered to be acceptable in terms of width to accommodate an average family car but that there appears to be no mention of height, however in terms of the application drawings these appear to indicate the height to be approximately 2m which is considered sufficient.

The access would lead to a parking area to the rear with provision of 10 no. spaces, this would provide for parking at a minimum of one space per unit, which whilst below the levels expected under policy TC9 of the Local Plan. This policy does however permit lower levels in certain locations where there is access to public car parks and/or on street parking and given this the levels of parking are considered to be acceptable.

In terms of parking layout Devon County Council originally raised concerns and objected to the application in relation to the size of the individual parking bays and the amount of turning space in front of some of the indicated spaces. The recommended parking space dimensions are 2.4m wide and 4.8m long with 6m of turning space in front of each space. The amended site plan includes actual dimensions shown for parking spaces and turning distances forward of these and indicates that the required distances can be achieved, as such and whilst the County Highway Authority has not to date responded to the amended plans consultation it is considered that the issue raised has been suitably addressed.

In terms of surface water drainage this matter is considered below.

## S.106 MATTERS

The application falls below the thresholds whereby contributions can be sought towards affordable housing or other tariff style planning obligations and as such no such contributions have been sought.

## OTHER MATTERS

Aside from the Flood Risk relating to the proposals considered above, it is also necessary to consider the surface water run-off proposals for the scheme. Policy EN22 of the Local Plan requires that new development fully considers run-off implications of new development; includes appropriate remedial and maintenance measures, and; where there are potentially significant surface water runoff implications includes a Drainage Impact Assessment. In relation to major developments there is an expectation that surface water would be managed by sustainable drainage systems. The amendments to the application take the development outside of the major category of development and therefore the latter criteria no longer specifically applies.



A drainage strategy accompanies the application and indicates that the car park area to the rear of the site would be largely surfaced with permeable paving thereby reducing the surface water run-off by 50% from current levels. The run-off would then be directed to the existing public combined sewer. Devon County Council responding in their Flood and Coastal Risk Management capacity has advised that they have no objections to the proposal.

Were the application to be approved further details of the final design strategy should be required by condition.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The development proposes a more intensive residential use of a site within Flood Zone 3 and as such represents more vulnerable development in a designated high risk flood zone where there is a requirement for the sequential and where appropriate exceptions tests for site selection to be applied. In this case the sequential test is not met as the area of search has been too narrowly applied in relation to the type and quantum of development proposed and therefore it has not been adequately justified that there are no alternative sites which could provide the development proposed on sites of lower flood risk. In addition and in relation to the exceptions test (were this to be engaged) it has not been demonstrated that the development provides wider sustainability benefits to the community that outweigh the flood risk. The development is therefore contrary to policy EN21 (River and Coastal Flooding) of the East Devon Local Plan 2013-2031 and the guidance set out within the National Planning Policy Framework and National Planning Practice Guidance.
2. The development by virtue of its height, proximity to and extent of projection along the western site boundary, together with its overall scale would result in an oppressive and overbearing impact on the occupiers of neighbouring properties which, coupled with the loss of light to rear gardens of properties to the west of the site, would have an unacceptable adverse impact on amenity of neighbouring occupiers contrary to policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031 and the core planning principles set out 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:

150703 E01.01A NORTH	Proposed Elevation	21.06.16
150703 E01.02A EAST	Proposed Elevation	21.06.16
150703 L01.03A	Proposed Site Plan	21.06.16
150703 E01.04A WEST	Proposed Elevation	21.06.16
150703 L01.01A	Location Plan	21.06.16
150703 L01.04A GROUND	Proposed Floor Plans	21.06.16
150703 L01.05A 1ST,2ND,3RD	Proposed Floor Plans	21.06.16
150703 L01.06A 4TH FLOOR	Proposed Floor Plans	21.06.16
150703 L01.07A	Proposed roof plans	21.06.16
150703 E01.02A	Proposed Elevation	21.06.16
150703 L01.03A+NOTES	Proposed Site Plan	21.06.16
150703 SE01.01 A WEST AA	Sections	21.06.16

List of Background Papers

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

**Ward** Seaton

**Reference** 16/0435/MFUL

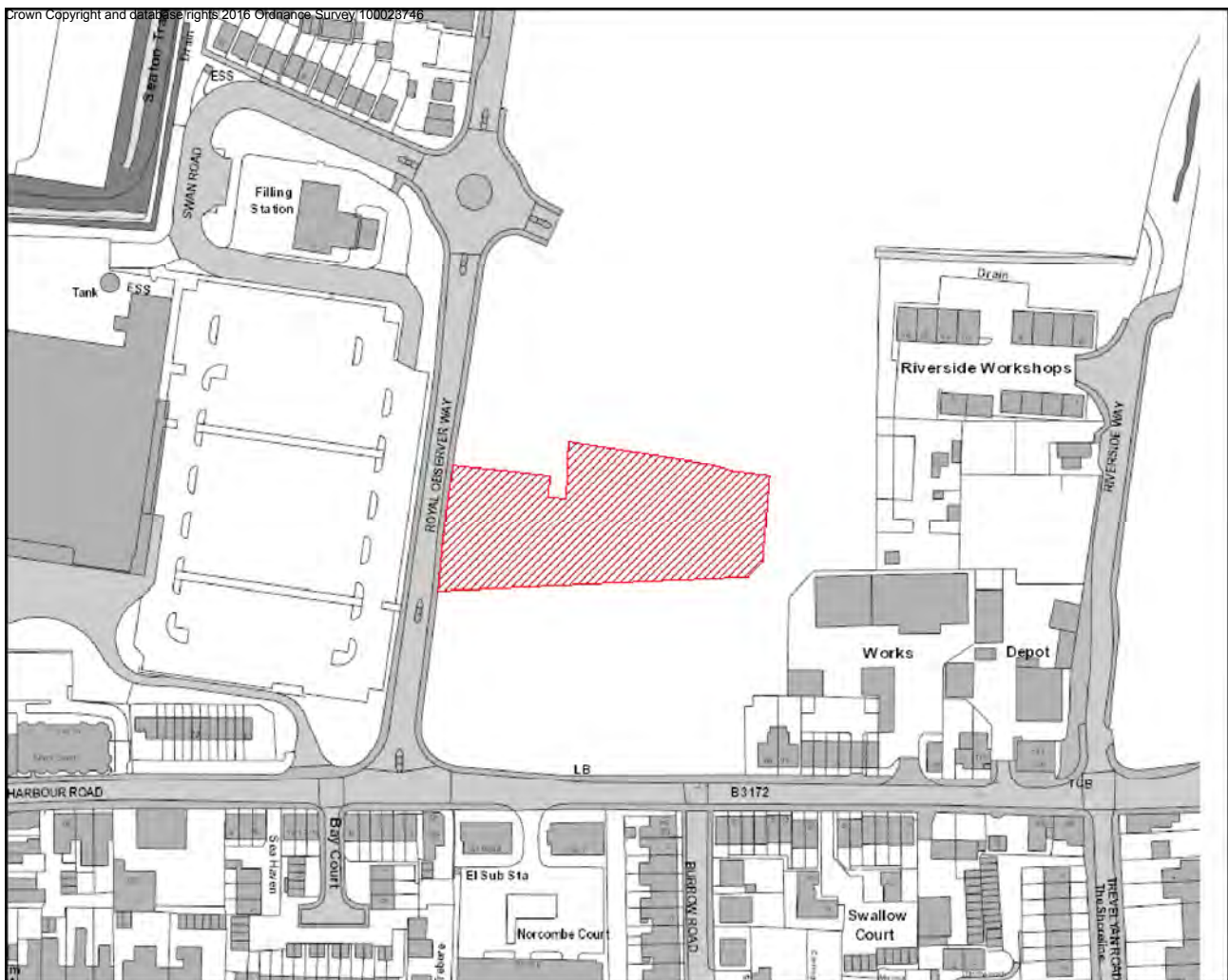
**Applicant** Bovis Homes PLC & Tesco Stores Ltd

**Location** Land At Harbour Road Seaton

**Proposal** Proposed residential development for 20 no. plots and associated works (amended layout to residential development approved under 13/2392/MRES to provide additional 8 no. units)



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Seaton (SEATON)</b>	<b>16/0435/MFUL</b>	<b>Target Date: 10.06.2016</b>
<b>Applicant:</b>	<b>Bovis Homes PLC &amp; Tesco Stores Ltd</b>	
<b>Location:</b>	<b>Land At Harbour Road</b>	
<b>Proposal:</b>	<b>Proposed residential development for 20 no. plots and associated works (amended layout to residential development approved under 13/2392/MRES to provide additional 8 no. units)</b>	

**RECOMMENDATION: Approval with conditions and subject to a legal agreement**

### **UPDATE REPORT**

This report is written and should be read as an addendum to the report to Development Management Committee of 5<sup>th</sup> July 2016 attached. At that meeting member's voted to defer a decision on the application to enable further information to be presented to members regarding the viability of the scheme and the District Valuer's assessment of this in order to demonstrate why the proposal is still unable to provide any affordable housing.

This addendum report provides that further information.

#### **Consultation Responses**

Since consideration of the application at the July Development Management Committee, the following comment has been received:

##### **Seaton – Cllr M Hartnell**

Further to the outcome of deciding to defer application 160435/MFUL, could you please register my disappointment that there is no provision for affordable housing on this site, and that I am in agreement with fellow ward member Cllr Knight in requesting more information with regards to the viability assessment, and wonder if more could be done to encourage some affordable housing, even if less than 25%.

#### **Background**

The background relating to the development of the site was set out in the original report and reference made to an earlier assessment of the wider site's viability carried out in relation to a section 106 BA application approved in 2013 and which reduced the affordable housing contribution on the site from 25% (as approved) to nil. It is considered informative to revisit this application as the basis on which the viability of the wider residential scheme was assessed and which in turn has informed future viability considerations. At the time the applicant and freehold landowner (Tesco) provided a viability report which set out the reasons why affordable housing was not considered to be viable, the principle reasons given were:

1. Decreased density of housing - The fill operations that have taken place to raise site levels would not support terraced or 3 storey dwellings (without prohibitively expensive piled foundations) this has reduced the number of units that could be developed on the site and therefore the site value. It is also suggested that the change to the flood drainage route, required by the fill operations has further reduced the developable area of the site by 0.5 acre and that the demand profile has changed to larger family homes rather than starter units.
2. Decreased land values - Land values have declined steeply and not recovered since the application was made, therefore the difference between the purchase cost of the site and the residential sale value has narrowed.
3. Cost of Fill operations higher than expected - The budgeted costs for the entire fill operation (including those for the supermarket site) were at the time of the application approx £9.5 million, the actual cost to date has been around £11 million and with further work still required (surcharging the site; protection of created land form etc.) this is expected to rise to £12.15 million. It is suggested therefore that the fill operations will have an eventual overspend of £2.65 million.

The submitted report in relation to the 2013 s.106BA application went on to advise that whilst, at the time, development of the site would be unviable even with no affordable housing provision, the removal of this requirement would offset some of the additional and unbudgeted costs sufficient to allow the site to be released for development. At the time the viability report looked to apportion the fill operation and planning costs between the various elements/uses approved under the outline approval and did so based on site area, with the residential element accounting for 65% of the costs. Additionally the appraisal took into account other factors including reasonable developer profit, likely sales rate, and number of dwellings that could be built and the alternative use value of the site.

The appraisal suggested that even without taking into account the site fill costs the residential development value of the site would be below the alternative use value of the site and therefore there would be no incentive for the landowner to sell. Once an apportionment of the fill costs were taken into account and with the provision of 25%

affordable housing the development land value reduced to a negative value of - £5.17million. With the requirement for affordable housing removed it was suggested that the residential land value would increase to approx. £2.93 million (- £3.9 million with fill costs apportioned). That report concluded that whilst the landowner could have been expected to sustain a significant loss on the development/sale of the site, they would be prepared to release it for development if the affordable housing element was removed as this was the best return they could be expected to make.

At the time that Section 106BA applications were introduced The Department for Communities and Local Government introduced guidance on assessing viability. The definition of viability as set out in that publication, 'Section 106 affordable housing requirements, Review and appeal', April 2013 states:

*"The test for viability is that the evidence indicates that the current cost of building out the entire site (at today's prices) is at a level that would enable the developer to sell all the market units on the site (in today's market) at a rate of build out evidenced by the developer, and make a competitive return to a willing developer and a willing landowner."*

The original viability report was submitted to the District Valuer for assessment on behalf of the Council and whilst there was disagreement on certain values and inputs, overall the DV's conclusions were similar to that of the applicants and where he concluded that,

*"...the proposed scheme cannot, at current cost and values, viably support any affordable housing contribution."*

However, at the time the District Valuer recommended the imposition of an overage clause or review mechanism in any varied s.106 agreement in order to allow reassessment of viability on later phases of development taking into account the circumstances at the time.

Development Management Committee resolved to approve the 2013 application and to reduce the affordable housing contribution for the site to nil. However, the procedures in Section 106 BA only apply for a period of three years from the date of the decision. If the development is not completed within 3 years of any agreement to modify the original s.106 agreement, the original affordable housing obligation will apply to those parts of the scheme which have not been commenced. In recognition of this and to enable any improvement in the scheme viability to be captured the amended s.106 agreement provided for future review mechanisms prior to the completion of 50% of the units on the previous phase. For the purposes of the amended S.106 agreement the development was split into 3 phases.

## **First Review**

The first review, in relation to phase 1 has recently been carried out. Whilst 50% completion of phase 1 had not quite been reached the developer had requested an earlier review as they argued to wait until the 50% threshold had passed would seriously undermine progress on site. This was considered to be reasonable in this case, as it would allow development to continue with certainty and a slightly earlier reassessment of viability was not considered in these circumstances to affect the scheme's overall ability to deliver affordable housing, or not.

The review carried out was on the basis of the agreed appraisal template at the time of the original S.106 BA application. Whilst the review showed an increase in sales prices (over those predicted) it still showed the scheme to be in significant deficit. These updated figures and projections looking forward to the next phase of development were again independently assessed by the District Valuer on behalf of the Council. The District Valuer concurred with the developer that whilst there had been some improvement, over projected residual value, the scheme would remain in significant deficit over the next phase of the scheme and could not support the provision of affordable housing.

In terms of specific figures the DV advised at the time that when taking into account agreed historic costs, achieved sales prices, and projected costs and values the net scheme deficit lies in the region of -£2,928,000. Whilst the view of the agent for the developer was that the deficit was substantially greater, in the region of -£6,800,000, in either case a substantial deficit remained.

The District Valuer's concluding comments were:

*"At this review stage, and in current market circumstances, we consider that the scheme is still showing a substantial net financial deficit, and is not therefore sufficiently viable to allow for the provision of any on-site affordable housing in phase 2."*

As a result the first review accepted that the affordable housing requirement for phase 2 (and the remainder of phase 1) should remain as nil.

### **Current Proposal**

The current application is, in terms of its location, considered to be an extension to phase 1. Whilst the application is for 20 units, only 8 of these are additional, the other 12 having previously been approved but included again as they are affected by the revised layout. This being the case the usual expectation would be that 2 of the 8 additional units would be delivered as affordable.

The application is considered as an extension to the existing site (and to phase 1) indeed it could not be delivered separately to, or in isolation from this as access to the site is from the north via the existing residential site. The application has again been subject to appraisal by the District Valuer where he has considered the applicants submitted values and costs, and analyzed them based on the originally

agreed viability template, taking into account current market circumstances. Whilst the District Valuer has advised that there is disagreement on projected completed unit values and sales rate as well as the extent of the overall net scheme deficit, they remain of the view that when taking into account agreed historic costs, achieved sales prices, and projected costs and values there remains a significant overall net deficit across the scheme as a whole. Taking account of the additional 8 units this is considered to be in the region of -£2,753,000, whilst this remains significantly lower than the view of the developer (who considers the deficit to be substantially greater in the region of -£6,411,000) it still shows the scheme as a whole is unviable.

As previously reported, The District Valuer's concluding comments on the proposal were:

*"Having analysed the revised scheme on the basis of the previously adopted methodology and in current market circumstances, we consider that whilst ameliorated to some extent, the scheme is still showing a substantial net financial deficit, and is not therefore sufficiently viable to allow for the provision of any on-site affordable housing, either in the additional unit provision (the subject of the current application), or the remainder of phase 2."*

The main issue with this site relates to the historic costs related to the site, as considered at the time of the 2013 application and set out at the beginning of this report. The scheme as a whole remains in significant deficit and as such it is a case of the land owner seeking to minimise their losses on the site as opposed to maximising profit. The developer will make a profit from the development (at an agreed rate) – ‘a competitive return to a willing developer’ being an accepted cost in terms of viability assessment – and without which there would be no incentive to carry out the development. Nonetheless, at this stage in the development of the overall site the scheme remains in deficit and any profit above the agreed developers profit level would be offset against the overall deficit of the scheme.

The current S.106 agreement, as varied, not only requires reappraisals of the overall scheme viability, prior to completion of 50% of the units on the previous phase but also requires a final viability assessment at the completion of all 3 phases. This final review of the scheme's viability as a whole will allow any unexpected profit that has been achieved to be shared on a 50:50 basis with the council and to be used for the provision of off-site affordable housing. As it is suggested that there is a need to tie the current development to the requirements of the existing S.106 agreement then any additional benefit these units bring in terms of overall viability will be captured in the final review of the site at the end of the development.

As stated in the concluding paragraph, on viability, of the earlier report to committee, whilst it is very disappointing that the economic viability of this site remains such that the normal contributions and benefits that would accrue from a scheme of this nature are unable to be secured, this has been independently verified by the District Valuer,



who is regularly involved in appraising development viability on the Council's behalf. The scheme would however, allow for a satisfactory completion of the scheme and bring forward the general economic (and social) benefits that additional housing bring about.

Following the deferral of the application from the July Committee, officers have raised questions regarding viability with the DV who have clarified the following:

*"I have examined my files. It is clear that Bovis and Tesco are in a Joint Venture arrangement, and no land has been transferred to Bovis. They are developing and selling the houses, and Tesco share in the receipts/profit according to a formula specified in the agreement (I have only seen part of the commercially confidential agreement).*

*Tesco purchased and own the land. They spent a considerable amount of money on it, although it included the store site. They then spent a further considerable sum of money raising the level of the site and preparing it for development.*

*The original purchase price has been ignored for the purposes of the viability assessment. An apportionment of fill costs has been allowed as a development cost. The land value of the whole site has been agreed at a 'benchmark' level of £2,250,000 reflecting its previous condition and holiday park/leisure use. If the actual Tesco acquisition cost were to be incorporated, it would further compromise financial viability.*

*The additional residential development land forms part of the site originally acquired by and still owned by Tesco, and has had the level raised. It was formerly part of a site designated for hotel use. The agreed sale of the site for that use is on a smaller area, so further land became available upon which an application for further residential development has been made.*

*The key factor that has thus far compromised financial viability, and therefore the ability of the scheme to provide affordable housing, is the fill cost.*

*The viability assessments have been prepared in the light of, and compliant with, RICS guidance note 'Financial Viability in Planning' (copy attached)."*

As the development is coming forward as a joint venture between Tesco and Bovis (they are also joint applicants), Bovis are not buying the land, only building and sharing in development profit with Tesco. As such, we can be sure that Bovis are not purchasing the land at a level that would enable them to make a profit at a level that could justify the provision of affordable housing.

Despite the substantial fill costs that Tesco undertook, albeit partly to enable construction of the food store, the fill costs were necessary to make the wider

regeneration site developable. This has resulted in a substantial cost deficit for Tesco and it is reasonable that they seek to maximise their return from the residential development to minimise their overall losses from the cost of the fill. The S.106 agreement retains the Council a review mechanism to ensure that if the scheme does generate a 'super profit' this will be shared with the Council to provide affordable housing.

For clarification, the viability information is not saying that the development will not make a profit, it is simply stating that the profit being made is just enough to make the development happen (with a reasonable return/profit for the developer – 25% in this instance given the unusual risks associated with building on the fill) but is not making a profit above this level that can then justify the provision of affordable housing.

Given the substantial deficit to Tesco from the purchase and fill of the site (approximately £3m according to the DV), it is clear that any profit from an additional 8 dwellings would not be of a level that could outweigh these costs and result in an overall profit level that could support the provision of 2 of the additional 8 dwellings being provided as affordable housing.

### **Conclusion**

In light of the above the officer recommendation remains as per the attached report considered by members at the July Development Management Committee.

		<b>Committee Date: 5<sup>th</sup> July 2016</b>
<b>Seaton (SEATON)</b>	<b>16/0435/MFUL</b>	<b>Target Date: 10.06.2016</b>
<b>Applicant:</b>	<b>Bovis Homes PLC &amp; Tesco Stores Ltd</b>	
<b>Location:</b>	<b>Land At Harbour Road</b>	
<b>Proposal:</b>	<b>Proposed residential development for 20 no. plots and associated works (amended layout to residential development approved under 13/2392/MRES to provide additional 8 no. units)</b>	

**RECOMMENDATION: Approval with conditions and subject to a legal agreement**

#### **EXECUTIVE SUMMARY**

The application is brought before committee as officer view differs from that of the Parish Council and Ward Member.

The application seeks full permission for the development of 20 no. dwellings on part of the Seaton regeneration site. The application site forms part of the wider regeneration area for Seaton where outline planning permission has previously been granted, under application 09/0022/MOUT for the re-development of land to include housing, tourism, new public realm, petrol filling station, hotel, retail development with public open space and access. Subsequent reserved matters approvals have been given for residential development on land to the north of the application site for the construction of 222 dwellings (13/2392/MRES) and for the construction of a 100 bed hotel on land to the south of the site (13/2323/MRES ).

The residential development to the north is now well under way but no development has taken place on the hotel site to date. A recent application has however been approved on the land to the south of the site, on a reduced site area, for a smaller 75 bed hotel (16/0424/MFUL). The reduction in size of the hotel has left an unused area of land between the revised hotel site and the approved residential development, the current application looks to develop this with an additional 8 no. Dwellings (12 already having been approved on part of the site under the 2013 consent but requiring reconfiguration to cater for the additional units).

In terms of design and layout the application reflects the design and character of the approved development to the north and in this respect is considered to be appropriate. The footpath link originally intended to Harbour Road has been

revised on the basis of land ownership issues and whilst the alternative is not as direct it is, on balance, considered to be acceptable.

The application is accompanied by information relating to the viability of the wider residential scheme and which clearly indicates that the scheme remains in deficit - largely attributable to the fill costs for the raising of the site levels. As a result, the application proposes no affordable housing or other financial contributions towards off-site open space etc. The application is supported by financial information which demonstrates that the additional 8 no. units would not be sufficient to alter the wider residential scheme's overall viability and as such it is regrettably suggested that nil provision is approved. However there is a need to tie the development to the original S.106 agreement. This already contains a review mechanism for affordable housing prior to each phase of development and again at the end of the scheme. This overage clause will ensure that if the situation improves across the course of the development that the council will gain a share of any 'super profit' to be spent on the provision of off-site affordable housing.

In conclusion, the proposal whilst not providing affordable housing offers some social and economic benefit through the provision of market housing and would represent an appropriate use for this area of land created through the reduction in the hotel site. Subject to the conditions set out at the end of the report and a deed of variation, or other mechanism, to tie the application to the original S.106 agreement for the wider regeneration site the application is considered to be acceptable and is recommended for approval.

## **CONSULTATIONS**

### **Local Consultations**

#### Seaton - Cllr P Burrows

I would like to request that this application goes to DMC as there are some issues with the affordable housing that need a debate on.

#### Parish/Town Council

Support.

The Town Council supports the amended application in principle but has concerns regarding the lack of affordable housing included within the proposal and previously highlighted and is not supportive of this.

The Council requests that this application be considered by the Development Management committee.

#### Other Representations

2 no. letters of objection have been raised in relation to the scheme, these raise the following issues:

- Underprovision of affordable housing

- It is unclear whether the viability information accounts for the 8 additional or 20 proposed units.

## **Technical Consultations**

### **Environmental Health**

I have considered the CEMP submitted by Bovis Homes Ltd and agree with the detail, monitoring and mitigation programmes for lighting, noise and air Quality.

There for I recommend a condition to adhere to its contents throughout the construction phase.

### **Housing Strategy Officer Paul Lowe**

Under application 13/1583/V106 the requirement to provide affordable housing on the whole site was removed for a period of 3 years. If the site is not completed within the 3 years the original affordable housing obligation (25%) will apply to the parts which have not been commenced. The 3 year period expires on 26th September 2016.

The variation to the S106 also allowed for further viability assessments on later phases and after 50% of the units on a phase have been completed, which is nearly the case with phase 1. An early reappraisal of the remainder of phase 1 and phase 2 has been completed and it has been concluded and agreed that the provision of affordable housing for the remainder of phase 1 and phase 2 would still be unviable.

The current application seeks to extend the scheme by 8 houses and whilst this improves the viability situation the site still remains in a deficit and cannot support the provision of affordable housing.

### **DCC Flood Risk SuDS Consultation**

Following our recent correspondence (FRM/2016/500, dated 1st April 2016), the applicant has submitted additional information in respect of the surface water drainage aspects of the above planning application (P9895-G-Let-EDDC-160525-SDH, dated 25th May 2016), for which I am grateful. This indicates that the small increase in impermeable areas will not result in issues with the proposed surface water management from the site and is in accordance to the approved Flood Risk Assessment. (P9895/G201/B, dated October 2013). Therefore we have no further objection to the proposals.

### **County Highway Authority**

The proposed has been brought about because the proposed land required for the adjacent hotel site to the south has been reduced to accommodate a 75 bed hotel rather than a 100 bed hotel. This has made the resulting land available for an extra 8 dwellings with redesign of 20 dwellings.

A Travel Plan has been produced for the residential (now 230 dwellings) and the hotel (75) which accompanies this application.

As with the hotel application Highway Consultation Response ((ED-00424-2016) the County Highway Authority is keen for the footway to the east of the development that

connects to Harbour Road via the hotel site (as shown on the Site Layout Plan 13022.101 Revision K) is to be conditioned in both applications.

In terms of the extra 8 dwellings and their impact on the overall scheme. The CHA is content that the existing permitted access onto Royal Observer Way via the roundabout and the internal road layouts are adequate to cope with the extra traffic from 8 dwellings.

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 development hereby approved will include suitable pedestrian footpath amenity from the adjacent site to the north to the existing footway on the north side of Harbour

Road designs for which to be approved in writing by the Local Planning Authority.

REASON: To promote sustainable travel from the adjacent development to the existing highway network in accordance with Strategy 5B - Sustainable Transport of the East Devon Local Plan 2013-2031.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
09/0022/MOUT	Re-development of land to include housing, tourism, new public realm, petrol filling station, hotel, retail development with public open space and access	Approval	04.11.2010
13/1583/V106	Variation of requirement for affordable housing in Section 106 agreement pursuant to application No 09/0022/MOUT to reduce the affordable housing provision from a minimum 25% provision to 0% provision	Approval	26.09.2013

13/2392/MRES	Residential development comprising 222 dwellings and associated open space, Reserved Matters of appearance, layout and landscaping pursuant to Outline Application 09/0022/MOUT	Approval	11.03.2014
13/2393/MRES	Erection of 100 bedroom hotel and associated car parking and landscaping - Reserved Matters of appearance, landscaping and layout pursuant to Outline Application 09/0022/MOUT	Approval	27.03.2014
14/2372/MFUL	Construction of retirement living apartment block (comprising 19 no. 1 bedroomed and 23 no. 2 bedroomed apartments, communal residents' facilities) and associated car parking and landscaping	Pending Consideration	
16/0424/MFUL	Erection of 75 bed Premier Inn Hotel (use class C1) and integral ancillary restaurant with associated access, parking and landscaping	Approved	14.06.16

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies D1 (Design and Local Distinctiveness)

Strategy 25 (Development at Seaton)

Strategy 3 (Sustainable Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 48 (Local Distinctiveness in the Built Environment)

D2 (Landscape Requirements)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

### **SITE LOCATION AND DESCRIPTION**

The application site lies to the north of Harbour road and is accessed via Royal Observer Way which runs north from Harbour Road. The site forms part of the wider Seaton Regeneration Area. To the south of the site is an undeveloped area for which there is extant permission for a hotel use, approved as part of the original outline application for the redevelopment of the regeneration area. To the north of the site development is currently under way on a large residential scheme and to the west of the site on the opposite side of Royal Observer Way is the car park to the adjoining supermarket. The site lies to the east of the town centre and north of the seafront. The land on site is level and has been artificially raised in line with the rest of the land to the north.

### **ANALYSIS**

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

- Principle of development
- Design and Impact on the character and appearance of the area
- Amenity Impact
- Highway Issues
- Economic Benefits/Impacts
- Affordable Housing and S.106 matters
- Other Issues



## Background

The application site forms part of the wider regeneration area for Seaton where outline planning permission has previously been granted, under application 09/0022/MOUT for the re-development of land to include housing, tourism, new public realm, petrol filling station, hotel, retail development with public open space and access. At the same time as this outline application a full permission was granted for the retail superstore and filling station on the southwestern part of the regeneration site (09/0022/MOUT) this is complete and has been operational for several years. Subsequent reserved matters approvals have been given for residential development on land to the north of the application site for the construction of 222 dwellings (13/2392/MRES) and for the construction of a 100 bed hotel on land to the south of the site (13/2323/MRES). The residential development to the north is now well under way but no development has taken place on the hotel site to date. A recent application by Premier Inn has however been approved on the land to the south of the site for a 75 bed hotel on a reduced site area (16/0424/MFUL). The result of the smaller hotel proposal is that the site area originally proposed for the hotel use has been reduced leaving a section of land between the approved residential development and the reduced hotel site with no use. This parcel of land together with a small section of the approved residential site to the north forms the current application site.

## PRINCIPLE OF DEVELOPMENT

The application site is located close to the town centre of Seaton in a sustainable location where level pedestrian access is available to the town centre and facilities/services available therein. The site is also well located in terms of accessibility to public transport serving the town.

The proposal would represent a natural extension to the residential development already permitted to the north and would be an acceptable use in this location, in line with the strategy set out at Strategy 25 of the Local Plan. The slight reduction in area for the hotel development to the south is compensated for by the reduction in the size of the building and number of associated parking spaces.

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

The application incorporates a small part of the approved residential development to allow for a reconfiguration of the southern part of that development. This would allow for an appropriate layout and access to incorporate the additional units. Therefore whilst the development proposed is for 20 no. units there would actually only be 8 no. additional units with the difference (12 units) made up of a reconfiguration of already approved units.

The proposed layout would see a continuation of the frontage development previously approved along the east side of Royal Observer Way and served by vehicular access to the rear and beyond this further detached and semi-detached units fronting onto an internal estate road (or at the eastern end a perimeter footpath) with parking provided by a parking courtyard to the rear of the properties. Such a layout reflects that approved to the north and is considered appropriate.

In terms of property types and external appearance this again would reflect the previously consented and under construction development to the north. This development is based on 4 no. character areas: urban frontage and square; marshland edge; central core and transitional. The proposed development would adjoin the urban frontage and square and central core character areas with the design of the dwellings and external materials reflecting those approved i.e. a mix of brick, render and weatherboarding to the elevations (the latter 2 no. materials in pastel shades) under predominantly slate grey coloured roof tiles with some burnt orange double roman tiles. The extension to the existing residential site is considered appropriate in this respect.

## AMENITY IMPACT

The proposal would extend the residential development slightly further to the south and therefore closer to existing properties to the southeast which front Harbour Road. However, a separation distance of over 45 metres would remain to the rear boundary of the nearest residential property (No. 89 Harbour Road) and as such the proposal would not result in any additional harm. There are no other existing residential properties which would be affected by the proposal. The proposed layout allows for an appropriate level of amenity for future occupiers.

## HIGHWAY ISSUES

The extended site area would be accessed via the existing internal estate roads that run east to west and south to north to link with Royal Observer Way via the southeast junction of the roundabout. The Highways Authority has considered the application and has not raised any issues in respect of the additional traffic movements likely to be generated by 8 no. additional units.

In terms of pedestrian access and permeability the outline application for the wider site, as well as the reserved matters approvals for both the residential (13/2392/MRES) and hotel (13/2393/MRES) schemes, all included for the provision of a footpath running from the southeast corner of the residential site, along the eastern boundary of the hotel site and linking to Harbour Road and from there via Burrow Road opposite to the Esplanade.

The submitted application would no longer provide a link in this location, as it is no longer within the applicant's control to do so (the land for the footpath link being owned by Tesco). The hotel site to the south did not include the land for the footpath so it could not be secured as part of that proposal and its need was not directly related to the provision of the hotel as it was to provide a more direct link for the residential properties to the beach. The hotel site application leaves a corridor on the eastern boundary of the site which might facilitate the provision of a future footpath link.

The applicant has been asked to provide the link as part of this application but has declined to do so, mainly on the basis that it is not within their ownership. This unfortunately leaves a situation where there is no application to secure this link.

As the original link cannot be provided under land within the applicant's control, an alternative pedestrian route has been sought. This would link from the existing peripheral footpath on the east side of the site and would run via the shared surface estate road running east-west across the application site before turning south and then west to run between proposed units and onto the footway on the east side of Royal Observer Way.

Whilst this route is more circuitous, and potentially less desirable than that previously envisaged, it would offer a viable alternative pedestrian route that would continue to allow a peripheral route around the estate and would link with the revised crossing point on Royal Observer Way which is to be relocated to accommodate the access to the hotel site. It is however very disappointing that the applicant and Tesco cannot come to agreement on the provision of the route, particularly as it was always envisaged as part of the wider development of the site and provides the most direct and logical link between the new dwellings and the beach.

## ECONOMIC BENEFITS/IMPACTS

The application provides for 8 no. additional residential units over and above the 222 already approved to the north of the site. The wider residential scheme, is expected to deliver significant and long-lasting benefits to the local economy through the construction phases of development and the likely patronage of future residents to local businesses, as well as indirect benefits to the wider economy. The proposed scheme would add further weight to these significant benefits which weigh in favour of the application.

## AFFORDABLE HOUSING AND S.106 MATTERS

A proposal for 20 (or 8 additional) dwellings would normally trigger a requirement for affordable housing provision and potentially for contributions towards other infrastructure including open space and education. In terms of affordable housing under Strategy 34 of the Local Plan the development should deliver 25% of the properties as affordable. Whilst the development is for 20 no. units it only proposes 8 additional units the others having been previously approved under an earlier scheme but their development affected by the reconfigured layout. As a consequence, there is an expectation that 2 of the 8 additional units would be delivered as affordable.

On the wider residential scheme an application has previously been considered under s.106BA of the Town and Country Planning Act to have the affordable housing requirement reduced to nil. Those procedures, introduced by Central Government allowed for a reassessment of affordable housing requirements in the light of current economic circumstances (these procedures are no longer available being temporary and now expired).

At the time of the earlier application viability evidence was produced to demonstrate that the site would have been unviable with any affordable housing provision. Viability having been affected by: abnormal fill costs (required to raise the site level out of the high risk flood risk vulnerably zone); a downturn in the housing market, and; other issues such as a reduction in the density of development that could be delivered on the filled site. Having had the viability information independently

assessed by the District Valuer, the viability position was accepted and the affordable housing requirement reduced to nil.

At the time it was accepted that the removal of the affordable housing requirement would be sufficient to make the site worth bringing forward for development, from the applicant's point of view and therefore to bring forward the other benefits of the scheme i.e. development of the vacant site, provision of more housing and the promotion of economic growth through construction.

However, the procedures in Section 106 BA only apply for a period of three years from the date of the decision. If the development is not completed within 3 years of any agreement to modify the original s.106 agreement, the original affordable housing obligation will apply to those parts of the scheme which have not been commenced. In recognition of this and to enable any improvement in the scheme viability to be captured the amended s.106 agreement provided for future review mechanisms prior to the completion of 50% of the units on the previous phase. For the purposes of the amended S.106 agreement the development was split into 3 phases.

The developer (Bovis) is making good progress on site and is well advanced in the construction of the first part (north-west and southern site areas) of phase 1. However, due to uncertainty as to whether they would have completed those units by the 26th September (the date for the reversion back to the original affordable housing requirement) they have recently requested that the viability be reassessed to provide certainty over the affordable housing requirement for the remainder of phase 1 and the next phase of development. As such, the developer again provided their own updated viability assessment which whilst showing an increase in sales prices (over those predicted) still showed the scheme to be in significant deficit. Again these figures were independently assessed by the District Valuer on behalf of the Council. The District Valuer concurred with the developer that whilst there had been some improvement over projected residual value the scheme would remain in significant deficit over the next phase and could not support the provision of affordable housing. This issue was reported to a recent chairman's delegation meeting where it was agreed that the affordable housing requirement for phase 2 of the development would remain at nil. A further reassessment will be required prior to the commencement of phase 3 of the scheme.

The current proposal represents an extension to phase 1 of the original scheme, however, clearly the additional development (8 no. dwellings) has the potential to increase viability and as such it is necessary to reassess the viability of the site to take account of this. The applicant has provided further viability information and this again has been reassessed by the District Valuer.

The District Valuer's concluding comments are:

"Having analysed the revised scheme on the basis of the previously adopted methodology and in current market circumstances, we consider that whilst ameliorated to some extent, the scheme is still showing a substantial net financial deficit, and is not therefore sufficiently viable to allow for the provision of any on-site

affordable housing, either in the additional unit provision (the subject of the current application), or the remainder of phase 2."

It is therefore proposed that in line with the requirements of the s.106 agreement (as varied) that it is accepted that the affordable housing requirement for this site remains as nil (being an extension to phase 1).

As the phasing plan (associated with the S.106 agreement) for the wider site sets out the 3 phases of development agreed at the time, this will need to be varied/amended to include the application site and to ensure it is subject to the same requirements for future reappraisals as the original scheme.

On the basis that the application effectively represents an extension to the wider site, indeed with no means of independent access it could not be developed independently from it, it is considered reasonable to assess the viability of the scheme in relation to the wider site. In doing so, it remains the case that provision of affordable housing would not currently be viable. Indeed, the viability would prevent any required contributions to either open space or education as well. Whilst it is very disappointing that the economic viability of this site remains such that the normal contributions and benefits that would accrue from a scheme of this nature are unable to be secured, that is the reality of the situation. However, approval of the development would allow for a satisfactory completion of the scheme and the general benefits that the additional housing would bring to the area. The alternative, in the event the application was refused would be likely to be that with no incentive for the applicant to develop out the site it would likely therefore remain as a vacant section of land between the hotel site and the wider residential scheme.

## OTHER ISSUES

Devon County Council commenting in their capacity as a Flood and Coastal Risk Management body originally raised objection to the proposal in that they considered that insufficient information had been provided in relation to surface water drainage management. In particular clarification was sought as to whether the additional dwellings and rear car parking courts would result in any change to the site's impermeable area. The applicant has subsequently provided confirmation that the current surface water drainage management system has sufficient capacity to accept any additional runoff from the site and Devon County Council has subsequently removed their objection.

## **RECOMMENDATION**

APPROVE subject to the following conditions and the applicant entering into a legal agreement to tie the development to the requirements of the original s.106 agreement relating to the wider regeneration site.

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

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

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Development shall be carried out in accordance with the submitted Flood Risk Assessment Report prepared by Jubb Consulting Engineers Ltd. Dated October 2013 and the addendum report to this dated January 2016.  
(Reason - In the interests of flood risk management in accordance with Government Guidance set out in the National Planning Policy Framework and policies EN21(River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031)
4. Development shall be carried out strictly in accordance with the submitted Construction Method Statement and Residential development Pre-construction information pack, received 27th May 2016, unless any variations to this have previously been agreed in writing by the Local Planning Authority.  
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031.)
5. Prior to the installation of any external lighting a detailed lighting scheme (including lux levels and means and times of operation for permanent lighting columns, bollard lights and any security lighting shall be submitted to and agreed in writing with the Local Planning Authority. The development shall not proceed otherwise than in strict accordance with the lighting scheme as may be agreed and no further lighting columns, bollard lights or security lights shall be erected within the site or fixed to buildings or land without the prior written consent of the Local Planning Authority. All lighting shall be operated in accordance with the lighting scheme as may be agreed.  
(Reason - in the interests of preventing light pollution in accordance with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)
6. The approved landscaping scheme indicated on the approved drawing no. 358/01 rev. A 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 D2 (Landscape Requirements) of the Adopted East Devon Local Plan 2013-2031.)

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 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 site other than those expressly permitted by this permission or by a condition of planning permission without the further prior written consent of the Local Planning Authority.  
(Reason - in the interests of controlling future walls and other features in the interests of the appearance of the development in accordance with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the Adopted East Devon Local Plan 2013-2031.)
  
8. The proposed estate road, cycle ways, 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 TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031.)

Plans relating to this application:

13022.101 L : SITE LAYOUT	Amended Plans	27.05.16
13022.109 L : PEDESTRIAN PLAN	Additional Information	27.05.16
13022.R1.102 A : ENCLOSURES PLAN	Amended Plans	27.05.16
13022.R1.104 B : MATERIALS PLAN	Amended Plans	27.05.16
13022.R1.105 A : SURFACE MATERIA	Amended Plans	27.05.16
13022.R1.106 A : STOREY HEIGHTS	Amended Plans	27.05.16

13022.R1.107 A : CHIMNEY LOCATNS	Amended Plans	27.05.16
13022.R1.108 A : CHARACTER AREAS	Amended Plans	27.05.16
358/01 A : PLANTING PLAN	Amended Plans	27.05.16
13022/UF/320 : AF05A2-A1	Proposed Combined Plans	22.02.16
13022/CC/506 C : P302	Proposed Combined Plans	22.02.16
13022/CC/507 B : P303	Proposed Combined Plans	22.02.16
13022/CC/509 B : A305	Proposed Combined Plans	22.02.16
13022/CC/513 C : P401	Proposed Combined Plans	22.02.16
13022/CC/517 B : A305	Proposed Combined Plans	22.02.16
13022/CC/520 A : P303	Proposed Combined Plans	22.02.16
13022/CC/523 : AF05A2-A2	Proposed Combined Plans	22.02.16
13022/CC/524 : AF05A2-A2	Proposed Combined Plans	22.02.16
13022/CC/525 : P402	Proposed Combined Plans	22.02.16
13022/G/650 A : SINGLE GARAGES	Proposed Combined Plans	22.02.16
13022/G/652 : TRIPLE GARAGES	Proposed Combined Plans	22.02.16



13022.R1.100	Location Plan	22.02.16
13022.R1.104 : MATERIALS PLAN	Other Plans	22.02.16
13022.R1.200	Street Scene	22.02.16
13022/UF/304 B: P302	Proposed Combined Plans	22.02.16
13022/UF/305 C : P303	Proposed Combined Plans	22.02.16
13022/UF/318 B : A305	Proposed Combined Plans	22.02.16

List of Background Papers

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

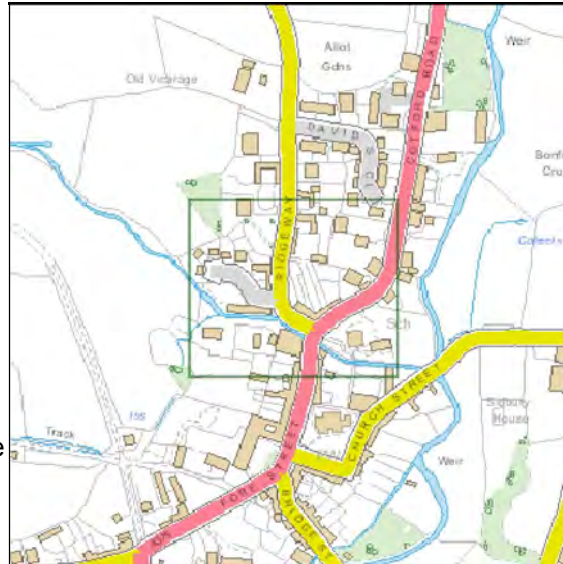
**Ward** Sidmouth Rural

**Reference** 16/0268/FUL

**Applicant** Mr Simon Price

**Location** Land Adjacent To 4 Oak Bridge  
Sidbury Sidmouth EX10 0SE

**Proposal** Demolition of existing garage,  
construction of detached dwelling  
and infilling of existing wall to create  
2no pedestrian entrances.



**RECOMMENDATION: Refusal**

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		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Sidmouth Rural (SIDMOUTH)</b>	<b>16/0268/FUL</b>	<b>Target Date: 01.04.2016</b>
<b>Applicant:</b>	<b>Mr Simon Price</b>	
<b>Location:</b>	<b>Land Adjacent To 4 Oak Bridge Sidbury</b>	
<b>Proposal:</b>	<b>Demolition of existing garage, construction of detached dwelling and infilling of existing wall to create 2no pedestrian entrances.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation is contrary to the view of the Ward Member.**

**The proposal seeks permission for a traditionally-designed two storey, pitched roof dwelling. The site is located at Oak Bridge in the centre of Sidbury and is within the village's Built-up Area Boundary. The site is in the Sidbury Conservation Area and is adjoined to the south-west by a row of Grade II listed terraced dwellings (including 4 Oak Bridge immediately adjacent to the site) which wrap around the corner with Oak Bridge and the A375.**

**Planning permission for a previous proposal was submitted under application 15/1170/FUL to demolish the existing garage, construct detached dwelling and infill the existing wall to create 2 pedestrian entrances. This application was withdrawn after the Local Planning Authority raised concerns, among other things, about the proposed dwelling's design and siting, and its location within a flood zone 3.**

**The construction of a new dwelling would, in principle, be acceptable if it were able to satisfy the requirements specified by Strategy 6 and other relevant National and Local Plan policy.**

**The proposed dwelling would be sited wholly within Flood Zone 3 where there is a high probability of flooding. In the absence of adequate evidence provided in the form of a site-specific 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.**

**Further, the proposed dwelling is considered unacceptable as its proposed positioning and design would have an adverse impact on the setting of surrounding listed building and would fail to preserve or enhance the character and appearance of the Conservation Area. The proposal would also give rise to an unacceptable impact on the amenity of adjoining properties in terms of overlooking and loss of privacy.**

## **CONSULTATIONS**

### **Local Consultations**

Parish/Town Council  
Support.

Sidmouth Rural - Cllr D Barratt

I feel that the merits of this application would be best considered by full DMC committee.

(In the event that this application comes to Committee I would reserve my position until I am in full possession of all relevant facts both for and against)

Further comments 12.07.16:

I continue to feel that this application is best determined by the committee. The support of the Town Council and the fact that the proposal is for a traditionally designed two storey pitched roof property that would normally be acceptable in principal, on a site currently occupied by an unsympathetic garage does suggest that committee should take a view.

I also have some concern that the sequential test takes into account provision of dwellings well outside of Sidbury, where villagers would prefer provision within their own village.

It does, however, still appear that further discussion with the applicant may be beneficial.

### **Technical Consultations**

Devon County Archaeologist

I refer to the above application and your recent consultation. The proposed development lies within the historic core of Sidbury and groundworks associated with the construction of the new dwelling have the potential to expose and destroy any archaeological or artefactual deposits associated with the early settlement in the village.

For this reason and in accordance Policy EN6 (Nationally and Locally Important Archaeological Sites) 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, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.

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.

#### Paul Lowe – Housing Officer

In accordance with the new East Devon Local Plan 2013-31 we will seek a 50% affordable housing provision on site. As the application is for a single dwelling an onsite provision will not be possible. A commuted sum payment therefore will be due, this amounts to £83,058.

The commuted sum sought assumes that the development is viable. Should this not be the case then you are advised to submit your viability assessment for consideration.

County Highway Authority  
Highways Standing Advice

#### Environment Agency

As set out in our letter to your Council dated 15th October 2015

"The site of the proposed dwelling is located in Flood zone 3 "High Probability" of flooding, in this case from the nearby Lincombe Goyle stream. Such "more vulnerable" is normally inappropriate in FZ3 unless or until the Planning Authority has satisfied the Sequential Test (ST) set out in the National Planning and Policy Framework and has formally indicated that it wishes development in a flood risk area to be considered and the Exception Test (ET) applied.

No evidence has been provided to demonstrate that the ST has been satisfied by your Council."

We will happily leave the matter of satisfying the ST to your Council. If your Council wish to move to satisfy the Exception Test we can advise that the submitted flood risk assessment dated December 2015 is acceptable to us from the flood risk aspect and providing development proceeds in accordance with this and establishes all habitable floor levels at 56.4m O.D. there are no objections to the proposal.

### Other Representations

There have been six letters of representation received raising the following concerns:

- Concern that the new dwelling would connect with the existing drainage system that is at capacity and therefore not able to cope with modern day drainage requirements of properties;
- Issues of flooding have previously occurred on the site and the mitigation measures do not address what prevention measures are proposed to safeguard the impact upon neighbouring properties nothing is details on the Flood Risk Assessment;
- Insufficient parking and local free car park is already stretched at peak times of i.e. school drop off, functions in the hall or at church;
- The proposed building would be within 10m of no.s 1 and 2 Ridgeway Close and therefore would be dominant and overbearing;
- The building would result in loss of light to No. 1 Ridgeway Close;
- Concern to the issue of overlooking to neighbouring properties from first floor windows into private gardens and bedrooms;
- The proposed design of the property is not in keeping with neighbouring properties within the Conservation Area and listed buildings;
- Issues of noise generation during the build;
- Concern to the retention of right of access over land of 4 Oak Bridge.

## **POLICIES**

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

EN6 (Nationally and Locally Important Archaeological Sites)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 38 (Sustainable Design and Construction)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN8 (Significance of Heritage Assets and their setting)

EN10 (Conservation Areas)

EN21 (River and Coastal Flooding)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

#### Relevant Planning History

Planning permission for a previous proposal was submitted under application 15/1170/FUL to demolish the existing garage, construct detached dwelling and infill the existing wall to create 2 pedestrian entrances. This application was withdrawn after the Local Planning Authority raised concerns, among other things, about the proposed dwelling's design and siting, and its location within flood zone 3.

#### Site Location and Description

The site is located at Oak Bridge in the centre of Sidbury and is within the village's Built-up Area Boundary. The site is in the Sidbury Conservation Area and is adjoined to the south-west by a row of Grade II listed terraced dwellings (including 4 Oak Bridge immediately adjacent to the site) which wrap around the corner with Oak Bridge and the A375.

Across the road from the site to the west are the Sidbury Parish Room and a row of three terraced dwellings comprising Manor Cottage and 1 and 2 Ridgeway Close.

The site is in close proximity to the River Sid and the Lincombe Goyle and, therefore, the majority of the site lies within Flood Zone 3 where there is a high risk of flooding.

The site of the proposed dwelling currently comprises a detached garage, hardstanding area for parking and a garden area used in association with 4 Oak Bridge.

#### Proposed Development

The proposal seeks permission for a traditionally-designed two storey, pitched roof dwelling. The dwelling would be constructed with brick walls, a slate roof with dormer windows on the east and west elevations, and timber casement windows. The proposed dwelling would provide a sitting room, wc, utility room and kitchen/dining

area at ground floor level. A first floor level the dwelling would provide 3 bedrooms, including a master bedroom with ensuite, and a bathroom. Three dormer windows are proposed on each side of the roof slope (six in total).

A new wall is proposed to infill the current vehicle access to the site to provide a pedestrian entrance to service the new dwelling. The southern portion of the site would be subdivided to provide a courtyard for use by 4 Oak Bridge. A second pedestrian access would be created in the existing boundary wall to provide access to this courtyard.

As a result of the development neither the new dwelling nor number 4 will benefit from any off-street parking.

## **ANALYSIS**

### **Principle of Development**

The site is located within the Built-up Area Boundary of Sidbury. Strategy 6 (Development within Built-Up Area Boundaries) of the Adopted Local Plan highlights that within built-up area boundaries development will be permitted if:

1. It would be compatible with the character of the site and its surroundings and in villages with the rural character of the settlement.
2. It would not lead to unacceptable pressure on services and would not adversely affect risk of flooding or coastal erosion.
3. It would not damage, and where practical, it will support promotion of wildlife, landscape, townscape or historic interests.
4. It would not involve the loss of land of local amenity importance or of recreational value;
5. It would not impair highway safety or traffic flows.
6. It would not prejudice the development potential of an adjacent site.

Therefore, while the construction of a new dwelling would, in principle, be acceptable, the proposal would need to be able to satisfy the above requirements specified by Strategy 6 and other relevant National and Local Plan policy.

### **Flood Risk Assessment and the Sequential Test**

The proposed dwelling would be sited wholly within Flood Zone 3 where there is a high probability of flooding.

The 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 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. This approach is mirrored by Local Plan Policy EN21 that directs development to Flood Zone 1.



In its consultation response, the Environment Agency notes that the proposed dwelling would be located near Lincombe Goyle stream and within Flood Zone 3 where there is a high probability of flooding. It also identifies that More Vulnerable forms of development are normally inappropriate in Flood Zone 3 unless the Planning Authority is satisfied the Sequential Test can be passed.

Paragraph 103 of the NPPF requires local planning authorities, when determining planning applications, to ensure flood risk is not increased elsewhere and should only consider development in appropriate areas at risk of flooding where they are informed by a site-specific Flood Risk Assessment. The Flood Defence Summary Report submitted with the application states that "Whilst the information within this report reflects the flood risk to the development the advice in this report regarding flood risk at the subject site does not constitute a flood risk assessment in accordance with the National Planning Policy Framework".

In the absence of adequate evidence provided in the form of a site-specific 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, for example, single dwellings have been approved in Sidford at The Cabin, Church Street, 68 High Street and 89 High Street (under planning permissions 15/1985/FUL, 15/1656/FUL and 14/2449/FUL, respectively). Therefore, the proposal is considered contrary to Local policy and National guidance owing to its location in Flood Zones 2/3 and the potential risks of flooding.

#### Impact on Heritage Assets and the Conservation Area

The site currently comprises an unsympathetic garage which is sited prominently at the end of the listed terrace of cottages to the south-east of the site. There is an important view of the church tower when travelling south along Ridgeway that is revealed at the northernmost edge of the application site. Open views across the rear of Ridgeway Cottages to the hills beyond also contribute to the special character and appearance of the conservation area and the setting of listed buildings. In 2009 permission was granted, but not implemented, to demolish the garage and construct a two storey extension. It was considered that the removal of the garage would outweigh the impact of the extension to the cottage.

This revised application seeks permission for a revised dwelling to that withdrawn under application 15/1170/FUL. It is noted that the dwelling's design has been revised in line with discussions with the Local Planning Authority.

The open space to the rear of Oak Bridge and its contribution to the character and appearance of the Conservation Area are important. The dwelling could be better sited in the plot in terms of its impact on the Conservation Area, however, this would result in the dwelling moving further north within the plot that would give rise to

residential amenity conflicts with the properties across the road (Manor Cottage and 1 and 2 Ridgeway Close).

Further, there are concerns about forming the new boundaries with fencing, although it is noted there are timber boundary fences in the adjacent gardens of the Oak Bridge terraces, a more traditional boundary treatment would be preferred using brick walls, planting or hazel/willow hurdles.

While the overall massing of the dwelling and its proportions, including the lowering of the eaves, are considered acceptable it is considered that the design of the proposal could be improved further but this could be dealt with through conditions and ensuring the use of high quality materials.

Therefore, the proposed positioning and design of the dwelling would have an adverse impact on the setting of surrounding listed building and would fail to preserve or enhance the character and appearance of the Conservation Area.

#### Impact on the Amenity Of Neighbouring Properties

The proposed dwelling would be sited adjacent to the north-western boundary with 4 Oak Bridge. At ground floor level windows would be provided alongside the boundary with 4 Oak Bridge in the sitting room, utility and kitchen/dining area. At first floor level three bedrooms, including a master bedroom with ensuite, and a bathroom. Three dormer windows are proposed on the north-western roof elevation which would look out of the bathroom, the ensuite and the third bedroom. While it is noted the first floor windows are in secondary habitable rooms which could be conditioned to be obscurely glazed and non-opening, particularly the bathroom/ensuite, this is considered unreasonable as it would provide a poor standard of amenity future occupants of the new dwelling.

The proposed dwelling would have both ground floor and first floor windows which by virtue of the orientation of the gardens of the Oak Bridge terraces would overlook these garden areas. The proposal would, therefore, give rise to an unacceptable impact on the amenity of adjoining properties in terms of overlooking and loss of privacy.

The proposed dwelling would also be located opposite number 1 Ridgeway Close at a distance of approximately 9m that would also given rise to unacceptable loss of amenity even though this is across the road.

#### Highway Safety and Traffic Generation

The proposed development, if permitted, may result in a small increase in traffic generation but given that only a single dwelling is proposed it would be unlikely to have a significant adverse highway impact and while no on-site parking would be provided there is on-street parking available in the surrounding area as well as access to public transport options.

The Highway Authority has raised no objections to the proposal subject to complying with its Standing Advice. Therefore, it is considered that subject to the

implementation of satisfactory visibility splays the proposal would not have an adverse impact on highway safety or generate significant levels of additional traffic.

### Section 106 Obligations/Contributions

A Unilateral Undertaking has been submitted to secure financial contributions towards open space provision and to mitigate the impacts of development on the European-designated Exe Estuary and Pebblebed Heaths Special Protection Area/Special Area of Conservation in line with Council policy.

However, in light of the recent changes to Government policy to the National Planning Policy Guidance the Local Planning Authority would only seek to secure financial contributions towards the habitat mitigation of the Exe Estuary and Pebblebed Heaths and can no longer secure a contribution towards affordable housing.

### Impact on Wildlife

The proposal dwelling would be sited on land which is currently used as garaging, parking and garden to 4 Oak Bridge. The proposal would, therefore, be unlikely to have a detrimental ecological impact on any wildlife or protected species.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposal is located within a high risk flood zone (Flood Zones 3) and the creation of a dwelling 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 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. The proposed development by virtue of its positioning and design would have an adverse impact on the setting of surrounding listed buildings. In addition, the proposed development would affect views in or out of the area and would not preserve or enhance the character and appearance of the Sidbury Conservation Area. As such the proposal is considered to be contrary to policies D1 (Design and Local Distinctiveness), EN8 (Significance of Heritage Assets and their Setting) and EN10 (Conservation Areas), strategies 46 (Landscape Conservation and Enhancement and AONBs) and 48 (Local Distinctiveness in the Built Environment) of the Adopted East Devon Local Plan 2013-2031, and policy set out in the National Planning Policy Framework.
3. The proposed development by virtue of its positioning and the proposed windows at ground and first floor would give rise to an adverse impact on the residential amenity of neighbouring properties to the east, south and west of the

site in terms of loss of privacy and overlooking. As such the proposal is considered to be contrary to Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031, and policy set out 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:

	Location Plan	05.02.16
16/700/01	Proposed Floor Plans	02.02.16
16/700/02	Proposed Elevation	02.02.16
16/700/03	Proposed Combined Plans	02.02.16
16/700/04	Proposed Site Plan	02.02.16

##### List of Background Papers

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

**Ward** Woodbury And Lymstone

**Reference** 15/1970/MFUL

**Applicant** Mr Andrew Dyer

**Location** Land To The West Of Strawberry Hill Lymstone

**Proposal** Construction of 15 new dwellings (10 affordable and 5 open market) with new access off of Strawberry Hill



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 2<sup>nd</sup> August 2016</b>
<b>Woodbury And Lympstone (LYMPSTONE)</b>	<b>15/1970/MFUL</b>	<b>Target Date: 22.12.2015</b>
<b>Applicant:</b>	<b>Mr Andrew Dyer</b>	
<b>Location:</b>	<b>Land To The West Of Strawberry Hill</b>	
<b>Proposal:</b>	<b>Construction of 15 new dwellings (10 affordable and 5 open market) with new access off of Strawberry Hill</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before members as the officer recommendation differs from the views of the Parish Council.**

**The site refers to an area of land which sits adjacent to Gleblelands, Lympstone. Planning permission has previously been granted in 2012 (12/0506/MFUL) on the land for the construction of 15 dwellings, 10 of which would be affordable with 7 provided for social rent and 3 on a shared ownership basis, with the remainder available to the open market. The site has also been allocated within the Lympstone Neighbourhood Plan for 15 dwellings.**

**A further application was submitted in 2013 (13/0820/MFUL) again for the construction of 15 dwellings but with a different layout and an alternative access from Strawberry Hill, rather than through Glebelands. The revised access and the layout were considered to be unacceptable and were refused by the Local Authority. A subsequent appeal was dismissed, but only on the proposed layout.**

**The application before Members is for a further revised layout which seeks to overcome the previous reason for refusal and also includes the access from Strawberry Hill.**

**The development itself would incorporate an acceptable layout, and the units would be largely of a form and design that would reflect the existing development in Glebelands against which it would be viewed from the principal aspect of the site available from Meeting Lane. Furthermore, it would be laid out such that it is not thought that it would give rise to any significant detrimental impact upon the living conditions of the occupiers of existing properties in Glebelands that back onto the site and would appropriately integrate the affordable and market dwellings. The mix and layout of the properties are also**

considered to be acceptable.

**Flooding and drainage of the site have been raised as a significant concern with the application, but after much negotiation no objection is raised by the Devon Flood Risk Team. Moreover, the scheme does not raise any particular concerns with regard to any, ecological or arboricultural issues.**

## **CONSULTATIONS**

### **Local Consultations**

Woodbury & Lympstone - Cllr R Longhurst

Assume this has been requested by EA. Support

Woodbury & Lympstone – Cllr B Ingham

This land already has outline planning permission. I support the proposal but would make the following comments:

1. There is no play space identified
2. Could the pumping station be moved away from the existing bungalows
3. I am not sure the best use of the available space has been made.

### **Parish Council**

The parish council OBJECTS to this application for the following reasons:

1. There is inadequate amenity space.
2. The proposal for the discharging of surface water will aggravate flooding problems. It is proposed to discharge surface water to the watercourse to the south east of the development across the field on the opposite side of Strawberry Hill. This watercourse feeds into the area of Pretty Corner and Wotton Brook which already have substantial flooding risks. The position has worsened over the past two to three years since the original application was approved (12/0506/MFUL) Condition 10 of this consent required details of the drainage to be submitted for approval. By directing additional surface water into Pretty Corner and Wotton Brook the risk of flooding will be increased contrary to Policy 14 of the Neighbourhood Plan.

### **Technical Consultations**

#### **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.

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)

WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

European wildlife sites

Further information required: No Habitats Regulations Assessment

European wildlife 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 following European sites:

East Devon Pebblebed Heaths Special Area of Conservation (SAC)

East Devon Heaths Special Protection Area (SPA)

Exe Estuary Special Protection Area (SPA)

Exe Estuary Ramsar site<sup>1</sup>

Dawlish Warren SAC

These sites are also notified at the national level as Sites of Special Scientific Interest (SSSIs).

Therefore the development has the potential to affect their ecological interest.

The consultation documents provided by your authority do not include any information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered, i.e. your authority has not recorded your assessment and conclusions with regard to the various steps within a Habitats Regulations Assessment.

It is Natural England's advice that, as the proposal is not necessary for European site management; your authority should determine whether the proposal is likely to have a significant effect on any European site. If your authority is not able to rule out the likelihood of significant effects, there are uncertainties, or information to clarify areas of concern cannot be easily requested by your authority to form part of the formal proposal, you should undertake an Appropriate Assessment, in accordance with Regulation 61 of the Habitats Regulations, including consultation with Natural England.

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<sup>2</sup>. 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.

On the basis of the information provided, Natural England is able to advise the following to assist you with your Habitats Regulations Assessment. Decisions at each step in the Habitats Regulations

Assessment process should be recorded and justified:

Exe Estuary SPA/ Ramsar Site

East Devon Pebblebed Heaths SAC and East Devon Heaths SPA

The application site lies within 2.5km of the East Devon (Pebblebed) Heaths SAC and SPA and within 1km of the Exe Estuary SPA/Ramsar site. This is within the 10km zone within which impacts of residential development on the aforementioned sites could reasonably be expected to arise in the absence of appropriate mitigation.

In the case of the European sites referred to above, your authority cannot grant permission for this proposal in the absence of a Habitat Regulations Assessment



which concludes either i) no likely significant effect due to mitigation included by the applicant or, ii) no adverse effect on integrity following an Appropriate Assessment. Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process.

It is normal practice that all planning applications for housing in East Devon District have Section 106 Legal Agreements (containing a Habitats Mitigation Contribution) covering impacts on

European Sites within 10km of the proposed development.

Your authority must be clear that sufficient financial contributions and/or specific measures to provide mitigation for the Exe Estuary SPA/Ramsar site and East Devon (Pebblebed) Heaths SAC and SPA are secured before granting permission. If the financial contributions/measures are sufficient and if the mitigation contribution is secured, Natural England would concur with the view that a Likely Significant Effect can be avoided.

Exe Estuary SSSI and East Devon Pebblebed Heaths SSSI

Natural England advises that there will be no additional impacts on the features of interest of these SSSI sites resulting from the proposed development beyond those already identified with regard to the European wildlife sites above.

#### 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 with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

#### Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

local sites (biodiversity and geodiversity)

local landscape character

local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at Wildlife and Countryside link.

### Environmental Health

I have considered the application and note that this site is close to nearby residents who may be impacted during the construction process.

I would recommend that the following condition is applied

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."

The council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum may be found here:

<http://eastdevon.gov.uk/noise/noise-guidance-and-advice/guidance-and-advice-for-developers-builders-and-contractors/>

### County Highway Authority

The LPA will be aware that the site has an extant consent for the number of proposed dwellings (10 affordable and 5 open market) with access via Glebelands (12/0506/MFUL).

You will also know that the CHA did not have any objection for an alternative access off of Strawberry Hill in the refused (13/0820/MFUL) and nor did the Inspector in the subsequent appeal (APP/U1105/A/14/2229016) who said in his Appeal Decision (dated 22 July 2015):

"(11). I therefore conclude that there would be no significant detriment to local character resulting from the new access point onto Strawberry Hill..." Therefore the CHA does not have any objection against this application which seeks access from Strawberry Hill as before and requests the following conditions.

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 and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the attached Drawing No: 102\_L01.33 Revision P2

where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 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 metres in both directions.

REASON: To provide a satisfactory access to the site with adequate visibility from and of emerging vehicles.

2. 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 \*\*\* 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.

3. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road

maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design,

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

(Reason - To ensure that adequate information is available for the proper consideration of the detailed proposals and to comply with the provisions of Policy TR10 (Strategic Road Network) of the Devon Structure Plan and Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

4. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

REASON: To ensure the proper development of the site.

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

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays

to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking

place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

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

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

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and

waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

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

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

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

(k) details of wheel washing facilities and obligations

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

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

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

6. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

REASON: In the interest of public safety and to prevent damage to the highway.

7. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that

there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk.

Comments to follow within 21 days

#### Housing Strategy Officer Paul Lowe

The amended plans have gone some way to clarify our previous query regarding parking and garages. We note that the three 1 bedroom properties (plots 8, 9 & 10) have an allocated parking space and a garage each. It is not entirely clear from the plans which properties the various garages are allocated to.

It is unusual for an affordable property to have a garage and it is important that the Registered Provider is happy with this arrangement. There may be management and maintenance issues associated with the garages as they are in blocks. There may also be implications with the price an RP is prepared to pay for the units and viability may be an issue if garages are included.

The plans show the affordable houses to have 1 allocated parking space each. We would expect the 3 bedroom properties to have 2 car parking spaces each.

Further to our last response, clarity is still sought on who the Registered Provider will be for the scheme. It is our understanding that Cornerstone are no longer interested in this site.

#### South West Water

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

#### DCC Flood Risk SuDS Consultation

Re: Amended plans for the construction of 15 new dwellings.

Thank you for referring the above application which was received on 14/06/2016.

Devon County Council Flood and Coastal Risk Management Position.

Following my previous correspondence (FRM/2015/606, dated 16th May 2016), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has provided an e-mail from South West Water which confirms that they have no in-principle objection to undertaking a sewer requisition in this location, as outlined in section 1.5 of the Proposed Residential Drainage Strategy (Report Ref. 1174 - C300, Rev. B, dated 8th April 2016).

The applicant has also confirmed that permeable paving is not being used as a means of attenuation; it is simply being employed as a pre-treatment mechanism for the surface water before it is piped to the proposed underground attenuation storage tanks.

The applicant has also submitted a Drainage Layout (Drawing No. C-GA-300, Rev. P5, dated 1st June 2016) which shows that the proposed attenuation tank previously under the private driveway of Plot 11 has now been moved out of this area to a more suitable location.

I am therefore happy to confirm that the applicant has now submitted sufficient information in respect of the surface water drainage aspects of the above planning application, and that we do not require any further information at this stage.

#### Other Representations

6 letters of objection have been received.

- Where will any surface water draining from the new development go .
- There is no drainage gully from the top of Strawberry Hill, right up to the high point, just after the Glebelands Road.
- There is a very serious risk of flooding in the dip, which is near to the development site entrance.
- There is no drainage gully in the road, which often floods during heavy rainfall.
- The risk of flooding will greatly increase
- Drainage not been addressed
- Concerned about the smells and odours from sewerage treatment plant.
- What steps are being taken to prevent these hazards from occurring?
- Suggest that the sewage tank be repositioned to the left of the entrance in Strawberry Hill?
- There is no suggestion in the plans as to what form new hedge will take.
- Concerned about access onto Strawberry Hill.
- The street light by the beginning of the green lane footpath is covered in greenery to the left. Will action be taken to make this access point more visible from both directions?
- Suggest that the access road should be widened at least 20 meters or more further up to the left of Strawberry Hill
- Has any consideration been given to ensure the public health & safety for safe pedestrian access coming down Strawberry Hill and from the new

development moving on to the existing pathway near the grass verge adjacent to the Glebelands Road?

- Additional street lights will be required for the sake of public health & safety.
- Suggest that traffic calming measures be made in Strawberry Hill
- Believe there should be more than one access road into the new development.
- An access road going into Meetings Lane, the best access point for this development as it would help the emergency services attend any incidents driving in and out at speed straight from the A376.
- There will be a lot of plant and other heavy equipment coming into and out of this building site.
- There will be lorries and other deliveries going to and from the site as well.
- Strawberry Hill is too narrow. There is little room for larger vehicles such as a lorry passing pedestrians going up or down Strawberry Hill.
- There are no footpaths.
- If consideration is given for an access road into and out of Meetings Lane, this access road should be about 30 - 40 meters from the stables entrance going down hill in Meetings Lane.
- There is a large gap in the hedge here which will need to be widened further. A wide splay is also needed here. A street light will also be needed at this entry point for health & safety.
- Should be asking the developers what they are prepared to do for this local community, in respect of this development being allowed to go ahead.
- Perhaps the developer could be invited to support local community projects?
- This must be carefully balanced with the need for land to produce good healthy food.
- Outdated information and surveys
- No consultation has ever been carried out
- Never seen anything to suggest has outline permission
- No clarity what will happen with hedgerow
- properties should be bungalows
- no open space is provided
- Terrace of three houses seems to have 11 spaces.
- Who will be paying for the garages- will be vacant plots used to increase numbers
- Who is the RP interested in the site
- The plans should be shelved and brought back when flooding problems are resolved.

## **POLICIES**

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

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

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN5 (Wildlife Habitats and Features)

EN22 (Surface Run-Off Implications of New Development)

EN18 (Maintenance of Water Quality and Quantity)

#### Additional Guidance

Lympstone Neighbourhood Plan

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

The site comprises a broadly oblong parcel of land of an area of around 0.5 hectares that presently forms part of the southern half of an open pasture field located to the rear (north) of Glebelands, a residential estate located on the northern edge of the built-up area of the village that connects Strawberry Hill to the east with Meeting Lane to the west.

The land falls gently from south to north and is separated from the rear of the nearest residential properties to the south that front Glebelands by a public footpath (no. 28) that connects Strawberry Hill with Glebelands. The western end of this footpath extends in part across a grassed strip of open land between nos. 18 and 19 Glebelands that is in the ownership of the Council.

The site forms part of a larger wedge of open countryside that occupies the fork between Strawberry Hill and Meeting Lane that join together just to the west of the A376 to the north east. The area is not the subject of any landscape or other designations and there are no other particular constraints relating to it.

The boundaries of the rear gardens of properties in Glebelands form an essentially straight line that also connects Strawberry Hill and Meeting Lane that is contiguous with part of the built-up area boundary of Lympstone as defined in the adopted Local Plan. The site therefore lies just outside of this boundary.

The eastern site boundary, with a frontage onto Strawberry Hill, is defined by a well established hedge. There is a run of trees on the southern boundary of the site with the public footpath.

#### **ANALYSIS**



## Relevant Planning History

An application submitted under the provisions of the Authority's interim position statement in respect of mixed open market and affordable housing schemes for rural villages, relating to a development of 15 dwellings on the edge of Lympstone, and adjacent to the defined settlement boundary, was permitted in September 2013. 10 of the residential units would be affordable, with 7 provided for social rent and 3 on a shared ownership basis, with the remainder available to the open market. This permission was also the subject of a Section 106 Agreement securing contributions towards open space and habitat mitigation and controlling occupation of the 5 affordable rented and 5 shared ownership dwellings. The approved application 12/0506/MFUL took its access between numbers 18 and 19 Glebelands and curved round to the east with three terraces to the south of the road and 5 market dwellings on its eastern side. This permission remains extant.

A subsequent application 13/0820/MFUL was refused because of an unacceptable layout. This proposed 5 detached houses positioned along the northern side of the access, spaciouly laid out in generous plots with good sized gardens and private amenity space, backing onto open fields. Their layout took up about two thirds of the overall site. By contrast, the 10 affordable dwellings were very tightly grouped around the western end of the cul-de-sac, with little or no visual relief between the blocks and the road and parking areas that serve them. These dwellings would have very small and shallow rear gardens and private amenity areas, creating an extremely cramped arrangement of buildings and a distinctly obvious overdevelopment of this part of the site, when compared to the layout of the 5 houses and this area of Lympstone generally. It was also considered by the LPA that the proposed access was unacceptable in visual amenity terms.

The reasons for refusal were:

*The revised housing layout, by reason of the location and tightly grouped nature of the 10 affordable units at the western end of the cul-de-sac would result in an overdevelopment of that part of the site, providing the dwellings with an inadequate amount of private amenity space and a generally cramped arrangement of buildings, to the detriment of the residential amenities and standard of accommodation for occupiers of these 10 dwellings. Furthermore the development would be at odds with the prevailing open character and appearance of the area, on the northern edge of Lympstone, contrary to the provisions of Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan, Policy D1 (Design and Local Distinctiveness) of the Emerging New East Devon Local Plan and the core principle of the National Planning Policy Framework relating to the need to secure high quality design and a good standard of amenity for all future occupants of land and buildings.*

*Notwithstanding reason 1 above, the creation of a new point of access into the development off Strawberry Hill, as an alternative to that which was permitted off Glebelands as part of the permission granted in September 2013 under reference 12/0506/MFUL, would involve road works and the provision of visibility splays that would significantly alter the appearance of this part of Strawberry Hill, where it leaves the northern edge of the built-up area of the village, to the detriment of its character at the point where it narrows to become an unspoilt country lane, characteristic of the*

*rural area, contrary to the provisions of Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and Policy D1 (Design and Local Distinctiveness) of the Emerging New East Devon Local Plan.*

.An appeal against this decision was dismissed but only on the grounds of the layout. The Inspector stated that the layout of the dwellings would have a detrimental impact on the character of the area. However the access would alter the character of the lane meaning it would gain suburban characteristics- the spread into the adjoining open rural land would be slight. Additionally the intersection would only be visible a short way along the lane's rural approach, and would not have a detrimental impact on its wider character. The overall impact and harm to the character of the area would therefore be minimal. The Inspector further considered the benefits of the access removing a potential source of noise and disturbance resulting from the vehicular movements for the properties either side of the extant scheme's access and other residents of Glebelands.

The site has since been allocated within Lypstone Neighbourhood Plan for 15 dwellings.

### Proposed Development

This application involves the same location as that which the previous applications for 15 dwellings related, but with the same access from Strawberry Hill.

The new access would be located at the southern end of the Strawberry Hill frontage, alongside the public footpath and just beyond the more manicured boundary and gardens of the existing Glebelands development. It would be 4.8m wide and run westwards behind the gardens of Nos 25 - 27 Glebelands, curving slightly north-westwards and moving away from the rear gardens past Nos 19 - 24, opening out at its western end to provide access, parking and turning.

The revised scheme continues to show 15 dwellings, split in the same way as the 2013 scheme, with 10 affordable and 5 open market units

As before, the 5 open market houses are all 4 bedroom detached units, previously positioned along the northern side of the access road. They are arranged with three to the western end of the site and two on the eastern side. They are separated by three groups of terraces.

The grassed area between 18 and 19 does not form part of this application. The style, design and external appearance of the houses are similar to those permitted in the previous scheme, combining render and brick beneath slate roofs.

The application is accompanied by a Design and Access Statement, Arboricultural Survey, Landscape Planting Schedule, Extended Phase 1 Habitat Survey, Reptile Survey Report. The previous permission was accompanied by a completed Section 106 Agreement and in the event of permission being granted for this revised application then a new or varied Agreement would be required.

## **ANALYSIS**

### Material Considerations

This site is now included within the Lypstone Neighbourhood Plan as an allocation, and forms a material consideration of the application.

In addition, the principle of constructing 15 mixed affordable and open market dwellings on this site has been established through the grant of the previous permission, and remains extant. The issues involved in this revised application relate to the proposal to provide an alternative means of access into the site and to the merits of the alternative layout, consequential upon the revised access.

The revised layout

Owing to the presence of substantial hedge screening along Strawberry Hill to the east of the site and the location of the site to the rear of existing development extending along the northern side of Glebelands, views of the site from the public domain are comparatively limited and largely restricted to views from Meeting Lane to the north and north west across fields adjacent to the site. From these, the development would be seen against the backdrop of, and in close proximity to, the rear of existing two and single storey properties in Glebelands itself.

In terms of the layout and design of the scheme itself, it is acknowledged that these seek in part, through the proposed affordable element, to reflect the form of the terraced two storey properties that are prevalent along Glebelands so as to appear in keeping with their pattern, scale and form. This would be reinforced by the proposed render and slate wall and roof finishes to blend as far as possible with existing development.

Although it is conceded that the design and form of the proposed five open market units would be less sympathetic to the character and appearance of development in the area, which does almost entirely comprise groups of semi-detached and terraced two storey houses and bungalows, they are nevertheless thought to represent relatively conventional design forms that would not appear unduly detrimental to the area's character or appearance or compromising to the overall integrity of the scheme as a whole. It is considered that the layout now provides a better level of integration between the market and the affordable dwellings and it is considered that the application is acceptable in this regard.

The intended concept of open plan front gardens is thought to represent a positive element of the design and layout that will allow for the provision of more private rear garden areas with boundary screening that will be largely out of public view. Although further clarity is required with regard to the nature of the treatment along the southern and western site boundaries (the northern boundary would be a Devon bank), it is generally considered that the scheme would largely succeed in seeking to reflect adjacent development and reduce any potential for appearing as an alien addition to the edge of the village.

It is noted that the proposed pumping station would be located close to the entrance and would be visually prominent on entry to the site. However it would comprise fencing and a control kiosk, which with suitable landscaping are not considered to be overly harmful. Details of the kiosk could be controlled by condition.

Landscaping conditions are recommended to clarify the southern and western boundaries and to ensure acceptable landscaping in general, as well as how boundaries would be separated. Details of landscaping will need to be provided for the proposed pumping station.

### Impact upon Neighbours

The submitted layout provides for rear gardens to the three affordable units closest to Glebelands of a length of approximately 12 metres and a further distance of around 10m to the bungalows themselves which it is thought would provide sufficient separation from the rear boundary that, when considered alongside the depth of the rear gardens of the existing bungalows fronting Glebelands to the south and the intervening presence of both the public footpath and tree screening along and within the southern boundary of the site, would avoid any significant overlooking of, or loss of privacy to, these properties or their gardens arising from the scheme.

The nearest two of the 5 open market units to the southern boundary on the western side of the scheme would have its rear elevation facing towards 19 Glebelands. The distance to the boundary would be 10 metres with an additional 12 metres to the dwelling itself. The first floor windows would serve two bedrooms and a bathroom. At this distance it is not considered that any overlooking would be so significant that an objection could be raised.

The market dwelling to the east would be located at an angle to the rear boundary and would be approximately 20 meters from the closest dwelling – again it is considered that an objection could not be raised in this regard.

It is not considered that the development would otherwise adversely affect the living conditions of the occupiers of neighbouring properties through loss of light, aspect or outlook or through being physically overbearing, dominating or intrusive.

Comments have been received from nearby neighbours regarding safety and lorry deliveries. These can be controlled through a suitable condition.

### Access

The proposed access has been a source of objection from third parties. It is noted that the proposal includes road widening which would need to be met through an agreement with the Highways Authority. It is considered relevant to note that the LPA considered previously that:

*“As far as the alternative access is concerned it is considered that opening up an entrance onto Strawberry Hill, at a point where its character changes quite noticeably from the wider, kerb edged, grass verged, footpath and manicured hedgerow boundary of the houses on its western side to the distinctly narrower and rural lane*

*bordered by banked hedgerows and trees on both sides would be a retrograde step and harm the appearance of the area”.*

However, the Inspector came to a different view. His view was that although allowing the road onto Strawberry Hill would alter the character of this part of the lane-meaning that it would gain suburban characteristics- the spread onto the adjoining open rural land would be slight. Additionally the intersection would only be visible a short way along the lane's rural approach and would not have a detrimental impact on its wider character. He considered that the overall impact and harm would be minimal. Further, the Inspector considered that remove a potential source for noise and disturbance resulting from vehicular movements, for the occupiers of the properties either side and the resident of Glebelands. There would be mitigation for the loss of a small section of hedgerow. He concluded that there would be no significant detriment to local character resulting from the new access onto Strawberry Hill.

Given this, and despite the objections raised, it is not considered that a sustainable and defensible objection to this element could be raised.

In highway safety terms the Highway Authority has stated that:

*"You will also know that the CHA did not have any objection for an alternative access off of Strawberry Hill in the refused (13/0820/MFUL) and nor did the Inspector in the subsequent appeal (APP/U1105/A/14/2229016) who said in his Appeal Decision (dated 22 July 2015):*

*"(11). I therefore conclude that there would be no significant detriment to local character resulting from the new access point onto Strawberry Hill..."*

Therefore the CHA does not have any objection against this application which seeks access from Strawberry Hill as before but requests conditions.

Objection has been raised that the street light by the beginning of the green lane footpath is covered in greenery to the left. The Highway Authority have requested details of the street lighting and these details can be suitably controlled by condition.

## Trees

The application is accompanied by an arboricultural survey report which concludes that, with the exception of one Sycamore, there are no specimens of any particular quality or long term value on or adjacent to the southern boundary of the site that would form a significant constraint on development. Indeed, the report suggests that it would be preferable in the longer term to consider the removal of all vegetation (including the Sycamore, which is unsuited for growing within proximity of residential properties) and the reinstatement of a Devon hedge bank with native species. This can be included in a condition in the event the application is approved.

## Ecology

The submission is accompanied by extended Phase 1 habitat and reptile survey reports which both contain specific recommendations to safeguard badger and

reptile habitats. This application also has an addendum to the original report and states that the previous assessment and recommendations are still valid.

There is also a willingness on the part of the applicant to follow the adopted joint interim approach towards the implementation of mitigation measures in respect of the potential impacts of the development upon the Exe Estuary Special Protection Area ('SPA') and Ramsar Site through the payment of the requisite contribution of £749 per dwelling in lieu of direct mitigation through SANGS (suitable alternative natural green space)

In response to Natural England's concerns with regard to the potential impacts upon the East Devon Pebblebed Heaths SPA and Special Area of Conservation ('SAC'), however, an appropriate assessment has been undertaken. It is considered that the site is not within easy walking distance of the area and as such would not be accessed on a regular basis by dog walkers or through casual leisure activity. Moreover, access would require a vehicle journey that would discourage casual use, Lypstone itself has a number of amenity areas and public open spaces which would remove the Pebble bed Heaths SPA/SAC as a first choice for leisure activity and any effect from an additional 15 dwellings would be negligible given the number of communities and the level of population that already lives within proximity of it.

A further point is made that the contributions collected through the joint interim approach will themselves help to alleviate pressures upon the SPA/SAC through funding alternative facilities; there is therefore already in place a mechanism to significantly financially mitigate any impact arising from the development upon the Pebblebed Heaths SPA/SAC.

The conclusions reached are thought to be reasonable and it is not considered that it would be necessary to secure the undertaking of particular measures in conjunction with the development to alleviate any effects upon the Pebblebed Heaths SPA/SAC.

## Drainage

The issue of surface water drainage has been a significant factor in the determination of the application and it is noted that the Parish Council have objected to the application because it is considered the application is contrary to policy 14 of the Lypstone Neighbourhood Plan. This says that:

“Development should not increase flood risk. The use of sustainable urban drainage schemes and permeable surfaces for parking areas and other hard landscaping will be supported. Where appropriate, design and access statements should include a flood risk statement”

This element of the scheme has resulted in a significant deal of negotiation with the applicant and the Devon Flood Risk Team.

The discussions have resulted in amended details being submitted. The provision of this information was considered to be inherently important because the village of Lypstone is very sensitive to flood risk. It has suffered historic flooding from surface water flows and the minor watercourse that runs from Exmouth Road down to the

Wotton Brook. Any additional flows in this catchment could therefore have a detrimental effect on the drainage systems and watercourses downstream. Furthermore, it was considered that it was necessary to obtain the drainage information up front, rather than as a planning condition, because the drainage details submitted required that the layout was subject to minor amendments including the reposition of one of the dwellings (house 11).

A brief summary of the issues and concerns is discussed below.

Current soil mapping suggest that that soil conditions at this location may not support infiltration well. It was considered that should be demonstrated that disposal through infiltration would work through testing in accordance with BRE 365 and groundwater monitoring.

Soakaway test results were submitted which indicate that the ground has a relatively low permeability and is not suitable for the use of conventional soakaway drainage as any soakaways would necessarily be quite large and would not probably fulfil the criteria to half empty in a 24 hour period.

The applicant submitted a Soakaway Test Report (Report Ref. CG/JW/SR/16161/STR, Rev. 0, dated 15th March 2016) which clearly demonstrates that infiltration is not a viable means of surface water disposal on this site. Consequently, the applicant is now proposing an attenuation-based surface water drainage management system with a maximum off-site discharge rate of 1.6l/s, which is equal to the calculated QBAR value; this approach is supported given the importance of managing local flood risk in the vicinity of this site.

Section 1.5 of the Proposed Residential Drainage Strategy (Report Ref. 1174 - C300, Rev. B, dated 8th April 2016) states the surface water from this site will be discharged by means of a requisition sewer which runs under gravity from the site to a new outfall in the existing watercourse. The applicant was asked to confirm that South West Water has no in-principle objection to undertaking a sewer requisition in this location. This information is required because it would appear that the applicant has not approached the owner of the adjacent third-party land to request permission to lay a sewer here.

Section 2.7 of the Proposed Residential Drainage Strategy (Report Ref. 1174 - C300, Rev. B, dated 8th April 2016) stated that pervious surfaces will be utilised within all private external hard surfaced areas. This will provide water quality benefits to the site's surface water drainage management system, but the applicant was required to provide additional detail to demonstrate they will have sufficient capacity to manage the roof water from each plot.

Furthermore, the Drainage Layout (Drawing No. C-GA-300, Rev. P4, dated 12th April 2016) showed that one of the proposed attenuation storage tanks was located beneath the private driveway of Plot 11. This arrangement was not acceptable because the long term maintenance of the attenuation storage tank cannot be guaranteed; the applicant was advised to relocate this part of the system, perhaps to within the private highway, in order to secure its operation and maintenance in the future.

Additional information has now been received and the attenuation tank moved to a garden rather than under a hard surface. In summary the Devon Flood Risk Team have confirmed that:

The applicant has provided an e-mail from South West Water which confirms that they have no in-principle objection to undertaking a sewer requisition in this location, as outlined in section 1.5 of the Proposed Residential Drainage Strategy (Report Ref. 1174 - C300, Rev. B, dated 8th April 2016).

The applicant has also confirmed that permeable paving is not being used as a means of attenuation; it is simply being employed as a pre-treatment mechanism for the surface water before it is piped to the proposed underground attenuation storage tanks.

The applicant has also submitted a Drainage Layout (Drawing No. C-GA-300, Rev. P5, dated 1st June 2016) which shows that the proposed attenuation tank previously under the private driveway of Plot 11 has now been moved out of this area to a more suitable location.

The Devon flood Risk Team confirm that the applicant has now submitted sufficient information in respect of the surface water drainage aspects of the above planning application, and that they do not require any further information at this stage.

Given this, it is considered that the application is acceptable regards surface water drainage and flooding. A condition could be attached to any permission preventing the front garden of number 11 being hard surfaced in the interests of access to the attenuation tank.

## Sewerage

An element that was not included within the previous design was for an adoptable sewerage pumping station. This is located close to the entrance of the proposed development. Its location and need have been raised with the agent who has said that the sewerage pumping station is necessary because the existing mains sewer in Strawberry Hill is at too high a level to facilitate a gravity fed connection. The proposed Sewage Pumping Station (SPS) has been located at the natural lowest point of the site so that the houses can drain to it by gravity, with the foul sewage then being pumped in a rising main from this point. The SPS has been designed to SWW adoptable standards. This places several requirements on the design including the need for it to be 15m from a habitable dwelling and to 12x18m area with good road access. In terms of appearance, the pumping station and storage chambers will all be below ground and out of sight. The above ground element will consist of fencing and a control kiosk.

South West Water have not raised an objection to the proposal.

Concerns have been raised regarding smell from the pumping station, but no objections have been raised from Environmental Health in this regard, and it is not considered an objection could be sustained on this basis.



Further concern has been raised regarding whether the best use of space available has been made. It is considered that an acceptable layout has been provided and that there are clear reasons for the onsite sewerage pumping station, which does take up some proportion of the site. Given the reasons for it, the benefits of the proposal and an acceptable layout it is not considered that an objection could be raised in this regard.

### Affordable Housing

The Lymptstone Neighbourhood Plan has identified a need for affordable housing within the village. Further, a rural Housing Needs Survey was undertaken in June 2011 which identified a need for 11 affordable homes over a 5 year period

Upon first submission of the planning application the Affordable housing officer expressed concerns regards the size of the 2 bedroom affordable properties at 70m<sup>2</sup> were small in size. These were enlarged to 78m<sup>2</sup>.

The Affordable housing officer has stated that:

“The amended plans have gone some way to clarify our previous query regarding parking and garages. We note that the three 1 bedroom properties (plots 8, 9 & 10) have an allocated parking space and a garage each. It is not entirely clear from the plans which properties the various garages are allocated to.

It is unusual for an affordable property to have a garage and it is important that the Registered Provider is happy with this arrangement. There may be management and maintenance issues associated with the garages as they are in blocks. There may also be implications with the price an RP is prepared to pay for the units and viability may be an issue if garages are included.

The plans show the affordable houses to have 1 allocated parking space each. We would expect the 3 bedroom properties to have 2 car parking spaces each.

Clarity is still sought on who the Registered Provider will be for the scheme. It is our understanding that Cornerstone are no longer interested in this site.

All the affordable homes should be available in perpetuity with staircasing restricted to 80%. Nomination priority should always go to those who have a Local Connection to Lymptstone, and then cascade to neighbouring Parishes and finally the District”.

This has been queried with the planning agent who has stated that applicant is in the process of selling the site (with planning consent) once the application has been determined. The purchaser is a developer who has been discussing the project separately with The Guinness Trust and Devon & Cornwall Housing to act as the Registered Provider. They have been provided with copies of the planning drawings and are happy with the parking and garaging arrangements being proposed. It is considered that there are no objections in this regard.

### Agricultural land

Concern has been raised that development of this kind would result in the loss of agricultural land. It should be noted that this area appears to be used as a paddock rather than for the growing of crops. The site is grade 3 land (although it is not clear if it is grade 3a or 3b). Never the less it should be considered that this site is allocated as part of the neighbourhood plan and benefits from consent, and is therefore part of planned development rather than as sporadic development in the countryside whereby the loss of agricultural land could be more fully justified.

#### Open space

One of the Ward Members and a neighbour have raised concern regarding the lack open space being provided on site. Local Plan Policy says that for 10 - 49 dwellings will be required to provide amenity open space on-site as per the Local Plan standards. However in terms of delivering meaningful open space it is considered that given the existing consent and the allocation within the neighbourhood plan and the size of the site that as per the previous approval that the open space requirement can be met through open space contributions.

#### Education Contributions

Devon County Education have advised that a development of 12 family-type dwellings (i.e. any dwelling with 2 or more bedrooms) can expect to produce an additional 3 primary pupils and 1.8 secondary pupils.

There is currently sufficient capacity at the local Primary School to accommodate the additional pupils from this development. However, Devon County Council will request secondary contributions to mitigate the impact of this development. This would be at the expansion rate of £18,241 per additional secondary pupil, so a total contribution of £32,833 would likely be sought.

### **RECOMMENDATION**

APPROVE subject to the following conditions and a section 106 agreement entering into:

- Open space
  - Affordable Housing
  - Education contributions
  - Exe estuary and pebblebed heath mitigation.
  - Highway matters
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 work commencing on the construction of the dwellings and garages hereby approved, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. (Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

4. The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the attached Drawing No: 102\_L01.33 Revision P2 where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 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 metres in both directions.

(Reason: To provide a satisfactory access to the site with adequate visibility from and of emerging vehicles in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan).

5. 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 50 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: the details are required at an early stage to ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents in accordance with policy TC7 (Adequacy of road Network and Site Access) of the East Devon Local Plan)

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

(Reason - To ensure that adequate information is available for the proper consideration of the detailed proposals and to comply with the provisions of Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

7. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

Reason: To ensure the proper development of the site.

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

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

(Reason - In the interests of highway safety and residential amenity in accordance with policy D1(Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

9. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.  
(Reason: In the interest of public safety and to prevent damage to the highway in accordance with policy TC7 (adequacy of Road Network and Site access) of the East Devon Local Plan.
10. The development shall be carried out in accordance with the recommendations made in the reptile survey report dated March, April, may 2012, the extended phase 1 survey, the recommendations regarding badgers within the Extended Phase 1 Habitat Survey Report 2011 and the ecological survey update dated 2015.  
(Reason - In the interests of ecology in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan).
11. 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 in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan.
12. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development

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

13. Before the development hereby permitted is commenced, details of the walls and/or fences to be erected within the curtilage of the dwellinghouse shall be submitted to and approved in writing by the Local Planning Authority. Any walls and/or fences shall be erected in accordance with the approved details within the curtilage of the dwellinghouse before it is first occupied. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), these walls and/or fences shall not thereafter be altered, removed or replaced without the prior written approval of the Local Planning Authority.

(Reason - To ensure that the details are considered at an early stage in the interests of preserving and enhancing the character and appearance of the area and/or protecting the privacy of local residents in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

14. Other than that which is shown on the approved plans the front garden area of house number 11 shown on drawing 102\_L01.32 revision P2d received 3rd June 2016 shall not be hard surfaced unless otherwise agreed in writing with the Local Planning Authority.

(Reason - To ensure that the access to the attenuation tank is available at all times in the interests of flooding and surface water run-off in accordance with the National Planning Policy Framework and Policy EN22 Surface Run-Off Implications of New Development of the East Devon Local Plan).

15. The development shall be carried out in accordance with the drainage strategy by TRUE consulting Engineers received 13th April 2016 and the amended drainage layout plan received 3rd June 2016.

(Reason - In the interests of flooding and surface water run-off in accordance with the National Planning Policy Framework and Policy EN22 Surface Run-Off Implications of New Development of the East Devon Local Plan).

16. Prior to any installation of the pumping station kiosk details of the kiosk shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason – In the interests of the appearance of the site and surrounding areas in accordance with policy D1 (Design and Local Distinctiveness of the 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:

102_L01.32 REVP2D	Proposed Site Plan	03.06.16
C-GA-300 REV P5	Other Plans	03.06.16
ECOLOGY SURVEY	Protected Species Report	22.09.15
102_L01.30 REV P1	Location Plan	24.08.15
REPTILE SURVEY	Protected Species Report	24.08.15
PHASE 1 HABITAT SURVEY	Protected Species Report	24.08.15
102_L01.34 REV P1	Proposed Elevation	24.08.15
102_A05.01 REV P1	Other Plans	24.08.15
102_L02.31 REV P1	Proposed Combined Plans	24.08.15
102_L02.32 REV P1	Proposed Combined Plans	24.08.15
102_L02.33 REV P1	Proposed Combined Plans	24.08.15
102_L02.34 REV P1	Proposed Combined Plans	24.08.15
102_L02.35 REV	Proposed Combined	24.08.15

P1	Plans	
102_L02.36 REV P1	Proposed Combined Plans	24.08.15
102_L02.37 REV P1A	Combined Plans	05.04.16
102_L01.36 REV P1A (1 OF 2)	Sections	13.04.16
102_L01.37 REV P1A (2 OF 2)	Sections	13.04.16
102_L01.33 REV P2B	Other Plans	13.04.16
DRAINAGE STRATEGY	Other Plans	13.04.16
SOAKAWAY TEST REPORT	Other Plans	13.04.16

List of Background Papers

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