

# Agenda for Development Management Committee Tuesday, 7 March 2017; 10.30am



## [Members of the Committee](#)

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

[View directions](#)

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

01395 517542, Issued 23 February 2017

East Devon District Council  
Knowle  
Sidmouth  
Devon  
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

## [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 27 February up until 12 noon on Thursday 2 March 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 7 February 2017 (page 4-9)
- 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 10-16)  
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.**

**15/1881/MFUL (Major)** (Page 17-36)  
Budleigh Salterton  
9 Fore Street, Budleigh Salterton EX9 6NG

**16/2878/VAR & 16/2420/LBC (Major)** (Page 37-61)  
Exmouth Halsdon  
Lymptstone Manor Hotel (formerly Courtlands Hotel),  
Courtlands Lane, Exmouth EX8 3NZ

**16/2486/FUL (Minor)** (Page 62-68)  
Exmouth Withycombe Raleigh  
8 Drakes Avenue, Exmouth EX8 4AB

### **Break**

There will be a **30 minute training session for Members** over lunch.  
(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.**

**16/2800/COU (Other)** (Page 69-75)  
Beer & Branscombe  
Melbourne House, Branscombe, Seaton EX12 3DJ

**16/2726/FUL (Minor)** (Page 76-84)  
Broadclyst  
Land Adjacent West Holme, London Road, Rockbeare

**16/2255/FUL & 16/2256/LBC (Minor)** (Page 85-100)

Exe Valley

St Anthony's Chapel, Cowley

**16/2614/FUL (Minor)** (Page 101-110)

Newbridges

Rivendell, Dalwood, Axminster EX13 7EA

**16/2438/VAR & 16/2664/VAR (Major)** (Page 111- 126)

Seaton

Land Rear of 39 Fore Street, Seaton EX12 2AD

**16/2728/FUL (Other)** (Page 127-129)

Seaton

Conifers, 2 Wessiters, Seaton EX12 2PJ

**16/2573/FUL (Minor)** (Page 130-140)

Sidmouth Rural

Harts Mead, Buckley Road, Sidbury, Sidmouth EX10 0SL

**16/3018/FUL (Other)** (Page 141-148)

Trinity

The Carriage House (Lymewood Retirement Home), Uplyme,  
Lyme Regis DT7 3XA

**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 7 February 2017**

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

The meeting started at 10.00am and ended at 1.15pm (the Committee adjourned for a break at 12.05pm and reconvened at 12.15pm).

#### **\*35 Minutes**

The minutes of the Development Management Committee meeting held on 10 January 2017 were confirmed and signed as a true record.

#### **\*36 Declarations of interest**

Cllr Peter Burrows; 16/2338/MRES and 16/2795/FUL ; Personal Interest; Seaton Town Councillor

Cllr Brian Bailey; 16/2409/MFUL and 16/2631/FUL; Personal Interest; Exmouth Town Councillor

Cllr Colin Brown; 16/2532/FUL ; Pecuniary Interest; Applicant

Cllr Mark Williamson; 16/2409/MFUL and 16/2631/FUL ; Personal Interest; Exmouth Town Councillor

Cllr Mike Howe; 16/2230/FUL ; Personal Interest; Applicant known to the Councillor

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the Constitution:

- Cllrs Susie Bond and Mike Howe declared that they had been lobbied on applications 16/2338/MRES, 16/2409/MFUL and 16/2795/FUL .
- Cllr Howe chaired the meeting during consideration of application 16/2532/FUL due to the application being in the Chairman's ward.

#### **\*37 Appeal statistics**

The Committee received and noted the report presented by the Development Manager setting out appeals recently lodged and outlining the five decisions notified – three had been allowed and two had been dismissed.

The Development Manager drew Members' attention to the appeal lodged against the decision by the Committee regarding the demolition of a former care home and construction of 36 sheltered apartments, including communal facilities, access, car parking and landscaping, at Green Close in Sidford. Although the committee had approved the application , subject to a Section 106 Agreement, the applicant was not willing to agree to the overage clause imposed and had made the decision to appeal against non-determination.

In response to a question regarding whether anything could be learnt from the three appeals allowed, the Development Manager advised that no trends had been identified and outlined the judgements made by the Inspector for each of the appeals.

#### **\*38 Applications for Planning Permission and matters for determination**

##### **RESOLVED:**

that the applications before the Committee be determined as set out in Schedule 9 – 2016/2017.

**Attendance list**

**Present:**

Committee Members

Councillors:

David Key (Chairman)

Mike Howe (Vice Chairman) (left the Chamber during consideration of application 16/2230/FUL)

Brian Bailey

David Barratt

Peter Burrows

Susie Bond

Colin Brown (left the Chamber during consideration of application 16/2532/FUL)

Paul Carter

Alan Dent

Ben Ingham

Helen Parr

Mark Williamson

Officers

Shirley Shaw, Planning Barrister

Chris Rose, Development Manager

Hannah Whitfield, Democratic Services Officer

Also present for all or part of the meeting

Councillors:

Paul Diviani

Geoff Jung

Jim Knight

John O'Leary

**Apologies:**

Committee Members

Councillors:

Steve Gazzard

Simon Grundy

Chris Pepper

Chairman .....

Date.....

**EAST DEVON DISTRICT COUNCIL**  
**Development Management Committee**  
**Tuesday 7 February 2017; Schedule number 9 – 2016/2017**

**Applications determined by the Committee**

Committee reports, including recommendations, can be viewed at:

<http://eastdevon.gov.uk/media/1986542/070217-combined-dmc-agenda-compressed.pdf>

**Seaton  
(SEATON)** 16/2338/MRES

**Applicant:** Baker Estates Ltd

**Location:** Land North Of Rowan Drive, Seaton

**Proposal:** Erection of 36 no. dwellings and associated works (reserved matters application for all matters pursuant to planning permission 13/1091/MOUT)

**RESOLVED:** APPROVED subject to Secretary of State not wishing to invoke their powers to 'call in' the application for determination and subject to Section 106 Agreement and conditions as per recommendation.

(Cllr Peter Burrows requested that his vote against the application be recorded)

---

**Exmouth Littleham  
(EXMOUTH)** 16/2409/MFUL

**Applicant:** McCarthy & Stone Retirement Lifestyles Ltd

**Location:** Davey Court, Buckingham Close, Exmouth EX8 2JB

**Proposal:** Construction of three-storey retirement living apartment block, comprising 30 no. age exclusive retirement apartments with associated communal facilities, new access and landscaping.

**RESOLVED:** APPROVED subject to Section 106 Agreement and with conditions as per recommendation subject to condition 5 including the retention/reference to the historic ponds on the site.

**Seaton  
(SEATON)** 16/2795/FUL

**Applicant:** Seaton Beach Developments Ltd (Mike Dowling)

**Location:** Seaton Beach (Trebere), East Walk, Seaton EX12 2NP

**Proposal:** Demolition of 2 no. residential properties and replacement with a 8 unit five storey apartment building

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Development Manager to impose appropriate conditions.  
Members considered that the proposed building, with a smaller footprint than the existing buildings, resulted in less flood risk at ground floor level than the existing situation and that the combined regeneration and economic benefits to the seafront justified a smaller Sequential Test area focused on the seafront – as a result the proposal passed the Sequential Test.

---

**Clyst Valley  
(CLYST ST  
GEORGE)** 16/2077/FUL

**Applicant:** Mr Stephen Goss

**Location:** Blue Ball Inn, Sandygate, Exeter EX2 7JL

**Proposal:** Retention of timber outbuilding for use as a bar

**RESOLVED:** REFUSED (contrary to officer recommendation) with delegated authority given to the Development Manager to draft reasons for refusal.  
Members considered that the location of the structure close to the highway and residential properties opposite resulted in harm to the visual amenity of the area and encouraged an unacceptable noise impact upon the amenity of local residents.

**Yarty  
(YARCOMBE)** 16/2697/FUL

**Applicant:** Mr & Mrs S Vining

**Location:** Beacon House, Beacon, Yarcombe, Honiton EX14 9LU

**Proposal:** Proposed polytunnel

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Development Manager to impose appropriate conditions, to include submission of a planting scheme to help screen the polytunnel from the adjoining listed building (Emmetts) and removal of the polytunnel when no longer in use.  
Members considered that the proposal would not cause harm to the setting of the listed building as such buildings were common in rural areas close to residential buildings and the building was not of a solid permanent nature.

---

**Seaton  
(SEATON)** 16/2751/FUL

**Applicant:** EDDC Housing Dept (Mr G Baker)

**Location:** 56 Harepath Road, Seaton EX12 2RX

**Proposal:** Ground floor extension

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

---

(Cllr Howe left the Chamber during consideration of the application)

**Woodbury and  
Lympstone  
(WOODBURY)** 16/2230/FUL

**Applicant:** Mr & Mrs Chouhan

**Location:** Land Adjoining Woodbury Post Office, Broadway, Woodbury EX5 1NY

**Proposal:** Erection of attached dwelling

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



(Cllr Mike Howe took to the chair during consideration of this application as it was in the Chairman's ward. Cllr Colin Brown left the Chamber during consideration of the application.)

**Otterhead  
(MONKTON)**

16/2532/FUL

**Applicant:** Mr & Mrs C Brown

**Location:** Monkton Court Hotel, Monkton Honiton EX14 9QH

**Proposal:** Change of use and conversion of garages and stores to create 7 hotel bedrooms

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

---

**Exmouth  
Withycombe  
Raleigh  
(EXMOUTH)**

16/2631/FUL

**Applicant:** No 10 Developments Ltd

**Location:** 28 Holland Road, Exmouth EX8 4BA

**Proposal:** Demolition of garage, and construction of two storey attached dwelling

**RESOLVED:** REFUSED as per recommendation

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

**Ref:** 15/1512/FUL                      **Date Received** 24.01.2017  
**Appellant:** Mr Stuart Cole (Greener For Life Energy Ltd)  
**Appeal Site:** 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  
**Planning Inspectorate Ref:** APP/U1105/W/17/3167903

---

**Ref:** 15/2522/FUL                      **Date Received** 24.01.2017  
**Appellant:** Stuart Partners  
**Appeal Site:** Land East Of Denbow Farm Farringdon  
**Proposal:** Construction of lined earth lagoon to store digestate and concrete hardstanding  
**Planning Inspectorate Ref:** APP/U1105/W/17/3167901

---

**Ref:** 16/1052/V106                      **Date Received** 01.02.2017  
**Appellant:** RS Homes (Devon) Ltd  
**Appeal Site:** Land At Yaffles Coly Road Colyton  
**Proposal:** Variation of requirement for affordable housing in Section 106 agreement pursuant to application 13/1401/MOUT  
**Planning Inspectorate Ref:** APP/U1105/S/16/3167178

---

**Ref:** 16/2294/FUL                      **Date Received** 07.02.2017  
**Appellant:** Mr & Mrs R Tedbury  
**Appeal Site:** Trelawny 36 Marlpit Lane Seaton EX12 2HL  
**Proposal:** Creation of dwelling and formation of vehicular access and car parking  
**Planning Inspectorate Ref:**

---

**Ref:** 16/0839/FUL **Date Received** 09.02.2017  
**Appellant:** Mr Alan Pratt  
**Appeal Site:** Lily Farm Vineyard Dalditch Lane Budleigh Salterton EX9  
7AH  
**Proposal:** Construction of manager's accommodation and extension  
**Planning** APP/U1105/W/17/3169196  
**Inspectorate**  
**Ref:**

---

**Ref:** 16/1991/FUL **Date Received** 10.02.2017  
**Appellant:** Mr Tony Traynor  
**Appeal Site:** Land Adjoining Cranbrook The Glen Uplyme Lyme Regis  
DT7 3TR  
**Proposal:** Construction of two storey dwelling  
**Planning** APP/U1105/W/17/3169246  
**Inspectorate**  
**Ref:**

---

**Ref:** 16/2458/PDQ **Date Received** 19.02.2017  
**Appellant:** Mrs Wendy Spiller  
**Appeal Site:** Agricultural Building East Of M5 Moor Lane Poltimore  
**Proposal:** Prior approval for conversion of agricultural buildings to 3 no.  
dwellings and associated operational development  
**Planning** APP/U1105/W/17/3169881  
**Inspectorate**  
**Ref:**

---

## East Devon District Council List of Planning Appeals Decided

**Ref:** 16/0301/FUL                      **Appeal Ref:** 16/00054/REF

**Appellant:** Betterment Properties (Weymouth) Ltd

**Appeal Site:** Land Adjacent 17 Glebelands Glebelands Uplyme

**Proposal:** Construction of 2 storey dwelling and off street parking

**Decision:** **Appeal Allowed (with conditions)**                      **Date:** 26.01.2017

**Procedure:** Written representations

**Remarks:** Officer recommendation to approve, Committee refusal, amenity and landscape reasons overruled (EDLP Policy D1 and Strategy 46).  
The Inspector considered that due to the surrounding topography, the proposed dwelling would not be conspicuous in longer distance views from within the AONB, although it would be clearly seen at closer quarters within Glebelands. From here it would be viewed in the context of nearby residential development.

The Inspector was mindful that the dwelling would extend the built form of the estate further to the west in an area that draft Policy UEN7 of the emerging Uplyme Neighbourhood Plan identifies as Local Green Space. However, whilst he recognised the intention of the emerging plan to keep the area free from development, considered that that the proposed dwelling would maintain the generally spacious appearance of the area. Furthermore, as there would be areas of undeveloped space to the immediate north, west and south of the proposed dwelling, visual linkages with adjoining open spaces would be maintained. Hence, even though the proposal would not directly comply with draft Policy UEN7, it would nonetheless be compatible with the overall intention of the emerging Neighbourhood Plan to protect the landscape and amenity value of the Local Green Space.

He concluded that the dwelling would appear similar to neighbouring properties in terms of its scale and overall design and would be read as part of the existing estate. In this respect the dwelling would be in keeping with its surroundings.

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

**Planning Ref:** APP/U1105/W/16/3156828

**Inspectorate Ref:**

---

**Ref:** 16/1082/TRE **Appeal Ref:** 16/00047/TRE  
**Appellant:** Mr B Shorter  
**Appeal Site:** Hornshayne Weston Sidmouth EX10 0PH  
**Proposal:** T1, Ash: Pollard at 1.4 to 1.6 metres above crown break.  
**Decision:** **Appeal Dismissed** **Date:** 26.01.2017  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, amenity reasons upheld.  
**BVPI 204:** **No**  
**Planning Inspectorate Ref:** APP/TPO/U1105/5393

---

**Ref:** 15/2052/OUT **Appeal Ref:** 16/00046/REF  
**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.  
**Decision:** **Appeal Dismissed** **Date:** 02.02.2017  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, countryside protection and sustainability reasons upheld (EDLP Strategy 7).  
**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3157166

---

**Ref:** 15/2919/FUL **Appeal Ref:** 16/00065/REF  
**Appellant:** Dr Paul Barber  
**Appeal Site:** Gardners Barn Land North West Of Lucerhayes Farm Honiton Bottom Higher Brand Lane Honiton  
**Proposal:** Change of use and alteration of agricultural building to form dwelling  
**Decision:** **Appeal Dismissed** **Date:** 13.02.2017  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, sustainability and landscape reasons upheld (EDLP Strategies 7 & 46 and Policies D1 & D8).  
**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3162203

---

**Ref:** 16/2291/FUL **Appeal Ref:** 16/00066/HH  
**Appellant:** Mrs Eileen Bryce  
**Appeal Site:** 25 Essington Close Exmouth EX8 4QY  
**Proposal:** Construction of side dormer, including rooflights, and extension to roof to facilitate loft conversion  
**Decision:** **Appeal Dismissed** **Date:** 14.02.2017  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, amenity reasons upheld(EDLP Policy D1).  
**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/D/16/3163198

---

**Ref:** 14/F0117 **Appeal Ref:** 16/00018/ENFAPP

**Appellant:** Ivy Ayres  
**Appeal Site:** Land South West Of Trafalgar Bridge Weston  
**Proposal:** Appeal against the serving of an enforcement notice in respect of the material change of use of the land to use for the siting of a mobile home and touring caravans for residential purposes.

**Decision:** **Appeal Allowed** **Date:** 14.02.2017  
**with conds.**  
**(Temporary)**  
**Enforcement**  
**notice quashed**

**Procedure:** Written representations

**Remarks:** Flooding reasons overruled (EDLP Policy EN21).

The serving of the enforcement notice followed a previous refusal of planning permission and subsequent dismissed appeal in respect of the use of the land. The reason for serving the notice was based on the fact that the caravans are situated within a flood zone.

The Inspector acknowledged that the Planning Practice Guidance classifies caravan sites as a highly vulnerable form of development that should not be permitted in flood zone 3a or 3b. EDLP Policy EN21 takes an approach consistent with this guidance and the development is therefore clearly contrary to national and local planning policy.

The Inspector, however, concluded that as there are currently no other available gypsy and traveller sites, a temporary 5 year permission was justified in this case.

**BVPI 204:** **No**  
**Planning** APP/U1105/C/16/3146167  
**Inspectorate Ref:**

---

<b>Ref:</b>	16/1759/FUL	<b>Appeal Ref:</b>	16/00060/REF
<b>Appellant:</b>	Mr & Mrs G Sweetland		
<b>Appeal Site:</b>	Boveys Down Farm Farway Colyton EX24 6JD		
<b>Proposal:</b>	Conversion of lean-to agricultural barn to form tea room with associated ground engineering works and relocation of stores to extend existing car parking area		
<b>Decision:</b>	<b>Appeal Allowed (with conditions)</b>	<b>Date:</b>	15.02.2017
<b>Procedure:</b>	Written representations		
<b>Remarks:</b>	<p>Delegated refusal, sustainability, countryside protection and landscape reasons overruled (EDLP Strategies 7 &amp; 46 and Policies D8, E5 &amp; TC2).</p> <p>The Inspector considered that due to the slope of the land, the barns cannot be seen from the road and are further shielded by a Devon bank and trees and shrubs along the road frontage. The barn would not therefore be seen from any wider viewpoints in the AONB.</p> <p>The Inspector acknowledged that the site is only accessible by private vehicles but that the tea room is designed to cater for campers and caravaners at the farm and passing trade. The use is relatively low key and would not substantively add to the need to travel by car.</p> <p>He concluded that the development would be appropriate in this remote rural area which is inaccessible by public transport and meets the requirements of the development plan policies as well as paragraph 28 of the NPPF.</p>		
<b>BVPI 204:</b>	<b>Yes</b>		
<b>Planning Inspectorate Ref:</b>	APP/U1105/W/16/3159651		

---



**Ward** Budleigh Salterton

**Reference** 15/1881/MFUL

**Applicant** Mr D Macmullen

**Location** 9 Fore Street Budleigh Salterton EX9 6NG

**Proposal** Redevelopment of existing property to provide 8no. apartments and covered parking, widened driveway, bin store and change of use of existing annex to create a self-contained dwelling



**RECOMMENDATION: Refusal**



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Budleigh Salterton (BUDLEIGH SALTERTON)</b>	<b>15/1881/MFUL</b>	<b>Target Date: 09.11.2015</b>
<b>Applicant:</b>	<b>Mr D Macmullen</b>	
<b>Location:</b>	<b>9 Fore Street Budleigh Salterton</b>	
<b>Proposal:</b>	<b>Redevelopment of existing property to provide 8no. apartments and covered parking, widened driveway, bin store and change of use of existing annex to create a self-contained dwelling</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members because the officer recommendation differs from the view of a Ward Member. The proposal is for the demolition of 9 Fore Street, a single dwelling, and its replacement with a building containing 8 flats and the provision 15 parking spaces. A separate annex would be reused as a further dwelling.**

**The site is located in the town centre conservation area and the existing building is a modest structure set in substantial and established gardens. It is an indicative example of the early expansion of the town as a seaside resort and contributes positively to the conservation area. The replacement building would be larger in scale and bulk and would result in a more intensive use of the site. This would be to the detriment of the character and appearance of the conservation area as reflected in the objection from Historic England. The proposal would also include the provision of parking spaces on land which is designated as land of local amenity importance and would potentially result in the loss of the historic bridge which provides access to the site and these factors also weigh against the scheme.**

**The site is also in a high risk flood zone where redevelopment is required to pass the sequential test. In this case the application fails to demonstrate that a development of this type could not be located elsewhere in the district on a site which is at lower risk of flooding. Although the scheme has been designed to accommodate predicted flood levels, this does not outweigh the principle that the occupants should not be placed at risk of the effects of flooding if the risks can be avoided by developing elsewhere.**

The proposal would result in harm to the character and appearance the conservation area but this harm must be weighed against the public benefits of the proposal. In other circumstances this site would be regarded as suitable for flats because of its location close to the amenities of the town centre but in this case the risk of flooding outweighs any benefits arising from the location. Further harm arises from part of the development taking place on designated land of local amenity importance and from the potential for the loss of the historic bridge at the access to the site.

In the absence of overriding public benefits that would outweigh the harm to the conservation area, the proposal is recommended for refusal.

## **CONSULTATIONS**

### **Local Consultations**

Budleigh - Cllr T Wright

**14/09/15.** Thank you for providing hard copy of the papers I requested. In one way I was sorry to learn of this application. The western edge of building is higher than the single storey flat roofed extension on this side and as such will adversely affect my views. My wife and I can enjoy our morning cup of tea lying in bed looking at the sea over the south west corner of the present house!

I am pleased to see the design of the new build is very similar to the existing and the increase in foot print, in my view, is not over development. I consider the plans to be acceptable and will provide 9 small dwellings, convenient to the town. The widening of the drive will make access and exit easier for vehicles. The view to left and right is unobstructed and this site is after all close to the commercial centre of the town. Any traffic increase will be minimal when compared to the heavy traffic using Rolle car park immediately to the west and the heavy traffic use by visitors to the Methodist Temple immediately to the east which is a venue for many concerts and similar events.

**20/04/16.** I have examined the revised plans. I am pleased to see that the old annexe is being put to good use and the front garden will not be used for car parking. The design is sympathetic to and suitable for the town centre and this project will provide good quality accommodation in the centre of the town and accessible to the town amenities.

I therefore support the application.

**15/02/17.** To some extent I am disappointed with the recommendation to refuse. This application did provide an opportunity to provide small dwellings, modern, efficient and sustainable in the town centre. There is a demand for such dwellings which would allow for downsizing. The present building is not in good repair and does not lend itself to adaption to provide modern, environmentally efficient homes. The design of the new building to a great extent replicated what is already there and got rid of the ugly flat roofed projection on the west elevation.

## Parish/Town Council

**14/09/15 28/04/16 and 25/01/17.** This Council is unable to support the amended application for the following reasons:

1. The application neither enhances or preserves the Area of Outstanding Natural Beauty and therefore is contrary to Paragraph 115 of the NPPF.
2. Conservation Areas are afforded the highest protection in the NPPF and Paragraph 126 emphasises the need to conserve and enhance the historic environment. The District Council's Conservation Officer has stated that the existing building should not be demolished.
3. The proposal does not demonstrate that substantial public benefit outweighs the harm and loss of this local heritage asset, as per NPPF Para 133.
4. The proposed building will dominate the street scene by virtue of its scale and mass.

In summary, the proposal is contrary to Policies D1 and EN10 and Strategies 48 and 49 of the East Devon Local Plan.

In addition to these reasons, there are concerns that the proposed height of the new dwelling is not shown, especially in comparison to buildings in the vicinity.

## **Technical Consultations**

### DCC Flood Risk SuDS Consultation

**02/02/17.** Recommendation:

We have no in-principle objections to the above planning application, from a surface water drainage perspective, at this stage. 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 programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

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

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Flood Risk Assessment (Report Ref. 15/1881/MFUL, Rev. -, dated 14/12/2016).

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

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

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

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

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

We have no objection to the proposed surface management for the site in which an attenuated discharge is proposed at Greenfield performance with recommendation for further infiltration testing to determine the viability of the use of infiltration features at the proposed development.

It should be noted, that the proposed discharge rates are a betterment over current Greenfield performance, however the figures presented in Table 7-2 should compare the proposed discharge rates and current Greenfield conditions rather than those presented under the 2115 climate change scenario.

### Environment Agency

#### **03.09.15. Environment Agency Position**

We recommend that this application is refused on the grounds that the Flood Risk Assessment (FRA) submitted with the application does not fully address the flood risks to the proposal.

#### Reason

The site of the proposed development is located in Flood Zone 3 "High Probability" of flooding.

The proposal to replace the current single "More vulnerable" dwelling on the site with 9 "More Vulnerable" apartments will, if not designed appropriately, increase flood risks overall and not reduce them as suggested in National Planning Policy Framework (NPPF), paragraph 102.

While the application is accompanied by a Flood Risk Assessment (undated) this document has not ;

- accurately determined the 'design' water level for the proposed development. This should include an allowance for predicted climate change and be agreed with us and related to Ordnance Datum (O.D);

- promoted floor levels (related O.D.) that are safely above the "design" water level;

- demonstrated that the proposed 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 risks overall" (NPPF, paragraph 103).

#### Way Forward

The applicant will need to produce a Flood Risk assessment that addresses all of the abovementioned flood risk issues relating to the site.

#### For Information

Under the terms of National Planning Policy Framework (NPPF) the proposal to redevelop the site as proposed may require the application of the Sequential Test (ST) , the aim of which is to locate new development in land with the lowest risk of flooding , Flood Zone 1. We will happily leave this aspect to your Council to satisfy.

#### **25.01.17. Environment Agency Position**

Providing any redevelopment of the site conforms with the submitted Flood Risk Assessment prepared by Howick Consulting and dated 14 December 2016 there are no objections to the proposed development from the flood risk aspect. In particular;

- a) floor levels should be established no lower than 9.71m above O.D. as shown on Drawing No 15107 - 02 - of the FRA (p,10) and ;
- b) the land between the proposed building and the watercourse should be retained as open, unobstructed and broadly at existing levels.

#### Devon County Archaeologist

I refer to the above application. The extant house at 9 Fore Street occupies the site of an earlier dwelling shown on the mid-19th century Tithe Map and the late 19th century OS map. The age of this building is unknown and groundworks associated with the redevelopment of the site have the potential to expose archaeological and artefactual deposits associated with the earlier settlement at Budleigh Salterton.

For this reason and in accordance Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan and with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

#### Reason

To ensure that an appropriate record is made of archaeological evidence that may be affected by the development and in accordance with Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012).

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

In addition, I would advise that the EDDC Conservation Officer was consulted with regard their comments on the demolition of a substantial dwelling built in the Arts and Crafts style within the town's Conservation Area and the impact this may have upon it.

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.

#### County Highway Authority

##### Observations:

The proposed development is centrally located in the middle of Budleigh Salterton. The existing access is proposed to be widened to 4.8 m in width; however because of the bridge crossing, radii on each side of the access will not be obtainable, therefore although the proposed width of 4.8 m is acceptable for two vehicles to pass each within the driveway, they will not be able to pass at the entrance. This in itself should not create any problems although vehicles entering and leaving the site will have to take a slightly wider arc than normal to accommodate the lack of radius kerbing. I do not see this as any particular problem at this town centre location where there is some on-street parking where drivers already jockey for position.

The proposal is for 9 apartments with 17 vehicle parking spaces, 2 on a grassed area at the front with turning area and 15 vehicle spaces of covered parking under the proposed roof garden with associated turning area. This would equate to a provision of 1.7 spaces per unit, if you take the existing cottage as a 10th unit.

If the application is granted planning permission the developer would need to enter into an appropriate agreement with the CHA for the design and construction of the proposed access bridge.

##### 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

Officer

#### EDDC Trees

No objection to the proposed scheme subject to a condition covering tree protection measures, such as:

## Tree Protection

Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) the following tree protection measures as identified in the Arboricultural Method Statement (AMS) dated 16 February 2015 will have been completed:

- a) The tree protection fencing and / or ground protection shall be in place and in accordance with the agreed specification.
- b) The installed tree protection will have been inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.
- c) The findings of the Arboricultural Supervisors initial site inspection shall be forwarded to East Devon District Council, Western Planning Team prior to the commencement of works on site.

During development the AMS dated 16 February 2015 shall be strictly followed, including:

- d) Monthly site inspections by the Arboricultural Supervisor.

On completion of the development, the completed site monitoring log shall be submitted to the Planning Authority for approval and final discharge of the condition.

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

## Environmental Health

I have considered the application. I note that the internal stacking on ground and first floors match well, but the second floor does not match so well, for example the second floor lounge above second floor bedrooms which may give rise to noise disturbance for people trying to sleep in the bedrooms below.

I also recommend the following condition in line with our construction guidance:

- a. There shall be no burning of any kind on site during construction, demolition or site preparation works.
- b. No construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays.
- c. Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance .
- d. No high frequency audible reversing alarms shall be permitted to be used on any vehicle working on the site.



Reason: To protect the amenity of local residents from smoke, noise and dust.

(Construction guidance here: <http://eastdevon.gov.uk/noise/noise-guidance-and-advice/guidance-and-advice-for-developers-builders-and-contractors/> )

## Historic England

### **07/09/15. Historic England Advice**

#### Significance

The attractive seaside resort of Budleigh Salterton is located on the East Devon coast nestled amongst the distinct red cliffs that characterise the area. The settlement has modest origins, as a small village whose local economy utilised its surrounding resources, namely the mouth of the River Otter and the sea for salt panning and fishing. During the 19th and 20th century, however, it flourished as an attractive and popular small seaside town, whose character is retained through the domestic properties and lively historic shop fronts.

The proposed development site is located along the main thoroughfare to the seafront, Fore Street, which has retained its importance as the principle access to the water, during the development of the town. The property No. 9 Fore Street has a restrained Arts and Crafts appearance and is set within lush grounds with substantial vegetation. The recessive nature of the house and the positive green and leafy contribution made by the established garden is a positive characteristic, which hold further importance as it allows the adjacent Temple Methodist Chapel, also set back within its plot with surrounding vegetation, to maintain a presence and sense of primacy along Fore Street. No. 9 Fore Street is accessed via a delightful stone built bridge that crosses a small stream running along the edge of Fore Street, separating the plot from the road. The bridge is an attractive feature within this section of the conservation area and is likely to pre-date the house.

#### Impact

We note that No.9 Fore Street is identified as a key building within the conservation area appraisal. Although it has a relatively limited impact on the streetscape, its recessive character, modest scale and massing, and unassuming architectural design does form a positive contribution to the conservation area, by retaining the leafy and lush quality of the streetscape, softening the urban character and providing a less intense density of development, which reflects the gentle character of the modest seaside residencies seen along Fore Street. Due to the positive contribution made by the property, we would question whether the building could not be repaired and adapted, with the potential to enlarge the structure to provide additional accommodation on the site.

In terms of the replacement building, although the design approach is similar to the existing style of the house, it significantly increases the massing, bulk and scale resulting in a property that has a much greater visual intrusion into the streetscape, as can be seen through the LVIA. This additional bulk and greater visual prominence would conflict with the modest and restrained domestic character and appearance held within this section of the conservation area as well as eroding the sense of primacy held by the Temple Methodist Chapel within the streetscape, which is also identified as a positive contribution to the conservation area. We would consider that

the potential loss of the structure and the proposed replacement would result in a harmful impact to the character and appearance of the conservation area.

We would also raise significant concern regarding the proposed amendments to the bridge. The widening would substantially alter the current character of this charming structure, which is a picturesque feature along Fore Street, and looks to pre-date the current property, adding evidential and historic value to the site and the conservation area. We appreciate there may be highways issues that need to be addressed; however, we would look for less intrusive solutions to be considered to manage the access to and from the site. It should be noted that this is an important characteristic of the conservation area and to alter it, would result in loss to an attractive historic feature, resulting in harm.

### Policy

As the application affects a conservation area, there is a statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, Planning (Listed Building and Conservation Area) Act 1990), which must be taken into account by the local planning authority when making its decision.

Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (para.17 NPPF). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. No other planning concern is given a greater sense of importance in the NPPF. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (para.132, NPPF); at present we are not convinced that appropriate justification has been provided for the loss of the building and we consider that an alternative scheme retaining the property with the potential scope for sensitively designed extensions could be a more sensitive solution.

Planning authorities should look for opportunities for new development within conservation areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably (para.137 NPPF). At present this scheme does not enhance or better reveal the significance of the conservation area. As an impact has been identified it is for the local authority to look for ways to improve the proposal so that they avoid or minimise harm to the significance of designated heritage assets (Para 129, NPPF).

As this proposal results in the loss of a building that makes a positive contribution to the significance of a conservation area, we would identify that the application should be treated as causing "less than substantial harm" in the language of the NPPF. This should not be considered as acceptable harm, as any harm would need to be outweighed by the public benefit of the scheme and be clear and convincingly justified (para.138, 134 & 132 NPPF).

### Recommendation

The current property is unassuming and consequently makes a positive contribution to the conservation area; in contrast the proposed scheme is substantially larger in terms of massing and scale, resulting in a harmful impact into this leafy and modest visually attractive section of the conservation area, as well as eroding the primacy of Temple Methodist Chapel. We would also raise significant concerns about the alteration to the picturesque bridge, which provides access to the site and is a charming and important feature to character of the area. At present, Historic England does not consider that clear and convincing justification has been provided to support the demolition of No. 9 Fore Street and that an alternative options utilising the existing building should be explored. Consequently, the current proposal results in harm to the character and appearance of the conservation area and Historic England would be unable to support the application.

### **05/05/16.** Historic England Advice

The amended proposals still look to demolish the existing structure, which is identified as an unassuming arts and crafts property and a positive contribution to the conservation area. The amended design has taken some minor steps to break up the massing of the new proposal; however, the structure is still a significant addition into what has been a leafy and modest addition to conservation area. Consequently, we maintain that the increase in massing and scale of the new addition will have a harmful impact on this leafy and modest visually attractive section of the conservation area, as well as eroding the primacy of Temple Methodist Chapel. Furthermore, no additional justification has been provided to support the demolition of No. 9 Fore Street, which has a positive impact in this section of the conservation area. Consequently, the current proposal results in harm to the character and appearance of the conservation area and Historic England would maintain its reservations regarding the proposal.

We would ask why alternative solutions have not been explored that utilises the existing building to provide the accommodation required.

### Recommendation

Consequently, the amended plans have not addressed our previous concerns and the current proposal results in harm to the character and appearance of the conservation area. Therefore, Historic England is unable to support the proposed application.

### **03/10/16.** Dear Mr MacMullen [the applicant]

Thank you for your email and I apologise for the delay in responding. Thank you for showing Kate and I around No. 9 Fore Street, it was very useful to see the building and the grounds.

The building is identified as a positive contributor to the conservation area. Its modest and reserved arts and crafts/ Edwardian style set in a substantial and established garden offers a positive addition to the streetscape visually but also as a later and important phase within the architectural development of Budleigh Salterton. Even with its later additions that reflect the existing character of the building, it forms an indicative example of this later phase towards the end of the prolific Victorian

expansion of the settlement as a seaside resort. These elements contribute to the character and appearance of the conservation area and result in the house being identified as a positive contributor in the appraisal.

The proposed demolition of the building would result in harm to the significance of the conservation area, as we have identified in our previous correspondence. This would be less than substantial, it should not be considered to be acceptable harm. Any harm needs to be justified in line with para 132 and 134. Under 134, the harm should be outweighed by the public benefit of the scheme. The council needs to consider the harm caused to the conservation area and satisfy themselves that the public benefits offered outweigh that harm. At present, we are not convinced sufficient justification has been provided for the loss and replacement of the building and that the building could not be utilised for accommodation in its current form, principally as a single dwelling, its original use.

We appreciate that the proposed addition has been reduced its overall mass and that attempts have been made to utilise details from the existing dwelling; however, due to the change in design, the continued increase in height and massing, although reduced, and the associated paraphernalia with the increased number of people accommodated through car parking etc, the development would not preserved or enhanced the character and appearance of the conservation area as required under s.72(1) of the Planning (Listed Building and Conservation Area) Act 1990.

Therefore, Historic England maintains its position and is unable to support the current proposals.

#### Other Representations

14 objections have been received which raise the following concerns:

- Development would result in the loss of an important local building
- The replacement would be bulkier and higher
- It would be visually intrusive
- It would harm the character and appearance of the conservation area
- Options for retaining the building have not been fully explored
- There is insufficient justification for demolition
- There is no demand for more flats
- The site is in the AONB
- Likelihood of damage to or loss of the bridge
- Highway safety

2 supporting comments have been received:

- The proposal is sympathetic to the character of the existing house
- It would provide much needed accommodation

#### **PLANNING HISTORY**

None relevant.

## **POLICIES**

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

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 21 (Budleigh Salterton)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 37 (Community Safety)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN10 (Conservation Areas)

EN5 (Wildlife Habitats and Features)

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

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

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

EN21 (River and Coastal Flooding)

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)

### Budleigh Salterton Neighbourhood Plan Submission Document

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

#### Site Location and Description

The property is situated in a prominent position within the Budleigh Salterton conservation area with a public car park for the town on one side and the Temple Methodist Church on the other. A brook runs in an open channel between the road and the front boundary and there is a stone bridge crossing the brook which provides vehicular and pedestrian access to the site. Gardens of about half an acre are situated at the front and rear of the property and there is a detached annex on the east side of the dwelling.

The house itself appears on the 1905 OS map and replaced an earlier house which appears on earlier maps. Its architecture is quite indicative of the Edwardian villa tradition with slight Arts and Crafts overtones, particularly with the arrangement of gables on the south elevation. It retains many of its original features and has been relatively well-maintained although in need of some repair. The property is highlighted in the conservation area appraisal as a 'key building' which, although not included on the statutory list, has been deemed to contribute positively to the character and significance of the conservation area.

#### Proposal

Planning permission is sought to demolish the dwelling and replace it with a building which would provide 8 flats over three floors. At the rear of the building parking spaces for 15 cars would be provided partly covered by a car port and partly in a subterranean area beneath the garden. The existing annex would be retained without alteration (other than some flood resilience measures) but would become a separate dwelling.

## **ANALYSIS**

The main issues for consideration in the determination of this application are: whether the proposal would preserve or enhance the character and appearance of the conservation area; and whether the development is appropriate having regard to the risk of flooding to the site.

### **Conservation Area**

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning decisions to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area. This is supported by Local Plan policy EN10 and the National Planning Policy Framework which includes the core principle that heritage assets should be conserved in a manner appropriate to their significance.

Development which does not preserve or enhance the character and appearance of the conservation area can be permitted but it must carry some public benefit which outweighs the failure to satisfy this requirement. This is reinforced by paragraphs 133-134 of the NPPF which direct that any harm to a designated heritage asset should be weighed against the public benefits of the proposal. In this case the designated heritage asset is the conservation area and the existing dwelling contributes positively to its character and appearance.

Abele Tree House, as 9 Fore Street is also known, dates from the late Victorian or early Edwardian period and replaced an earlier dwelling on the plot. It is a moderately large detached house which retains many of its original features and has been well-maintained, albeit now needing some repairs. The architecture is indicative of the Edwardian villa tradition with slight Arts and Crafts overtones, particularly with the arrangement of gables on the south elevation. Budleigh Salterton expanded rapidly in the nineteenth century and this property being constructed after that period of growth adds a further layer to the character of the town and tells of its evolution as a seaside resort.

The house is set within a substantial and established garden with a level lawn at the front and a walled garden rising at the rear. There is substantial vegetation on the front boundary, including a prominent grey poplar tree and other specimens. The recessive nature of the house and its green and leafy setting contribute positively to the character and appearance of the area.

Further significance is derived from the stone bridge that crosses the brook and is likely to pre-date the house; and the prominent persons who have occupied the house, including one of the founders of the Fairlynch Museum.

Drawing these characteristics together, the building and its setting contribute positively to the character and appearance of the conservation area and result in the house being identified as making a significant contribution to townscape in the conservation area appraisal.

It is considered that the loss of the existing building would be harmful to the character and appearance of the Conservation Area and as highlighted by Historic England, it is considered that the existing building is still capable of use and conversion and that this should form the starting point for development.

With regard to the replacement building, relative to the existing single dwelling, the proposed building would be larger in plan form and bulk. In particular, there would be additional bulk on the north side and at the front as well as a general increase in the volume of the roof in order to accommodate an additional storey. This would result in a significantly more bulky building which would no longer have the appearance of a single dwelling. From vantage points in the public car park, from the road in front of the site and from the adjacent grounds of the Temple Methodist Church, it would be clear that the site was more intensively occupied and this would be to the detriment of the character of the area when considered against the low-key impact of the existing dwelling.

Notwithstanding those concerns, open spaces at the front and rear of the site would be largely conserved, as would the frontage vegetation which provides screening from the road and itself contributes positively to the character and appearance of the area. Whilst the gabled form and use of materials attempts to imitate key features of the existing building, the proposed building would be more bulky and therefore detract from the site and its positive contribution to the conservation area.

In summary, the demolition of the existing building would be harmful to the character and appearance of the conservation area whilst the replacement building, due to its bulk and the intensity of use of the site, would result in harm to the conservation area. This is a view which is supported by Historic England who also comments that the proposal would erode the primacy of the Temple Methodist Chapel.

In the terminology of the NPPF, the harm to the character and appearance of the conservation area is 'less than substantial'. This is confirmed in the conservation officer's comments as well as those of Historic England. In such circumstances the harm should be weighed against the public benefits of the proposal but bearing in mind that special regard needs to be given to preserving or enhancing the Conservation Area. This balancing exercise is addressed in the conclusion.

### Flood risk

The site is in flood zone 3 where there is a high risk of flooding. The developer has engaged with the Environment Agency and employed consultants to understand the risks to the site and this has resulted in a revised proposal with floor levels designed to mitigate the risk. These levels are considered appropriate by the Environment Agency, who have also requested that the land between the proposed building and the watercourse should be retained as open, unobstructed and broadly at existing levels. Notwithstanding these design features, the sequential and, if necessary, exception test must be applied to the development.

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). The sequential test aims to steer new development towards areas with the lowest probability of flooding.

In order to pass the sequential test it must 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 to define the area over which it is appropriate to carry out an alternative site search.

In this case the search area is the whole of the district and this is the area which is addressed in the submitted Flood Risk Assessment. Various alternative sites across the district are explored in the FRA but all are said to be unsuitable or unavailable because they are remote from Budleigh Salterton or in the control of other developers. Within the town a number of sites are identified but again all are considered to be unsuitable or unavailable.

The approach adopted in the FRA is flawed, however, because it looks too narrowly at whether the applicant could provide this development elsewhere. The correct approach is to ask could a development of eight flats be provided anywhere else in the district by any developer on a site a lower risk of flooding. Evidently, there are sites allocated for development in the Local Plan that would be appropriate for this type of development and would have access to amenities. They may be in the control of other developers but development of the type proposed at 9 Fore Street could still be provided on those sites. For this reason, the sequential test is not passed and the development should not be permitted.

#### Affordable Housing

In this location a development of this size would be required to make a financial contribution towards the off-site provision of affordable housing. The sum required would be £252,368 (which is a contribution of £31,546 for each of the 8 additional dwellings), without taking into account any vacant building credit which may be due. This is not addressed in the Heads of Terms, which covers other contributions that have since been replaced by CIL, but an appraisal has been submitted which indicates that the scheme would be unviable if it had to make any contribution towards affordable housing. Notwithstanding that, in the event of a resolution to grant permission negotiations could be entered into with the objective of securing agreement to a viable level of contributions.

#### Highway safety and access

The existing access is sub-standard by virtue of the narrow bridge crossing the stream and the lack of a turning radius at the junction with the road. An initial proposal to widen the bridge has been removed from the scheme owing to the harm arising from the loss of the existing historic and attractive bridge. Retention of this bridge is considered to outweigh any slight inconvenience caused by vehicles manoeuvring to enter or leave the site. However, whether the bridge is capable of taking the weight of the construction traffic and subsequent increase in vehicle movements associated with 8 more dwellings has not been demonstrated and this

weighs slightly against the proposal as it is unclear whether the conservation benefit of retaining the bridge can be secured in the long term.

The scheme proposes 9 dwellings and 15 parking spaces, a ratio of 1.67 spaces per dwelling. This is slightly below the guideline provision of 2 spaces per dwelling indicated in policy TC9 but is considered adequate in this town centre location where some occupants may not own a car. Appropriate provision is also made for bicycle parking.

#### Land of Local Amenity Importance

The walled garden behind the house is part of an area which is designated in the Local Plan as land of local amenity importance. The designated land extends north and east to include all of the gardens opposite 1-10 East Terrace which lie above the site. Although privately owned, together these gardens contribute to the open quality of the area. The proposal would result in some loss of this undeveloped area to car parking, although in part it would be replaced by a roof garden. Policy EN1 requires there to be a clear community need for the development and this has not been demonstrated but in terms of character of the area the open quality of the designated land would be largely maintained, if not its undeveloped, green characteristics. The effect of the development on the garden and the designated land weighs against the scheme but is not in itself an overriding reason for refusal.

#### Surface water drainage

Subject to any measures being put in place to attenuate the flow of surface water from the site, the drainage proposal is acceptable.

#### Archaeology

Groundworks associated with the redevelopment of the site have the potential to expose archaeological and artefactual deposits associated with earlier settlement at Budleigh Salterton. A programme of archaeological works is therefore required and could be secured by condition.

#### Trees

Appropriate tree protection measures during construction and a subsequent landscaping scheme are considered sufficient to conserve the important landscape features of the site. These measures can be secured by condition.

#### Impact upon the AONB

Although the proposal would result in some change to the landscape features of the site, in this town centre location it would have little impact on the landscape qualities of the wider AONB.

#### Residential Amenity

The nearest residential properties are 1-7 Thornton Close which lie to the north east of the proposed building. Although some of those units would experience a change

in their outlook, the separation distance and difference in levels is such that there would be no harm to the occupants' amenities.

### Conclusion

The proposal would result in harm to the character and appearance the conservation area but this harm must be weighed against any public benefits of the proposal. In other circumstances this site would be regarded as suitable for flats because of its location close to the amenities of the town centre but in this case the risk of flooding outweighs any benefits arising from the location. Developing flats in a flood zone would place the occupants at risk and would result in harm to the public interest. No amount of mitigation measures can remove the risk and therefore the design features are not sufficient to alter this conclusion. Further harm arises from development taking place in designated land of local amenity importance and from the potential for the loss of the historic bridge at the access to the site.

In light of the above, in the absence of overriding public benefits that would outweigh the harm to the conservation area, and given the objection from Historic England, the proposal is contrary to local and national planning policy and recommended for refusal.

### **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 test for site selection to be applied. In this case the sequential test is not met as it has not been adequately justified that there are no alternative sites which could provide the development proposed on sites of lower 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 proposal would replace a single detached dwelling in a verdant setting in the Budleigh Salterton Town Centre Conservation Area with a larger and more bulky building containing 8 flats. The excessive scale, bulk and intensity of use of the development would fail to conserve the character and appearance of the conservation area. In addition, the development of a car park on part of the rear garden would adversely affect the designated land of local amenity importance and the failure to evidence that the proposal would not harm the historic bridge access to the site would weigh against the scheme.. In the absence of overriding public benefits arising from the scheme there are insufficient grounds to justify the harm to the character and appearance of the conservation area. The proposal is therefore contrary to Strategies 6 (Development within Built-up Area Boundaries), 21 (Budleigh Salterton) and 49 (The Historic Environment) and Policies D1 (Design and Local Distinctiveness), EN1 (Land of Local Amenity Importance), EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) of the East Devon Local Plan 2013-

2031 and the guidance set out within the National Planning Policy Framework and National Planning Practice Guidance.

#### 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:

6991-01	Other Plans	10.08.15
6991-07	Existing Combined Plans	07.12.15
6991-03 REV I	Proposed Floor Plans	14.12.16
6991-04 REV I	Proposed Elevation	14.12.16
6991-05 REV G	Street Scene	14.12.16
6991-06 REV H	Proposed Site Plan	14.12.16
6991-10	Sections	14.12.16

##### List of Background Papers

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

**Ward** Exmouth Halsdon

**Reference** 16/2878/VAR &  
16/2420/LBC

**Applicant** Mr Michael Caines

**Location** Lympstone Manor Hotel (formerly Courtlands Hotel) Courtlands Lane Exmouth EX8 3NZ

**Proposal** Variation of condition 2 (plans condition) of planning permission granted under reference 14/2946/MFUL (renovation, restoration and extension of Courtlands House Estate from a wedding venue into a 21 bedroom luxury country house hotel and fine dining restaurant, including refuse and maintenance store, staff accommodation and kitchen facilities, landscaping of private gardens and parkland including a nature trail, tennis court and croquet lawn and access to the Exe Estuary Cycle Way) to include design alterations to the approved drawings



**RECOMMENDATION: Approval with conditions**

Crown Copyright and database rights 2017 Ordnance Survey 100023746



		<b>Committee Date: 7th March 2017</b>
<b>Exmouth Halsdon (EXMOUTH)</b>	<b>16/2878/VAR</b>	<b>Target Date: 06.02.2017</b>
<b>Applicant:</b>	<b>Mr Michael Caines</b>	
<b>Location:</b>	<b>Lympstone Manor Hotel (formerly Courtlands Hotel) Courtlands Lane, Exmouth</b>	
<b>Proposal:</b>	<b>Variation of condition 2 (plans condition) of planning permission granted under reference 14/2946/MFUL (renovation, restoration and extension of Courtlands House Estate from a wedding venue into a 21 bedroom luxury country house hotel and fine dining restaurant, including refuse and maintenance store, staff accommodation and kitchen facilities, landscaping of private gardens and parkland including a nature trail, tennis court and croquet lawn and access to the Exe Estuary Cycle Way) to include design alterations to the approved drawings.</b>	

**RECOMMENDATION: Approval with conditions**

		<b>Committee Date: 7 March 2017</b>
<b>Exmouth Halsdon (EXMOUTH)</b>	<b>16/2420/LBC</b>	<b>Target Date: 06.03.2017</b>
<b>Applicant:</b>	<b>Mr Michael Caines</b>	
<b>Location:</b>	<b>Lympstone Manor Hotel (formerly Courtlands Hotel) Courtlands Lane, Exmouth</b>	
<b>Proposal:</b>	<b>Amendments to application 14/2947/LBC including re-roofing in natural slate, alterations to north west and north east elevations, changes to fenestration and glazed corridor.</b>	

**RECOMMENDATION: Approval with conditions**

## **EXECUTIVE SUMMARY**

**These applications are before members as the officer recommendation differs from the view of two ward members.**

**These applications seeks to vary the planning approval and listed building consent for the renovation, restoration and extension of Lympstone Manor and change of use to a country house hotel and fine dining restaurant with associated ancillary accommodation landscaping and infrastructure, by the substitution of revised plans which reflect the development that has taken place on site.**

**The alterations in respect of the planning permission relate to the amended design and materials of the new kitchen extension on the north-west elevation of the building, and design changes and alterations to the balcony, fenestration and landscaping on the extended part of the north eastern elevation.**

**The listed building alterations in addition to the above include further justification of the works undertaken and seek to regularise those works which were not previously authorised under the original consent.**

**Whilst the proposed alterations would change the appearance of the elevations from that previously approved, these are considered to be acceptable from a conservation point of view, and are not considered to have a detrimental impact on the character and appearance of the building. They represent a relatively minor amendment to the overall development proposed and given this and the wider benefits which this development will provide in terms of making a significant contribution to the local economy and facilitate the restoration of this important historic building and landscape setting, the applications are recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

Parish/Town Council

Meeting 12.12.16

No Objection.

Exmouth Halsdon - Cllr P Stott

I wish to object to this variation for the following reasons.

1 That Courtlands house is a grade listed two building these 5 flue pipes instead of two , this will be not be in keeping with the building.

This was a very contentious issue when the plans were passed, but now with 5 flue pipes and the vapour they will produce will be unsightly from both the listed building and also to the people who live in the court yard.

2. Changing the garage into a commercial laundry which is also in the court yard is a loss of amenity to the residents there.

With staff troling dirty washing through the court yard, though not a planning issue its still a loss of a amenity also with noise from a commercial washing machine and tumble dryer.

These are my comments at this time until I hear anything different.

#### Exmouth Halsdon - Cllr M Armstrong

As a ward member I write to object to planning application 16/2878/VAR, this being a variation of condition 2 of planning permission granted under reference 14/2946/MFUL.

Firstly, this application and its list of changes to Condition 2 were difficult to identify, with one of these, '178 - Lymphstone Manor\_ Statement of Significance' being not available to view at all on the planning portal.

This made it extremely difficult to identify the changes to the relevant drawings, which are not at all clear and the only way this could be done was by a lengthy 'spot the difference' exercise, comparing the original with the updated drawings.

Considering this serious drawback, I may have omitted some of the changes, but of the ones I have seen, my main concerns are as follows:

1. Original garage which was named as a 'store' in the approved application has now changed to a 'linen store', which apparently is to be a laundry room, to be accessed by hotel staff from 8am to 8pm, seven days a week.

- It is important to recognise that this 'laundry room' is situated in a residential courtyard of three homes and less than six metres from their property boundary (nine metres from wall to wall).

- The courtyard has been used for many years by residents as their joint front garden, allowing privacy, security, peace and safety for themselves and their families, which apparently was the intention of the district council when approval was granted for the estate several years ago. If this laundry room was approved in this area, the residents would be deprived of all these amenities for ever and would not only be subjected to constant commercial disruption, but the health and safety of their children could seriously be jeopardised.

- I understand that the use of this courtyard is also subject to a condition under the auspices of the 'Courtlands Management Company' whereby there are only access rights for individual residents and not for business use. (Although I realise this cannot officially form part of a planning objection, I think it is important to recognise its existence, the possibility of trespass into a residential area and therefore any future implications both for residents and the applicant).

- Similarly I understand there is a deed of covenant which states that the garages should not be used for commercial purposes.

- The residents' properties and the courtyard are also listed by curtilage, therefore I assume that any changes would need to abide by the Grade two listed buildings process and legislation, rather than being simply a 'minor modification.'



- This unfortunate and unacceptable situation for the residents could be completely averted by moving the laundry room to another part of the building and I would propose that this be seriously explored with the applicant and his architect as a possible solution.

2. In the original approval, there were two flues attached to the plant room, which were initially opposed by residents but by negotiation on noise and visual impact these two were agreed.

However according to the revised drawings there are now five, which will increase the vapour and plumes above the roof and are also likely to increase the noise.

- The plant room is also situated in two former garages in the courtyard; ie. opposite the residential properties outlined above, which would add to the unacceptable, disruptive atmosphere of a commercial venture in a hitherto peaceful residential setting.

3. I have noticed the following which are unclear and some seem to be at odds with the original planning approval:

a) on the proposed roof plan drawings (P - 003 R) it states that some works are completed but on inspection it would appear that they are not.

b) the bin store (P - 004 H) does not seem to have complied with the original planning approval and has now been built with a solid wall to its full height rather than the top part being glazed to expose the benefits of the listed building. This now appears to be not in keeping with the rest of the building.

c) there are drawings for new, much larger external gates to the courtyard which as far as I am aware were not part of the original approval and neither do they seem to be listed as amendments to condition 2. It is unclear whether the gate pillars and the existing gates are actually in the ownership of the applicant or are jointly owned by all of the residents on the estate and therefore whether their approval is required for such a change.

d) I understand that on the original approval there was an access door at the rear of the plant room which on the amended drawings seems to have disappeared. This presumably would mean that all hotel staff would now have to use the courtyard 'access' in order to enter both the plant room and the laundry, bearing in mind my above points about access rights.

In conclusion I am very concerned both about the above variations to condition 2 and the apparent unexplained inconsistencies which have appeared since the original approval.

My overriding concern is for the residents who live in the courtyard who would be most badly affected by these changes and whose previous peace, security, privacy and safety would be lost by the change from such residential amenities to a strongly commercial environment, entailing noise, disruption, loss of privacy and security and a detrimental visual impact.

Apparently the Grade two listing on the house, courtyard and surrounding properties was granted to protect the character of the courtyard and to preserve the buildings as an amenity and to add richness to the heritage of the locality. I suggest that we

should therefore act wisely and seek to protect this heritage, not only for the main house but for the courtyard and nearby buildings. Residents are keen to see this venture succeed, but not at the expense of their own loss of amenity.

## **Technical Consultations**

### Conservation

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

See listing description and information on file - please refer to previous comments under 14/2947/LBC & 14/2946/MFUL for historical details.

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

Since the original 2014 approvals, the proposals have evolved and there have been some changes to the original scheme due to operational reasons or unforeseen circumstances on site. These have been discussed over the last few months and now form the basis of this revised LBC application. Similarly, there is a variation to the planning application under 16/2878/VAR. Following the site visit on 3rd August 2016, the Summary of Amended Works and an Addendum to the Statement of Significance have been submitted outlining the areas where change has occurred, including justification for the works and the impact on the listed building. These are listed below, along with any comments:

- 1) Bar Store door: external door to replace existing window, designed to match existing windows/doors, details submitted 178 (Win G05), acceptable;
- 2) Slate Roof/glazing: a section of the roof is to be replaced by glazing to match the remaining glazed corridor, as detailed on DE (--)-056 and this seems wholly appropriate and acceptable;
- 3) Removal of partition to staffroom: this modern partition had no architectural or historical significance and its removal is considered acceptable;
- 4) & 7) Roof ductwork and scope of works to roof: details are identified within the submitted documentation and on the Proposed Roof Plan 178 - P(--)-003. The only outstanding issue relates to the introduction of the flues/vents on the south facing slope of the garages at the rear of the main house which face onto the Mews courtyard. Whilst it is appreciated that these are set below the ridge line, due to the hipped slate roof of the end (west) garage, they are at least partially visible from the courtyard and also the access road from Courtlands Lane to the east. However, whilst not necessarily acceptable from the point of view of the residents within the adjacent properties, in terms of the main listed building, these are at the rear and on a less significant part of the house and on the rear slope of the garages. This might therefore be minimised by painting them white to blend with the rendered wall behind;

5) Retaining wall & Kitchen: amendments to the scheme have resulted from operational changes to the kitchen and guest rooms above. The rendered parapet wall is more in keeping with the overall character and appearance of the main house and in addition to aesthetic reasons acts a screen/physical and visual barrier to the ongoing practical and functional operations of the hotel kitchens. See NW elevations, no objections;

6) & 8) NE Elevation: this includes alterations to the balcony, windows and doors to the new extension and are fully detailed within the submitted documentation. There is no objection to these alterations, shown on 178 - D(--)-008, 47 & 48, which minimise the visual impact and appearance of the scheme.

178 New door to extension SE elevation: details acceptable.

178 new external gates to courtyard: details acceptable.

#### PROVISIONAL RECOMMENDATION - PROPOSAL

ACCEPTABLE the majority of the amendments are acceptable and are detailed within this application

SUGGESTED CONDITIONS: as before under 14/2947/LBC. However, Condition Clearance is currently ongoing and may eliminate the need for the conditions to be attached to any forthcoming approval

#### Historic England

Arrangements for Handling Heritage Applications Direction 2015

LYMPSTONE MANOR HOTEL, COURTLANDS LANE, EXMOUTH, EX8 3NZ  
Application No. 16/2420/LBC

Thank you for your letter of 10 January 2017 regarding the above application for listed building consent. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

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

#### EDDC Trees

No objection.

#### Natural England

Planning consultation: Variation of condition 2 (plans condition) of planning permission granted under reference 14/2946/MFUL

Location: Lymptone Manor Hotel (formerly Courtlands Hotel) Courtlands Lane Exmouth EX8 3NZ.

Thank you for your consultation on the above, which was received by Natural England on 02 December 2016.

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)  
WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

We understand that the variation application has been submitted in order to regularize some changes/alterations to the building which had occurred during the construction works. There is no alteration to the nature or intensity in the use of the building or any additional accommodation or floorspace being provided. Natural England have no additional comments to make on this application. For ease of reference, we have attached our original response to the full planning application (14/2946/MFUL - Our ref: 142671) as an appendix.

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, please consult Natural England again.

Environment Agency

Thank you for your email. However we should not have been consulted on this application.

It is a proposal that falls outside the list of matters for which we are a statutory consultee under the DMPO 2015 and our Development Management Consultation Checklist.

Other Representations

10 representations have been received, all raising objections to the proposal which are summarised below

- Nuisance from use of laundry store
- Increase in number of flues resulting in additional nuisance
- Additional noise arising from further activity within courtyard
- The former garages should not be used for commercial purposes
- Visual impact of proposed changes unacceptable
- Then change of use of the garage to a commercial operation is detrimental to the character of the courtyard
- The alterations to the kitchen extension are harmful to the setting of the listed building

**PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>
14/2946/MFUL	Renovation, restoration and extension of Courtlands House estate from a wedding venue into a 21 bedroom luxury country house hotel and fine dining restaurant. Including refuse and maintenance store,	Approved 29.07.2015

staff accommodation and kitchen facilities, landscaping of private gardens and parkland including a nature trail, tennis court and croquet lawn and access to the Exe Estuary cycle way.

14/2947/LBC	Renovation, restoration and extension of Courtlands House estate from a wedding venue into a 21 bedroom luxury country house hotel and fine dining restaurant	Approved 29.07.17
13/0158/COU	Change of use from 3no. flats, function suite And overnight accommodation to single dwelling	Approved 26.02.2013
10/0336/COU	Change of use to dual use of function use and overnight accommodation for function guests	Approved 27.04.2010
08/2693/COU	Change of use from function room and three flats to 20 bedroom hotel and conference suite	Refused 09.02.2009  Appeal Dismissed 25.09.2009
06/1050/COU	Change of use from function suite to single residence	Approved 21.06.2006
02/P1289	Change of use from residential home to part function suite and 3 flats	Approved 22.10.2002

## **POLICIES**

### **New East Devon Local Plan Policies**

Strategy 7 (Development in the Countryside)  
 Strategy 8 (Development in Green Wedges)  
 Strategy 44 (Undeveloped Coast and Coastal Preservation Area)  
 Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)  
 D2 (Landscape Requirements)  
 D3 (Trees and Development Sites)

EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)  
 EN5 (Wildlife Habitats and Features)

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

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

EN14 (Control of Pollution)

TC2 (Accessibility of New Development)

TC3 (Traffic Management Schemes)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Lympstone Neighbourhood Plan

### Government Guidance

National Planning Policy Framework

National Planning Policy Guidance

### Site Location and Description

Lympstone Manor (formerly known as Courtlands House) is a large Grade II listed building set within extensive grounds and located in the open countryside between Exmouth and Lympstone. It is accessed from Courtlands Lane, a single carriageway road that extends to the west to link to the A376 Exeter to Exmouth Road.

The building is located on the higher land to the east of the site, with extensive views and grounds that extend to the west down towards the Exe Estuary. The house has been substantially altered and extended over the years since its Georgian origins, and now is nearing completion of an extensive and comprehensive redevelopment including extensions and alterations to facilitate its use as a boutique hotel and fine dining establishment.

### Proposed Development

This application has been submitted as a variation to the original consent for the alterations, change of use and associated development of Lympstone Manor (formerly known as Courtlands House) to a fine dining establishment. The application does not relate to the principle or nature of the development proposed and planning permission is sought only for a number of alterations to the approved scheme in order to rectify changes which have occurred during the construction works. The variation seeks to amend the approved plans by corrected drawings indicating the alterations which have arisen during the conversion and extension of the building, and do not relate to the principle of the development or other works which have been undertaken in the implementation of the consent.

The amendments to the approved details which require planning permission are identified as firstly the alterations to the design, appearance and layout of the kitchen extension, including the provision of a parapet wall and extended masonry retaining

wall; and secondly design alterations and amended levels and balcony arrangements to the new extension at the north eastern elevation.

Alterations to the extraction details, including the revisions to the flues proposed on the courtyard buildings do not require planning permission and whilst noted do not form part of this application, although their appearance is considered as part of the listed building consent application.

Listed building consent is sought for a number of physical alterations and amendments which have taken place during the conversion and extension of the building in order to ratify the changes which have been undertaken to the previous listed building consent.

The amendments have been detailed in the submitted information relating to this application and are identified below

- Repositioning of bar store door
- Replacement of part of internal slate roof with glazing
- Removal of partition to staff room
- Amendments to roof ductwork and external extraction, location and height (north east elevation)
- Retaining wall and kitchen alterations (north west elevation)
- Replacement gates
- Amendments to balcony, windows and external alterations (north east elevation)
- Justification of extent of works to roof
- Fire escape details to the north east elevation

## **ANALYSIS**

The issues to be considered under these applications are the impact of the proposed alterations on the character and appearance and setting of the listed building, and any impact on residential amenity arising from the proposed amendments.

The most visible aspects of the amended scheme are the alterations to the new kitchen extension located on the north-west elevation of the building. These revisions include the removal of the glass screens above the kitchen extension and their replacement with an extended solid balustrade, and the formation of a retaining wall to shield the kitchen entrance. The impact of the revisions, which also include the use of render on the walls to match the existing finish, is that the overall height of the walls would be greater and from close to the building this would alter some views of the building. However it is not considered that the changes would result in a significant impact on the overall character or the significance of the building. It is further considered that the construction of the curved retaining wall would provide both visual screening of the entrance doors to the service area of the kitchen and would result in additional protection from noise for both hotel guests in the bedrooms at the first floor level, and also neighbouring residents. In this respect the overall impact of the proposed changes to this area of the development is not considered to be detrimental to the appearance of the building or impact on its wider setting.

The Council's Conservation Officer considers that the rendered parapet wall is more in keeping with the overall character and appearance of the main house and in addition to aesthetic reasons acts a screen/physical and visual barrier to the ongoing practical and functional operations of the hotel kitchens. As such no objections are raised in respect of this issue.

With regard to the alterations to the balcony, windows and external arrangements, including amendments to the fire escape relating to the north eastern elevation, these have largely arisen due to the discovery of a large underground drainage system which had not been identified in earlier survey works. The amended balcony and window arrangement have reduced the length of the balcony from the north east elevation, raised the cill heights of the ground floor windows and reconfigured the stairway access to the garden area. Whilst these alterations are quite extensive, they are not readily visible from public vantage points, and given that they relate to a new extension which is not increasing in dimensions and will not impact on the original building, or raise any amenity issues, it is considered that they are acceptable. Again no objection is raised by the Conservation Officer in respect of these issues.

From the Conservations Officers responses detailed above it is clear that the majority of the alterations which have been undertaken can be justified as being necessary to ensure the protection of the listed building, and are acceptable in terms of their impact on the building.

The revisions to the ducting and extraction details from that approved have generally resulted in less intervention into the roof structure and are less visible than that which was originally submitted.

The main potential issue relates to the position of the flues/vents on the south facing slope of the garages at the rear of the main house which face onto the Mews courtyard. The previously approved drawings indicated that two larger flues were proposed on this roofslope, each having a diameter of 400mm and projecting 1000mm above the roofslope. Five flues have been installed which are of a more domestic scale than those previously indicated, being much slimmer at 150mm and set below the ridge line (they project 800mm from the roof plane). However due to the hipped slate roof of the end (west) garage, they are at least partially visible from the courtyard and also the access road from Courtlands Lane to the east. Whilst not necessarily acceptable from the point of view of the residents within the adjacent properties their impact would be very limited in terms of the main listed building. They are at the rear and on a less significant part of the house and on the rear slope of the garages. On this basis and given their domestic scale and limited visibility they are considered to be acceptable as installed.

It has been suggested that the flues could be painted to match the rendered wall against which they may be seen from within the courtyard, or from the first floor of residential properties opposite, however whilst this has been considered, it is not regarded as a sustainable solution, given potential maintenance issues. Similarly, the use of a stainless steel system has been explored, however this would present a more visually intrusive situation, and is not considered to be acceptable.



Some concern has also been expressed regarding potential noise and nuisance issues arising from the flues as installed, however these issues have been considered by the Council's Environmental Health Officer who has found them to be acceptable.

With regard to the new gates between the site and the courtyard, these are of a suitable timber design and considered to provide extra protection to the residents from activity within the hotel.

### Other Issues

The objections received in respect of this application, other than the potential impact of the proposed alterations on the setting of the listed building, do not relate to the variations to the planning permission and are not planning considerations; the access arrangements to the Courtyard is a civil issue. The use of one of the former garages as a secondary linen store is not considered to require planning permission, and whilst the applicant has submitted additional information relating to the proposed operation of this area, this is not an issue which fall to be considered under this variation application.

Noise emissions from the plant room and the use and operation of the installed flues have been considered and found to be acceptable as part of the discharge of condition 15 of the approved application, as outlined above.

Subject to appropriate mitigation measures being provided in the form of a deed of variation or compliance with the previous Unilateral Undertaking in respect of the impact of the development on protected habitats the proposal is considered to be acceptable.

### CONCLUSION

The changes to the development being sought by this application are considered to be relatively minor in terms of their overall impact on the appearance of the building and are considered to be acceptable from a planning and conservation perspective.

It is therefore recommended that subject to appropriate conditions, linked to the original consents and that are currently being discharged, and the variation of the previously submitted Unilateral undertaking in respect of appropriate mitigation of the impact of the proposed development on protected habitats, the applications are approved.

### RECOMMENDATIONS

#### **A - 16/2878/VAR**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before 29 July 2018 and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
  
3. Prior to the commencement of the commercial operation of the hotel, the landscaping of the site shall have been undertaken in accordance with a detailed landscaping reinstatement and management 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, including any fencing to the proposed tennis court and other boundary treatment. The landscaping scheme shall be carried out in accordance with an agreed programme of works and phasing to be submitted to and agreed in writing by the Local Planning Authority and shall be undertaken in accordance with these details and 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 Policy CO6 (Quality of New Development) of the Devon Structure Plan and Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan.)
  
4. Prior to the commencement of the commercial operation of the hotel earthworks shall have been undertaken in accordance with the approved scheme submitted to and approved in writing by the Local Planning Authority by Discharge of Conditions Notice on 20 February 2016 of the permission granted under reference 14/2946/MFUL. Development shall be carried out in accordance with the approved details prior to the occupation of the development.  
(Reason - In the interests of preserving and enhancing the character and appearance of the area in accordance with Policy CO6 (Quality of New Development) of the Devon Structure Plan and Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan.)
  
5. Prior to the commencement of the commercial operation of the hotel the development shall have been undertaken in materials as agreed in a schedule, and where appropriate by the submission of samples, by written consent of the Local Planning Authority.  
(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 and D1 (Design and Local Distinctiveness) of the new East Devon Local Plan.)

6. Prior to the commencement of the commercial operation of the hotel the detailed design of the proposed layout and construction and surfacing of the parking and turning areas have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the parking and turning areas have been completed in accordance with the approved plans. Thereafter at all times the parking and turning areas shall be kept free of obstruction and available for use for these purposes by residents and visitors to the building.  
(Reason - To ensure that adequate and safe provision is made for the occupiers and in the interests of visual amenity and to protect the character and appearance and setting of the listed building in accordance with Policies D1 (Design and Local Distinctiveness), TA9 (Parking Provision in New Development), and EN9 (Extension, Alteration or Change of Use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan and D1 (Design and Local Distinctiveness), TC9 (Parking Provision in New Development) and EN9 (Extension, Alteration or Change of Use of Buildings of Special Architectural and Historic Interest) of the new East Devon Local Plan.)
7. All works on site (including demolition and site clearance or tree works), shall be undertaken in strict accordance with the details submitted and approved in the Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS), approved by Discharge of Conditions Notice on 8 December 2016 of the permission granted under reference 14/2946/MFUL

On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

In any event, the following restrictions shall be strictly observed:

- (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
- (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
- (c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - To ensure retention and protection of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness), D4 (Landscape Requirements) and D5 (Trees on Development Sites) of the East Devon Local Plan.)

8. The construction of hard surfaces in the vicinity of trees to be retained shall be undertaken in accordance with the details approved by the Discharge of Conditions Notice on 8 December 2016 of the permission granted under reference 14/2946/MFUL. The method shall adhere to the principles embodied

in BS 5837 and AAIS Arboricultural Practice Note 1 (1996) and involvement of an arboricultural consultant and engineer is recommended. The development shall be carried out strictly in accordance with the agreed details.

(Reason - To ensure retention and protection of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness), D4 (Landscape Requirements) and D5 (Trees on Development Sites) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the new East Devon Local Plan.)

9. All development on the site shall be carried out in accordance with the Construction Management Plan (CMP) approved by Discharge of Condition Notice dated 14 December 2015 of the permission granted under reference 14/2946/MFUL

(Reason: To ensure that adequate facilities are available for the traffic attracted to the site in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan and TC7 (Adequacy of Road Network and Site Access) of the new East Devon Local Plan.)

10. The commercial use of the hotel shall not commence until a lighting scheme be submitted to and approved in writing by the Local Planning Authority. The 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. The lighting installed shall be in accordance with the agreed details

(Reason - For the avoidance of light pollution in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan and EN14 (Control of Pollution) of the new East Devon Local Plan.)

11. The use hereby permitted shall not be brought into operation until an Operational Method statement has been submitted to and approved in writing by the local planning authority. The scheme shall address the following issues

- Management of the area adjacent to the kitchen extension.
- Loading and unloading of vehicles
- Delivery times
- Working hours
- Extraction equipment

(Reason - To protect the guests of the hotel and neighbouring residents from excessive noise and disturbance in accordance with Policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the new East Devon Local Plan.

12. There shall be no storage of waste or recycling bins or storage at any time outside of the kitchen extension hereby approved and no development shall take place until details of arrangements for the storage and removal of refuse from the kitchens have been submitted to and approved in writing by the Local

Planning Authority. The approved refuse storage facilities shall be made available before the operational use of the building commences and retained thereafter.

(Reason - In the interests of the residential and visual amenity of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) of the new East Devon Local Plan.)

13. The commercial use of the hotel shall not commence until a detailed proposal for the treatment of cooking odours has been submitted to and approved in writing by the Local Planning Authority. Details shall include any prefilters, grease traps, mesh or fabric filters and/or activated carbon units intended to be installed, and the proposed method of dispersing residual odours, flue specifications and discharge heights. Any flue must terminate at least 1m above the ridge of the building, or the eaves if the building has a flat roof. There shall be no restrictions to the flue at the point of exit. The equipment shall be installed and shall be maintained in accordance with the manufacturer's instructions and operated at all times when the kitchen is in use.

(Reason: To avoid odours detrimental to the amenities of local residents in accordance with Policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the new East Devon Local Plan.)

14. 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 BS8233:1999 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide 1999. 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 low frequency noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the new East Devon Local Plan.)

15. Prior to the occupation of the development hereby approved the means of enclosure to the external patio areas to the front of rooms 1-6 shall constructed in accordance with details submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

(Reason - To retain the open character of the landscaped frontage of the listed building in accordance with Policies D1 (Design and Local Distinctiveness), D4 (Landscape Requirements) and EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan and D1 (Design and Local Distinctiveness), D2 (Landscape Requirements)

and EN9 (Extension, Alteration or Change of Use of Buildings of Special Architectural and Historic Interest) of the new East Devon Local Plan.)

16. The means of acoustic enclosure and sound attenuation measures to be employed behind the retained garage doors to the courtyard shall be installed prior to the commencement of the commercial use of the hotel in accordance with the details submitted to and approved in writing prior to the installation or operation of any equipment within the buildings, and shall be installed in accordance with such details.  
(Reason - To protect adjoining occupiers from excessive noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the East Devon Local Plan.)
17. The dining areas shall be limited to those rooms identified on drawing no. 178-P(-)001Rev A dated 7 April 2015 and received on 7 April 2015, with the number of covers not exceeding 60.  
(Reason - in the interests of amenity and to ensure that adequate facilities are available for the traffic attracted to the site in accordance with Policies D1 (Design and Local Distinctiveness) and TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan, and Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the new East Devon Local Plan.)
18. The proposed staff accommodation hereby permitted shall be restricted to a maximum of 20 people and shall only be used and occupied in conjunction with and by employees of the business and shall not be used as separate residential accommodation, or as additional guest accommodation.  
(Reason - the accommodation is only justified by the needs of the business and shall remain available for these purposes in accordance with Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the new East Devon Local Plan.)
19. Should the accommodation units cease to be required for staff accommodation the buildings hereby permitted shall be removed and the site restored to its former condition.  
(Reason - the accommodation is justified only by the operational need and located in a sensitive area where new residential accommodation will not be permitted and in accordance with Policies S5 (Countryside Protection) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan, and Strategy 7 (Development in the Countryside) and Policy D1 (Design and Local Distinctiveness) of the New East Devon Local Plan.)
20. Notwithstanding the submitted details, the roof area of the kitchen extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.  
(Reason - To protect the privacy of adjoining occupiers and in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) of the new East Devon Local Plan.)

21. No amplified or other music shall be played in the premises or externally in such a way that it is audible beyond the boundary of the premises.

(Reason: To protect the amenity of local residents from noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN15 (Control of Pollution) of the East Devon Local Plan and D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the new 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:

**16/2878/VAR**

178-D(-)056 LINEAR ROOFLIGHT	: Other Plans	10.10.16
	Location Plan	07.11.16
178-P(-)003 R	Proposed roof plans	07.11.16
P(--)-001 GROUND	X : Proposed Floor Plans	07.11.16
P(--)-002 FIRST	T : Proposed Floor Plans	07.11.16
P(--)-004 NW+SE 1 OF 2	H : Proposed Elevation	26.10.16
P(--)-005 SW+NE 2 OF 2	J : Proposed Elevation	17.10.16
P(--)-006 NORTH	C : Proposed Elevation	10.10.16
178-D(-)048 EXTERNAL STAIR 6 SH2	Other Plans	31.10.16
178-D(-)047 EXTERNAL	Other Plans	31.10.16

STAIR 6 SH1

178-D(-)008 1ST BALCONY	C : Other Plans FLR	31.10.16
178-D(-)017 EXTERNAL GATES	: Other Plans	10.10.16
178-P(-)013 A	REV Proposed Combined Plans	13.04.15
178-P(-)010 A	REV Proposed Site Plan	13.04.15
178-P(-)0101 REV A 1 OF 4	Proposed Site Plan	13.04.15
178(-)102 A 2 OF 4	REV Proposed Site Plan	13.04.15
178-P(-)103 A 3 OF 4	REV Proposed Site Plan	13.04.15
178-P(-)104 A 4 OF 4	REV Proposed Site Plan	13.04.15
178-P(-)012 A	REV Proposed Combined Plans	13.04.15
178-P(-)011 A	REV Other Plans	13.04.15
178-P(-)000 A	REV Proposed Floor Plans	13.04.15
04339 TCP 13.04.15 PG 1 OF 4	Landscaping	14.04.15
04339 TCP	Landscaping	14.04.15



13.04.15 PG 2  
OF 4

04339 TCP            Landscaping            14.04.15  
13.04.15 PG 3  
OF 4

04339 TCP            Landscaping            14.04.15  
13.04.15 PG 4  
OF 4

## **RECOMMENDATION**

### **B - 16/2420/LBC**

APPROVE subject to the following conditions:

1. The works to which this consent relates must be begun not later than 29 July 2018.  
(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. The glazed lantern over the main staircase shall be installed in accordance with the details approved by the Discharge of Conditions Notice dated 8 September 2016 of the permission granted under reference 14/2947/LBC. The works shall be carried out in accordance with the approved details.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
3. All rendering to the existing building shall be carried out using a lime based mix, the specification of which shall be approved in writing by the Local Planning Authority. The finish shall match original work.  
(Reason - To safeguard the architectural and historic character of the building in accordance with EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
4. New lime based render shall be finished with limewash or a suitable microporous paint, the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to painting.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
5. There shall be no bell end render stops or metal beading to the proposed rendered areas.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

6. Replacement and new rainwater goods shall be installed in accordance with details approved by the Discharge of Conditions Notice dated 31 May 2016 of the permission granted under reference 14/2947/LBC. The works shall be carried out in accordance with the approved details.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

7. Repairs to the verandah including any replacement fabric including profiles, materials and finishes shall be undertaken in accordance with the details approved by the Discharge of Conditions Notice dated 29 July 2016 of the permission granted under reference 14/2947/LBC. The works shall be carried out in accordance with the approved details.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

8. The works of repair and replacement subject to conditions 2 to 7 inclusive shall be carried out and completed in accordance with the approved details prior to the opening of the hotel.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

9. Windows and doors permitted shall be recessed in the wall to match the existing windows.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy CO7 (Historic Settlements and Buildings) of the Devon Structure Plan and Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

10. All new windows shall be timber only and shall match the existing joinery profiles including sections, mouldings and profiles. The works as agreed shall be implemented in full. New doors and windows shall not include trickle vents unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

11. Prior to the occupation of the development hereby approved the means of enclosure to the external patio areas to the front of rooms 1-6 shall be constructed in accordance with details submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
12. Materials and finishes to approved kitchen extension including wall cladding, roof materials, fascias and balcony shall be in accordance with those agreed in writing by the Local Planning Authority prior to the commercial occupation of the hotel. The works shall be carried out in accordance with the approved details.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
13. All external flues, vents and air conditioning vents including positions, designs, materials and finishes shall be installed in accordance with the details submitted to and approved in writing by the Local Planning Authority prior to the commercial occupation of the hotel. The works shall be carried out in accordance with the approved details.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
14. Where existing panel doors are to be removed, they shall be carefully removed, stored under cover and re-used within new internal openings to an agreed specification unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
15. Where the existing sash window into the proposed wine dispense is to be removed, it shall be carefully removed, stored under cover and re-used within the existing door opening into the same room unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)
16. Works to gates and refurbishment of the doors to the proposed plant room in the courtyard shall be undertaken in accordance with details approved by the Discharge of Conditions Notice dated 31 May 2016 of the permission granted

under reference 14/2947/LBC. The works shall be carried out in accordance with the approved details.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

17. The balcony to the existing and extended north wing shall be constructed in accordance with the details approved by the Discharge of Conditions Notice dated 29 July 2016 of the permission granted under reference 14/2947/LBC. The works shall be carried out in accordance with the approved details.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 (Extension, Alteration or Change of use of Buildings of Special Architectural and Historic Interest) of the East Devon Local Plan.)

Plans relating to this application:

	Location Plan	07.11.16
P(-)001 REV X	Proposed Floor Plans	07.11.16
P(-)002 REV T	Proposed Floor Plans	17.10.16
178-P(-)003 REV R	Proposed roof plans	07.11.16
P(-)004 REV H	Proposed Elevation	26.10.16
P(-)005 REV J	Proposed Elevation	17.10.16
178-(-)006 REV C	Proposed Elevation	10.10.16
178-(-)008 REV C	Other Plans	31.10.16
178-(-)017	Other Plans	10.10.16
178-(-)047	Other Plans	31.10.16
178-(-)048	Other Plans	31.10.16
D(-)056	Other Plans	10.10.16
DOOR ELEVATION	SE Sections	05.12.16
EXTERIOR DOOR (WIN	G Sections	06.12.16

05)

178-(-)000 REV	Proposed Floor Plans	13.04.15
A	Basement	

List of Background Papers

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

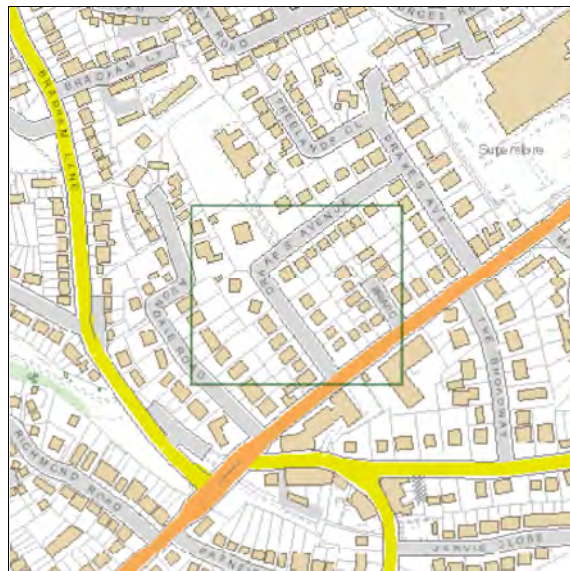
**Ward** Exmouth Withycombe Raleigh

**Reference** 16/2486/FUL

**Applicant** Mr J Hogan

**Location** 8 Drakes Avenue Exmouth EX8 4AB

**Proposal** Construction of dwelling



**RECOMMENDATION: Refusal**



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Exmouth Withycombe Raleigh (EXMOUTH)</b>	<b>16/2486/FUL</b>	<b>Target Date: 14.12.2016</b>
<b>Applicant:</b>	<b>Mr J Hogan</b>	
<b>Location:</b>	<b>8 Drakes Avenue Exmouth</b>	
<b>Proposal:</b>	<b>Construction of dwelling</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members of the Development Management Committee as the Ward Member comments are contrary to the officer recommendation.**

**This application seeks full planning permission for the construction of a detached two storey, 3 bedroom dwelling.**

**Whilst the proposal is located within the Built-up Area Boundary for Exmouth, in a sustainable location where the principle of new residential development is acceptable and would not result in any parking or highway safety concerns, it would result in a dwelling which is out of keeping with the character of Drakes Avenue where development is more traditional and characterised by large dwellings in large plots of a more traditional design. The proposal would therefore be out of character with the area. In addition, the proposal would have a harmful impact upon the amenity of adjoining residents through its close relationship to the boundaries, large unrelieved side elevations and through the presence of a first floor rear window that would cause a loss of amenity.**

**The application is therefore considered to be contrary to the provisions of Policy D1 (Design and Local Distinctiveness) of the Local Plan which seeks to ensure proposals respect the key characteristics and special qualities of the area in which the development is proposed, in-line with one of the core principles of the NPPF which seeks to secure good design that takes the opportunities available for improving the character and quality of an area and the way it functions.**

**The application is therefore recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

Parish/Town Council  
Meeting 31.10.16

Objection on the grounds that the design was out of keeping with the streetscene. It was also recommended that the contaminated land officer was consulted in view of the comment from the neighbour regarding the possibility that the demolished asbestos garage had been buried under the proposed site.

#### Withycombe Raleigh – Cllr Bailey

Re: 8 Drakes Avenue. If you are not minded to support this application could you please put it before DMC. As a ward member I am in support of this.

### **Technical Consultations**

County Highway Authority  
Highways Standing Advice

#### Other Representations

Two objections have been received, from immediate neighbours. The objections relate to the proposal being out of character, raising issues of overlooking and loss of amenity, insufficient parking and poor design.

## **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
D1 (Design and Local Distinctiveness)

Strategy 6 (Development within Built-up Area Boundaries)

Government Planning Documents  
NPPF (National Planning Policy Framework 2012)  
NPPG National Planning Practice Guidance

### **Site Location and Description**

Drakes Avenue is situated to the east of Exmouth, off Salterton Road and close to Littleham Cross. Number 8 is a large detached property approximately dating from the 1930s, which reflects the surrounding architecture. The house is situated on a corner, and stands in a plot which has a size of approximately 39 metres by 24 metres.

### **Proposed Development**

The proposal is for the construction of a new dwelling within the grounds of number 8. The plans show a plot size of 11 metres by 24 metres. It is proposed to access the



new dwelling off a new driveway created through the side boundary of number 8 Drakes Avenue. The application is seeking full planning permission for a two-storey dwelling of a more contemporary design, with an offset dual-pitched roof and constructed of a mix of brick and render, with a zinc roof.

## **ANALYSIS**

### **Issues and Assessment:**

The main issues to be considered in determining this application are terms of the principle of development, the impact of the development on the character and appearance of the area, the impact upon the residential amenities of occupiers of neighbouring properties and whether there are any implications for parking and highway safety.

### **Principle:**

The site is located within the built-up area boundary of Exmouth where the principle of new residential development is acceptable because of its proximity and accessibility to a range of services and facilities and public transport links. Strategy 6 (Development within Built-up Area Boundaries) states:

'Built-up area boundaries are defined around settlements of East Devon and are considered appropriate through strategic policy to accommodate growth and development. Within the boundaries development will be permitted if:

1. It would be compatible with the character of the site and its surroundings.
2. It would not impair highway safety or traffic flows'

Whilst the principle of development is acceptable, Strategy 6, along with Policy D1 – Design and Local Distinctiveness, require development to respect the character of the area.

### **Character and Appearance:**

It is necessary to consider size and configuration of the site and whether it can accommodate the proposed dwelling without having an adverse impact on the character and appearance of the surrounding area.

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
3. Do not adversely affect:
  - a) The distinctive historic or architectural character of the area
  - b) The urban form, in terms of significant street patterns, groups of buildings and open spaces.

- e) The amenity of occupiers of adjoining residential properties
- f) The amenity of occupants of proposed future residential properties, with respect to open space.

The avenue is characterised by large two storey dwellings of traditional appearance and materials set in large plots.

The proposed plot is smaller than the vast majority of plots on Drakes Avenue with a dwelling of a more modern contemporary design proposed. This results in a development that appears cramped on the site and out of character by virtue of the narrower design in relation to adjoining properties, by reason of it projecting forward of the building line by approximately 3.5 - 4m, by reason of the large unrelieved side elevations and by reason of its general design. The long narrow footprint, large percentage of plot coverage and need for mainly blank side elevations and obscured glazed first floor rear window demonstrate that the proposal is out of character and a cramped form of development in its context.

As such it is considered that the impact on the character and appearance of the local area is sufficient to sustain an objection. It is considered that the proposal would not comply with policy D1 of the Local Plan in so far as it would not respect the key characteristics and special qualities of the area, and would adversely affect the distinctive architectural character of the area.

#### Residential Amenity

The proposed two storey dwelling would form a detached property between No's 8 and 6 Drakes Avenue, adjoining the garden of number 10. All main windows are to face east or west, i.e. situated either in the front or rear of the property. Windows facing the front look towards the road and it is not considered that these raise any issues of overlooking, however the windows in the rear face towards the garden of number 10. The first floor bedroom window is proposed just under 4 metres from the boundary of the garden of number 10, and whilst it is shown as obscure glazed, it would need to be able to be opened to comply with Building Regulations and in any case results in a perceived level of overlooking.

It is considered that the proposed dwelling would result in an unacceptable relationship with no 10 Drakes Avenue with significant harm to the amenity of the occupiers of this property in terms of loss of privacy. In addition, there are concerns that the deep side elevations at approximately 11.4 and 13.4m present overbearing and neighbourly boundaries with adjoining dwellings. As such it is not considered to comply with the provisions of policy D1 (Design and Local Distinctiveness) of the Local Plan which seeks to ensure that proposals do not adversely affect the amenity of occupiers of adjoining residential properties as reflected in one of the core principles of the NPPF which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

In terms of amenity space, whilst there is a limited rear garden there is considered to be sufficient space at the front and an objection is not raised on that basis despite it further demonstration how the proposal is out of character with the surrounding development. Similarly whilst the application only provides for one parking space,

and this provides further evidence of the proposal being out of character with other properties, given the location of the site near a major bus route and close to Tesco, Lidl and local schools and facilities at Littleham it is not considered that application could be refused on this basis.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposed development by reason of its design, size of plot and site layout is out of keeping with the pattern of development in the immediate area to the detriment of the character and appearance of the area. As such the proposal is considered to be contrary to the provisions of Strategy 6 - Development within Built-up Area Boundaries and Policy D1 Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.
2. The proposed development by reason of its position, design and proximity to the site boundaries would result in an oppressive relationship with adjoining properties and loss of privacy to number 10 Drakes Avenue. The proposal is therefore considered to be contrary to the provisions of Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031 and one of the core principles of the National Planning Policy Framework which seeks to provide a good standard of amenity for all existing and future occupants of land and buildings.

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:

T1	Location Plan	19.10.16
A1	Proposed Site Plan	19.10.16
A2	Proposed Floor Plans	19.10.16
A3	Proposed Elevation	19.10.16
A4	Proposed Elevation	19.10.16
A5	Perspective Drawing	19.10.16
A6	Perspective Drawing	19.10.16

A7	Perspective Drawing	19.10.16
A8	Perspective Drawing	19.10.16
S1	Existing Site Plan	19.10.16

List of Background Papers

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

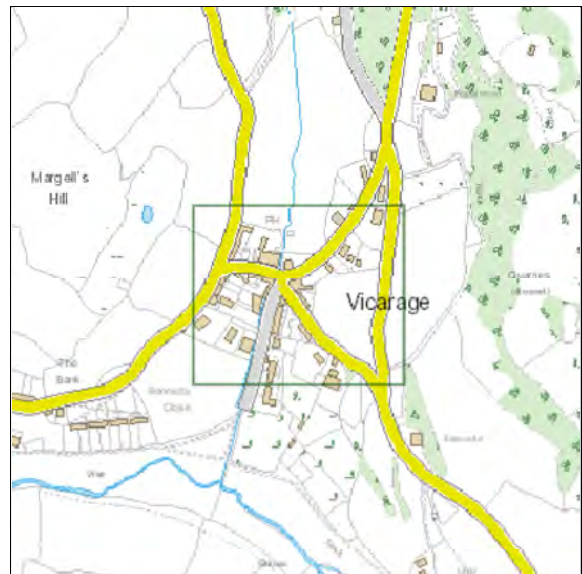
**Ward** Beer And Branscombe

**Reference** 16/2800/COU

**Applicant** Jo Bond

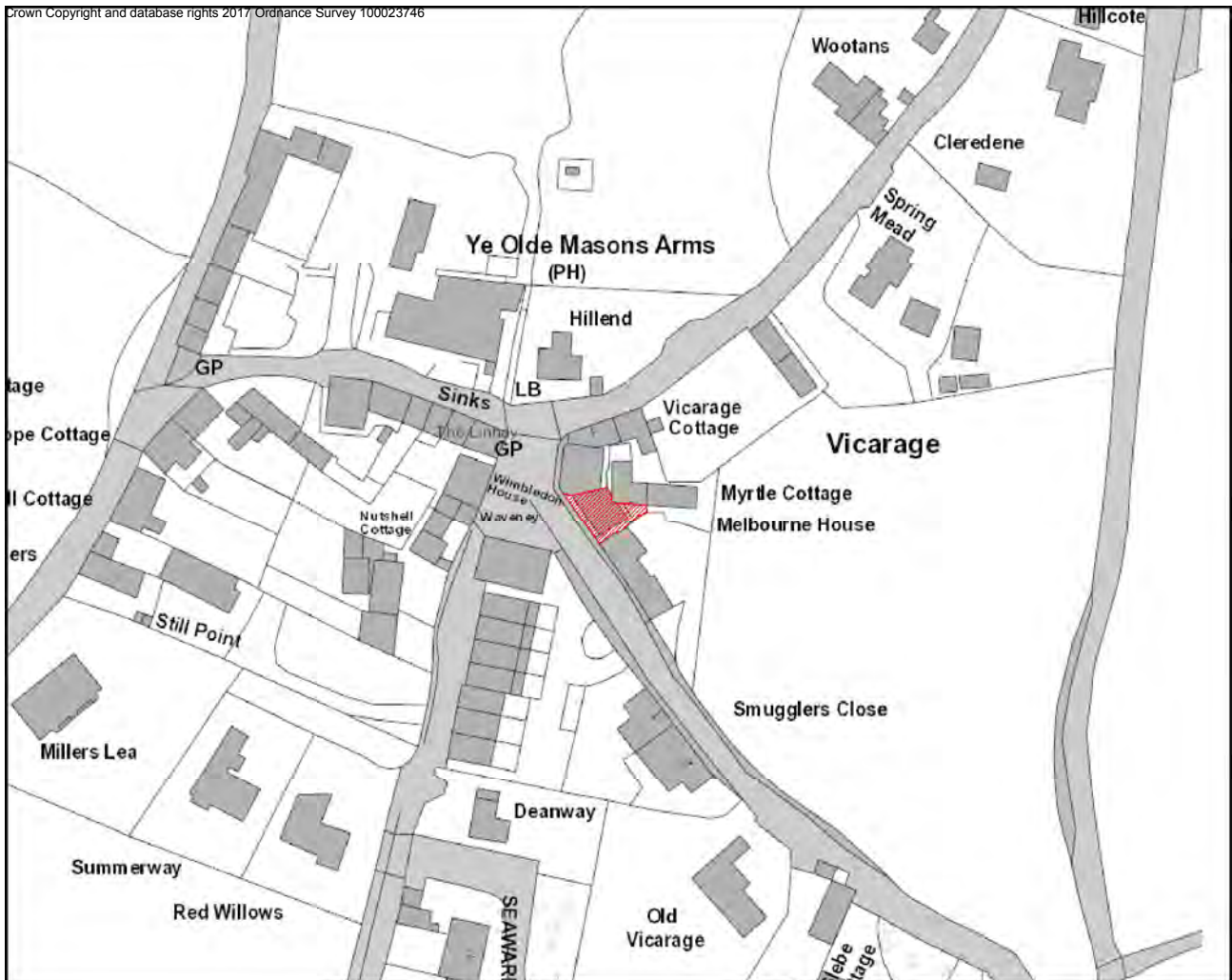
**Location** Melbourne House Branscombe Seaton EX12 3DJ

**Proposal** Change of use from house of multiple occupation (C4) to larger house of multiple occupation (sui generis) use



**RECOMMENDATION: Approval with conditions**

Crown Copyright and database rights 2017, Ordnance Survey 100023746



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Beer And Branscombe (BRANSCOMBE)</b>	<b>16/2800/COU</b>	<b>Target Date: 09.02.2017</b>
<b>Applicant:</b>	<b>Jo Bond</b>	
<b>Location:</b>	<b>Melbourne House Branscombe</b>	
<b>Proposal:</b>	<b>Change of use from house of multiple occupation (C4) to larger house of multiple occupation (sui generis) use</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before committee because the development proposed represents a departure from the policies of the Local Plan.**

**The application relates to an existing House of Multiple Occupation (HMO) located in the part of the village of Branscombe centred around the Masons Arms Public House. The property is owned by St. Austell Brewery, who also own and manage the Masons Arms, and is used to accommodate staff employed full-time at the pub. The applicants have advised that there are currently 5 residents but that they wish to increase the occupation up to a maximum of 11 to allow them to accommodate additional staff during peak season.**

**Branscombe is not a village that is considered to be sustainable and as such it is not proposed to have a built-up area boundary. The site is not therefore located where additional residential development is supported by local planning policy. However, in this instance it is recognised that there is an existing lawful (C4) use as an HMO and the application merely seeks to extend this use to allow increased occupancy of the building without any external works to the building. The proposal would not result in the creation of a new dwelling but the expansion in use of the existing. Nevertheless, the additional occupants would similarly need to rely on private transport to access most services and facilities and as such the development could be considered unsustainable. In this instance, as the occupation is for employees of the nearby public house, a successful and important local business, this would reduce the likely number of journeys, by reducing work based trips. In addition, there are likely to be other linked trips and the proposal would help to support the running of the business.**

**On balance, given the economic benefits in particular and subject to a condition restricting occupation to employees of the pub, the proposal is supported.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish Council

The above application was discussed in full at the Parish Council meeting held on 19th January and all were in favour if supporting the application. However concern was raised regarding sufficient provision of parking.

### **Technical Consultations**

#### County Highway Authority

Does not wish to comment

#### Environmental Health

I am able to advise that if this application is successful the owner will be required to apply for a mandatory HMO license under the Housing Act 2004. I have already forwarded guidance from Private Sector Housing service on Devon wide HMO Standards and LACORS Fire Safety Guidance both of which the owner will need to comply with.

#### Other Representations

None received

## **POLICIES**

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

TC2 (Accessibility of New Development)

TC9 (Parking provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

## **SITE LOCATION AND DESCRIPTION**

Melbourne House is 3 storey property located in the part of the village of Branscombe, close to the Masons Arms public house. The property lies on the east side of the road leading from the village to Branscombe Mouth.

The building is currently licensed as a House of Multiple Occupancy (HMO) for up to 6 unrelated residents living together as a household.

## PROPOSAL

The application seeks planning permission to provide a larger HMO with occupation for up to 11 people. There are no internal or external alterations proposed to the building.

## PLANNING HISTORY

There is no relevant planning history.

## ANALYSIS

The application property is already in use as a House of Multiple Occupation (HMO) under Use Class (C4) of The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015. This use is described as, "Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom." As the proposal seeks to increase the number of occupants who can reside in the property this takes the proposed use outside of a C4 use and requires an application for planning permission.

There are no physical works proposed as part of the application as the additional occupants would share the use of existing bedrooms, in effect some existing rooms are proposed for double occupancy. Given this, the main issues are considered to be the principle of the development and any potential impacts resulting from increased occupation.

The site is in a rural location and for planning policy purposes is in the countryside, as Branscombe does not have a Built-up Area Boundary. Strategy 7 of the Local Plan is clear that it will only permit development in such locations where it is in accordance with a specific Local Plan or Neighbourhood Plan Policy that explicitly permits such development. Branscombe is not a settlement listed under Strategy 27 of the Local Plan and as such is not a settlement which is proposed to have a settlement boundary designated through the Villages Plan process. There appear to be no current plans for a neighbourhood plan that covers this area. There are no other policies of the Local Plan that would permit the development proposed and as such the application is treated as a departure from the Local Plan.

Whilst there are no policies that support the proposal it needs to be considered whether there are any other material considerations which would support the proposed development. This is an unusual situation which not unsurprisingly the Local Plan does not make specific provision for. At present, the occupation of the building is by staff employed in the nearby Masons Arms public house and the applicant's agent has confirmed that it is the intention that the additional occupants would similarly be staff of this business.

The Masons Arms is a very popular and evidently successful local business offering a restaurant and bar as well as hotel rooms to let. However, like many service businesses it is likely to struggle to attract and retain permanent staff, due to its location. The brewery who run the business have therefore clearly sought to address



this issue by providing accommodation for employees close to the pub in a building they already own. At present, the number of occupants is restricted to 6 under the current C4 use. The proposal looks to permit an almost doubling in this up to a maximum of 11 occupants. Whilst it is recognised that there is currently no planning control on who can live in the house it needs to be considered whether such a restriction should be considered for the increased occupation and where new residential development would not normally be permitted, due to the distance to a range of accessible services and facilities required to meet day to day needs.

In response to a request for additional information in relation to the current and predicted occupation of the dwelling the applicant has advised that there are currently 5 full time staff living in the house but that this would increase during the summer months and there is a need to be able to cater for these additional numbers. The applicant has also signalled their acceptance of a restriction on the occupation to remain for the use of staff only.

### Other Issues

The Parish Council has raised the issue of the adequacy of car parking to serve the development. There is likely to be pressure on on-street parking in the vicinity, particularly during the summer months, however the accommodation is for staff and therefore provision could be made for parking within the pub car park. Additionally, the provision of staff accommodation may be more likely to attract staff without their own transport. It is not considered that the additional numbers proposed would have such an impact in this respect that the application would warrant objection on these grounds. It is also material that the property could be occupied by a large single family with a number of cars without the need for planning permission.

There is the potential for the increased occupancy of the building to give rise to issues of noise and disturbance associated with the increase in activity. However, in this instance there does not appear to be any existing issues and any potential concerns are likely to be self-policed by the brewery. The environmental health team have been consulted but other than advising on licensing procedure and compliance requirements under separate legislation have raised no objection to the proposal.

### Sustainable development

There are three dimensions to sustainable development described in the NPPF: economic, social and environmental. The proposed development would have a small social benefit through the provision of additional residential accommodation, albeit through permitting the increased occupation of an existing dwellinghouse, as opposed to creation of any new dwellings, so this could not be considered to make a contribution to the supply of housing in the district. In terms of economic benefits the proposal would be for employees of an existing local business which it might otherwise be difficult to attract, or retain and as such would help to support the operation of this business which is of benefit to the local and wider tourist economy. Environmentally, there would be no real impact as the proposal does not involve any physical works. The provision of local accommodation for employees of the public house would reduce work related trips and overall with linked other trips is unlikely to result in any significant additional trip generation.

Whilst it is acknowledged that the wider benefits of the proposal would be limited, these benefits (to the business and rural economy in particular) need to be weighed against the lack of any real harm and bearing in mind the limited nature of the proposals and change over the current situation. On balance, the benefits and support the proposal would provide to the local business are considered to represent a sustainable form of development which is supported as a departure from the adopted Local Plan.

## **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 house in multiple occupation hereby permitted shall not be occupied by more than eleven residents at any time.  
(Reason - In the interests of the character of the area, environmental health and the amenity of occupiers in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)
4. The occupation of the house subject to this permission shall be restricted to staff employed at The Masons Arms, Branscombe only.  
(Reason – The site is located in an area where new unrestricted residential development would not be permitted due to the lack of easily accessible services and facilities in accordance with strategy 7 (Development in the Countryside) and TC2 (Accessibility of New Development) of the New 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.

## NOTE TO APPLICANT:

The applicant is advised of the need to apply for a mandatory HMO license under the Housing Act 2004 and comply with Devon wide HMO Standards and LACORS Fire Safety Guidance.

Plans relating to this application:

2046/16/001	Existing Combined Plans	15.12.16
2046/16/010	Proposed Combined Plans	15.12.16

List of Background Papers

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

**Ward** Broadclyst

**Reference** 16/2726/FUL

**Applicant** Mr Paul Milton

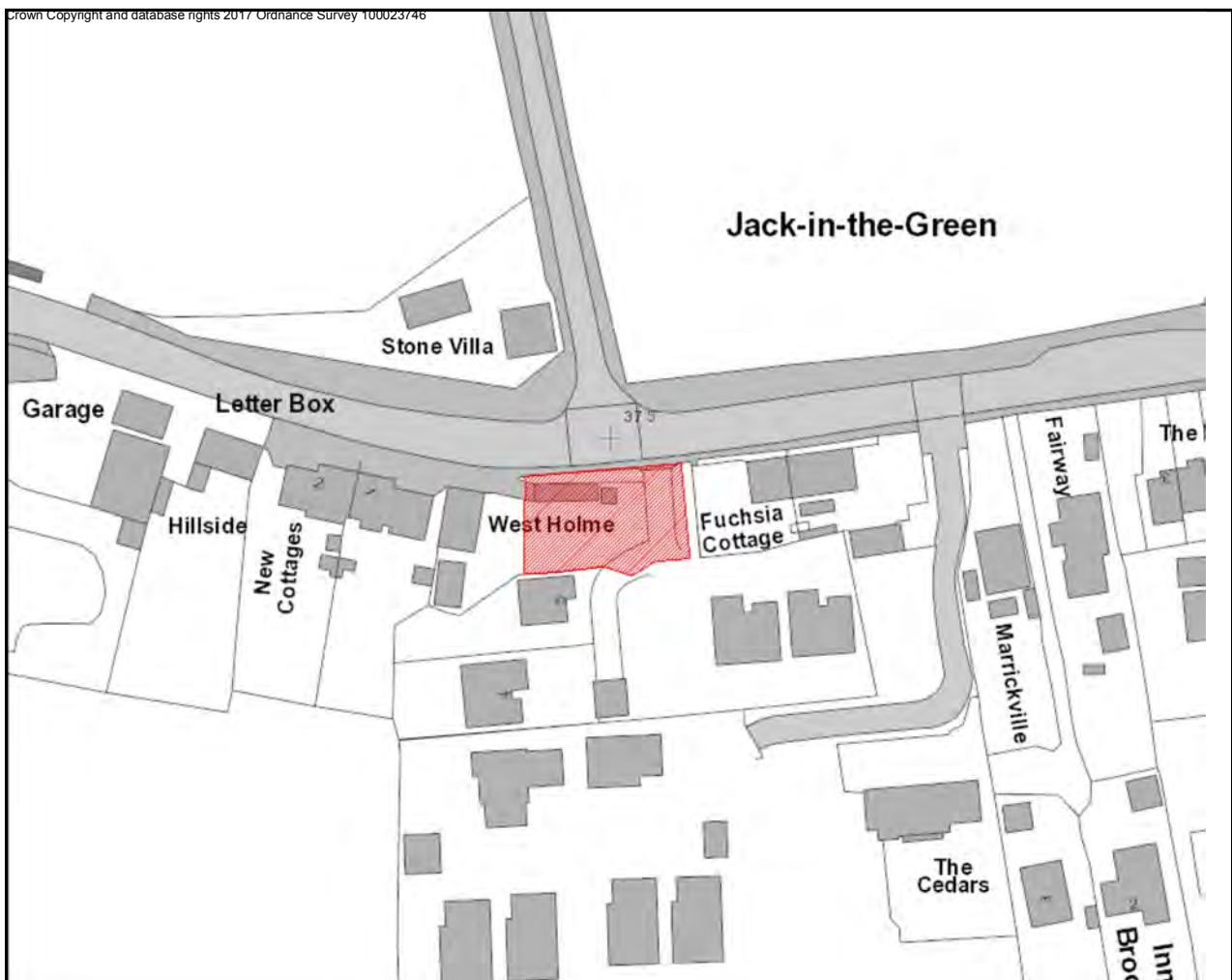
**Location** Land Adjacent West Holme London Road Rockbeare

**Proposal** Demolition of workshop and construction of dwelling.



**RECOMMENDATION: Approval with conditions**

Crown Copyright and database rights 2017 Ordnance Survey 100023746



		<b>Committee Date: 7<sup>th</sup> March 2016</b>
<b>Broadclyst (ROCKBEARE)</b>	<b>16/2726/FUL</b>	<b>Target Date: 26.01.2017</b>
<b>Applicant:</b>	<b>Mr Paul Milton</b>	
<b>Location:</b>	<b>Land Adjacent West Holme London Road</b>	
<b>Proposal:</b>	<b>Demolition of workshop and construction of dwelling.</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

**This application is before Members of the Development Management Committee as it represents a departure from the Local Plan.**

**The application seeks planning permission for the construction of a detached two storey, 3 bedroom dwelling.**

**Whilst the proposal is located outside any built up area boundary, it is close to Cranbrook, in a sustainable location, surrounded by established or recently built development and benefits from outline and reserve matters consent for a detached bungalow for which works have commenced on site.**

**The site is relatively small, however it is considered that the proposed dwelling can be constructed on site without detriment to the streetscene, the amenity of adjoining properties or highway safety and would not affect the setting of the listed cottage opposite the site.**

**It is therefore considered that the material considerations in support of the proposal outweigh any harm from the proposal representing a departure from adopted local plan policy.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Adjoining Parish**

**Cranbrook Town Council's Planning Committee supports planning application 16/2726/FUL1 and would comments on the potential lack of visibility of the vehicle access onto London Road when leaving the property and hence potentially**

compromised highway safety. Sight lines must also not be impeded by either the landscaping or the building when exiting onto the main road.

## **Technical Consultations**

### **Devon County Archaeologist**

I refer to the above application. The proposed development occupies an area adjacent and to the south of the Roman road between Exeter and Honiton. It is possible that groundworks associated with the demolition of the extant workshop and construction of the new dwelling may expose and destroy archaeological deposits associated with the Roman road or any contemporary road-side development in this area. (The consent granted for application 12/2453/OUT was conditional upon a programme of archaeological work being undertaken in mitigation for any impact upon heritage assets with archaeological interest - Condition 7.)

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 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.

### EDDC Trees

No objection to the proposed scheme subject to a planning condition requiring the full implementation of the Arboricultural Method Statement and tree protection measures. This should include arboricultural site monitoring and submission of a completed site monitoring log to finally discharge the tree protection condition.

### 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. We would request the applicant to consult and follow 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. This is available on the council's website: <http://eastdevon.gov.uk/noise/noise-guidance-and-advice/guidance-and-advice-for-developers-builders-and-contractors/>

### Other Representations

A letter of objection has been received from the occupiers of the neighbouring property. They are concerned with the height of the proposed building, and overlooking.

## **POLICIES**

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

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN6 (Nationally and Locally Important Archaeological Sites)

TC7 (Adequacy of Road Network and Site Access)

### National Planning Policy

National Planning Policy Framework

National Planning Practice Guidance

## **ANALYSIS**

### Site Location and Description:

The site refers to the side garden of West Holme, itself a detached dwelling occupying a prominent roadside position on the London Road. The side garden of the property contains a detached workshop building which fronts onto and occupies a higher level in relation to the road. The site is located in a small pocket of residential properties of varying styles and forms. In the immediate locality, the area is characterised by two storey dwellings with a traditional red brick terrace to the west of the site and semi detached rendered properties to the east. Stone Villa (a

grade II listed building) is located immediately opposite on the other side of the road. In planning terms the site is located outside of a built-up area as defined by the Local Plan, is not the subject of any national or local townscape or landscape designations but is within a group of properties off the old A30 located very close to Cranbrook.

### Planning History:

Outline planning permission was granted in 2013 (ref 12/2453/OUT) for the demolition of a workshop and the construction of a new dwelling in the side garden of West Holme. Details of layout, scale and appearance, means of access and landscaping were all reserved. A subsequent reserved matters application (14/0151/RES) was approved for the construction of a bungalow on the 27th June 2014. These permissions were in accordance with the old East Devon Local Plan and as works have commenced on site these permissions can still be implemented.

### Proposed Development:

This is a full application to construct a two storey detached property with three bedrooms at first floor level. The house would have a complex roof design with a slate roof over brick walls with cladded inserts. The front facade of the building would be dominated by a wide gable forming the entrance. Parking is to the rear and comprises an integral double garage. Access would be taken from the old A30 and space would be provided within the site for a parking and turning area and an amenity area around a retained mature tree.

### **ANALYSIS**

The main issues to consider as part of this application are the principle of development, visual impact and impact upon the setting of the nearby listed building, impact upon residential amenity, highway safety, and arboricultural and ecological impacts.

### Issues and Assessment:

The principle of a dwelling in this location has previously been accepted through the grant of an outline and reserve matters consents that were considered to be in accordance with the old East Devon Local Plan that allowed in-fill development within existing pockets of development off the old A30 within close proximity to Cranbrook.

Whilst the granting of these permissions predates the current adopted local plan, they can still be implemented and as such represent a material consideration.

The current proposal must be considered against the policies in the current adopted Local Plan. With regard to this the site is not within an identified built up area boundary, nor is there a policy which supports the building of dwellings adjacent to Cranbrook, unlike the previous plan. The application is therefore considered to represent a departure from current adopted policy and has been advertised as such.



Notwithstanding this, as mentioned above it is material to the proposal that approval has previously been granted for this plot, which is linked to a further 5 dwellings to the rear of the site that are either under construction or recently completed, and that this consent can still be implemented. Furthermore, the site is very close to Cranbrook development and forms a cluster of dwellings on the south side of London Road.

It is therefore considered that in terms of location, the aims of the Local Plan and NPPF would not be undermined by the grant of permission and the proposal does not represent isolated or unsustainable development in the countryside. There are therefore material considerations of sufficient weight to outweigh the departure from current local plan policy.

#### Character and Appearance:

The existing workshop building presents a blank elevation to the road and offers little in the way of a positive contribution to the visual amenity of the site or the character and appearance of the area. The proposed house would in contrast present an active frontage to the street forming a continuation of the linear pattern of development along this part of the road.

The design of the house is modern, but is considered generally in keeping with the pattern of development in the locality. The detailed proposal would have considerably more impact on the street scene than the existing building (workshop) which is relatively plain and low key. It is considered that site and listed building on the opposite side of the road are not read together, other than generally from a distance on approach, and as such the proposal will not have harm the setting of the listed building. This view is supported by the Conservation officer.

In addition, the current design has paid more attention to proportions, fenestration and other detailing than the approved bungalow and existing building and is considered to be an acceptable approach to development on the site.

The outline planning permission carried a condition to the effect that the ridgeline of the new property should not exceed the height of the ridgeline of Westholme itself, (which whilst a two storey dwelling has a low overall height) in order to result in an acceptable streetscene. The current application does not comply with this condition, however it is considered that the overall height of the dwelling is in keeping with the overall streetscene and does not appear overbearing in relation to Westholme.

Overall it is considered that the design of the house would be acceptable and would have little significant impact on the character and appearance of the area or the setting of the adjacent listed building.

#### Residential Amenity:

It is considered that at approximately 20m there would be sufficient distance between the house and the property to the east (Fuchsia Cottage) such that there would be no detrimental loss of amenity or over bearing or over dominant impact. In

addition, the only windows proposed at first floor facing towards Fuchsia Cottage serve a bathroom and en-suite.

The majority of the other windows in the proposed dwelling either face towards the road, or to the side facing Westholme. There are no concerns regarding the windows facing the road. There are two windows in the side of the dwelling facing Westholme; one serving the porch and a larger window serves the lounge/dinner that is double height. Given the double-height nature of this room and distance from Westholme at approximately 14m, this is considered sufficient to result in an acceptable relationship between the two dwellings.

The other windows at first floor level are a high level window in bedroom 1 and a dormer window in bedroom 3 situated some distance from the rear boundary and looking towards the side of new development to the rear of the site. It is not considered that these would raise issues of overlooking.

In light of the above it would be difficult to sustain an objection in terms of overlooking or loss of privacy to surrounding properties. It would however be necessary to remove permitted development rights for alterations and extensions to the roof where dormer windows or further roof lights could result in overlooking.

#### Highway Safety:

The access proposed onto the old A30 is considered to be acceptable. The site plan submitted shows there would be sufficient space within the site with which to park and turn a vehicle such that it can leave in a forward gear.

#### Arboricultural Impact:

The proposal has been designed to ensure the retention of a silver birch tree positioned centrally within the site. Details of how the tree would be protected during construction have been provided with this application and are considered to be acceptable.

#### Ecological Impact:

The application is accompanied by a update to the Ecological Survey which was previously undertaken by Greena Ecological Consultancy. The garage and workshop to be replaced has been surveyed for protected species and has found no evidence of bats using the building as a roost or foraging space and the building was overall found have a low bat roosting potential. No evidence of birds or owls was found within the building. On this basis it is not considered necessary to request ecological enhancements to be incorporated into the new building.

### **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 the commencement of the development hereby permitted, details of materials to be used externally shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be built in the materials approved.  
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.) Note: This condition is required prior to commencement due to the application site being within close proximity of a listed building.
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, 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.)
5. Full details of the method of construction of hard surfaces in the vicinity of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any works on site (including demolition). The method shall adhere to the principles embodied in BS 5837:2012 and AAIS Arboricultural Practice Note 1 (1996) and involvement of an arboricultural consultant and engineer is recommended. The development shall be carried out strictly in accordance with the agreed details.  
(Reason - To ensure retention and protection of trees on the site during and after construction 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 D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)
6. 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) no works within the Schedule 2 Part 1 Classes A or B for the enlargement, improvement or other alterations to

the dwellings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.  
 (Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the 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 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:

AL(00)00 REV A	Location Plan	24.11.16
AL(00)01 REV A	Other Plans	24.11.16
174 L(-1)14 REV A	Landscaping	15.11.16
174 L(-1)15 REV A	Other Plans	15.11.16
A 03	Proposed Floor Plans	15.11.16
A 05	Proposed Floor Plans	15.11.16
A 06	Proposed roof plans	15.11.16
A 08	Proposed Elevation	15.11.16
A 09	Proposed Elevation	15.11.16
A 10	Sections	15.11.16

List of Background Papers

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

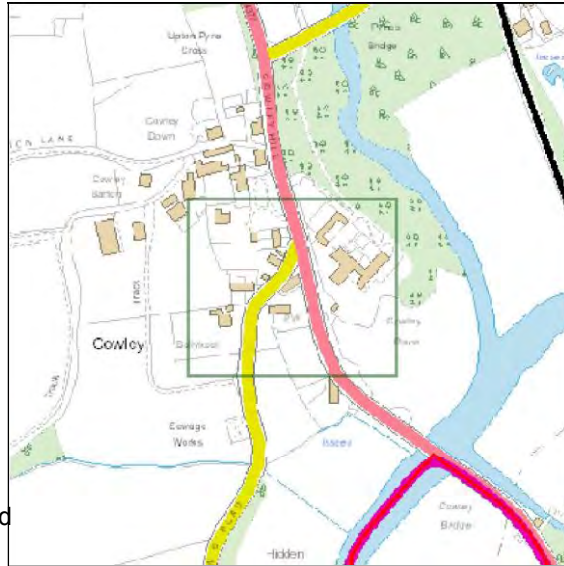
Ward Exe Valley

Reference 16/2255/FUL &  
16/2256/LBC

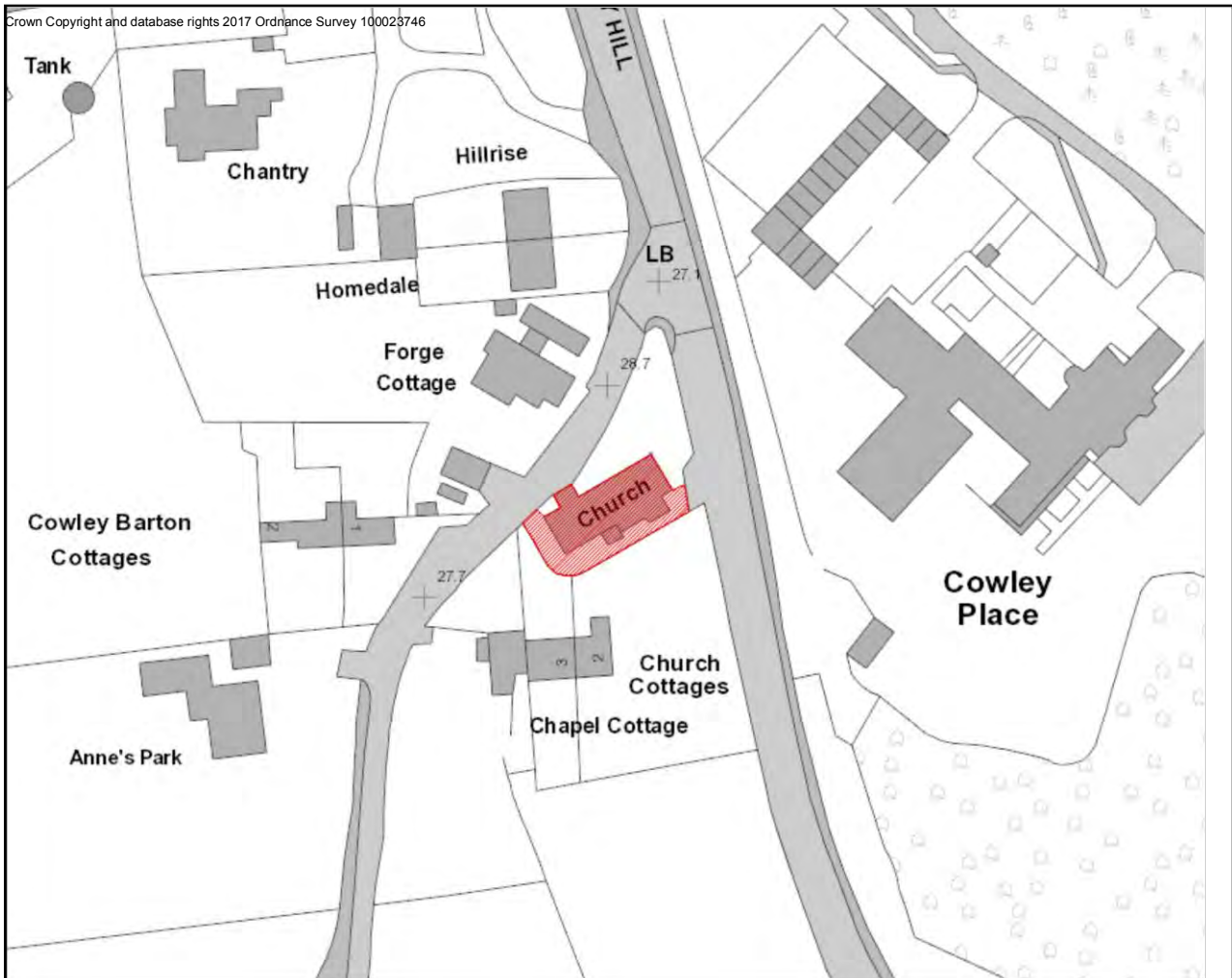
Applicant Mr Ben Leete

Location St Anthony's Chapel Cowley

Proposal Change of use of chapel to dwelling house. Erection of bin store and fence. Internal alterations to include installation of mezzanine platform and staircase, conversion of vestry to bathroom and installation of kitchen



RECOMMENDATION: Approval with conditions



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Exe Valley (UPTON PYNE)</b>	<b>16/2255/FUL</b>	<b>Target Date: 17.11.2016</b>
<b>Applicant:</b>	<b>Mr Ben Leete</b>	
<b>Location:</b>	<b>St Anthony's Chapel Cowley</b>	
<b>Proposal:</b>	<b>Change of use of chapel to dwelling house. Erection of bin store and fence</b>	

**RECOMMENDATION: Approval with conditions**

		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Exe Valley (UPTON PYNE)</b>	<b>16/2256/LBC</b>	<b>Target Date: 17.11.2016</b>
<b>Applicant:</b>	<b>Mr Ben Leete</b>	
<b>Location:</b>	<b>St Anthony's Chapel Cowley</b>	
<b>Proposal:</b>	<b>Internal alterations to include the installation of mezzanine platform and staircase, conversion of vestry to form bathroom and installation of kitchen facilities. Erection of bin store</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**These applications are before Committee as the planning application represents a departure from the adopted Local Plan.**

**The site refers to a grade II listed church located on a prominent position within the looseknit settlement of Cowley, near Exeter**

**It is located on St Andrews Road and was formerly known as St Leonards. It is located on higher ground to the west of the main Exeter to Crediton Road. The**

**Critical Information Survey says that the site was on land that originally formed part of Cowley House (formerly known as Cowley Place) and is said to be only one of two churches surviving by Rhode Hawkins, the other being Exeter St Michaels.**

**It is proposed to convert the Church, which is no longer in use, to a dwelling and a planning application and associated application for listed building works have been submitted. It is considered that the proposed conversion is a sensitive scheme, which uses innovative design solutions to retaining the historic features. However Cowley itself is not considered to be a sustainable settlement and as such there is no local plan policy support for residential development in this location.**

**It is considered however that the unsustainable location of the site needs to be considered against the wish to be supportive of finding an appropriate use for the listed building to safeguard its historic and architectural significance as a heritage asset. As such, consideration needs to be given to whether securing the future of the heritage asset would outweigh the concerns expressed in relation to the lack of any off-street parking for the dwelling and its unsustainable location.**

**It is considered that it has been demonstrated why a residential use is the optimal use of the building, and would safeguard the building and its historic significance without detriment to its appearance. Given this, and the benefit to the future of the listed building and taking into account the provisions of paragraph 55 that support dwellings in the countryside where it secures the future of a listed building, it is considered that on balance the application is acceptable and is recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Exe Valley - Cllr S Grundy**

Chapel of St Antony, Cowley.

Site visited 19/10/2016.

The Chapel of St Antony, Cowley ("Cowley Church") was until 2 or 3 years ago a place of worship used by a congregation largely resident in Cowley village. It was and still is in the church parish (PCC) of Newton St Cyres. Cowley village is however in the civil parish of Upton Pyne, which is in Exe Valley ward, and so East Devon District Council is the local planning authority.

The Church of England decided to deconsecrate Cowley Church and put it up for sale. Various uses of the building were explored, then a buyer was found who proposed to obtain planning permission for conversion to a residential dwelling. The Church of England has made the sale dependent upon this planning permission

being given. It is also dependent upon the applicant agreeing with the Church of England a detailed plan for the conversion to a dwelling and design of the interior of the building. This plan is attached to the planning application.

I shall not dwell upon the design for the building itself. It is well documented in the supporting papers. In outline it is to construct a mezzanine floor in wood, to leave the internal design alone as far as possible and to leave the exterior alone completely. The architect assures me that this approach has been used successfully to convert several churches around the country.

So, this is a well-conceived design for re-use of a redundant building. It is a genuine exception site. Conversions of redundant churches are not covered by the Local Plan. (The words "church" or "chapel" are not mentioned). Cowley, as part of Upton Pyne, like all settlements in Exe Valley ward does not have a Neighbourhood Plan.

Cowley Village (as opposed to the Three Horseshoes end) is regarded as unsustainable, because the facilities available at the Three Horseshoes end (nurseries & convenience store, pub) are only available on foot by crossing the A377, like the bus service in one direction.

The Upton Pyne parish council have carried out a site inspection and support the application. A number of residents of Cowley attended and were also in support.

In my opinion, the benefits of preserving the existing structure of Cowley Church, by maintaining it as a dwelling, easily outweigh the disadvantages of the location for a new build. It will provide the equivalent of a 150 sq.m. studio apartment suitable for a single person or couple.

As the ward member, I have no hesitation in recommending approval.

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

Upton Pyne and Cowley Parish Council held a site meeting today at the above.

Many members of the public were present including the Church Warden. These close neighbours are very strong supporters of the Church and, when asked by the Parish Council, said they have no objections to the planning application. The main concern was the lack of parking in the area. The Parish Council pointed out that there was no solution to this problem.

The Parish Council held a meeting away from the site and unanimously support this application and the application ref:16/2256/LBC.

#### Technical Consultations

##### Devon County Archaeologist



St Anthony's Chapel Cowley - Internal alterations to include the installation of mezzanine platform and staircase, conversion of vestry to form bathroom and installation of kitchen facilities. Erection of bin store: Archaeology

My ref: Arch/DM/ED/30071a

I refer to the above application. The proposed development involves the conversion of St Anthony's Chapel, a designated heritage asset protected as a listed building (ref: 1097594) dating to the late 19th century and designed by Rhode Hawkins. The listing description states "Of the small number of churches by Rhode Hawkins - some in London - only this and St Michael's, Exeter, survive." The proposed development will have an impact upon the appearance, and the fabric and fixtures of this protected historic building.

For the above reason and in accordance with Policies EN6 - Nationally and Locally Important Archaeological Sites and EN9 - Development Affecting a Designated Heritage Asset of the East Devon Local Plan 2013 - 2031 and 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 and English Heritage guidance as set out in 'Understanding Historic Buildings: Policy and Guidance for Local Planning Authorities - 2008', whereby:

"No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local 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 District Planning Authority.

Reason: 'To ensure, in accordance with Policies EN6 - Nationally and Locally Important Archaeological Sites and EN9 - Development Affecting a Designated Heritage Asset of the East Devon Local Plan 2013 - 2031 and paragraph 141 of the National Planning Policy Framework (2012) that an appropriate record is made of the historic building fabric that may be affected by the development'

I would envisage a suitable programme of work as taking the form of an appropriately detailed record of the building to be undertaken in advance of and, if required, during construction works. This record would include drawn, written and photographic elements.

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 a Brief setting out the scope of the works required, as well as contact details for historic building specialists who would be able to undertake this work.

## Natural England

No comments

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.

## Protected Species

If the proposed works could, at any stage, have an impact on protected species, then you should refer to our Standing Advice which contains details of survey and mitigation requirements.

## 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. We would request the applicant to consult and follow 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. This is available on the council's website: <http://eastdevon.gov.uk/noise/noise-guidance-and-advice/guidance-and-advice-for-developers-builders-and-contractors/>

## County Highway Authority Highways Standing Advice

## Conservation

This application has been the subject of pre-application advice relating to conservation issues under 15/0185/PREAPP. With regards the current proposals there are no major external changes to the actual Church building as a result of the change of use to a dwelling. However, the new use will inevitably have an impact on the interior of the existing Church building, but the intention is to keep these to a minimum, see comments below:

Proposed plan: the Critical Information Summary (CIS) lists most of the notable features, fittings and characteristics of the building, some of which are detailed on the plan. However, it is not entirely clear which items will stay with the purchase of the Church, for example, the font will need to be removed, broken up and buried on site, but is shown on the proposed plans. Further clarification of exactly which items

are being removed by the Church and those staying will be required in order to Condition the works appropriately eg. pews, cast iron radiator system, plaques, and other artefacts listed in the CIS.

The main changes to the interior of the church comprise 3 distinct areas: the sleeping platform, including the staircase, the kitchen and the bathroom. Further comments relating to the sleeping platform (mezzanine) are set out below. The kitchen and bathroom will be located within the existing vestry and pulpit areas, confining those elements that relate to servicing the accommodation and any likely sources of humidity and condensation to areas that can be more easily controlled. In addition, ensuring that the internal alterations to the church are minimised, with as little impact as possible to the spatial qualities of the nave and chancel;

Kitchen: the existing plans show a large timber cupboard, including a safe and a fireplace, which appear to be lost in the new layout. Is some revision of the layout here possible or could the cupboard be re-located within the church interior for storage elsewhere? Perhaps under the mezzanine?

Shower room: this is an ingenious use of the pulpit, but will need to be conditioned to cover both aesthetic (screen) and practical issues (ventilation & drainage). The plan shows the drainage links, but details of any mechanical ventilation or otherwise (only shown in the D& A) will need to be shown, see below;

West-East section: see comments below. Is this Drawing correctly labelled?

Mezzanine & Detail: this was accepted in principle under 15/0185/PREAPP, but has been amended to comprise a freestanding oak structure with stairs up to the mezzanine with handrail and balustrade. It appears that this will cut across the 2no. windows in the SW gable end and whilst it is appreciated that this will be a freestanding structure is not shown in Section or at the newly created 'first floor'. It would be worth consulting Building Control to ensure that the proposed sleeping platform will comply with Building Regulations. In any case further details (Structural Engineers & Design detailing) will be required;

Gates & Bin Store: these details are acceptable in principle, but do not separate out the Gates A & B. In addition, the dimensions of Gate and fence do not appear to match those shown on Plan;

Bat Mitigation: an email sent to the agent under 16/0242/PREAPP referred to the need for bat mitigation to be included within the applications. This was to be within the Vestry loft space, and whilst there is mention of the recommendations and options within the supporting documents is not indicated on any plans or elevations. A plan similar to that submitted under the pre-application enquiry will be acceptable;

Elevations: these are required to show extract grilles, and any other flues or meter boxes and any external bat mitigation roof tiles, boxes etc.

Central heating/Thermal upgrading: the use of the existing radiators and how this will possibly be incorporated into the new central heating system, insulation and secondary glazing are referred to in the D & A, but no specific details are shown on

plan. Whilst this can be conditioned it is considered that at least the position of the radiators, boiler, flooring and windows affected by these proposals should be annotated in some way.

Amended plans received 6th December 2016:

Proposed plan: the retained features are now shown on plan and subject to a condition relating to the font and pews is now acceptable;

Kitchen: the cupboard is now retained in situ and is acceptable;

Shower room: the new ventilation outlet is now shown, acceptable;

West-East section: comments noted;

Mezzanine & Detail: it would have been preferable to show the new inserted platform in Section to demonstrate where it will cut across the windows in the SW gable end. However, this could be conditioned as part of any forthcoming approval, see below.

Gates & Bin Store: these details are still incorrect and the dimensions shown on 03A and 07A different;

Bat Mitigation: noted on drawing J369/11 and acceptable;

Elevations: noted on drawing J369/11 and acceptable;

Central heating/Thermal upgrading: details shown on J369/08 noted and acceptable.

o No works shall commence until the following details and specification have been submitted to and approved in writing by the Local Planning Authority.

- The new freestanding oak mezzanine platform including the staircase, handrail and balustrade with sections, mouldings, profiles and finishes. In addition, a section to show the relationship to the windows in the SW gable end. Sections and details should be at a scale of 1:2 or 1:5.

- The new screen and ceiling to the shower room. Sections and details should be at a scale of 1:2 or 1:5.

- A Schedule of the repairs and general maintenance to be carried out in conjunction with the conversion works.

The works as agreed shall be carried out in accordance with the approved details. (Reason - In the interests of the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

o The pews shall be retained and stored under cover (or in a location approved in writing by the Local Planning Authority) for re-use in the building as part of the

works permitted in this consent and details of the exact number and location of the retained pews submitted and agreed in writing by the Local Planning Authority.  
(Reason - To safeguard the architectural and historic character of the building in accordance Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

o The font shall be retained in situ until such time that the process for its removal and burial has been agreed with the Diocese of Exeter and the details submitted to and agreed in writing by the Local Planning Authority.  
(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

### Other Representations

No letters of representation have been received.

### **PLANNING HISTORY**

None.

### **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
D1 (Design and Local Distinctiveness)

Strategy 7 (Development in the Countryside)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN6 (Nationally and Locally Important Archaeological Sites)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

Government Planning Documents  
NPPF (National Planning Policy Framework 2012)

### **Site Location and Description**

The site refers to a grade II listed church which is located within the hamlet of Cowley which is located on the outskirts of Exeter. It is located on St Andrews Road on higher ground to the west of the main Exeter to Crediton Road. The building is 22.2m x 6.5m internally.

The Critical information Summary prepared by the Church commissioners states that that;

" the site was on land that originally formed part of Cowley House (formerly known as Cowley Place)...said to be only one of two churches surviving by Rhode Hawkins, the other being Exeter St Michaels".

To the south of the site are Church Cottages around 17m away. To the north around 19m away across St Andrews Road is Forge Cottage. To the west is Cowley Barton Cottages. To the east around 30m away is Cowley Place.

## **Proposals**

The planning application seeks permission to convert the Church to a dwelling. As there is a burial ground on the north side of the building the curtilage is restricted to the red line site plan shown. There is no parking within the site area.

The listed building application is for the internal conversion works that are detailed and assessed further below.

## **ANALYSIS**

### **Principle**

There are no local plan policies that support the conversion of this building to residential use given its unsustainable location within a village that does not benefit from a Built-up Area Boundary. As such, the proposal has been advertised as a departure from the adopted East Devon Local Plan.

Paragraph 55 of the NPPF states 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- o the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- o where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- o where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- o the exceptional quality or innovative nature of the design of the dwelling'.

Whilst Cowley is not considered to be a sustainable location for new development, owing to its limited range of facilities and as borne out in a number of appeal decisions, it would appear as though a residential conversion could be considered as an exception to the Council's Local Plan policies under the provisions of Paragraph 55. It would appear as though a case could be made in terms of whether it would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of the former chapel as a heritage asset.

It should further be added that the building has been on the open market from February 2013 until July 2015 with Smiths Gore. Some purchasers looked at non

residential uses; however, the lack of visitor parking has made such options commercially unviable. A scheme for a gallery and studio was pursued but was unsuccessful

Given this, given the provisions of paragraph 55, and fact that a residential use would retain the listed building in use and therefore protect its future, it is considered that the benefits to the listed building outweigh any harm caused from the unsustainable location of the site and departure from adopted Local Plan policy. As such the principle of development is acceptable.

#### Impact on the listed building

With regards the current proposals there are no major external changes to the actual Church building as a result of the change of use to a dwelling. However, the new use will inevitably have an impact on the interior of the existing Church building, but the intention is to keep these to a minimum, as detailed below:

Proposed plan: the Critical Information Summary (CIS) lists most of the notable features, fittings and characteristics of the building, some of which are detailed on the plan. The retained features are now shown on plan and subject to a condition relating to the font and pews is now acceptable.

The main changes to the interior of the church comprise 3 distinct areas: the sleeping platform, including the staircase, the kitchen and the bathroom. Further comments relating to the sleeping platform (mezzanine) are set out below. The kitchen and bathroom will be located within the existing vestry and pulpit areas, confining those elements that relate to servicing the accommodation and any likely sources of humidity and condensation to areas that can be more easily controlled. In addition, ensuring that the internal alterations to the church are minimised, with as little impact as possible to the spatial qualities of the nave and chancel.

Kitchen: the existing plans show a large timber cupboard, including a safe and a fireplace which is now retained in situ and is acceptable.

Shower room: this is an ingenious use of the pulpit, with plans now submitted to show the drainage links and the new ventilation outlet is now shown and is considered acceptable.

Mezzanine & Detail: This has been amended to comprise a freestanding oak structure with stairs up to the mezzanine with handrail and balustrade. It appears that this will cut across the 2no. windows in the SW gable end and whilst it is appreciated that this will be a freestanding structure is not shown in Section or at the newly created 'first floor'. However, this can be conditioned as part of any consent.

Gates & Bin Store: the gate details are considered to be acceptable. The bin store would be located discretely in the corner of the site and is considered to be acceptable.

Central heating/Thermal upgrading: the use of the existing radiators and how this will possibly be incorporated into the new central heating system has been shown on plan. These details are now shown and are considered to be acceptable.

### Parking and highways issues

No parking is proposed for the development onsite. It is considered that in this location on St Andrews Road, this could be a cause for concern, given the visibility available onto the A377, the width of the carriageway along St Andrews Road and the ability for vehicles to park close to the site on a bend causing danger to other road users.

However, it is relevant to note that as a Church the building could attract large volumes of people to the site without the benefit of any parking. In addition, the proposal is for conversion to a single dwelling that represents a low intensity use and the lack of car parking is considered to be outweighed by the need to secure the future of the listed building.

This issue has been discussed with the highway officer given the concerns and he raised no objection to the lack of parking due to the level of traffic that could be associated with the existing lawful use as a church.

### Amenity concerns

The proposed development would have windows mostly facing north and south and would be a ground floor level. The north would face towards the road and the south would face into the amenity area. Given their relative height, their form and existing use as a church it is not considered that any overlooking concerns are raised.

The western nave end would have a mezzanine floor which would be served by two windows facing over the parking area for Cowley Cottages. The eastern side would be served by the striking stained glass window, and it is not considered that there are any amenity concerns.

### Bats

A bat survey has been submitted and is accompanied by three emergence surveys. No evidence of hibernating bats was found inside the chapel during the bat hibernation survey and was considered unsuitable for hibernating bats. Three dusk emergence surveys and one dawn entry survey were carried out between May and July 2016.

Bat droppings identified as long eared lesser horseshoe and pipistrelle bats were found inside the chapel during the inspection survey. The chapel is a confirmed occasional summer day roost for up to a maximum of two long eared bats. The chapel (internal area) is a confirmed night roost/feeding perch for one individual lesser horseshoe bat. The Chapel (eaves and under ridge tile) is a confirmed roost for three soprano pipistrelle bats.



The submitted ecology report makes a number of recommendations including bat access points and a small bat loft above the vestry and two new bat boxes.

These details are shown on plan and provided the application is conditioned to ensure that these measures are implemented the application is acceptable in ecological terms.

### Archaeology

The County Archaeologist has advised that the building is important historically and as such the following condition should be imposed on any consent.

"No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority."

## **RECOMMENDATIONS**

### **A - 16/2255/FUL**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority."  
In the interests of the archaeology of the site in accordance with Policies EN6 - Nationally and Locally Important Archaeological Sites and EN9 - Development Affecting a Designated Heritage Asset of the East Devon Local Plan 2013 - 2031 and paragraph 141 of the National Planning Policy Framework (2012)
4. The development shall be carried out in accordance with the recommendations within the submitted ecology survey dated 2016.  
(Reason - in the interests of ecology in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan

Plans relating to this application:

BAT SURVEY	Construction Details or Drawings	20.09.16
J 369/01	Location Plan	20.09.16
J 369/04	Sections	20.09.16
J 369/05	Sections	22.09.16
HEATER PLACEMENT	Additional Information	30.11.16
J 369/03 REV A	Layout	30.11.16
J 369/11	Proposed Elevation	30.11.16
J369/07 B	Gates and bin store	10.01.17

List of Background Papers

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

**B – 16/2256/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. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. No works shall commence on the mezzanine platform until its details and specification to including its staircase, handrail and balustrade with sections, mouldings, profiles and finishes and in addition, a section to show the relationship to the windows in the SW gable end have been submitted to and agreed in writing with the Local Planning Authority The Sections and details should be at a scale of 1:2 or 1:5.

(Reason - In the interests of the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

4. The pews shall be retained and stored under cover (or in a location approved in writing by the Local Planning Authority) for re-use in the building as part of the works permitted in this consent and details of the exact number and location of the retained pews submitted and agreed in writing by the Local Planning Authority.

(Reason - To safeguard the architectural and historic character of the building in accordance Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

5. No development shall commence until a Schedule of the repairs and general maintenance to be carried out in conjunction with the conversion works has been submitted to and agreed in writing with the Local Planning Authority. The works as agreed shall be carried out in accordance with the approved details.  
(Reason - In the interests of the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

6. No works shall commence on the new screen and ceiling to the shower room until details and specification (including sections at a scale of 1:2 or 1:5) have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as agreed.  
The works as agreed shall be carried out in accordance with the approved details.

(Reason - In the interests of the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

7. The font shall be retained in situ until such time that the process for its removal and burial has been agreed with the Diocese of Exeter and the details submitted to and agreed in writing by the Local Planning Authority.

(Reason - To safeguard the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted New East Devon Local Plan 2016.)

#### 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:

J 369/01	Location Plan	20.09.16
J 369/02	Existing Combined Plans	20.09.16
J 369/04	Sections	20.09.16
J 369/05	Sections	22.09.16
HEATER PLACEMENT	Additional Information	30.11.16
J 369 03 REV A	Layout	30.11.16
J 369/11	Proposed Elevation	30.11.16
J369/07 B	Gates and bin store	10.01.17

List of Background Papers

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

**Ward** Newbridges

**Reference** 16/2614/FUL

**Applicant** Mr W Scholes

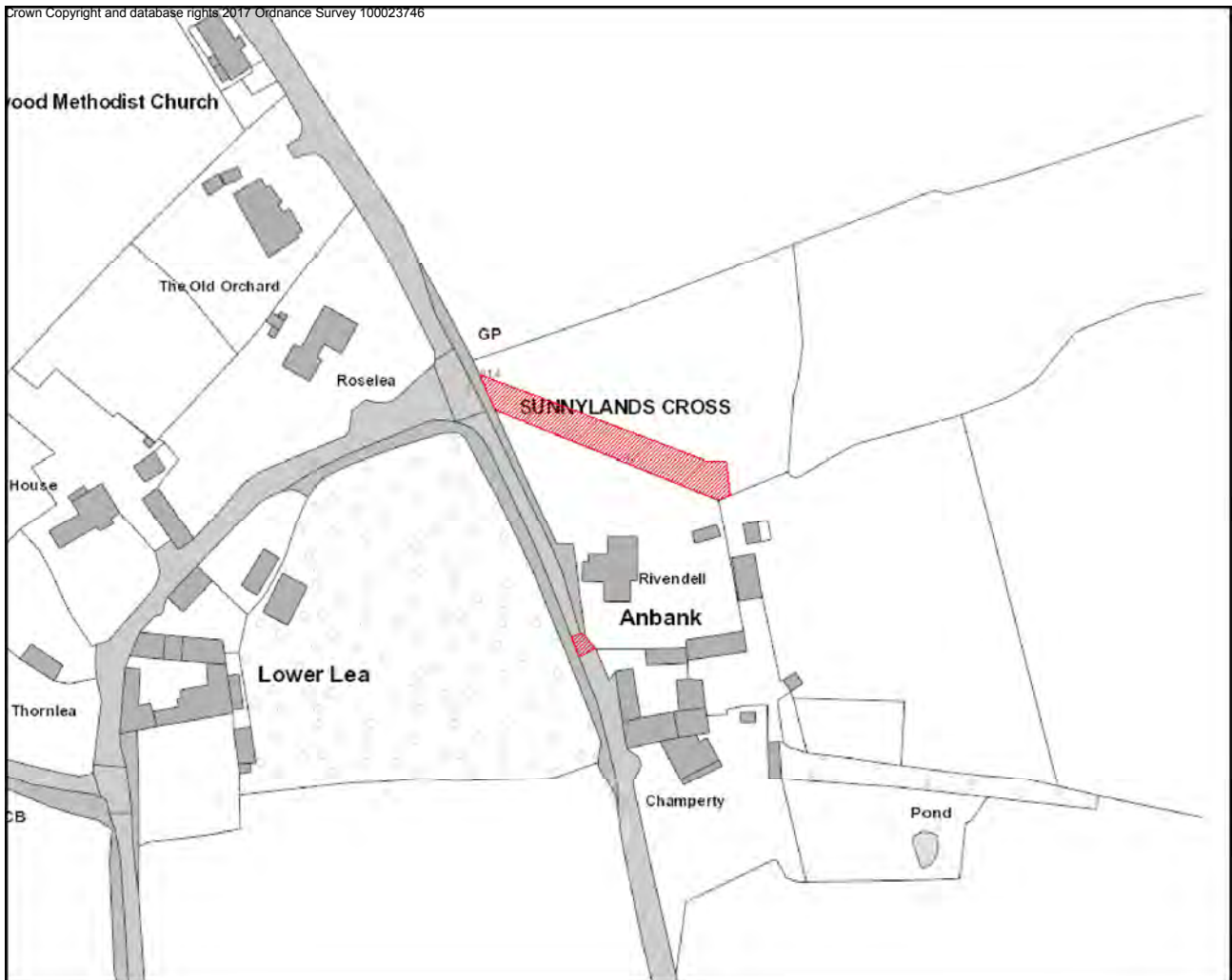
**Location** Rivendell Dalwood Axminster EX13 7EA

**Proposal** Change of use of agricultural land to garden land, alteration of existing field gateway and construction of access track and turning heads, existing vehicular access closed to form pedestrian access



**RECOMMENDATION: Refusal**

Crown Copyright and database rights 2017 Ordnance Survey 100023746



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Newbridges (DALWOOD)</b>	<b>16/2614/FUL</b>	<b>Target Date: 27.12.2016</b>
<b>Applicant:</b>	<b>Mr W Scholes</b>	
<b>Location:</b>	<b>Rivendell Dalwood</b>	
<b>Proposal:</b>	<b>Change of use of agricultural land to garden land, alteration of existing field gateway and construction of access track and turning heads, existing vehicular access closed to form pedestrian access</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

The application is before committee as the officer recommendation differs from the view of the ward member.

The application site is outside of any Built Up Area Boundary and in the Area of Outstanding Natural Beauty (AONB). The dwelling known as Rivendell is Grade II listed.

The application proposes the creation of a new vehicular access to the highway, to assist with visibility and manoeuvring in and out of that property. The new access would involve the change of use of agricultural land to residential curtilage and widening an existing single gated access, by removing a section of hedgerow and replacing the existing single field gate with double field gates. A parking/turning area is proposed at the end of the new access adjacent to its entry point into the existing garden. Another element of the application proposes reducing the width of the existing vehicular access to the southwest of Rivendell to create a pedestrian access.

The application follows a refusal of application 16/1875/FUL last year. That application was refused on the basis that the access track would alter the agricultural character of land by making it appear domestic and thus that it would fail to conserve and enhance the AONB. It was also refused on the basis that it would harm the setting of the listed building. Whilst the position of the access track has been revised for this application such that its visual impact would be slightly reduced, it is still considered that it would fail to conserve and enhance the AONB and that it would impact on the setting of the listed building, which has already been compromised, and that these environmental harms would not be outweighed by the minor enhancement of the existing south-

**western entrance.**

## **CONSULTATIONS**

### **Local Consultations**

#### Newbridges - Cllr I Chubb

I support this application, the gateway is already there so it would make a safer access onto the road and the track would cause no harm as it would not be visible.

### **Technical Consultations**

#### County Highway Authority Highways Standing Advice

#### Conservation

This application relates to a change of use of the adjacent agricultural land to the north of the property to garden land, the alteration of the existing field gateway and the construction of an access track and turning head, and includes closing the existing vehicular access to form a pedestrian access.

A previous application 16/1875/FUL was refused on two counts relating to the impact on the AONB and secondly, the setting of the listed building. The comments below look specifically at the latter:

'Inadequate information has been provided in order to assess what material impact the new access would have upon the setting of the listed dwelling house particularly given the change in level between the field and residential curtilage'.

The Statement of Heritage Significance has now been revised to better inform the current proposals. It is appreciated that they do not impact on the cottage itself, Listed Grade II, but they do have an impact on the wider setting of the listed building, and its relationship to the surrounding countryside and adjacent property Champerty, also listed Grade II.

The planning history indicates that an extension of the domestic curtilage and the provision of a new double garage, workshop and potting shed were previously refused under 05/2878/COU, but following amendments to the location of the garage, subsequently approved under 05/3380/FUL. At that time the cottage enjoyed a landscaped setting with a number of outbuildings to the south originally associated with Sunnylands Farm/ Sunnylands. It would appear from the 1889/90 historic map that the field boundary was originally limited to a line east/west immediately north of the cottage and that the domestic curtilage has previously been altered from the original orchard to field and now to what we see today, including the further extension allowed under 05/2878/COU.

Construction of the track: the proposed track within the revised application has now been re-located closer to the existing hedge to minimise the visual impact of the new access, but will still run from Sunnylands Cross across the field towards the far corner and the garage/workshop. This includes new gates, fencing, a post and wire fence and a permeable finish to the track and turning area. Although the impact is likely to be less than previously proposed, the track is still set above the listed

building and will be partially visible from the lane and further domesticate the land adjacent to the cottage.

The introduction of the two five bar gates will certainly have an impact on the lane, opening up the existing view into the field allowing views of the re-located track towards the listed building, glimpses of which will be seen. The comments relating to level change are noted and the fact that there will be a turning area with permeable surfacing at the track end closest to the dwelling/garage.

Existing vehicular access: what appears to be the original pedestrian access to the cottage is shown on the historic OS maps directly south of the main entranceway and would now encroach into the land associated with Champerty, and therefore the existing access appears to have been altered and is not in its original historic location. Alterations to this are therefore of less significance and in some form might be acceptable, but this would need to be considered in conjunction with the impact and possible harm of the current proposals.

The proposal is as before to reduce the existing vehicular access to form a pedestrian gateway and in itself is likely to reflect the original access more closely, although not in its original location. There is still a separate gated pedestrian access further along the lane opposite the west facing elevation, which appears to be historic.

It is acknowledged that the area of driveway around the house has been increased over time and the aerial photographs from 1947 to the present day demonstrate that the green/garden area has been continually eroded to the east and south east of the house. In conjunction with this the area of domestic curtilage has been extended as detailed above.

The alterations to the existing gateway will provide some enhancement to the setting of the listed building, but this could only be maximised by returning the gravelled area to garden. However, this would be difficult to monitor or control in future years. Conclusion: the introduction of the new access track will certainly have an impact on the setting of the listed building and cause some harm to its rural setting. As previously suggested, the rural setting of the cottage has already been compromised by the extension of the domestic curtilage and the change of the use and intensity of the land, and in association with this, the increase in the number of domestic buildings and paraphernalia. All of these detract from the setting of the listed building.

Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. In this case the introduction of the new access is seen to further detract from the rural setting of the listed building and further domesticating the surrounding environment/setting. Whilst, the proposed changes to the existing access will undoubtedly provide some enhancement to the setting of the listed building, it is considered that this does not outweigh the harm caused by the further encroachment of the existing agricultural land and the creation of a new access located outside the heritage group, originally known as Sunnylands Farm/ Sunnylands and now Rivendell and Champerty.

Despite the revised scheme the proposed further changes will still cause further harm to this setting and are therefore not supported.

**PROVISIONAL RECOMMENDATION - PROPOSAL  
UNACCEPTABLE**



### Other Representations

1 representation has been received in support of the application stating that the new entrance would be safer and that the existing entrance is not fit for purpose.

### **PLANNING HISTORY**

83/P0621	Extension To Form Garage, Playroom, Bedroom	Approved	19.05.1983
85/P1055	Remove Part Of Thatched Roof And Replace With Asbestos Slate To Match Existing	Approved	03.09.1985
04/P2173	French Windows To Replace Two Existing Windows	Approved	04.10.2004
05/2878/COU	Extension of domestic garden curtilage and erection of detached building for garaging, workshop, potting with loft above	Refused	01.12.2005
05/2942/LBC	Convert integral garage into kitchen with casement window & French casement doors	Approved	02.12.2005
05/3380/FUL	Garage and workshop with storage above and extension to garden curtilage	Approved	06.02.2006
16/1875/FUL	Change of use of agricultural land to garden land, alteration of existing field gateway and construction of access track and turning heads, existing vehicular access closed to form pedestrian access	Refusal	09.09.2016

### **POLICIES**

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

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

D1 (Design and Local Distinctiveness)

TC7 (Adequacy of Road Network and Site Access)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

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

The site lies approximately 0.9 km south of the settlement of Dalwood, outside of any Built Up Area Boundary and thus it is in open countryside in planning terms. It also lies within the AONB. The site for the proposed new access lies opposite Sunnylands Cross and to the north of the application dwelling, Rivendell, which is located alongside the road between Studhayes Cross to Sunnylands Cross. Rivendell is a Grade II listed building. The area of the site for the proposed new access is at the south-western edge of an agricultural field which is bounded by hedges and trees and is located within a wider countryside setting. This part of the site is currently laid to grass. The field is currently accessed from the highway via a wooden 5 bar gate. The ground slopes slightly down from this entrance point across the field and there is currently no surfaced track leading off from the highway through the field. It was noted at the site visit that the existing field gate is narrower than the proposed new (double) gate, and that the proposed new gate would be wider than the existing gated entrance to the south of Rivendell. From some viewpoints on the public highway, a view along the proposed new access route would be obtained, though the visibility of more distant parts of the track would depend on its construction. The new access and the listed building can be seen within the same view.

The existing access to the Rivendell lies to the southwest of the dwelling. The access is gated with a painted 5 bar gate hung between 2 brick piers, with rubble walling approximately 1.1 m high either side of the piers. The ground to the front of the dwelling, as viewed through the existing access opening, consists largely of a gravelled driveway. An access opening would have to be cut through the dwelling's northern boundary hedge to gain access to the residential curtilage from the field to the north, though this opening would not be prominent from various public viewpoints as it would be screened by the dwelling, vegetation and it is obliquely orientated in relation to viewpoints.

## Proposal

It is proposed to construct approximately 54m of new access track and a turning head on agricultural land to serve the dwelling known as Rivendell, converting this area to residential curtilage. The track would run southwest from its junction with the highway alongside an existing hedge which bounds the garden. The track would be surfaced with permeable crushed stone in the wheel tracks, with grass allowed to grow between and the turning area at its south-eastern end would have a crushed stone finish over its entire surface. The track would be separated from the field by a post and wire fence. A gap would be created in the hedge to the northeast of Rivendell to link the track to the existing residential curtilage. It is confirmed in the application that no ground engineering works to raise or lower ground would be required to join the track to the garden level.

The gap where the access meets the highway would be extended to 6m wide (compared to an estimated existing width of 4.5m) and part of the existing hedge would be removed. Two five bar gates would be installed to replace the existing single gate.

It is also proposed to block up the existing vehicular access to the south of Rivendell to make it a pedestrian entrance, by demolishing an existing brick pier, constructing a new brick one, erecting an additional length of wall and installing a new pedestrian gate.

The reason given for the proposal is to provide a vehicular entrance with better visibility than the existing access. The application states that the reduction in width of the existing vehicular access to Rivendell from a pedestrian access would be an enhancement and that the existing drive within the residential curtilage could be replaced with a pedestrian path and cultivated garden area.

A previous application for a similar proposal was refused in September 2016 (16/1875/FUL) for the following reasons:

1. The site forms part of an agricultural field in the countryside and within the East Devon Area of Outstanding Natural Beauty where conservation and enhancement of its natural beauty is given priority above other considerations. In this instance it is considered that no overriding justification has been provided to outweigh the identified environmental harm and the change of use of agricultural land to domestic use would result in the domestication of the land with resulting harm to its agricultural character and appearance and would fail to conserve or enhance the character and appearance of the Area of Outstanding Natural Beauty and would harm the setting of the listed building. Consequently, the proposal is considered to be contrary to Strategies 7 – Development in the Countryside and 46 - Landscape Conservation and Enhancement and AONBs, and Policies D1 - Design and Local Distinctiveness and Policy EN8 - Significance of Heritage Assets and their Setting of the Adopted New East Devon Local Plan.

2. Inadequate information has been provided in order to assess what material impact the new access would have upon the setting of the listed dwelling

house particularly given the change in level between the field and residential curtilage. Consequently, the proposal is considered to be contrary to Strategy 7 - Development in the Countryside and Policies D1 - Design and Local Distinctiveness and Policy EN8 - Significance of Heritage Assets and their Setting of the Adopted New East Devon Local Plan.

## **ANALYSIS**

The key issues arising in connection with this application include the principle of the development, the impact on the AONB landscape, the impact on the setting of a Listed Building and highway safety.

### **Principle**

Strategy 7 (Development in the Countryside) of the Adopted New East Devon Local Plan states that development will only be permitted where in accordance with a specific Local Plan policy (or Neighbourhood Plan) that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it would be located. There is no policy support for the proposal and it has been advertised as a departure.

### **Impact on landscape and the AONB**

There are public views into the site of the new access from the public highway through the existing access gap. The wider entrance gap created by the removal of a 1.5m section of hedge, the installation of double gates and the creation of a partially stoned surface adjacent to the gates would be clearly visible from the highway and would appear out of character with the existing area. In addition, the track way and the surfaced parking/turning area would appear domestic and out of keeping with the existing rural character and appearance of the area. The proposal is therefore considered to fail to conserve or enhance the AONB as required by Strategy 46 of the adopted East Devon Local Plan.

### **Impact on the setting of the Listed Building**

Investigation of the planning history of the cottage and the land surrounding it indicates that the original curtilage of the cottage has already been extended compared to its historic extent. It is considered that this has had a detracting impact on the setting of the listed building. The conservation officer's view is noted, i.e. that the creation of the track, which would be visible from the lane in glimpsed views through the wider access proposed, would further compromise the rural setting of the cottage despite changes made to the proposal since the last application was made. Although she raises no objection to the alterations to the existing access to the south of Rivendell she does not consider that the changes brought about to the entrance would be sufficient enhancement to outweigh the harm (even if this is less than substantial) caused by further encroachment onto adjacent agricultural land outside of the heritage group. Neither does she consider that changes within the garden, such as landscape planting over the existing driveway area, can be accepted as proposed enhancement as these changes would be within a domestic garden and thus could be difficult to control in the long term. Taking into account the

conservation officer's advice, and the fact that retention of landscaping within the garden could not be secured for through a planning condition for a period of more than 5 years, it is considered that the proposed new access would have an adverse impact on the setting of the listed building which is not justified in terms of the enhancement offered by the changes to the existing entrance and driveway area. In light of this, and in light of the need to give special regard to preserving or enhancing the setting of the listed building, and in light of any public benefits that outweigh the harm, the proposal is recommended for approval as being contrary to Policy EN9 and the guidance within the NPPF.

### Highway Safety

It is noted that the application indicates the new access would have advantages in terms of providing better visibility and assisting with manoeuvring in and out of the site. A supporter has similarly cited these benefits. The application has been considered by Highway Authority who have advised the application should be assessed against standing advice, to which the proposal would be compliant with as it has sufficient visibility in both directions.

### Other issues

The proposal would not adversely impact upon neighbouring residential properties. With regard to trees, although a section of hedgerow would be lost, the tree officer raised no objection to the gate widening and loss of hedge proposed under the previous application 16/1875/FUL, which affected a similar area of roadside vegetation. The turning/parking area to the southeast is close to the canopy of mature trees and if permission were to be granted a condition should be imposed to require a tree protection plan and arboricultural method statement to ensure that high quality trees would be protected.

### Conclusion

No highway concerns are raised by the new access and whilst it is acknowledged that the provision of the proposed private access would be beneficial for the applicant is not considered essential in the public interest in relation to highway safety.

The new access would fail to conserve and enhance the landscape of the Area of Outstanding Natural Beauty and would have an adverse impact on the setting of the listed building, which has already been compromised by changes and development around it. Although there would be some enhancement to the setting of the listed building associated with the proposed changes to the vehicular access to the south of it, this is not considered to be sufficient to outweigh the environmental harms and on balance, the development is not considered to be sustainable development.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The site forms part of an agricultural field in the countryside within the East Devon Area of Outstanding Natural Beauty where conservation and enhancement of the natural beauty of the area is given priority above other considerations. In this instance it is considered that a widened field access with double gates together with the creation of a new track and surfaced parking/turning area would appear domestic, out of character and out of keeping with the existing rural character and appearance of the area and that it would consequently fail to conserve or enhance the Area of Outstanding Natural Beauty. In the absence of overriding justification to outweigh that identified environmental harm the proposal is considered to be contrary to Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs), and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.
2. The proposed development by reason of its visual impact and location outside of the curtilage of the dwelling would harm the setting of the Grade II listed Rivendall. In the absence of any public benefits that outweigh the harm, the proposal is contrary to Policy EN9 (Development Affecting a Designated Heritage Asset) of the East Devon Local Plan and the guidance within the NPPF.

### Plans relating to this application:

	Location Plan	01.11.16
TW16/48/1 A	Proposed Site Plan	31.10.16

### List of Background Papers

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

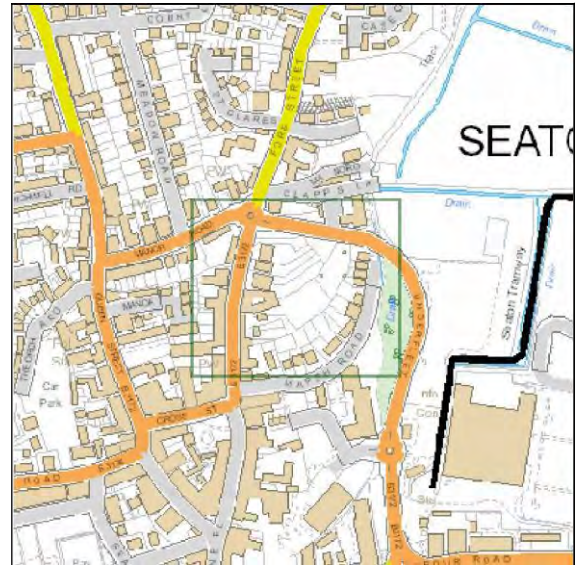
**Ward** Seaton

**Reference** 16/2438/VAR &  
16/2664/VAR

**Applicant** Cavanna Homes (Devon) Limited

**Location** Land Rear Of 39 Fore Street  
Seaton EX12 2AD

**Proposal** Variation of planning condition 2 of  
14/1960/MRES to facilitate alteration  
to the external appearance and  
Variation of planning condition 15 of  
13/1196/VAR to facilitate alterations  
to the layout



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Seaton (SEATON)</b>	<b>16/2438/VAR</b>	<b>Target Date: 07.02.2017</b>
<b>Applicant:</b>	<b>Cavanna Homes (Devon) Limited</b>	
<b>Location:</b>	<b>Land To Rear Of 39 Fore Street Seaton</b>	
<b>Proposals:</b>	<b>16/2438/VAR: Variation of planning condition 2 of 14/1960/MRES (Erection of 13 no. dwellings, access road, parking and turning access, appearance, landscaping and scale to be considered), to facilitate alteration to the external appearance.</b>	

**RECOMMENDATIONS: 16/2438/VAR - Approval with conditions**

		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Seaton (SEATON)</b>	<b>16/2664/VAR</b>	<b>Target Date: 07.02.2017</b>
<b>Applicant:</b>	<b>Cavanna Homes (Devon) Limited</b>	
<b>Location:</b>	<b>Land To Rear Of 39 Fore Street Seaton</b>	
<b>Proposals:</b>	<b>16/2664/VAR: Variation of planning condition 15 of 13/1196/VAR (construction of 13 no. dwellings, access road, parking and turning areas and cycle track) to facilitate alterations to the layout.</b>	

**RECOMMENDATIONS: 16/2664/VAR - Approval with conditions**

### **EXECUTIVE SUMMARY**

**These applications are before Members as the officer recommendation differs from the views of the Town Council.**



The applications relate to a narrow linear site that runs to the rear of properties fronting Fore Street to the west and curves in a north-westerly direction to The Underfleet to the north, from which it is intended to access the site. The site is currently undeveloped and largely laid to lawn with some areas of low level planting and some trees adjacent to the northwest site boundary. The south-western part of the site lies within the town's conservation area.

Outline planning permission was originally granted to develop the site in 2009 this was for the redevelopment of the site for 13 dwellings and associated works. Matters of Access and Layout were approved at the time with matters of scale, external appearance and landscaping of the site reserved. The outline application was subsequently renewed in 2012 and in 2013 a variation to that permission for an alternative layout approved. In 2014 application was made for reserved matters approval and relevant pre-commencement conditions have subsequently been discharged. The applicants have submitted evidence to indicate that material operations sufficient to represent a commencement of development have been carried out within the time period for commencement and as such the application remains extant and capable of being completed.

The current applications (both 16/2438/VAR and 16/2664/VAR) relate to proposed amendments to the approved scheme, comprising of the outline and reserved matters approvals. Application 16/2438/VAR seeks to facilitate alterations to the external appearance of the approved dwellings, with application 16/2664/VAR looking to vary the layout to facilitate alterations and as a result minor changes to the landscaping. The scale of the development and access details are unchanged from that previously approved. The changes to the approved development are considered to be relatively minor in the context of the overall scheme and both applications are recommended for approval subject to the conditions set out below.

## **CONSULTATIONS**

The consultation responses received are common to both applications

### **Local Consultations**

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

27/01/17 - Members were unable to support the application as they felt the amended plans had not marginally changed from the original plans first submitted. Members object to these amended plans. They remain concerned that the traffic assessment is based on the original application which was submitted before the completion of Seaton Jurassic and before permission had been given to the recent development of Premier Inn, and is therefore out of date. They remain concerned about the implications a further exit onto the Underfleet would cause to the considerable increase and movement of traffic. Members wanted the proposed access on the Underfleet reappraised in the light of the increase in traffic which access the Underfleet at a point where oncoming traffic cannot be seen approaching from the right until they are by the access. This has the potential to cause accidents and should be seriously considered when deciding upon this application. The current

application does not therefore comply with TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031.

Members were concerned to note that the site boundary had changed from the previous application and would like clarification concerning this from the district council. The proposals do not clearly show which trees will be retained and which ones will be removed. The paperwork submitted with these amended plans do not clearly show the amendments made to the landscaping and external works and Members would like clarification on what planting is to be retained. They noted that no mention had been made of any tree protection measures to be implemented during the construction of the proposal. Members would like to see any trees which had to be removed during construction of the proposed development replaced with ones' native to Britain and a landscaping scheme put in place.

Members have noted the Landscape Architects comments dated 16th January 2017 and concur with them that currently the application is contrary to Policy D1 (Design and Local Distinctiveness), Policy D7 (Landscape Requirements) and Policy D3 (Trees and Development Sites) of the Adopted East Devon Local Plan 2013-2031.

### **Technical Consultations**

#### EDDC Trees

03/01/17 - Within this variation I have noted that there has been increased excavation of the ground level within the RPA of trees owned by the neighbours which is unacceptable and not within the recommendations of BS5837:2012 particularly for the parking for unit 1 and the patio area of unit 3.

16/01/17 - I agree with Aspect tree Consultancy that if the bank is removed the tree will also have to be removed due to root severance, the tree is in a neighbours garden and off site, however an offer of replacement planting either side of the new entrance to the application site with two trees that will grow to give substantial amenity value and effect would be acceptable to off sett the loss of the tree. Authority and agreement from the tree owner would also have to be obtained prior to the removal. Subject to this my objection would be cleared.

#### County Highway Authority

17/11/16 - Does not wish to comment

#### Devon County Archaeologist

18/11/16 - I refer to the above application and your recent consultation. A programme of archaeological work has been undertaken on this site under application 13/1196/VAR Condition 8.

No further archaeological mitigation is required for this development site and, as such, the Historic Environment Team has no comments to make on this planning application.

## Other Representations

One letter has been received raising concerns regarding the lack of security from the introduction of boundary fencing within the site, need for fencing of all public areas and raising concerns regarding increased access through the site.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
09/0580/MOUT	Residential development of land to include 13 dwellings, access road, parking and turning areas and cycle track.	Approval with conditions	24.06.2009
12/0492/MOUT	Renewal of extant planning permission 09/0580/MOUT for residential development of land to include 13 dwellings, access road, parking and turning areas and cycle track.	Approval with conditions	16.05.2012
13/1196/VAR	Construction of 13no dwellings, access road, parking and turning areas and cycle track (variation of conditions on application 12/0492/MOUT)	Approval with conditions	11.07.2013
14/1960/MRES	Reserved matters application for the erection of 13 no. dwellings, access road, parking and turning areas, appearance, landscaping and scale to be considered	Approval with conditions	13.11.2014

## **POLICIES**

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

Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 25 (Development at Seaton)

Strategy 43 (Open Space Standards)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### **Proposed development**

The current applications seek to agree variations to the development approved under outline and reserved matters approvals for the site. The outline application approved under 12/0492/MOUT, as previously varied under 13/1196/VAR, approved details of access and layout with matters of landscaping, scale and external appearance being approved under the subsequent reserved matters approval, 14/1960/MRES. As both the outline and reserved matters approvals are affected by the changes now proposed separate applications are required to vary these. However, as the changes affect matters relating to both applications this report covers both. The applications seek the following:

16/2438/VAR - Variation of planning condition 2 of 14/1960/MRES (Erection of 13 no. dwellings, access road, parking and turning access, appearance, landscaping and scale to be considered), to facilitate alteration to the external appearance of the approved dwellings.

16/2664/VAR - Variation of planning condition 15 of 13/1196/VAR (construction of 13 no. dwellings, access road, parking and turning areas and cycle track) to facilitate alterations to the layout to allow amended plot positions, car parking and landscaping.

The proposal includes minor variations to the site boundary which are a result of more accurate surveys of the land, these changes do not in themselves affect the ability to deliver the approved or proposed development.

### **Background**

Outline planning permission was originally granted in 2009 for the redevelopment of the site for, "Residential development of land to include 13 dwellings, access road,

parking and turning areas and cycle track" in 2009 (09/0580/MOUT). Matters of Access and Layout were approved at the time with matters of scale, external appearance and landscaping of the site reserved. This application was renewed in 2012 (12/0492/MOUT) and subsequently a variation to that permission was granted in 2013 (13/1196/VAR refers) for an alternative layout to that approved. In 2014 application was made for reserved matters relating to the outline permission (14/1960/MRES). The date by which the development was required to have commenced was 2 years from the date of approval of the last of the reserved matters to be approved, the relevant date being 13<sup>th</sup> November 2016. The applicants have submitted evidence to indicate that material operations sufficient to represent a commencement of development were carried out prior to the relevant date and as such the application remains extant and capable of being completed.

### **Site location and description**

The application site relates to a large back land plot to the rear of Fore Street and between it and The Underfleet, which lies to the north. The site is currently accessed from a private drive to the north side of No. 39 Fore Street, this leads past the house and a series of existing extensions/outbuildings associated with this property before widening out to encompass a large primarily lawned garden area encompassing land to the rear of neighbouring properties to the south and to the northwest of those in Marsh Road. In total the site area measures approx. 2.8 ha. The main part of the site slopes down from west to east with a further cross slope from north to south. The side boundaries are formed by hedgerows but with some sections of stone walling and fencing. The site terminates in a stone boundary wall at its northern end, the other side of which is the pavement running alongside The Underfleet. The site lies within the built-up area boundary of the town and the Town Centre Conservation Area and in an area predominantly residential in character.

### **ANALYSIS**

As the principle of developing the site for the number and type of residential units proposed has previously been established under the earlier applications and a commencement has been undertaken to implement these, the principle of the development is not revisited. It is considered the main issues in the determination of the application relates to the changes from the previously approved applications and the effect of these on the matters below.

- Design and Impact on the surrounding Conservation Area
- Impact on Trees of Amenity Value
- Impact on neighbouring amenity
- Other Issues

### **Design and Impact on the surrounding Conservation Area**

The changes from the approved development are set out below:

Layout – In general the layout is reflective of that previously approved with development either side of the spine road at the wider, south-western end of the site and only to the northwest side of the road at the narrower north-eastern end. The

layout remains for the same mix of detached and semi-detached properties as approved but with the design of some units amended (see below). Detached garage blocks are introduced between plots 4 and 5 & 6 and 7. In addition, unit 7 has been re-orientated to face directly onto the access road, as opposed to being angled slightly away from it as was previously the case. The layout has in some instances resulted in changes to the approved landscaping scheme also and this is discussed below.

**External Appearance** – The scheme proposes a mix of detached and semi-detached units finished mainly in render with some brick detailing but with the unit closest to the entrance finished in brickwork and all under slate tile roofs. Aside from the change in house types and the slight enlargement of certain units overall the appearance of the individual units is similar to that previously approved with changes largely relating to fenestration. The units which are altered most significantly are those on plots 4 and 7 where approved double fronted units have been altered to a simpler single bay unit design. Whilst the design of these units is less traditional and more suburban in design they are considered to be acceptable in themselves. The garages that have been introduced are simple double blocks with a rendered finish under a slate tile roof, whilst they narrow the gap between the units at ground floor level they are set back to the rear of the units and in wider views of the site the same sense of space around and between buildings would be maintained.

**Landscaping** – Some changes to the approved landscaping scheme are proposed to take account of the revised site layout, however, the concepts of a stone wall framing the site entrance and strengthening of the planting to the northern part of the western boundary are maintained.

### **Impact on Trees of Amenity Value**

The proposed changes to the layout and landscaping would result in excavations deeper into the bank at the rear of unit 3. On the other side of the site boundary is a mature Monterey Cypress tree categorized as B quality. The proposed works would be within the Root Protection Area of this tree. The tree whilst having some wider amenity value is in a poor condition, accelerated by recent storm damage and has a structural defect limiting its longevity. Whilst its removal and replacement is considered appropriate it does lie within the conservation area and as such is protected. The proposed revised landscaping scheme indicates compensatory planting with a new tree either side of the site access and additional replacement planting within the neighbour's garden (this will require agreement with the neighbour). Given that no other trees on or adjoining the site are considered to be worthy of retention, were indicated for removal under the previous layout and that the revised landscaping plan makes provision for new tree planting the proposal is considered to be acceptable in this respect.

### **Impact on neighbouring amenity**

As the layout, scale and position of units does not in general change from the previous approval nor does the impact on the amenity of neighbouring occupiers. The only area where some additional impact could result is through the slight re-orientation of the unit closest to the entrance which is now positioned to offer a view

more directly over the gardens of adjoining property although not directly facing the rear elevation of these units. However, additional soft landscape planting is proposed to the boundary to supplement the existing fencing and the internal first floor unit of the proposed unit shows the closest windows to serve a bathroom and landing area, with only the window furthest from the neighbour serving a bedroom. As such overall the impact is considered to be acceptable.

### **Other Issues**

The Council's landscape officer has provided detailed comments in relation to the revised proposals. The applicant has taken these comments on board and amended the plant species and frontage wall design as well as clarifying trees proposed for retention and tree protection measures. The landscaping scheme as proposed other than the addition of replacement tree planting would not differ significantly at least in the public areas of the site from that previously approved under the previous reserved matters application.

The Town Council and a local resident have raised concerns over the impact of the additional traffic generated by the development onto the Underfleet. The Town Council has suggested an up to date transport assessment should be carried out which takes into account the increase in traffic on the Underfleet since the opening of Seaton Jurassic and other developments served by the Underfleet, as well as the position of the access on a bend. Whilst the concerns of the Town Council are noted it has to be recognised that the proposals relate to changes to the layout and appearance of an approved scheme and where there is evidence a commencement has been made, as such the developers could continue to build out the approved scheme without any further consent. The changes proposed do not alter the approved access to the site or the number, or type, of units proposed and therefore there is no reason to consider that the traffic implications would be any different. It should also be noted that no similar concerns or requirements have been raised by the highways authority.

In relation to the site area there have been some minor changes to the site boundary as a result of the physical boundaries being more accurately drawn and surveyed, these changes are minor in nature and do not in themselves affect the layout of the site or the development proposed.

There was no S.106 application on the previous permission and which has been implemented and as such there is no requirement to vary the terms of any legal agreement. However, the additional area of floorspace resulting from the proposed changes will be liable for CIL.

### **RECOMMENDATIONS**

#### **A) 16/2664/VAR:**

**APPROVE subject to the following conditions:**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of the grant of permission to application 12/0492/MOUT approved on 16th May 2012.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).

2. Approval of the details of Appearance, Landscaping and Scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
3. Development shall be carried out in accordance with the details submitted to discharge condition 6 of planning application 13/1196/VAR, as approved under discharge of condition notice dated 13<sup>th</sup> November 2014 insofar as the same relate to treatments for the visibility splays, site access, internal access road and turning areas and for the disposal of surface water so that none drains on to any County Highway, unless any variation to the approved details has previously been agreed in writing with the Local Planning Authority. No other part of the development shall commence until these features are provided and laid out in accordance with the approved details and these features shall be retained and kept available for those purposes at all times.  
(Reason - To ensure that adequate facilities and a satisfactory access is available for the traffic attracted to the site and to prevent damage/disruption to the highway in accordance with Policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031.)
4. Development shall proceed in accordance with the Method of Construction Statement details approved under discharge of condition notice dated 13<sup>th</sup> November 2014 in respect of condition No. 7 of application 13/1196/VAR, unless any alternative has previously been submitted to and approved in writing by the Local Planning Authority.  
(Reason - To ensure the free flow of traffic on the highway in accordance with Strategy 6 (Development within Built-Up Area Boundaries) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)
5. Should any contamination of soil and/or groundwater be discovered during development of the site, the Contaminated Land Officer of the Local Planning Authority and the Environment Agency should be contacted immediately. Site activities shall be temporarily suspended until such time as a procedure for addressing such contamination is submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the agreed details.  
(Reason - To ensure that any contamination existing and exposed during the development is identified and remediated and in accordance with Policy EN16 (Contaminated Land) of the East Devon Local Plan 2013-2031)
6. No works for the construction of the development hereby permitted shall be undertaken on Sundays or Public Holidays. On other days no construction



work shall be undertaken outside of the following hours: 8am - 6pm Mondays to Fridays inclusive and 8am - 1pm on Saturdays.

(Reason - To protect adjoining occupiers from excessive noise and in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

7. The approved landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area and in accordance with Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031.)
8. 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) no works shall be undertaken within Schedule 2 Part 1 Classes A, B, C, D or E for the enlargement, improvement or other alterations to the dwellings hereby permitted (other than works that do not materially affect the external appearance of the buildings) or for the provision within the curtilage of any building or enclosure, swimming or other pool.  
(Reason - The space available would not permit such additions without detriment to the character and appearance of the site and Conservation Area or to the amenities of adjoining occupiers and in accordance with Strategy 6 (Development within Built-Up Area Boundaries) and Policies D1 (Design and Local Distinctiveness) and EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031)
9. 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) no works shall be undertaken within Schedule 2 Part 2 Class A, for the erection of any fences, gates or walls.  
(Reason - To retain the open character of the communal areas of the site and to ensure the future use of appropriate and sympathetic boundary treatments and in accordance with Strategy 6 (Development within Built-Up Area Boundaries) and Policies D1 (Design and Local Distinctiveness) and EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031)
10. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the 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:

04077TCP 18.9.2013	Arboriculturist Report	16.12.16
16003 L 00.01	Location Plan	07.11.16
16003 - BN02	Proposed Combined Plans	07.11.16
16003 - BN04	Proposed Elevation	07.11.16
16003 - EAS 02	Proposed Combined Plans	07.11.16
16003 - EAS 04	Proposed Elevation	07.11.16
16003 - LOD 02	Proposed Combined Plans	07.11.16
16003 - LOD 04	Proposed Combined Plans	07.11.16
16003 - RN 02	Proposed Combined Plans	07.11.16
16003 - RN 04	Proposed Elevation	07.11.16
16003 - SE 01	Proposed Elevation	07.11.16
16003 - SE 02	Proposed Elevation	07.11.16
EW_02 : EXTERNAL WORKS DETAILS	Other Plans	07.11.16
PA_01 : PARKING ALLOCATI ON PLAN	Other Plans	07.11.16
13486-SK002 D : ALIGNMEN T	Other Plans	07.11.16
C13486-SK003 E	Other Plans	07.11.16

:  
FOUL+WAT  
ER DRAI

EW_01 B : EXTERNAL WORKS	Amended Plans	19.01.17
EW_03 : BOUNDAR Y TREATMEN TS	Additional Information	19.01.17
6407-L-01 REV I : SHEET 2 OF 2	Amended Plans	31.01.17
6407-L-02 REV I : SHEET 1 OF 2	Amended Plans	31.01.17

**B) 16/2438/VAR**

**APPROVE subject to the following conditions:**

APPROVE subject to the following conditions:

1. East Devon District Council as Local Planning Authority HEREBY APPROVE THE FOLLOWING RESERVED MATTERS of the above described development proposed in the application numbered as shown above and in the plans and drawings attached thereto, copies of which are attached to this notice relating to:-

- (a) Scale
- (c) External Appearance
- (d) Landscaping

This Reserved Matters application numbered as shown above is made pursuant to the Outline Planning Permission 12/0492/MOUT approved 16.05.2013 as varied by applications 13/1196/VAR approved 11.07.2014 and application 16/2664/VAR approved XXXXXXXXXXXX

The following reserved matters have yet to be approved:

None

The following Conditions attached to Planning Permission ref 16/2664/VAR referred to above are discharged:

1, 2

The following Conditions attached to the Outline Planning Permission ref. 16/2664/VAR are compliance conditions:

3, 4, 5, 6, 7, 8, 9 & 10

The following additional conditions are attached to this reserved matters approval.

1. 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) any first floor windows to be installed on the (southeast) side elevation of plot no. 12, as indicated on drawing nos. 16003 RN 04 and 16003 RN 02, shall be fitted with obscure glazing and be non-opening below a height of 1.7 metres below the internal floor height of the room which they serve and shall be permanently maintained as such.

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

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)

NOTE FOR APPLICANT

Informative:

In accordance with the 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:

BN 02	Proposed Combined Plans	12.10.16
BN 04	Proposed Elevation	12.10.16
EAS 02	Proposed Combined Plans	12.10.16
EAS 04	Proposed Elevation	12.10.16
RN 02	Proposed Combined Plans	12.10.16
LOD 02	Proposed Combined Plans	12.10.16
LOD 04	Proposed Elevation	12.10.16
RN 04	Proposed Elevation	12.10.16
SE 01	Proposed Elevation	12.10.16
SE 02	Proposed Elevation	12.10.16
16003 L 00.01	Location Plan	12.10.16
FIN_01 :	Other Plans	12.10.16
FINISHES+ PARKING SCHEDU		
EW_03 :	Additional Information	19.01.17
BOUNDAR Y TREATMEN TS PLAN		

16003-GAR04	Additional Information	16.12.16
EW-02A WALLS+FE NCES	Other Plans	16.12.16
16003-GAR02	Additional Information	16.12.16
EW_01 B : EXTERNAL WORKS	Amended Plans	19.01.17
6407-L-01 REV I : SHEET 2 OF 2	Amended Plans	31.01.17
6407-L-02 REV I : SHEET 1 OF 2	Amended Plans	31.01.17

List of Background Papers

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

**Ward** Seaton

**Reference** 16/2728/FUL

**Applicant** Mrs R Davey

**Location** Conifers 2 Wessiters Seaton EX12 2PJ

**Proposal** Single storey side extension and alterations



**RECOMMENDATION: Approval of Non-Material Amendment**

Crown Copyright and database rights 2017 Ordnance Survey 100023746



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Seaton (SEATON)</b>	<b>16/2728/FUL</b>	<b>Target Date: 02 March 2017</b>
<b>Applicant:</b>	<b>Mrs R Davey</b>	
<b>Location:</b>	<b>Conifers 2 Wessiters</b>	
<b>Proposal:</b>	<b>Non-material amendment to application 14/1768/FUL (Single storey side extension and alterations) to provide a render rather than stone finish.</b>	

**RECOMMENDATION: Approval**

#### **EXECUTIVE SUMMARY**

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

**The proposal is for a non-material amendment to replace the previously approved matching stone finish to the extension with a rendered finish.**

**The application has been submitted as the applicant has failed to source a stone that suitably matches the existing house and as such is proposing a render finish to match the render finish elsewhere on the main dwelling.**

**A rendered finish would result in an acceptable visual impact, would not be out of character with the main dwelling and would not cause harm to the amenity of adjoining residents.**

#### **CONSULTATION**

As the application is for a non-material amendment there is no need for any consultation.

#### **ANALYSIS**

Members will recall an application from a member of staff at this home in Seaton for a single storey side extension and alterations which was approved at the January 2017 committee. No objections were received for this application either from consultees or the occupants of neighbouring homes.

An application has been received for a non-material amendment to change the proposed materials for the extension from matching stone to a render finish. It has



proved difficult to obtain materials that would match the existing; a render finish has been proposed as this would match the render of other existing parts of the dwellinghouse.

Officers consider that the proposal can be considered as a non-material amendment as the proposal is acceptable and would not prejudice third parties or statutory consultees. There is no change to the height or footprint of the extension that is not highly visible from adjoining properties or the public realm.

## **RECOMMENDATION**

APPROVE

Plans relating to this application for a non-material amendment:

Originally approved Plans:

C0520-P2	Proposed Elevation	15.11.16
C0520-P3	Proposed Elevation	15.11.16

Non-material amendment plans

C0520-P2 Rev A	Proposed Elevation	01.02.2017
C0520-P3 Rev A	Proposed Elevation	01.02.2017

List of Background Papers

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

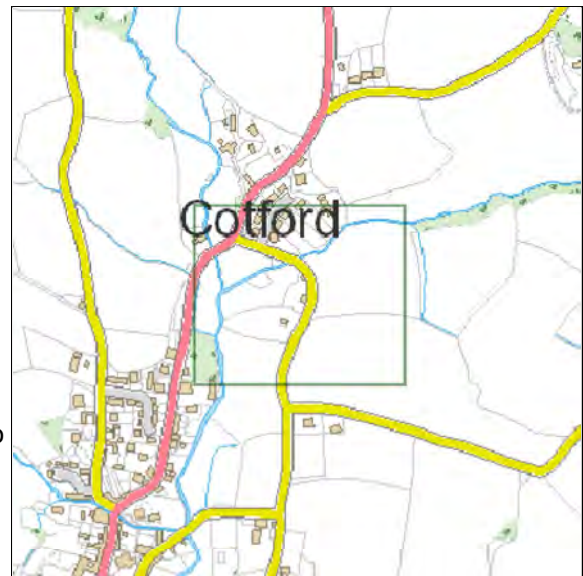
**Ward** Sidmouth Rural

**Reference** 16/2573/FUL

**Applicant** Mr Edward Willis Fleming

**Location** Harts Mead Buckley Road Sidbury Sidmouth  
EX10 0SL

**Proposal** Change of use and construction of extension to  
garage/outbuilding to create holiday let  
accommodation.



**RECOMMENDATION: Refusal**



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Sidmouth Rural (SIDMOUTH)</b>	<b>16/2573/FUL</b>	<b>Target Date: 26.01.2017</b>
<b>Applicant:</b>	<b>Mr Edward Willis Fleming</b>	
<b>Location:</b>	<b>Harts Mead Buckley Road</b>	
<b>Proposal:</b>	<b>Change of use and construction of extension to garage/outbuilding to create holiday let accommodation.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members because the officer recommendation differs from the view of the Ward Member. The proposal is for the enlargement of a garage/outbuilding to provide a holiday letting unit over the retained garage.**

**The site is outside the built-up area of Sidbury and is in the East Devon AONB. It is situated close to the Roncombe Stream and is in flood zones 2 and 3.**

**While there is some policy support for the conversion of rural buildings to holiday accommodation, such conversions must be sympathetic to the character and appearance of the area, especially in the AONB. This proposal would enlarge the building and change its character and appearance from an ancillary outbuilding to a principle building in its own right. By virtue of the scale and appearance of the enlarged building, it would no longer appear ancillary to Harts Mead and would therefore erode the unsettled and tranquil character which defines this part of the AONB.**

**The location of the site in a flood zone is not compatible with the enlargement of the building to provide holiday accommodation. While the accommodation would all be at first floor and the applicant has given assurances about escape routes in the event of a flood, these do not outweigh the well established principle that development should be directed to areas at the lowest risk of flooding. This proposal fails the sequential test.**

**Because of the adverse impact on the AONB, the protection of which is afforded great weight, and the location of the development in a flood zone, the proposal is recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Sidmouth Rural - Cllr D Barratt**

19/12/16

I support this application.

(should this matter come to DMC I would reserve my position until in full possession of all facts both for and against)

07/02/17

Further Comments

I confirm that I continue to support this application. I suggest that the location is acceptable, set at a little distance from the main house and at a lower level. I consider that any concerns regarding the use of the unit can be overcome by conditions with regard to a tie to the main house and restrictions on any letting periods.

My understanding is that this application is to come to committee.

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

Support subject to a tie to the main dwelling.

Note: Members were of the view that if the Local Planning Authority continues to have concerns with the prospect of the proposal becoming an independent dwelling in the open countryside, that it should explore other means of controlling this and suggested that a condition could be made limiting the rental time to a specific number of weeks per occupant.

#### **Other Representations**

Two representations were received raising concern about the increase in traffic on "a very dangerous bend" on Buckley Road by the entrance to the site.

### **Technical Consultations**

#### **County Highway Authority**

Does not wish to comment

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
02/P1369	Replacement Garage With Store Room Over	Approval with conditions	09.09.2002
14/2554/FUL	Construction of dormer window within roof of ancillary garage/outbuilding to facilitate use as bedroom with ensuite.	Approval - standard time limit	09.12.2014

16/0252/FUL	Construction of extension to garage/outbuilding to create additional ancillary accommodation to main dwelling.	Refusal as considered to represent an independent dwelling in the countryside, visual impact on the AONB, location with flood zone and lack of habitat mitigation contribution.	28.06.2016
-------------	--	---	------------

## **POLICIES**

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

Strategy 7 (Development in the Countryside)

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

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

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

E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities)

EN9 (Development Affecting a Designated Heritage Asset)

EN21 (River and Coastal Flooding)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

NPPG (National Planning practice Guidance)

## **Site Location and Description**

Harts Mead is located within the countryside to the north of Sidbury within the AONB. Harts Mead itself is a Grade II listed building with a detached outbuilding. The planning application relates to this outbuilding that benefits from planning permission to be used as accommodation ancillary to the main house.

## **Proposal**

The application seeks the first floor extension to the existing outbuilding and conversion of the subsequent building to holiday accommodation above the retained garage.

A similar application was refused in 2016 but in that case the extension was slightly larger and the living accommodation was to remain ancillary to the house rather than be used as a holiday let. There were four reasons for refusal: (i) the proposal was tantamount to a new dwelling in a location where the occupants would rely on a car for day-to-day needs; (ii) harm to the AONB arising from the scale of the extension and use of the building; (iii) the risk of flooding; and (iv) lack of mitigation for impacts on the protected Pebblebed Heaths.

The last reason is no longer relevant following the adoption of Community Infrastructure Levy.

The proposal now under consideration is for use as holiday accommodation rather than ancillary accommodation and therefore different policy considerations are relevant. With reference to the previous reasons for refusal, the effect on the AONB and the risk of flooding are still relevant matters.

## **ANALYSIS**

Having regard to national and local policies and guidance, the main issues in this case are:

- Whether the proposal would be compatible with the tourism and re-use of rural building policies of the Local Plan;
- Whether the extension and use of the building would conserve or enhance the AONB; and
- Whether the risk of flooding is compatible with the proposed use having regard to the requirements of the sequential test.

### **Policy considerations**

Policy E16 of the Local Plan permits the conversion or use of existing buildings in the countryside for small scale holiday accommodation uses subject to a number of criteria. The policy relates to the conversion of existing buildings and does not explicitly permit extensions to facilitate holiday use so strictly this proposal falls outside the scope of the policy. Nevertheless, for completeness, the criteria are listed and addressed below.

1. *The scale, level and intensity of development is compatible with the character of the surrounding area, including adjoining and nearby settlements.*
2. *The proposal does not harm the amenities enjoyed by the occupiers of neighbouring properties.*

3. *On-site servicing and parking facilities are provided commensurate with the level and intensity of the proposed use.*
4. *The proposal is accessible on foot, by bicycle and public transport and will not impair road safety or the free flow of traffic.*

In addition, there is a requirement that the building should be “*in close proximity to the main farm house or country house.*”

Assessment of the current application against these criteria is as follows.

1. In terms of the scale, level and intensity of development, being for only one unit of accommodation, the proposal would not be introducing a use which is more intensively occupied than the host dwelling or others in the locality.

2 & 3. The only neighbour would be the host dwelling, which would be sufficiently remote that the occupants would retain their privacy. There is also adequate parking space for the occupants of the holiday accommodation and the host dwelling.

4. The site is outside the built-up area for Sidbury and in a location where dwellings would not normally be permitted because the occupants would need to rely on a car for most journeys. In contrast to a full-time residential use, the nature of a holiday use is such that the occupants are likely to have more time and inclination to make journeys on foot or by bicycle from the site to local facilities. They may also be more inclined to walk into the village to catch a bus to Sidmouth or other destinations/attractions.

The shortest route into the village is about 650 metres but this would involve walking along a busy A road which does not have pavements for a considerable length. The alternative and more likely route is via Buckley Road and Church Street which is a distance of about 750 metres. Although the distance and unlit narrow lanes would not be conducive to day-to-day journeys associated with full-time residential occupation, a holiday-maker may well appreciate the walking and cycling opportunities. In the event that they do use a car, there would be no adverse effect on highway safety. For these reasons the proposal would be compatible with the fourth criterion of the policy.

The final requirement of the policy is that the building is in close proximity to the house. While there is a degree of separation between the building and the host dwelling, in terms of oversight and servicing of the holiday unit, it is sufficiently close to the main house to satisfy this requirement.

In spite of the general conformity with the criteria of policy E16, the need to extend the building to create the holiday unit means that the development is not strictly compliant with the policy. However, the Local Plan must be read as a whole and in this instance there is a further policy which is relevant to this proposal.

Policy D8 would permit a holiday use subject to a number of criteria:

1. *The new use is sympathetic to, and will enhance the rural setting and character of the building and surrounding area and is in a location which will*

*not substantively add to the need to travel by car or lead to a dispersal of activity or uses on such a scale as to prejudice village vitality.*

- 2. The building is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and any alterations protect or enhance the character of the building and its setting;*
- 3. The form, bulk and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials;*
- 4. The proposed use would not harm the countryside by way of traffic, parking, storage, pollution or the erection of associated structures;*
- 5. The proposal will not undermine the viability of an existing agricultural enterprise or require replacement buildings to fulfil a similar function.*

*For residential proposals it must be established that:*

- a) the building is no longer required for agricultural use or diversification purposes; and*
- b) that its conversion will enhance its setting - e.g. through removal of modern extensions and materials, outside storage, landscaping etc.*
- c) Development is located close to a range of accessible services and facilities to meet the everyday needs of residents*

Assessment of the current application against these criteria is as follows.

1. Holiday use would not be unsympathetic to the area but there would be no enhancement to the rural setting or character of the building as it is not currently detracting from the character and appearance of the area. By virtue of its scale, design and subservience to the main house, the building is currently an unobtrusive, modern and well-maintained building which is read as an ancillary structure to the host dwelling. For reasons described below, the proposed alterations would neither enhance nor maintain the rural setting and character of the building or surrounding area.

As discussed above, the location in relation to the village is considered acceptable if the use is limited to holiday use.

2. The building is structurally sound (owing to its modern construction) but is not currently large enough to create a self-contained holiday unit. Enlargement of the floorspace by one third is proposed in order to provide adequate space. For reasons set out in more detail below, this would adversely affect the character of the building and its setting.

3. This is considered below under 'Impact on AONB'.

4. The development of a single unit of accommodation is unlikely to harm the countryside by way of traffic, parking, storage, pollution or the erection of associated structures.

5. There is no agricultural enterprise to undermine by the loss of this ancillary accommodation and no indication that replacement ancillary accommodation would be required.



In respect of residential proposals (which include holiday accommodation):

- a. The building is not currently used for agriculture and the new use would not be a diversification of an existing rural business. It would, however, complement the applicant's other holiday let - 'The Piggery' - which was granted permission by the Development Management Committee in September 2013.
- b. the conversion and extension would not enhance the setting of the building by virtue of the excessive bulk and scale of the extension and because the building does not currently detract from the character and appearance of the area.
- c. As previously noted, the location in relation to services and facilities is considered acceptable if the use is limited to holiday use.

In summary, there are some conflicts with policy D8, again arising from the need to extend the building and the consequent effect on the character and appearance of the area. This is addressed in more detail below.

#### Impact on the AONB

The site is located in a part of the AONB which is classified as 'unsettled farmed valley floor' in the East Devon Landscape Character Assessment. Apart from the obvious areas of settlement at Sidbury (including Burnt Oak/Hillside and Cotford) and a small area at Harcombe Lane, this area is true to type and has little development around its rivers and streams. Leaving Sidbury/Cotford and the busy A375 and crossing the bridge over the Roncombe Stream there is a distinct change in character as the countryside opens up and development becomes much sparser. It is this general absence of development which provides the setting for Harts Mead and sets it apart from Sidbury and Cotford.

The management guidelines for the character type seek to maintain the 'inherent absence of settlement and development'. While it is appreciated that this proposal simply seeks to modify and extend an existing building, it would do so in such a way as to make the building less subservient to the main house and more prominent and intrusive in the landscape. As a result, it would turn an ancillary building into a building with the character, use and appearance of a dwelling. In particular the additional bulk of the extension, the raising of the eaves and the insertion of additional windows would give the building the appearance of a two storey dwelling. This enlargement and intensification of use would erode the unsettled character of the area and be in direct contravention of the management guidelines. While The Piggery has already added to development around Harts Mead, it should not be seen as justification for more development which would further erode the character of the area.

In respect of the setting of the listed building, there is no objection from the conservation officer. This is as a consequence of the visual and physical separation between the listed dwelling and the garage. Owing to the difference in levels and the mature tree and hedge screening, the two buildings appear distinctly separate and therefore the alterations to the garage would appear largely unrelated to and beyond

the immediate setting of the dwelling. It is this separation, however, which would give the building a more independent character and accentuate its impact on the AONB.

The NPPF and Strategy 46 of the Local Plan give great weight to conserving and enhancing the natural beauty of the AONB. This proposal would fail to conserve the ancillary and subservient character of the building and would create an intensification of development in a part of the AONB that is largely unsettled.

### Flood Risk

The Roncombe Stream between Buckley Road and its confluence with the River Sid is designated as a Main River by the Environment Agency. Approximately half to two-thirds of the garage lies within flood zone 3 with the whole of the building within flood zone 2.

Development within flood zones is required to pass the sequential test and, if necessary the exception test. For the avoidance of doubt, the Government's Planning Practice Guidance is clear that this proposal is neither 'minor development' nor a 'change of use', both of which would be exempt from the sequential test. Consequently, the sequential test must be applied in this case. The applicant has drawn attention to a permission for the conversion of a garage building at Harvest Cottage which is also in the flood zone. However, no extension was involved in that case and it was not necessary to apply the sequential test.

The aim of the sequential test is to steer new development to areas with the lowest probability of flooding. This proposal would provide a unit of holiday accommodation in the AONB through the conversion and extension of an existing building within the curtilage of a dwelling. There are many such buildings in the district, including within the AONB. A holiday unit could be provided by means of a similar conversion elsewhere in the district on a site which is not in flood zones 2 or 3. The development therefore fails the sequential test. In these circumstances it is not necessary to apply the exception test but it would not pass in any event as the proposal would not provide wider sustainability benefits to the community that outweigh flood risk.

### Other matters

Some concern has been raised by local residents about highway safety. The access to the site is located where visibility is less than ideal. However, traffic speeds are low because of the bend in the single width road and because of nearby the hump-backed bridge. While this proposal would increase the use of the existing access, it is unlikely to result in greater danger road users to the extent that planning permission should be refused.

The applicant has drawn our attention to permissions for holiday accommodation at Hatway Cottage and The Old Stables but in both those cases the character of the buildings and the nature of the proposals were different. Each proposal should be considered on its own merits.

## Conclusion

By changing the proposal from ancillary accommodation to holiday accommodation there is now an element of policy support. However, this support is subject to numerous caveats and in respect of the impact on the AONB and the risk of flooding the development still fails to meet the policy requirements.

The enlargement of the building and its use for holiday accommodation would fundamentally change its character, appearance and use from an ancillary outbuilding to a principle building in its own right. The creation of this holiday unit would therefore contribute towards the erosion of the unsettled and tranquil nature of the AONB in this area.

In respect of flood risk, planning policy is very clear. Development should not take place in flood zones if it can be located elsewhere. Holiday accommodation can be provided anywhere in the district outside flood zones 2 and 3, including more appropriate sites in the AONB, and therefore it should not be permitted here.

Because of the adverse impact on the AONB, the protection of which is afforded great weight, and the location of the development in a flood zone, the proposal is recommended for refusal.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The development proposes a unit of holiday accommodation on a site within Flood Zones 2 and 3 and as such represents more vulnerable development in a designated medium and high risk flood zone where there is a requirement for the sequential test for site selection to be applied. In this case the sequential test is not met as there are alternative sites within the relevant search area that are at lower risk of flooding which could provide the development proposed. 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 enlarged garage building, by reason of its increased size and bulk, its isolation from the main dwelling, its domestic appearance and its use as holiday accommodation would adversely affect the rural and undeveloped character and appearance, as well as the tranquillity, of the East Devon Area of Outstanding Natural Beauty within which it is located. The proposal would therefore be contrary to Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and policies D1 (Design and Local Distinctiveness), D8 (Re-use of Rural Buildings Outside of Settlements) and E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities) of the East Devon Local Plan 2013-2031 and guidance in the National Planning Policy Framework and National Planning Practice Guidance.

## 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	01.12.16
CHH-004	Proposed Site Plan	16.11.16
HS-001	Existing Combined Plans	16.11.16
HS-002	Proposed Combined Plans	16.11.16

### List of Background Papers

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

**Ward** Trinity

**Reference** 16/3018/FUL

**Applicant** Mr P Stratton (Primrose 2013) Ltd

**Location** The Carriage House (Lymewood Retirement Home) Lyme Road Uplyme Lyme Regis DT7 3XA

**Proposal** Change of use of 3 residential care units to a single dwelling



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 7<sup>th</sup> March 2017</b>
<b>Trinity (UPLYME)</b>	<b>16/3018/FUL</b>	<b>Target Date: 14.02.2017</b>
<b>Applicant:</b>	<b>Mr P Stratton (Primrose 2013) Ltd</b>	
<b>Location:</b>	<b>The Carriage House (Lymewood Retirement Home)</b>	
<b>Proposal:</b>	<b>Change of use of 3 residential care units to a single dwelling</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as it represents a departure from the adopted development plan.**

**The site lies outside of any recognised built up area boundary situated close to the village of Uplyme but located in the open countryside. It currently comprises a detached curtilage listed building which is not currently in use (the former extra care home use having ceased). Members will recall that they granted planning permission for the change of use of the main listed care home building to 3 dwellings at the December DMC meeting last year. The proposal is to convert this outbuilding to an additional dwelling.**

**The site lies in extensive grounds, albeit within its own smaller curtilage, which take the form of a landscaped garden with long dedicated access drive linking to a country highway to the north of the building. A secondary access is available to the west of the building also linking to a country highway.**

**There are no policies within the adopted East Devon Local Plan that would support the change of use of the extra care units into a single residential property, and no policies that would support residential dwellings in this location. However, it must be considered whether there are any material considerations that would justify the proposed development.**

**Paragraph 55 of the NPPF facilitates isolated homes but only in exceptional circumstances within the open countryside and sets out a range of special circumstances including where the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets. It is under this that a case can be made to support the development proposed.**

A minimal number of changes to the historic fabric are required to change the use of the extra care units as internally the existing layout lends itself to being de-compartmentalised save for some changes to partitions. Externally no physical changes would be required. In this instance it is conceded that a separate residential use could, under para 55, be facilitated as a residential use represents a long term viable use and would be compatible with the conversion of the main building to residential use. Officers are satisfied that a residential use would secure the long-term maintenance and upkeep of the listed building.

The impact on the setting of the listed building, residential amenity and highway safety are all considered to be acceptable. The application is therefore supported on the basis that a change of use to a dwelling would be in the best interest of the future of the curtilage listed building, without causing any harm to the listed building and this outweighs the lack of Local Plan support for the proposal.

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

The Parish Council Planning Committee does not object to the application

### **Technical Consultations**

#### County Highway Authority

Highways Standing Advice

#### Other Representations

No third party representations received

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
94/P1447	Change Of Use From Residential House To Special Care Units	Approval with conditions	21.09.1994
16/2101/FUL	Change of use of nursing home (Class C2) to 3 no. dwellings (Class C3)	Approval with conditions	07.12.2016
16/2904/LBC	Internal alterations to create 3 no. dwellings	Approval with conditions	31.01.2017

16/3019/LBC	Change of use of 3no residential care units to create a single dwelling and internal conversion works	Pending Consideration	
-------------	---	-----------------------	--

## **POLICIES**

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

TC2 (Accessibility of New Development)

EN9 (Development Affecting a Designated Heritage Asset)

TC7 (Adequacy of Road Network and Site Access)

D1 (Design and Local Distinctiveness)

Government Planning Documents  
NPPF (National Planning Policy Framework 2012)  
National Planning Practice Guidance

### Other Documents

Uplyme Neighbourhood Plan

## **Site Location and Description**

The site lies outside of any recognised built up area boundary situated close to the village of Uplyme but located in the open countryside. It currently comprises a detached curtilage listed building which is not currently in use (the former extra care home use having ceased). It lies in extensive grounds, albeit within its own smaller curtilage, which take the form of a landscaped garden with long dedicated access drive linking to a country highway to the north of the building. A secondary access is available to the west of the building also linking to a country highway.

## **Proposed Development**

This application seeks a change of use of the 3 extra care units which are a C2 use to a C3 open market residential dwelling. No external changes are required to facilitate the change of use, however internal alterations would be required which are subject of a separate listed building consent application.

## **Background**

The premises operated as an ancillary extra care unit closely associated with the adjacent care home which has recently closed. At the time of closing the care home was registered for 37 residents, employing 35 staff with a maximum of 16 in attendance during any one shift. However, due to increasing safeguarding legislation



that was introduced by the Care Quality Commission (CQC) the home was unable to remain viable and was forced to close. As a consequence the extra care units were also forced to close; the residents of both units having been re-homed elsewhere.

A planning application has recently been approved by DMC for the sub-division of the main listed care home building into three dwellings based on an unproductive marketing effort and the fact that the proposal would enable the long term re-use of a heritage asset through optimal viable re-use.

## **ANALYSIS**

The main considerations in the determination of this application are the principle of the proposed development, the impact of the proposal on its surroundings, impact on the setting of the listed building and impact on highway safety

### **Principle**

The proposal seeks planning permission to change the use of the former extra care units which would result in one independent dwelling. The application site is situated outside a recognised built up area boundary distant from services and facilities required for daily living, furthermore there are no suitably lit footways for access to services in the nearby settlement of Uplyme and the site is not served by any public transport. In line with Strategy 7 and Policy TC2 of the East Devon Local Plan the proposal is considered to take place in an unsustainable location. The applicant's agent contends that whilst the site is in an unsustainable location, the number of traffic movements associated with the proposed use would be a reduction over the existing lawful use where staff and deliveries far outweighed the normal domestic generated trips. Whilst this is a consideration it is only one which must be weighed in the sustainability balance.

There are no policies within the adopted East Devon Local Plan that would facilitate the change of use of the building into a residential property in this location, therefore the application is contrary to the Adopted Local Plan and advertised as a departure. However, it must be considered whether there are any material considerations that can justify approval of permission.

Paragraph 55 of the NPPF facilitates isolated homes but only in exceptional circumstances within the open countryside and sets out a range of special circumstances including where the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets. It is under this special circumstance that a case can be made to support the development proposed and under this case that planning permission was granted for the change of use of the main listed house to 3 dwellings.

As the building is curtilage listed consideration for its long term future as a heritage asset must be considered. The NPPG explains what is a viable use for a heritage asset is and how it should be taken into account in planning decision. This explains that if there is only one viable use then that use is the optimum viable use. If there is a range of alternative viable uses the optimum use is the one likely to cause the least

harm to the significance of the asset - not just through necessary initial changes but also as a result of subsequent wear and tear and likely future changes.

The optimum viable use may not necessarily be the most profitable one. It might be the original use, but that may no longer be economically viable or even the most compatible with the long term conservation of the asset. It is clear from its location that any employment generating use would not be preferable within such an unsustainable position. Use as a holiday unit would amount to a similar impact on the curtilage listed building but may not generate sufficient revenue to justify undertaking the internal works or for the longer term maintenance. It is understood that historically the building has been used as a single dwelling but at some point this ceased and the building was then used as a care home. As planning permission is now needed for the creation of a dwelling it must be considered under current planning policy, in this instance paragraph 55 of the NPPF.

A minimal number of changes to the historic fabric are required to change the use of the extra care units as internally the exiting layout lends itself to being de-compartmentalised save for loss of some partitions and internally there is little of historic merit. Externally no physical changes would be required. The guidance makes it clear however that from a conservation point of view there is no real difference between viable uses then the choice of use is a decision for the owner. In this instance it is conceded that a separate residential use could, under para 55, be facilitated as whether the dwelling is used for holiday purposes or residential the impact on the fabric of the listed building would be similar and represents a more long term viable use than at present. Officers are also satisfied that a residential use would secure the long-term maintenance and upkeep of the cartilage listed building.

As a result the above, it is considered that the proposal accords with paragraph 55 of the NPPF and provides the most viable use for the curtilage listed building, a use compatible with the conversion of the main listed building to 3 dwellings. This is considered to outweigh the lack of policy support for the proposal in the Local Plan.

### **Impact on surroundings**

The site lies in the open countryside and in the AONB, it is surrounded by mature trees and as such with no external changes to the building it would not impact unreasonably on its immediate or wider distance surroundings.

There are no neighbouring properties in close proximity to the building that would be impacted upon as a result of the proposal.

### **Impact on the setting of the listed building**

Under Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) there is a duty imposed on Local Planning Authorities to pay special regard to preserving the setting of the listed building when considering applications which affect it.

Included as part of the significance of Woodhouse, as a County House (the adjacent main listed building) is the landscaped garden, which provides an aesthetically

pleasing setting from which to enjoy the views, across the wider landscape to the sea. Besides the landscaped garden, provides an insight into the status of the house. In this respect, the historic and architectural value attached to the landscaped garden, makes an important contribution to the significance of the heritage asset. The application site lies within this landscaped garden albeit at the rear of the house and not in the direction of the sea, its use as a dwelling is not considered to detrimentally impact upon the setting of the main listed building with no external changes proposed, furthermore given its history as a dwelling the juxtaposition of uses are considered to be acceptable in accordance with the aforementioned legislation.

The impact on the fabric of the curtilage listed building is under consideration separately under listed building consent application 16/3019/LBC to which the Conservation Officer raises no objection to the proposal.

### **Impact on highway safety**

It has already been discussed that the site lies in an unsustainable location, however, the technical aspects of the access are required to be considered.

The site is served by a dedicated access from the country highway, the lawful use as an extra care unit associated with the former care home use generated a not insignificant volume of traffic on a daily basis predominantly from the level of staff that worked in shifts across both buildings. The level of traffic for the one dwelling proposed would more than likely be less than that which was associated with the lawful use when the extra care home use was at maximum capacity (3 bedrooms). The long access drive accesses onto a lightly trafficked country highway where there is adequate visibility from and of emerging vehicles.

Therefore notwithstanding the unsustainable location, the access and number of traffic movements are considered to be acceptable in accordance with Policy TC7 of the East Devon Local Plan.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

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

NOTE FOR APPLICANT

**Informative:**

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

Plans relating to this application:

	Location Plan	19.12.16
TW16/5	Proposed Floor Plans	19.12.16

List of Background Papers

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