



Agenda for Development Management Committee
Tuesday, 18th June, 2019, 10.00 am

Members of Development Management Committee

Councillors: M Howe (Chairman), K McLauchlan (Vice-Chairman), P Arnott, K Bloxham, C Brown, O Davey, S Gazzard, P Hayward, N Hookway, D Key, T McCollum, H Parr, G Pratt, J Rowland, E Wragg and T Wright

East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

Venue: Council Chamber Blackdown House

DX 48808 HONITON

Tel: 01404 515616

Contact: Wendy Harris;

01395 517542; email: wharris@eastdevon.gov.uk

(or group number 01395 517546)

Friday, 7 June 2019

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 posted on the council's website). 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.

Registration to speak starts at 10am on **Monday 10 June up until 12 noon on Thursday 13 June** by leaving a message on 01395 517525 or emailing **planningpublicspeaking@eastdevon.gov.uk**.

Speaking on non-planning application items

A maximum of two speakers from the public are allowed to speak on agenda items that are not planning applications on which the Committee is making a decision (items on which you can register to speak will be highlighted on the agenda). Speakers will have 3 minutes to make their representation.

You can register to speak on these items up until 12 noon, 3 working days before the meeting by emailing planningpublicspeaking@eastdevon.gov.uk or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

1 **Minutes of the previous meeting** (Pages 4 - 8)

Minutes of the Development Management Committee meeting held on 11 June 2019.

2 **Apologies**

3 **Declarations of interest**

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

4 **Matters of urgency**

Information on [matters of urgency](#) is available online

5 **Confidential/exempt item(s)**

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.

Applications for Determination

Please note that the following applications are all scheduled to be considered but the order may change. Please see the front of the agenda for when the revised order will be published.

6 **19/0198/FUL (Minor)** (Pages 9 - 21)

DUNKESWELL AND OTTERHEAD

Mansell Raceway, Dunkeswell Aerodrome,
Dunkeswell, Honiton, EX14 4LT.

7 **18/2021/VAR (Major) - APPLICATION WITHDRAWN** (Pages 22 - 47)

BUDLEIGH SALTERTON

Land South of B3178 (Evans Field), Budleigh Salterton

8 **18/2437/MFUL (Major)** (Pages 48 - 76)

CLYST VALLEY

Enfield Farm Biodigester,
Oil Mill Lane, Clyst St Mary, EX5 1AF.

9 **19/0221/FUL (Minor)** (Pages 77 - 86)

TALE VALE

Land To The North Of Brickfield Farm, Dulford.

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 the meeting of Development Management Committee held at Council Chamber Blackdown House on 11 June 2019****Attendance list at end of document**

The meeting started at 10.00 am and ended at 3.44 pm. (The Committee adjourned at 11.45am and reconvened at 2pm)

1 Minutes of the previous meeting

The minutes of the Development Management Committee meeting held on 30 April 2019 were confirmed as a true record with the following amendment to minute 77 planning application 18/2799/MOUT – Exeter Science Park, Clyst Honiton (East Of Langaton Lane) which should read:

RESOLVED:

Approved as per officer recommendation subject to change to Condition 16 to secure a minimum 3m width pedestrian/cycle link and securing of a financial contribution towards the NHS at a maximum of £216,247 subject to the Council's Viability Consultant confirming that the overall land use swap deal is viable with the contribution. If the Council's Viability Consultant confirms that the proposal is only viable with a contribution to the NHS of less than £216,247, that the decision be delegated to the Chairman for determination.

2 Declarations of interest

Cllr Paul Hayward; 18/2608/OUT; Personal Interest; Declared that in his role as Clerk to Newton Poppleford and Harpford Parish Council he had attended meetings when this application was discussed and conveyed said comments to the Local Planning Authority. Also declared that he had no input into the debate other than as an advisory role and was not involved in any voting.

Cllr Paul Hayward; 19/0078/FUL; Personal Interest; Declared that in his role as Clerk to All Saints Parish Council he had attended meetings when this application was discussed and conveyed said comments to the Local Planning Authority. Also declared that he had no input into the debate other than as an advisory role and was not involved in any voting.

3 Planning appeal statistics

The Committee received and noted the Development Manager's report setting out appeals recently lodged and four appeal decisions notified – two had been allowed and two had been dismissed.

The Committee's attention was drawn to an appeal allowed on application 18/1474/FUL – Land adjacent Heathfield, Longmeadow Road, Lypstone, EX8 5LF. The Development Manager advised that although the Inspector had agreed that a condition was required to prevent the window opening out over adjoining land, he had amended the wording of the condition to allow inward opening windows.

The Development Manager also drew the Committee's attention to the appeal of application 18/1790/FUL – Broadlands, Combe Raleigh, Honiton, EX14 4TQ. The Committee were advised that the Planning Inspectorate disagreed with the decision that

the proposal would have a detrimental impact to a nearby listed building and therefore allowed the appeal.

Finally the Committee were advised that the Inspector had upheld the decisions to refuse application 18/0450/FUL – 8 Mill Street, Ottery St Mary, EX11 1AD and 17/2953/FUL – Churston, Harcombe Road, Axminster, EX13 5TB agreeing that the first caused a detrimental level of overlooking with the second resulting in a detriment visual impact.

4 **17/1584/FUL & 18/2015/FUL (Minor)**

BUDLEIGH AND RALEIGH

Applicant:

Ladram Bay Holiday Park.

Location:

Land North West Of Ladram Bay Holiday Park, Ladram Bay, Otterton, EX9 7BX.

Proposal:

(17/1584/FUL) Revisions to planning permission 16/1709/FUL (Construction of new service yard and building) to incorporate repositioned and widened vehicular access from Ladram Road, creation of additional vehicular access of Bay Road, formation of private access road to water purification tanks, provision of footpath (including gateway to field), construction of retaining wall around service yard, enlarged storage building and new parking area and associated details.

(18/2015/FUL) Installation of LPG storage tanks and associated works.

RESOLVED:

Approved as per officer recommendation but with 17/1584/FUL subject to a change to Condition 6 to secure a grasscrete surface to the car park and that the Arboriculture Officers place a Tree Preservation Order on the trees secured as part of the approved landscaping scheme.

5 **18/1517/FUL (Minor)**

BUDLEIGH AND RALEIGH

Applicant:

Ladram Bay Holiday Park.

Location:

Ladram Bay Holiday Park, Ladram Bay, Otterton, EX9 7BX.

Proposal:

Retrospective application for a new 'splash' zone adjacent to in indoor swimming pool, relocation and re-orientation of bases and addition of static caravan.

RESOLVED:

Approved as per officer recommendation.

6 **19/0394/FUL (Minor)**

TALE VALE

Applicant:

Mr & Mrs N Mason.

Location:

Aquarius, Plymtree, Cullompton, EX15 2JS.

Proposal:

Erection of dwelling.

RESOLVED:

Approved as per officer recommendation.

7 **18/2583/FUL (Minor)**

TALE VALE

Applicant:

Mrs Nicki Collas.

Location:

Plymtree Garages, Plymtree.

Proposal:

Removal of garages and construction of dwelling.

RESOLVED:

Approved contrary to officer recommendation with conditions delegated to officers to include. Members considered that the proposal was acceptable as it was infill development that would develop an untidy brownfield site.

8 **19/0619/FUL (Other)**

WOODBURY AND LYMPSTONE

Applicant:

Mr Michael Best.

Location:

Brockways, Woodmanton, Woodbury, EX5 1HG.

Proposal:

Construction of detached garage/store.

RESOLVED:

Approved as per officer recommendation.

9 **18/2649/MRES (Major)**

WOODBURY AND LYMPSTONE

Applicant:

Mr Leigh Rix. (Clinton Devon Estates)

Location:

Blackhill Quarry, Woodbury, Exeter, EX5 1HD.

Proposal:

Approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a single 929sqm (10,000 sq. ft.) building, car parking, landscaping, ecological measures and associated development (pursuant to outline approval 17/3022/MOUT).

RESOLVED:

Approved as per officer recommendation but with change to condition 6 to read:

Other than for the purposes of Passive InfraRed (PIR) triggered sensor safety lighting no lighting inside or outside the building here approved shall be operated except between the hours of 06:30 and 18:30hrs Monday to Friday, or 06:30 and 13:30 on Saturdays and not at all on Sundays or Bank Holidays. (Reason – To protect the amenities of local residents from noise and to protect the environment in accordance with Policy EN14 (Control of Pollution) and Strategy 47 (Nature Conservation and Geology) of the East Devon Local Plan 2013-2031).

10 **18/2608/OUT (Minor)**

NEWTON POPPLEFORD AND HARPFORD

Applicant:

Mr Rix.

Location:

Land South Of King Alfred Way, Newton Poppleford, EX10 0DG.

Proposal:

Construction of up to two dwellings (with all matters other than access reserved).

RESOLVED:

Deferred for 3 months to provide an opportunity for the Parish Council, applicant and Coleridge Medical Centre to get together to resolve the situation and to make their positions clear to the local planning authority.

11 **19/0078/FUL (Minor)**

YARTY

Applicant:

Mr & Mrs Raggio.

Location:

Land East Of Goldsmith Lane, All Saints, Axminster, EX13 7LU.

Proposal:

Demolition of former cottage and construction of new dwelling.

RESOLVED:

Refused as per officer recommendation.

Attendance List

Councillors present (for some or all the meeting):

M Howe (Chairman)
K McLauchlan (Vice-Chairman)
P Arnott
O Davey
P Hayward
N Hookway
D Key
T McCollum
H Parr
G Pratt
J Rowland
E Wragg
T Wright

Councillors also present (for some or all the meeting)

K Blakey
S Bond
A Dent
G Jung
P Skinner

Officers in attendance:

Chris Rose, Development Manager
Henry Gordon Lennox, Strategic Lead Governance and Licensing
Wendy Harris, Democratic Services Officer

Councillor apologies:

K Bloxham
C Brown
S Gazzard

Chairman

Date:

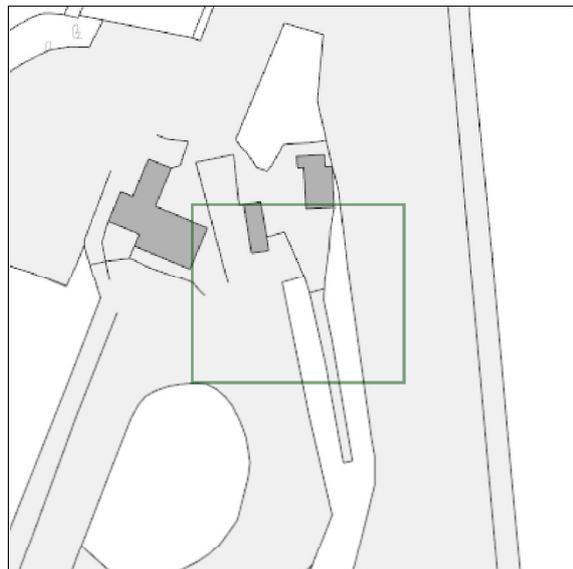
Ward Dunkeswell And Otterhead

Reference 19/0198/FUL

Applicant Mr Njal Lovell

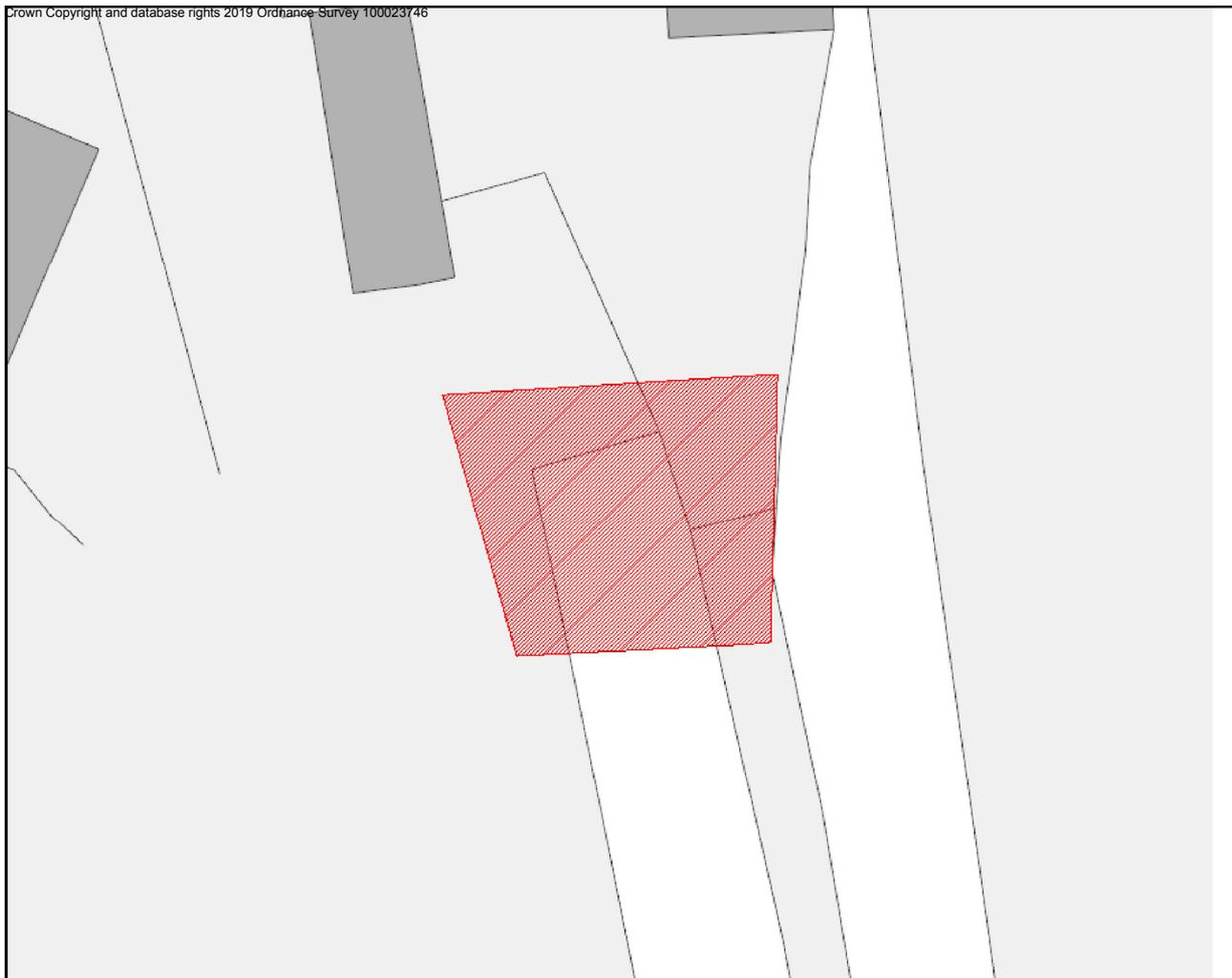
Location Mansell Raceway Dunkeswell Aerodrome
Dunkeswell Honiton EX14 4LT

Proposal Construction of a detached cart workshop with first floor viewing terrace linked to the race building.



RECOMMENDATION: Approval with conditions

Crown Copyright and database rights 2019 Ordnance Survey 100023746



		Committee Date: 18th June 2019
Dunkeswell And Otterhead (Dunkeswell)	19/0198/FUL	Target Date: 27.03.2019
Applicant:	Mr Njal Lovell	
Location:	Mansell Raceway Dunkeswell Aerodrome	
Proposal:	Construction of a detached cart workshop with first floor viewing terrace linked to the race building.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

The proposed development would see the existing workshop relocated into the proposed building to vacate space for a shop selling kart parts and club merchandise related to the Mansell Raceway business. Whilst this application is not applying for a retail use of the existing building, the retail use as described by the applicant is considered to be ancillary to the kart business and does not therefore require planning permission.

Concerns from Sheldon Parish Council and third parties regarding the visual impact of the scheme are noted. Objections have, in particular, taken issue with potential light spill of the development and subsequent impacts upon tranquillity of the AONB. Whilst it is appreciated the aesthetic qualities of the Blackdown Hills AONB are paramount importance, restricting the use of the viewing platform between certain hours and ensuring no external lighting of the platform, ensure that the impact would not be significant enough to warrant refusal. Whilst other third parties have also regarded the development as ‘planning creep’ the size, scale use of the proposed buildings, set within the context of the existing buildings, again, is not considered to cause significant visual harm.

The Local Ward Member and Parish Council have concerns with use of the viewing platform at later times of the evening. Concerns stem from a recently approved licensing application allowing the sale of alcohol and late night refreshments. Sale of alcohol is allowed between 10:00 – 21:30 Sunday to Wednesday and 10:00 – 23:30 on Thursday to Saturday. Despite the sale of alcohol and refreshments being permitted at these times use of the viewing platform shall be restricted as

suggested by Environmental Health. The use shall be conditioned as not be used after the hours of 21:00 as to reduce the amount of noise and light pollution.

Overall, owing to the visual impacts of the scheme being deemed acceptable, and light and noise being controlled by condition, the application is considered to be in accordance with policy within the Local Plan and Dunkeswell Neighbourhood Plan and therefore recommended for approval.

CONSULTATIONS

Local Consultations

Ward Member – Dunkeswell and Otterhead - Cllr C Brown

Thank you for giving me the opportunity to comment on this application, I can see no justification for this new extension to the not yet completed building which was only recently approved (August 2018) this extension is a almost 40 o/o increase in foot print, the building already has a kart work shop and if further space is required a justification should be given and supported by the East Devon Business Manager Rob Murray. It is inappropriate to put an unnecessary Building in the AONB, and in there comments, state that they would not support general commercial development in this location, which I think this is, and they also state that they, like myself, have concerns about this application.

With regards to the new building which had still to be completed. There is a restriction on the times it can be open, 9am to 9pm. They have applied for and been given an alcohol licence with extended opening times way longer than permitted opening times, and also to allow casual walk-ins contrary to the granted permission which states the building can only be used for purposes incidental to the use of the site for Commercial Pro/Leisure Karting.

Dunkeswell have reviewed this application and along with Sheldon think this new building is inappropriate, unnecessary, and not in keeping with the AONB, and the AONB Partnership also has concerns. Although the officers seem to be to the contrary, I think it should go before the DMC to be discussed, where I will keep an open mind until I have heard all the arguments both for and against.

Ward Member – Dunkeswell and Otterhead - Cllr D Key

Having only just become involved in this application due to reorganising wards I have read the report and fully support the comments of my joint ward member.

Parish/Town Council

04.02.2019

Following our conversation regarding the above application, I have made the Chairman aware of the proposal to use the outside terrace until 11pm in the evenings.

Dunkeswell Parish Council would have objected to this proposal, but were under the impression from the planning application that it's use was until 6pm as discussed. In light of this the Council would like to suggest a limit be applied to this to 9pm, so that it remains within the current operating hours to protect the character & environment for the use of residents and limit the noise and lighting pollution from the venue.

Further comments 05.03.2019

- There were no objections to the application.

The Parish Council would like to request that the following be considered should you recommend the application for approval. The Parish Council would like to see the previous applications 16/2946/FUL & 18/0419/VAR completed and the buildings removed as stipulated in those applications, before works commence on the new application. To minimise the chance of changes being made by the applicant to the overall size or height of the proposed building, light pollution is kept to a minimum to avoid nuisance to residents here and in Sheldon and to minimise any adverse effect on wildlife.

Neighbourhood Plan, Page 50, Policy LE2 & Para 8.12, Blackdown Hills AONB Management Plan 2014-2019 RET1/B

Adjoining Parish Council – Sheldon 05/03/19

- Comments from Sheldon Parish Meeting

Meeting held Monday 4th March 2019

18 Members present

19/0198/FUL | Construction of a detached cart workshop with first floor viewing terrace linked to the race building. | Mansell Raceway
Dunkeswell Aerodrome Dunkeswell Honiton EX14 4LT.

1. Previous application Ref. No: 16/2946/FUL Erection of building containing workshop/storage, reception, visitor facilities and race control replacing existing portacabin and associated outbuildings. Was granted and given amendments after much deliberation by the Development Control Committee. Debate was raised over the size of this application, the surface area creating far more than the applicant already had to run the Kart Club. It was granted permission but not without objections from councillors on the committee. Objections were raised on the size of the building and the light pollution that it would create in an otherwise blank and night time black area of the AONB.

2. Sadly now there is light pollution in that area of the AONB that was not previously there which the council has been made aware of by parish members.

3. This current application is duplicating facilities that have already been catered for in the previous application, kart workshop and visitor facilities. If therefore the club/raceway is anticipating exponential increase in visitors numbers as well as becoming a retail outlet without submitting a business plan, will other facilities also be required like food, alcohol and other refreshments altogether changing the use. A licence for alcohol for example will increase the out of hours use of the buildings exacerbating light pollution.

4. Previous applications for visitor facilities were rebuffed vigorously and at great expense by the District Council. Reasoning for refusal being unacceptable light pollution within the AONB. Although the kart workshop and parts retail facility is noted as being lower within the ground than normal buildings the glazed viewing gallery on top will by definition be lit as use of the track goes on until 7:30. Should some alcohol/recreation licence be applied for this facility may well be lit well into the night.

5. Members of the parish have had to except the light pollution which has come with the previous application, that is new in a skyline once void of light in this part of the AONB.

This new application will undoubtedly exacerbate the light pollution in this area, compounding a whole heartedly insensitive approach to permitting a business to expand at any cost to its very sensitive environment.

Reiterating, a previous judgement by the council at appeal to great expense to the tax payer that it would not be expectable to pollute this area in particular with light associated with out of hours visitor facilities.

6. Parish members whole heartedly expect the council to uphold it's previous decision not to allow light pollution in this area of the AONB. Permitting further development of the area to the applicant is not a given right without consideration to the environment and the everlasting damage it will knowingly do. Parish members do not except that more development of this area is in keeping. The area is not industrial, it is divorced from that part of the airfield that is industrial. Nearest buildings to the site are agricultural.

Planning Officers at East Devon District Council have offered great consideration and much attention and sensitivity to other applications within the AONB. We would like assurance that such attention will be given to this application.

7. Parish members object to this application and would appreciate that it would be debated at a Development Control Committee Meeting.

Technical Consultations

Environmental Health

08/03/19 - I have considered the application for a small kart workshop adjacent to the new building. I note that no external lighting is proposed because it is not required, and therefore concerns regarding potential additional light in this corner of what is otherwise quite a busy airfield have already been taken into account. I therefore do not anticipate any environmental health concerns in relation to this development, however I do consider that an hours of use restriction on the use of the open air viewing area would be appropriate. I therefore recommend the following condition:

" This building shall be used only for the uses described and the viewing area shall only be used during the hours of 8am and 9pm on any day."

I refer to the above application. The proposed development lies in an area of high archaeological potential with regard to known archaeological activity associated with the Roman and later iron ore extraction industry on the Blackdown Hills. Recent archaeological work on the adjacent site demonstrated the presence of well-preserved ore extraction pits and it is highly likely that groundworks for the construction of the proposed development may expose and destroy archaeological and artefactual deposits associated with this industry. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

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

appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Other Representations

27 objections were received regarding the following:

- The development is considered to cause an increase in light pollution and therefore harmful to the AONB.
- The development is another built physical structure in the AONB
- Increase in noise pollution and therefore detrimental to neighbouring amenity and tranquillity of the AONB.
- Increase in traffic
- Overdevelopment of the site and considered 'planning creep'
- Felling of trees
- Concerns over an application for an alcohol licence and the resulting noise from extended operating hours.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

E5 (Small Scale Economic Development in Rural Areas)

E20 (Provision of Visitor Attractions)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Dunkeswell Neighbourhood Plan

NE1 – Retaining, Conserving and Enhancing the Natural Beauty of our Parish

BE1 – Maintaining the Built Character through High Quality Design

Site Location and Description

Mansell Raceway is an existing kart racing business that occupies a site on the north western corner of Dunkeswell Aerodrome between the villages of Dunkeswell and Sheldon. The facility is primarily used to privately hire karts in addition to the Dunkeswell Kart Racing Club holding regular events. The site comprises of the race track, some porta cabins and a new race building that is currently under construction (Application 16/2946/FUL). This application has since been amended under a Section 73 application (18/0419/VAR) altering the buildings appearance, height and position. The site is located within the Blackdown Hills Area of Outstanding Natural Beauty.

Proposal

This current application seeks permission for a cart workshop at ground floor level and a viewing platform at first floor level. The Design and Access Statement details how this will free up space within the existing building for a cart retail unit for the sale of kart spares, race clothing and club merchandise.

The workshop would extend off the existing buildings south elevation and have an overall footprint measuring 102sqm. A powder coated aluminium door would be constructed on the west elevation that would act as the main access in and out of the building for karts. The viewing terrace at first floor level would overhang a walkway below and connect to the first floor of the existing building. The viewing terrace would be enclosed by glass balustrade with the external elevations being finished in render and a sarnifil membrane roof.

ANALYSIS

The main issues for consideration are the principle of development and its visual impact upon the surrounding landscape.

Principle of Development

Strategy 7 (Development in the Countryside) of the adopted East Devon Local Plan resists development in the countryside except where it is in accordance with a specific Local Plan policy which explicitly permits it. In this instance it is recognised that Mansell Raceway is an existing and successfully operated business in the rural area. As such the proposal gains support under Policy E5 (Small Scale Economic Development in Rural Areas) and to a lesser extent Policy E20 (Provision of Visitor Attractions) of the East Devon Local Plan. In particular Policy E5 is a permissive policy that allows for small scale economic development and expansion of existing businesses subject to a number of criteria. Therefore the principle of development is accepted.

The site falls outside of The Historic Airfield Area as designated within the Dunkeswell Neighbourhood Plan under Policy BE2, as such this policy is not relevant to the current application.

Although the proposal benefits from support in principle from Local Plan Policy E5, detailed consideration still needs to be given to other policies within the East Devon Local Plan and Dunkeswell Neighbourhood Plan to ensure that the visual impact from the proposal is acceptable and that there is no other harm from the proposal. These matters are considered below.

The proposed development would see the existing workshop relocated into the proposed building to vacate space for a shop selling kart parts and club merchandise related to the Mansell Raceway business. Whilst this application is not applying for a retail use of the existing building, the retail use as described by the applicant is considered to be ancillary to the kart business and therefore in compliance with condition 8 of application 18/0419/VAR which is worded as follows;

'The building hereby permitted shall only be used for purposes incidental to the use of the site for Commercial Pro/Leisure Karting.

(Reason - To define the permission and in the interests of conserving the character and tranquillity of the Blackdown Hills Area of Outstanding Natural Beauty in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031.)'

As such, planning permission is not required for the ancillary sale of goods in relation to the current karting activity.

Visual Impact

Strategy 46 (Landscape Conservation and Enhancement and AONBs) states that development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of the natural and historic landscape character of East Devon. Policy NE1 of the Neighbourhood Plan states that 'Proposals for development should demonstrate that there would be no significant adverse impacts on the natural environment (landscape and biodiversity)'. This is reinforced by Policy BE1 which states that 'development proposals should: i) Ensure that the size, scale and location of the development is appropriate to the form, scale and setting of the surrounding built environment' and 'iii) Ensure that it is designed in such a way as to minimise its impact on the visual amenity of the surrounding landscape, on views of the proposed development and on the natural environment'.

In this case the extension is modest in scale and set within the context of existing buildings. The existing building is cut into the site and is partly screened by engineering works that have lowered the surrounding land allowing for the build to be set down, therefore minimising its prominence within the local landscape.

Currently the main view of the site is from the east on the road that crosses the end of the runways and links Dunkeswell with Sheldon and beyond to Hemyock and Culmstock. The belt of trees along the north western edge of the escarpment provide a backdrop for the existing and proposed building at Mansell Raceway. The extension is single storey and would benefit from the same screening. Therefore the workshop is not considered to be visually intrusive or detrimental to the aesthetic qualities of the AONB. The proposal is considered to comply with Strategy 46 and Policy D1 (Design

and Local Distinctiveness) of the East Devon Local Plan and Policies NE1 and BE1 of the Dunkeswell Neighbourhood Plan.

Noise and light pollution

Whilst Dunkeswell Parish Council have not objected to the application, their comments regarding light pollution are acknowledged alongside the comments from Sheldon Parish Council.

Additionally third party comments have also raised concerns over the visual impact of light spill upon the tranquillity of the AONB.

During the assessment of applications 16/2946/FUL and 18/0419/VAR efforts were made to keep light pollution to an absolute minimum through the use and conditioning of tinted windows to reduce light-spill. It has been confirmed with the applicant that there is to be no external lighting on the viewing platform and this can be controlled by condition.

Additionally Environmental Health have suggested a condition to restrict the use of the viewing terrace between 8am and 9pm. This time frame is in line with the operating hours of the track and therefore no additional impact from light spill is anticipated.

It is appreciated that a License has been granted to allow the use of the building for the sale of alcohol and late night refreshments until 21:30 Sunday to Wednesday and 23:30 Thursday to Saturday but in the interests of protecting the AONB from additional light spill and noise, it is recommended that the use of the viewing platform be restricted to between the hours of 08:00 to 21:00.

It has been recommended that the building be restricted from being constructed until existing buildings have been removed as part of the consent for the main building but this is not considered to be necessary or reasonable as the application is acceptable in itself and the removal of these buildings controlled by other permissions.

Subject to conditions controlling the use of the viewing platform, the proposal is considered to be acceptable and be in compliance with Policy EN14 (Control of Pollution) of the East Devon Local Plan and relevant policies within the Neighbourhood Plan that support mitigating measures to prevent harm.

Additional activity

The small ancillary retail area may lead to a very small increase in the number of people visiting the site solely to purchase merchandise but such level will be minimal and therefore acceptable.

The viewing platform may encourage some more people to visit the site to watch people karting but again these numbers will be relatively small and it is not considered that this would result in any additional harm from increased noise, activity or traffic, particularly as the hours of operation and karting activity remains unchanged from existing.

CONCLUSION

The proposed development would see the existing workshop relocated into the proposed building to vacate space for a shop selling kart parts, club merchandise related to the Mansell Raceway business. Whilst this application is not applying for a retail use of the existing building, the retail use as described by the applicant is considered to be ancillary to the kart business and does not therefore require any further planning permission.

Concerns from Sheldon Parish Council and third parties regarding the visual impact of the scheme are noted. Objections have, in particular, taken issue with potential light spill of the development and subsequent impacts upon tranquillity of the AONB. Whilst it is appreciated the aesthetic qualities of the Blackdown Hills AONB are paramount importance, restricting the use of the viewing platform between certain hours, preventing any lighting of the viewing platform and the use of tinted windows to the main building will adequately protect the AONB. Whilst other third parties have also regarded the development as 'planning creep' the size, scale and use of the proposed buildings, set within the context of the existing buildings, is not considered to cause significant visual harm.

The Local Ward Member and Parish Council have concerns with use of the viewing platform at later times of the evening. Concerns stem from a recently approved licensing application allowing the sale of alcohol and late night refreshments. Sale of alcohol is allowed between 10:00 – 21:30 Sunday to Wednesday and 10:00 – 23:30 on Thursday to Saturday. Despite the sale of alcohol and refreshments being permitted at these times use of the viewing platform shall be restricted as suggested by Environmental Health. The use shall be conditioned as not be used after the hours of 9pm as to reduce the amount of noise and light pollution.

Overall, owing to the visual impacts of the scheme being deemed acceptable and light and noise being controlled by condition, the proposal is considered to be acceptable. The application is considered to be in accordance with policy within the Local Plan and Dunkeswell Neighbourhood Plan and is therefore recommended for approval.

RECOMMENDATION

APPROVE subject to the following conditions:

1. 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.)
2. 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).
3. The building hereby approved shall only be used for the storage, maintenance and repair of race karts used at Mansell Raceway.

(Reason - To define the permission and in the interests of conserving the character and tranquillity of the Blackdown Hills Area of Outstanding Natural Beauty in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031.)

4. There shall be no direct or indirect lighting of the viewing terrace hereby approved.
(Reason - To minimise the impacts of light pollution on the Blackdown Hills Area of Outstanding Natural Beauty in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031.)
5. The viewing area shall only be used during the hours of 8am and 9pm on any day.
Reason - To minimise the impacts of noise pollution on the Blackdown Hills Area of Outstanding Natural Beauty in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031.)
6. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development.

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:

19005-SLP	Location Plan	30.01.19
19005-01	Proposed Floor Plans	30.01.19

19005-02	Proposed Floor Plans	30.01.19
	CIL Additional Information	30.01.19
19005-03	Proposed Elevation	30.01.19
19005-05	Proposed Block Plan	30.01.19
19005-04	Proposed Elevation	30.01.19

List of Background Papers

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

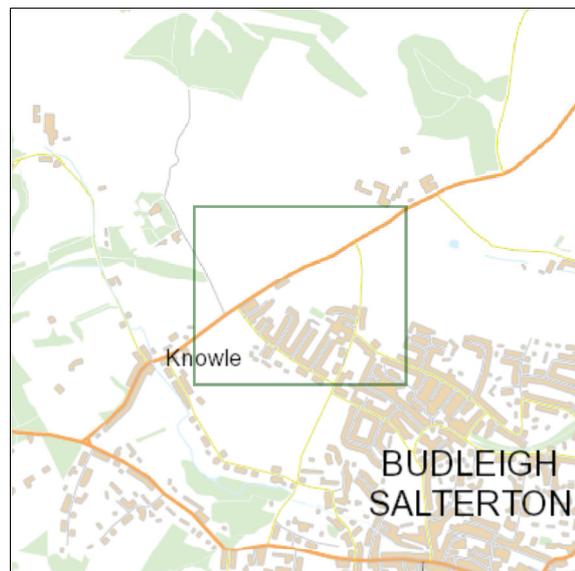
Ward Budleigh Salterton

Reference 18/2021/VAR

Applicant Mr Pounceby

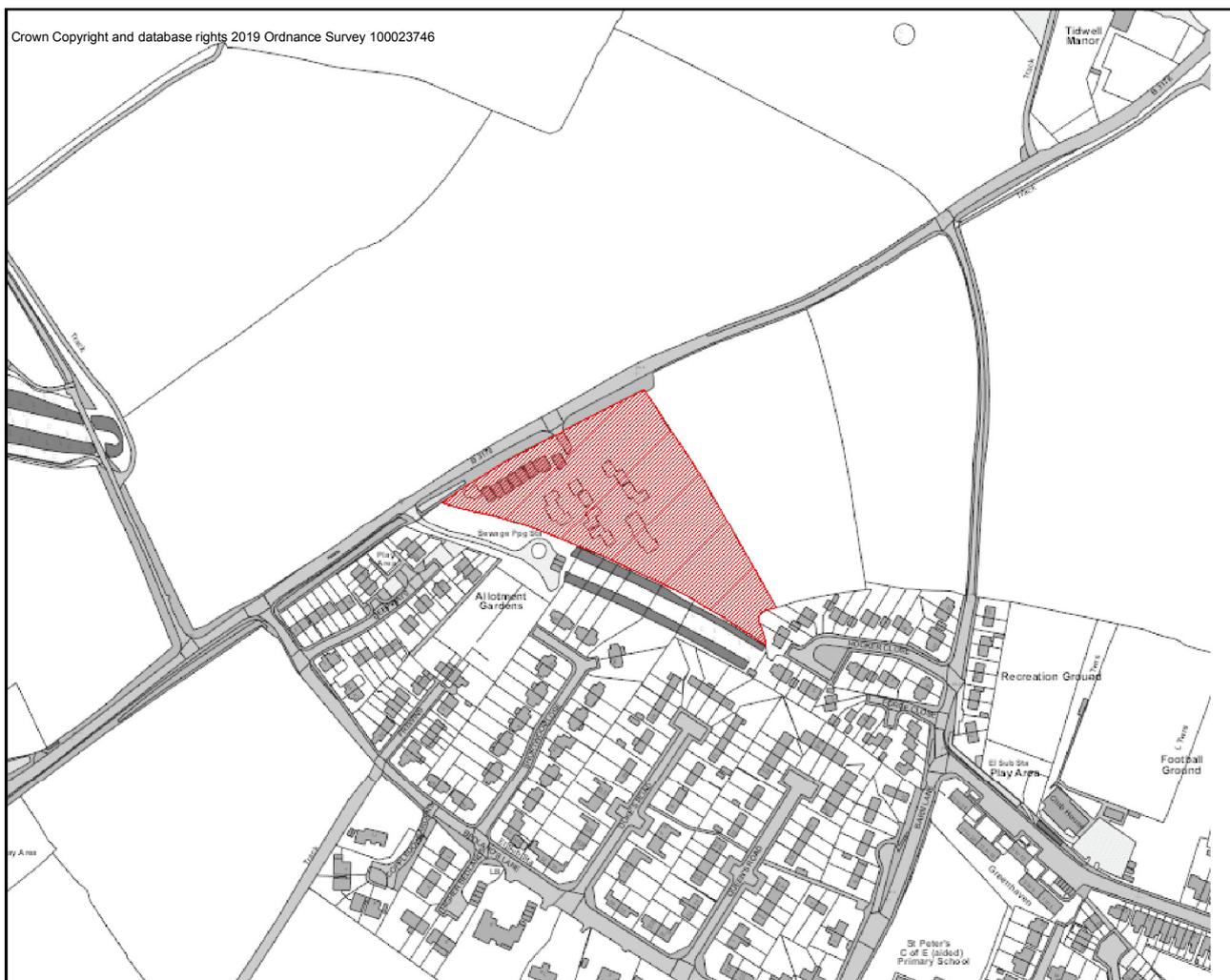
Location Land South Of B3178 (Evans Field) Budleigh Salterton

Proposal Variation of Condition 2 (plans condition) of planning permission 11/2629/MFUL to propose changes in layout and furthermore to reduce the amount of affordable housing proposed.



RECOMMENDATION:

1. That the Habitat Regulations Appropriate Assessment within this Committee report be adopted;
2. That the application be **APPROVED** subject to conditions and a variation to the S106 agreement to secure a reduced affordable housing contribution, an overage clause and a habitat mitigation contribution.



		Committee Date: 18th June 2019
Budleigh Salterton (BUDLEIGH SALTERTON)	18/2021/VAR	Target Date: 09.01.2019
Applicant:	Mr Pounceby	
Location:	Land South Of B3178 (Evans Field) Budleigh Salterton	
Proposal:	Variation of Condition 2 (plans condition) of planning permission 11/2629/MFUL to propose changes in layout and furthermore to reduce the amount of affordable housing proposed.	

RECOMMENDATION:

- 1. That the Habitat Regulations Appropriate Assessment within this Committee report be adopted;**
- 2. That the application be APPROVED subject to conditions and a variation to the S106 agreement to secure a reduced affordable housing contribution, an overage clause and a habitat mitigation contribution.**

EXECUTIVE SUMMARY

This application is before Members because the recommendation is contrary to the views of two of the Ward Members, as well as the Town Council.

Planning permission is sought for variations to an approved scheme for 59 houses, including 30 affordable dwellings, which has stalled. The proposal includes layout changes and an overall increase in the scale of the dwellings but the main change is a reduction in the number of affordable houses to be provided.

The design and layout changes result in more built-development and less landscaping than originally approved. While this is regrettable given the setting of the site within the AONB, it is an important factor in securing the delivery of the scheme. Since submission of the application further landscaping improvements have been made and as a result, on balance, these changes are acceptable.

Through negotiation, the reduced affordable housing offer has been increased from 8.5% to 37%. While this is still short of the approved 50%, it is a viable amount and an overage clause will secure an additional financial contribution if there is additional profit. The scheme has been amended since submission to provide better dispersal of the affordable units across the site.

In the interests of securing the delivery of the scheme which will make a substantial contribution to affordable housing in the area, and given that the layout changes are on balance considered to be acceptable, the application is recommended for approval.

CONSULTATIONS

Local Consultations

Budleigh - Cllr T Wright

I am amazed at the final statement in the S106 Management report.

'Our report demonstrates that this scheme can be considered policy compliant without the provision of any additional affordable housing'

I do not know what policy this refers to. The site is in an AONB, outside the BUB and the initial application was only supported as it complied with EDDC's policy with regard to affordable housing provision in the AONB.

The provision was 50%, the level required in EDDC policy and that has now been reduced to under 10%.with the claim that any more would make the scheme unviable. To me this indicates that the original application was reckless and would never had been viable.

The scheme did accord with the Budleigh Neighbourhood plan to provide c.100 homes. Half of this was provided by the Greenway Lane development which not only provided some fine executive homes but also a high proportion of affordable and social housing and additionally provided additional space for allotments.

I strongly object to the application that will blow a hole in the policies intended to protect the AONB. This site is in a sensitive location, on a rise to the south of the approach road from the north east. The only justification for such an encroachment was the provision of a high level of affordable homes for local people.

If this developer can't go some way to honour the undertakings given when planning was approved let someone else try. The situation should have been well understood. The name of the firm providing the report seems to indicate an undertaking set up to try and circumvent the S106 requirements which are there to protect our landscape and environment.

This application to vary the conditions to me smacks of developer greed.

Further comments:

I am concerned about the damage that may have already been done to the beech trees and the future of the ancient banks. I am also very concerned that this report is only the draft and may be altered.

I am not inclined to support the recommendation based on a draft report. I consider the affordable housing provision to be acceptable at near 40% as there is an average provision. However as stated in view of the environmental and visual sensitivity of this application I cannot support it on the basis of a draft report.

Budleigh - Cllr A Dent

Good afternoon

Councillor Wright says it all.

I totally agree with his comments and strongly oppose this developer lead attempt to reduce much needed affordable housing in Budleigh Salterton whilst making a high level of profit.

Parish/Town Council

This Council is unable to support the variation for the following reasons:

1. The site is outside the Built-Up Area Boundary and in the Area of Outstanding Natural Beauty. Planning permission was granted to provide much needed affordable housing in the area, this is still the case.
2. This variation is contrary to Strategy 34 of the East Devon Local Plan which requires 50% affordable housing in Budleigh Salterton.
3. Budleigh Salterton Neighbourhood Plan mentions the need for affordable housing in Para 5.7 (b) and the requirement for at least 30 more homes in the town, which the approved plans would provide.

Members also felt that the profit margin, covered in the Financial Viability Analysis, produced for the developer in July 2018, is excessive and there is therefore scope to reduce this profit at the same time providing much-needed affordable housing.

Other Representations

4 comments have been received raising concerns regarding the following:

- the lack of detail in the application;
- the reduced amount of affordable housing being provided.

Technical Consultations

Housing Strategy Officer Melissa Wall

This application seeks to reduce the amount of affordable housing provided which is obviously disappointing. Under the current S106 agreement (as varied) this site was going to provide 50% affordable housing. The applicant has submitted viability evidence claiming that it is only viable to provide 5 units (8.5%) of affordable housing in phase 1. It is proposed that phase 2 will contain no affordable housing. An affordable housing provider has been found for this site and is due to take the 5 already completed units in phase 1.

The viability assessment will be independently reviewed by the Council's viability consultant and a decision made. We would welcome the opportunity to explore with the applicant and consultant any alternative solutions which would see further affordable units delivered on this site. There are other options which may help the viability of the site.

In accordance with Strategy 34 where a proposal does not meet the policy targets for affordable housing an overage clause will be sought in respect of future profits and affordable housing provision.

EDDC Trees

The scheme is not supported by an arboricultural report, to cover the amended design. I would expect to see as a minimum: a site plan overlaid with all arboricultural constraints, an arboricultural impact assessment, a draft tree protection plan and 'heads of terms' arboricultural method statement. These documents would demonstrate the sustainability proposed scheme in arboricultural terms.

As the above information is missing I have the following reservations regarding the submission:

Dwellings (19 to 21) appear too close to the line of beech trees growing approximately 6 metres to the north. There is likely be significant pressure to lop, top or fell these trees, once the dwellings are occupied, due to their size, proximity and over dominance. I note the previous approval had the dwellings at approximately 10 metres from the trees.

Dwellings (53 to 59) are located to the south of a wooded area, the gardens of these dwellings are likely to overshadowed by these trees, placing pressure on them to be lopped, topped or even removed. The current scheme has seven dwellings between approximately 2 to 20 metres from the trees. The previous approved scheme had four dwellings adjacent to this boundary, between 4.5 and 9 metres from the trees. This new scheme increases the number of dwelling affected by these trees.

Separate to the above arboricultural matters:

I have concerns regarding the inclusion of the original field boundaries as residential curtilage. The majority of the original field boundaries are comprised of Devon hedgebanks, shown in the 1888 -1890 historic OS mapping layer. These are a locally distinctive features and should be protected and preserved during development (especially within the AONB). Where these features are included part of residential curtilage, they typically become urbanised over time, even removed and replaced by fences and walls. Typically I would suggest refusing the application on this basis, however in this instance there is an existing consent showing the hedgebanks as the residential curtilage, for many of the new dwellings. I am unsure how we would stand on this as a point of planning principle.

I would add my support to the comments raised by our landscape architect regarding the reduction in tree planting numbers and requiring sufficient detail in relation to planting pit details.

Conclusion

Prior to determining this application we will require and aboricultural report providing the information outline above. It is likely on the basis of this information that some adjustment to the location of some of the dwelling may be necessary.

Further comments:

The submitted arboricultural report unfortunately states in paragraph 5.1.3 “the proposed layout successfully avoids the RPA of all B and A category trees”. The current conditions on site is somewhat contrary to this successful arboricultural image reported. The root protection areas of nearly all the A and B category trees have been compromised during development activity on site to date (see email 14/02/2019). This damage can be summarised as follows:

- The line of beech trees (G17) on the site's northwest boundary have been compromised by site huts, hard standing and possibly service installation works.
- The root protection area of the trees on the northeast boundary (G19, G14, T12 and T13) all appear to have been compromised by the passage of construction vehicles and possibly the installation of building foundations.
- The trees adjacent to the southwest boundary (G18, T9 and T10) have a large bund of spoil stacked within their root protection area. The depth of the soil is high enough to have caused failure of branches within the crown of the adjacent oak (T9).
- On the southern half of the site the root protection area of the beech trees (G17), east of units 1 to 9, has been significantly compromised including the severance of roots to install a number of retaining walls. The recommendations of the arboriculturalist I met on site was to remove all of these trees (see my email 14/02/2019).

I have yet to receive any images of root damage found. Nor have I received confirmation of correction protective fencing locations, remove spoil from the root protection area of retained trees or what amelioration measures will be implemented (see email 14/02/2019).

Paragraph 5.1.3 of the arboricultural report also goes on to contradict itself, as bin stores and paths will be located within the root protection area of oak trees T10 and T12. Had there not been a history of damage to the rooting environment of these trees it may have been possible to sensitively construct no dig paths close to the trees. Considering the damage that has occurred, this will only cause further harm to the trees and in principle not considered appropriate. The hard structures within the root protection areas of T10 and T12 need to be removed.

The Arboricultural report makes no reference to the impact of the bin and bicycle stores, or wall construction for the units 19 to 21 (adjacent to the B3178). The bin stores are on the line of trees and in practical terms would require the removal of the trees to construct the plans as submitted. The wall is likely to result in damage to tree roots. There is no root protection area shown on this boundary around these trees. As stated in the previous applications these units are too close to the trees and will result in pressure to remove the trees (the relationship with units 22 to 24 is much better).

I have not been provided with a shade impact assessment for units 54 to 59. The private amenity spaces of these units are likely to be significantly over shadowed by adjacent trees (some in third party ownership).

I am left with a number of unanswered questions:

- Why is there no tree protection fencing around G17?
- Why is there no tree protection fencing along the hedgerow on the north east boundary?
- Why is there no tree protection fencing along the hedgerow on the south west boundary?
- Why has the submitted arboricultural report not identified any of the existing site conditions and damage to the soil conditions within the site trees root protection areas?
- Why are there no provisions for making good for the damage to site trees and hedgerows on site?

Conclusion

Given the above comments the submitted details are considered unacceptable on tree grounds and contrary to our planning strategy 46 and policies D1, D2 and D3. If this application is to be approved matters relating to tree ameliation, tree protection, site monitoring, hard and soft landscaping details will need to be subject to pre-commencement planning conditions, so that the issues above can be addressed.

Environmental Health

I have considered the application for this variation and do not anticipate any environmental health concerns.

EDDC Landscape Architect - Chris Hariades

1 INTRODUCTION

This report forms the EDDC's landscape response to the Variation application for changes to phase 2 layout and reduction of social housing as part of overall development of 59 dwellings.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2 Review of submitted landscape drawings & other supporting information

Revised site layout drawing no. 352_2.1.213A

2.1 Road design

a) The layout comprises 6m wide shared surface access roads. This width is likely to encourage fast traffic speeds within the estate and suitable traffic calming measures should be included to reduce speeds.

b) The layout of the junction in the vicinity of plots 42 to 52 is excessively wide. As well as encouraging fast traffic speeds through the junction this results in an extensive area of hard paving at the expense of planting which is needed to soften the hard form and provide visual interest. The junction should be reconfigured to close down the opening and increase the areas of planting in the vicinity.

c) The block of planting that closes off the northern estate road to through traffic would be better if it comprised two build-outs from the road edge with a centralised cycle/ pedestrian access. Alternatively a better solution may be to site the closure point adjacent to and extending the length of the play area boundary. This would enable the width of the play area to be widened and provide an attractive traffic free frontage to it.

2.2 Planting

a) In many instances planting bed widths between parking bays are too narrow to support adequate plant growth, especially to frontages of plots 41 to 53, 31-33 and 38 - 40 where widths are less than 1 metre. Parking and associated planting beds should be adjusted to provide wider planting beds of minimum 2m width to enable tree planting and understorey planting to flourish.

b) The proposed phase two layout has significantly fewer trees than the original layout which showed about 100 trees. Under the revised scheme this appears to have reduced to 11 which is unacceptable. There is scope for substantially increasing tree provision through rationalisation of planting areas as noted above.

2.3 Play area

a) The shape of the play area is substantially changed in the new layout to a much narrower space which is less useful as a play space. Prior to acceptance of the revised scheme, detail drawings showing the arrangement and specification of proposed play equipment should be provided to ensure that satisfactory play provision can be accommodated within the space identified in the revised site layout plan.

b) The play area boundary immediately abuts the carriageway representing a hazard for children exiting and entering, with no refuge space from traffic. Either the road way should be reduced in width down to 4.25 metres along the length of the play area and a 1.5m footway provided adjacent to the play area boundary should be provided or a through traffic closure should be provided as noted at item 2.1

c) above.

d) A buffer planting strip of minimum 2.5m width should be provided within the play area along the boundary to plot 59.

3 CONCLUSIONS

The revised layout is unsatisfactory in a number of aspects as noted above. As such the scheme fails to meet the following local plan policies.

D1 Proposals will only be permitted where they:

4. Have due regard for important aspects of detail and quality and should incorporate inter alia:

- Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.

D2 Landscape Requirements Landscape schemes should meet all of the following criteria:

3. Measures to ensure safe and convenient public access for all should be incorporated.

5. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.

6. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

4 RECOMMENDATIONS

4.1 Acceptability of proposals

On the basis of the details submitted the scheme should be considered in conflict with Local Plan policies D1 and D3 and is consequently unacceptable in terms of landscape design/ impact.

However, subject to the points noted above being adequately addressed the scheme could be considered for approval.

In the event that amended information as noted above is secured and approval is recommended, the following conditions should be imposed:

4.2 Landscape conditions

1) No development work shall commence on site until the following information has been submitted and approved:

a) A full set of hard landscape details covering earthworks, walls, retaining structures, fencing, pavings and edgings, site furniture and signage.

b) Details of locations, heights and specifications of proposed external lighting.

c) A full set of soft landscape details including planting plans showing locations and number of new tree, shrub and herbaceous planting, type and extent of new grass/ wildflower areas together with existing vegetation to be retained and removed.

d) A plant schedule indicating the form, size, and density of tree shrub and herbaceous planting.

e) Tree pit and staking details including measures for protection and irrigation.

f) Specification for soil quality, cultivation, planting, sowing, mulching and means of plant support and protection during establishment period.

g) Measures for protection of existing perimeter trees during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

h) A landscape management and maintenance plan which should include the following details:

- Extent, ownership and responsibilities for management and maintenance.

- Details of how the management and maintenance of public open space will be funded for the life of the development.

- Inspection and management arrangements for existing and proposed trees and hedgerows.

- Management and maintenance of trees, shrub and herbaceous planting, grass and wildflower areas.

- Management and enhancement of biodiversity value.

- Management and maintenance of any boundary structures, play equipment, site furniture, drainage swales and other infrastructure/ facilities within public areas.

DCC Flood Risk SuDS Consultation

Recommendation:

We have no in-principle objections to the above planning application, from a surface water drainage perspective, at this stage.

Observations:

From a surface water drainage point of view, we have no principle objection to the above planning application. If the variation results in an increase in impermeable area this should be reflected in the drainage strategy in any future application.

County Highway Authority

Observations:

This scheme which gained full planning consent in 2011, now proposes variations to this planning application, the most significant element to the highway authority being the change in parking layout and the introduction of an additional turning head.

The new proposed layout removes double tiered parking which is appreciated as this removes unnecessary turning movements on the carriageway. Additionally, converting echelon parking to standard parking spaces, this helps to avoid blind spots and therefore the County Highway Authority (CHA) considers this also an improvement to the highway network.

I notice the introduction of a few visitor parking spaces the CHA have had mixed experiences with the success of visitor parking bays, with the potential conflict over the availability and the resulting on-street parking caused, however in this low speed environment and the location of the visitors bays being on the bend of the carriageway, I do not foresee this being a problem.

Therefore in summary, the CHA has no objections to this proposed variation although the existing conditions from planning application 11/2629/MFUL remain.

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

PLANNING HISTORY

Reference	Description	Decision	Date
11/2629/MFUL	Residential development of 59no dwellings (including affordable housing provision)	Approval with conditions	02.12.2013

16/1084/V106	Variation of requirement for affordable housing in Section 106 agreement pursuant to application 11/2629/MFUL (residential development of 59no dwellings including affordable housing provision).	Refusal	17.06.2016
--------------	---	---------	------------

16/2479/VAR	Proposed re-plan of plots 1-18 and 47-49 of permission 11/2629/MFUL (residential development of 59 dwellings (including affordable housing provision))		
-------------	--	--	--

POLICIES

Budleigh Salterton Neighbourhood Plan (Made)

POLICY H1: Meeting local housing need over the period of the plan

POLICY H2: Maintaining local character

POLICY B2: Protection of key views and vistas

POLICY NE1: Conservation of the Natural Environment

POLICY NE3: Conservation of Biodiversity

POLICY NE4: Maintain Trees and Hedgerows

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 21 (Budleigh Salterton)

Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

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

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Site Location and Description

The application site extends to an area of 1.36ha of grade 1 agricultural land that was previously used for keeping of horses. The land is roughly triangular in shape and lies to the south of the B3178, a link road between East Budleigh and Knowle, and which provides an effective by-pass to Budleigh Salterton. Following the adoption of the Local Plan in 2016 and consent on the site for residential development, the site is within the Built-up Area Boundary for the town.

The site rises from the north to the south, with its southern boundary being marked by what was the embankment of the former railway line, part of which now forms the rear boundary of a number of properties in Shortwood Close. The eastern 'point' of the triangle borders the rear gardens of properties in Hooker Close.

Background and proposal

This site has planning permission for 59 dwellings which was granted when the site was outside the Built-up Area Boundary and the Council did not have a 5 year housing land supply in 2013. Phase 1, comprising 21 houses and flats, has been completed but is not yet occupied. Planning permission is now sought for some changes to the design and layout of phase 2 and retention of phase 1 as built. A reduction in the amount of affordable housing from the approved 50% is also requested.

Since the commencement of development the site has changed ownership due to financial and viability issues.

The layout changes are a result of:

(i) the following approved changes to the legal agreement:

- Removal of a requirement to provide a combined heat and power unit for the site; and
- Removal of a requirement to provide the affordable dwellings at Code for Sustainable Homes Level 4 and 6, and

(ii) the following issues encountered during the construction of phase 1:

- A foul sewer was discovered which removed the need for a pumping station;
- A large underground attenuation tank had to be provided to avoid excess run-off; and
- The area set aside for the badger sett was reduced following further survey work for the licence from Natural England.

With regard to affordable housing, the original agreement was for 30 affordable units out of a total of 59 dwellings (50.8%). These were to be provided as 21 affordable rented units and 9 shared ownership. One of the affordable dwellings was to be

provided at Level 6 of the Code for Sustainable Homes and the remaining 29 at Level 4.

In April 2016 an application to increase the number of units to 61 and reduce the affordable housing provision to 21 (34.4%) was refused. The application had failed to provide evidence that 50% could not be provided. It was also fundamentally unacceptable to use the chosen procedure to increase the total number of dwellings.

In November 2016 a further variation to the legal agreement was sought but this time for a change to the tenure of the affordable units, with no reduction in the total number being provided. This was approved and the balance of provision as a result of this change became 16 affordable rented units and 14 shared ownership. The requirement to provide the affordable dwellings to either Code Level 4 or 6 was also removed, as well as the stair casing restriction. In addition, the requirement to provide a combined heat and power unit was removed.

Another application to vary the layout of phase 1 was submitted in late 2016 and has a resolution to approve following consideration at a Chairman's delegation meeting in July 2017. However, work on the variation to the legal agreement stalled when the site changed ownership mid-way through the construction of phase 1 and therefore the permission has not been issued. That application will be superseded by the current proposal.

ANALYSIS

The main issues are whether or not the revised layout and design are acceptable and whether the reduction in the amount of affordable housing is acceptable.

Layout and design

In phase 1 the following changes have been incorporated in the scheme as built and benefit from a resolution to approve (under reference 16/2479/VAR):

- Plots 1-9 occupy the front of phase 1 instead of plots 1-8 (with plot 9 behind plot 7). The mix of houses is similar.
- Plots 10-15 are more tightly grouped towards the centre of the site with a parking area to the south instead of the houses being around the perimeter of the parking area.

In phase 2 the following changes are proposed:

- The pumping station and CHP plant have been omitted from the north corner of the site and the road layout has been adjusted. Plots 19-24 at the front of the site are now detached houses, the land for pumping station is now used for the underground attenuation tank and garden for plots 22-24 and garages have also been provided for those three plots.
- Plots 25-26, 31-35, 43-46 and 50-52 are now in a linear layout along the north east boundary with parking in front and gardens to the rear. This replaces a layout with more variation in house position relative to the road.

- The road layout at the southern end of the site has been straightened and plots 53-59 are now aligned with the road rather than the south west boundary.
- Plots 41-42 are staggered following the change in the road layout.

Overall, the mix of houses has shifted from predominantly 1, 2 and 3 bed dwellings to 3, 4 and 5 beds, resulting in an increase of 45 bedrooms across the site. Of the 1 and 2 bed houses now being provided, the majority would be affordable dwellings.

The proposal is considered to be reasonable in design terms, with house styles and proposed materials providing sufficient variety and interest to the edge of settlement site. The majority of the dwellings are two storeys but plot 27, a five-bed house, and plots 16, 17 and 18, a block of flats, are three storeys. These two buildings frame the entrance to the site beyond the first row of dwellings.

With regard to the proposed landscaping within and on the edges of the site, the scheme would achieve a density of development which would be appropriate to its location and although some internal planting will be lost, it would make the transition between the built-up area and the countryside.

In terms of amenity, the layout changes at the south eastern end of the site result in an improved relationship with the properties at the end of Hooker Close. The approved scheme has two dwellings facing directly towards the rear of 9, 10 and 11 Hooker Close at a distance of 3.8m to the shared boundary and about 19m window-to-window. In the revised scheme the nearest of the new dwellings would be at an oblique angle to those in Hooker Close and would have a southerly aspect compared to the north-westerly aspect of the Hooker Close properties. Views from the rear of the new properties would therefore be along the shared boundary, and the window-to-window distance would be greater and more oblique.

Most dwellings would be provided with two parking spaces, with the exception of the 1-bed flats which would only have one. There would be two 2-bed flats with only one space (plots 51 and 52) but, should the need arise, there is considered to be adequate space on the road. Some dwellings would also have their two spaces split up and slightly remote from the house and this is likely to encourage on-street parking or paving over gardens for convenience. While parking would dominate the streetscene in certain parts of the site, overall the development strikes a reasonable balance between the need to provide sufficient parking and a need for good quality amenity space and landscaping. To ensure that gardens and landscaping are retained in the interests of the AONB (and site drainage), it is reasonable to remove permitted development rights for hard surfacing.

Concern about the proximity of some the dwellings to retained trees is raised by the Tree Officer, in particular plots 19-21 and plots 54-59. The three dwellings at the front of the site, plots 19-21, would be closer to the row of beech trees than in the approved scheme but they would be to the south of the trees and would be unlikely to suffer significant shading. While there would be some impact on outlook, on balance the level of amenity for the occupants would be acceptable. A condition can be added to any

consent to relocate the bin and cycle stores from under the canopy of the frontage trees.

Turning to the trees at the rear of the site, plots 54-59 would be very close to the boundary of the site, beyond which is an area of woodland. The trees in this woodland would be directly to the south of these plots and would cause significant shading and dominance. Several of the plots would have sufficient space to provide a reasonable level of amenity but plots 57 and 58 would be closest to the trees and have the smallest gardens. It is noted, however, that in the approved scheme there are also properties with a similar relationship, albeit with bigger gardens. While such comparison does not make plots 57 and 58 any more attractive, the scheme as a whole would provide a reasonable level of amenity for its occupants and on balance the shortcomings of these two plots does not weigh significantly against the scheme.

The approved scheme had considerably more new tree planting than is now proposed. The limited amount of space available in the current scheme is because roads and junctions have been widened, planting areas have been fragmented, there has been an increase in parking provision and the dwellings have increased in size. Whilst the applicant has reconfigured parts of the layout to provide more planting than originally proposed, this does not reach the level of planting in the original scheme. This detracts from the overall quality of the scheme, especially bearing in mind that it is on the edge of the settlement and in the AONB. However, any scaling back of the development that might reduce its value would impact on viability and lead to much-needed affordable housing not being delivered.

On balance, and subject to conditions, the layout is considered to be acceptable.

Affordable housing

Aside from the design and layout changes, the main reason for this application was to seek a reduction in the amount of affordable housing.

The approval secures the provision of 30 affordable dwellings but this application was originally seeking to provide no affordable housing in phase 2. The first viability report submitted with this application claims that 'it is not viable for the development to provide any more than the 5 affordable dwellings already delivered', which would amount to 8.5%. It should be noted, however, that although the dwellings in phase 1 have been constructed, none have yet been transferred to a Registered Provider of affordable housing.

The viability of the scheme has been independently assessed and protracted discussions have taken place with the main point of contention being that the applicant wanted to use their own cost of construction whereas, in line with Planning Practice Guidance, costs should be for a 'typical developer' based on the BCIS median for a builder in East Devon. Offers of 12%, 20%, and 27% affordable housing were made by the applicant based on their own cost calculation. While it is reasonable to take into account site specific or broader economic factors, guidance and planning policy are based on a typical developer's costs.

While the offers of up to 27% affordable housing have been rejected, analysis of the development has demonstrated that 50% provision would not be viable. Consequently 37% has been offered to the applicant based upon an assessment by the Council's consultants on the submitted viability information. Having regard to the previously agreed change in tenure which increased the proportion of shared ownership rather than rented properties, the LPA has shown considerable willing in efforts to ensure the scheme is delivered. Provision of 37% affordable housing (11 shared ownership and 11 affordable rent) should see this scheme delivered and make a welcome contribution to affordable housing in the area.

On 22 March the applicant agreed to the provision of 37% affordable housing, subject to the addition of an overage clause to the legal agreement in line with Strategy 34. In addition, the applicant has submitted an amended affordable housing plan showing a much improved level of 'pepper-potting' of the affordable units. This is considered to be acceptable with any further changes likely to impact on viability and result in a lower number of affordable units.

Habitat Mitigation

The site is within 10km of the Exe Estuary and Pebblebed Heaths protected areas. The report for the first application, which was granted in 2013 (application reference 11/2679/MFUL), states in respect of the Exe Estuary:

"In addition the applicant has offered the appropriate contribution in respect of the SPA mitigation requirements."

At the time this was a contribution of £350 per dwelling. However, no contribution was secured in the S106 agreement or by any other mechanism.

In respect of the Pebblebed Heaths it was concluded that given the availability of alternative green spaces near the site, an adverse impact on the Pebblebed Heaths would not be expected. However, evidence published the following year concludes that any development within 10km of the Pebblebed Heaths can be expected to have an impact and would require mitigation. (See the South-east Devon European Site Mitigation Strategy, May 2014).

The additional 45 bedrooms across the scheme as a whole, and the consequent increase in floorspace, would attract a CIL contribution which would address the additional demands on open space and education and the additional pressure on the Pebblebed Heaths and Exe Estuary.

In the absence of a realistic fall-back position and to comply with the Conservation of Habitats and Species Regulations, a contribution towards Exe Estuary and Pebblebed Heaths mitigation is now required. Such a contribution would amount to £11,894.99.

Appropriate Assessment

The nature of this application and its location close to the Exe Estuary and Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate

Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. The net additional floorspace will be CIL liable and the financial contribution will be secured in the S106 agreement. On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Other matters

The works commenced in full accordance with the Natural England license in respect of the badger sett on the site. A letter from the ecologist setting out the steps that were taken has been provided and this demonstrates that appropriate measures have been taken to protect the badgers.

There are numerous trees on the boundary of the site and the adjacent land. Work that has taken place to date has not had sufficient regard to the trees or tree protection measures. This includes activity that has taken place on the site of phase 2, such as creation of the site compound. Remediation work is required in some areas and a robust protection scheme is needed before any further development takes place.

A drainage scheme has been designed in consultation with the Lead Local Flood Authority and has been implemented. It is based on the current scheme and therefore takes into account the increase in impermeable areas compared to the approved scheme. While no further details are required, it is important to ensure that the development is completed in accordance with the agreed scheme.

A number of conditions were imposed requiring certain actions at certain times. As the development has already commenced, the requirements, including trigger points have been reviewed. The same will apply to the trigger points in the variation to the S106 agreement.

CONCLUSION

The scheme was originally approved when the Council did not have a 5-year housing land supply and was therefore seen as a way of boosting housing supply as well as meeting a need for affordable housing. It is regrettable that more than five years after permission was granted, no houses have been delivered to the market. This proposal seeks amendments to the scheme which it is argued will secure the delivery of the full development.

Since approval of the original scheme in 2013, the site has been brought within the Built-up Area Boundary of the town and the 59 houses have been accounted for in the Local Plan housing projections. Delivery of the scheme will therefore contribute towards achieving the housing strategy of the Local Plan.

While there are shortcomings in terms of the design and layout, particularly having regard to the edge-of-town location within the AONB, the proposal would still deliver dwellings which would provide a good standard of amenity on the whole.

The reduction in the amount of affordable housing would result in a shortfall in provision compared to the numbers anticipated in the Local and Neighbourhood Plans. However, this change is a key way of securing the delivery of the scheme and the provision of some affordable houses, rather than none. The proposed 22 dwellings (37%) would make a substantial contribution to local provision and has been demonstrated to be viable. Furthermore, if profit levels are higher than anticipated, an overage clause in the legal agreement would secure a further financial contribution to affordable housing off-site.

Given the improvements negotiated in this application, especially the greater amount of affordable housing, improved pepper-potting, and detail with regard to landscaping, the proposal is recommended for approval.

RECOMMENDATION

- 1. That the Habitat Regulations Appropriate Assessment within the Committee report be adopted;**
- 2. That the application be APPROVED subject to:**

Variation of the S106 agreement to

- Provide 22 affordable dwellings (11 shared ownership; 11 affordable rent)**
- An overage clause**
- A habitat mitigation contribution of £201.61 per dwelling**

and the following conditions:

1. 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.)
2. Notwithstanding the submitted plans, a landscaping scheme for phases 1 and 2 shall be submitted to the Local Planning Authority within one month of the date of this decision. Such a scheme shall include (i) a buffer planting strip of minimum 2.5m width within the play area along the boundary to plot 59, and (ii) details of the tree and planting which closes off the northern estate road. After approval in writing by the Local Planning Authority, the landscaping scheme shall be carried out in the next planting season, unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority, and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this

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

(Reason- To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)

3. Whilst development is taking place, the following shall be maintained at all times:

(a) The access road shall be laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway.

(b) The ironwork shall be set to base course level and the visibility splays required by this permission laid out.

(c) The site compound and car park shall be maintained and operated.

(Reason - To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents and in accordance with TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031.)

4. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:

(a) The extension to the cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;

(b) The cul-de-sac which provides that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;

(c) The street lighting for the cul-de-sac and footpaths has been erected and is operational;

(d) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed; and

(e) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined.

(Reason - To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031.)

5. At all times when carrying out works in conjunction with the permission hereby granted the following limitations shall apply:

(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; and

(c) Dust suppression measures shall be employed as required during construction.

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

6. In the event that any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Contaminated Land Officer of the Environmental Health Department shall be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies. The works shall only continue in accordance with the agreed details.

(Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the requirements of Policy EN16 - Contaminated Land of the East Devon Local Plan 2013-2031.)

7. Notwithstanding the submitted details, within one month of the date of this permission, a Construction Method Statement (CMS) shall be submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide for:

(a) the parking of vehicles for site operatives and visitors;

(b) loading and unloading of plant and materials;

(c) storage of plant and materials;

(d) the erection and maintenance of security hoarding including any decorative displays and facilities for public viewing;

(e) wheel washing facilities;

(f) measures to control the emission of dust and dirt during construction;

(g) a scheme for recycling/disposing of waste resulting from construction works;

(h) details of hours in which construction work will take place; and

(i) any protection of retained trees and hedges required by condition 8.

The development shall be undertaken in accordance with the approved CMS.

(Reason - In the interests of residential amenity an in accordance with Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031.)

8. No development hereby approved (including demolition and all preparatory work) shall take place unless and until, a scheme for ground amelioration and protection of the retained trees, in accordance with BS 5837:2012, including a tree amelioration statement (TAS) tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TAS, TPP and AMS:

- a) Where the rooting environment of retained trees and hedges that have been compromised a plan for the amelioration of the soil shall be provided, to improve the soil for tree root growth.
- b) Location and installation of services/ utilities/ drainage.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- e) A specification for protective fencing to safeguard trees and hedges during construction phases and a plan indicating the alignment of the protective fencing.
- f) A specification for scaffolding and ground protection within tree protection zones.
- g) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- h) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- i) Boundary treatments within the RPA
- j) Full specification of any proposed tree works and hedgerow management.
- j) Arboricultural supervision and inspection by a suitably qualified tree specialist
- k) Reporting of inspection and supervision

The development thereafter shall be implemented in strict accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required 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 East Devon Local Plan 2013-2031.)

9. Full details of the method of construction of hard surfaces and structures on plots 19-24, 32-35, 54-59 and the play area 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 in those areas. 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 - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required 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 East Devon Local Plan 2013-2031.)
10. Notwithstanding the provisions of the Schedule 2, Part 1, Class F 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 hard surface shall be provided within the curtilage of any dwellinghouse without the prior express consent of the Local Planning Authority.
(Reason - In the interests of the character and appearance of the area, the landscape character of the East Devon Area of Outstanding Natural Beauty and avoiding surface water flooding in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs and Policies D1 - Design and Local Distinctiveness and EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031.)
11. Development shall be carried out in accordance with the drainage strategy described in the Flood Risk Assessment and Drainage Strategy prepared by True Consulting Engineers dated October 2018.
(Reason – To protect water quality and minimise flood risk in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031 and the guidance contained within the National Planning Policy Framework.)
12. Development shall be carried out in accordance with the approved schedule of materials or a schedule of materials that may be submitted to and approved in writing by the Local Planning Authority before any such materials are used in the construction of any building.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
13. No retained trees or hedgerows shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the first building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority.
(Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to

maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with Policies D1 – Design and Local Distinctiveness and D3 – Trees and Development Sites of the East Devon Local Plan 2016.)

14. Prior to commencement of any works on site details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- 1) A scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
- 2) Location, type and materials to be used for hard landscaping including specifications, where applicable for:
 - a) Permeable paving
 - b) Tree pit design
 - c) Underground modular systems
 - d) Sustainable urban drainage integration
- 3) All hard surface to be removed from retained trees and hedgerows where their rooting environment has been identified as compromised
- 4) A schedule detailing sizes and numbers/densities of all proposed trees/plants;
- 5) Specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- 6) Types and dimensions of all boundary treatments

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Unless required by a separate landscape management condition, all soft landscaping shall have a written five year maintenance programme following planting.

Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

(Reason: A pre-commencement condition is required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with Policies D1 – Design and Local Distinctiveness, D2 – Landscape Requirements and D3 – Tree and Development Site of the East Devon Local Plan 2016).

NOTE FOR APPLICANT

Informatives:

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

The following British Standards should be referred to:

- a) BS: 3882:2015 Specification for topsoil
- b) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- c) BS: 3998:2010 Tree work – Recommendations
- d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
- f) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
- g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- h) BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
- i) BS: 8601:2013 Specification for subsoil and requirements for use.

The following British Standards should be referred to:

- a) BS: 3998:2010 Tree work – Recommendations
- b) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations

Plans relating to this application:

LP-352	Location Plan		10.09.18
352-2.1.200	Proposed Plans	Combined	10.09.18
352-2.1.201	Proposed Plans	Combined	10.10.18
352-2.1.202	Proposed Plans	Combined	10.10.18
352-2.1.203	Proposed Plans	Combined	10.10.18
352-2.1.207	Proposed Plans	Combined	10.10.18
352-2.1.205	Proposed Plans	Combined	10.10.18
352-2.1.206	Proposed Plans	Combined	10.10.18

352-2.1.209	Proposed Plans	Combined	10.10.18
352-2.1.212	Proposed Plans	Combined	10.10.18
352-2.3.201	Sections		10.10.18
352.1.22E	Proposed Plans	Combined	05.04.19
352.1.47D	Proposed Plans	Combined	05.04.19
352.1.52E	Proposed Plans	Combined	05.04.19
352.1.29E	Proposed Plans	Combined	05.04.19
352.1.49F	Proposed Plans	Combined	05.04.19
352.1.35L	Proposed Plans	Combined	05.04.19
Materials Schedule	Other Plans		04.04.19
352-2.1.216	Layout		04.04.19
352-2.1.204A	Proposed Plans	Combined	04.04.19
352-2.1.208B	Proposed Plans	Combined	04.04.19
352-2.1.210A	Proposed Plans	Combined	04.04.19
352-2.1.211A	Proposed Plans	Combined	04.04.19
352-2.1.213B	Layout		04.04.19
352-2.1.214A	Proposed Elevation		04.04.19
352-2.1.215	Proposed Plans	Combined	04.04.19

List of Background Papers

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

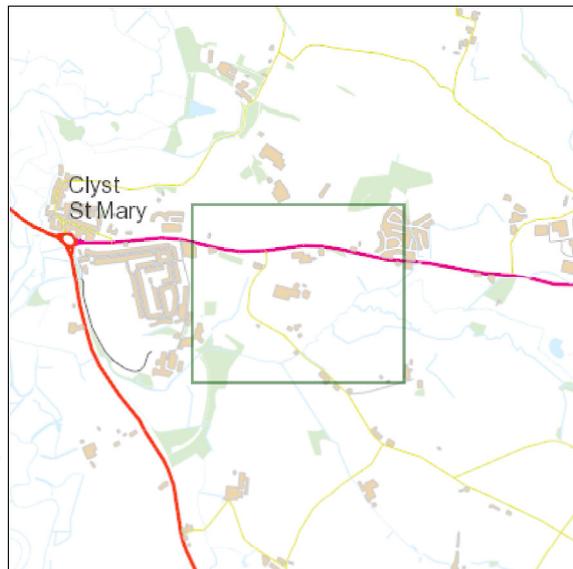
Ward Clyst Valley

Reference 18/2437/MFUL

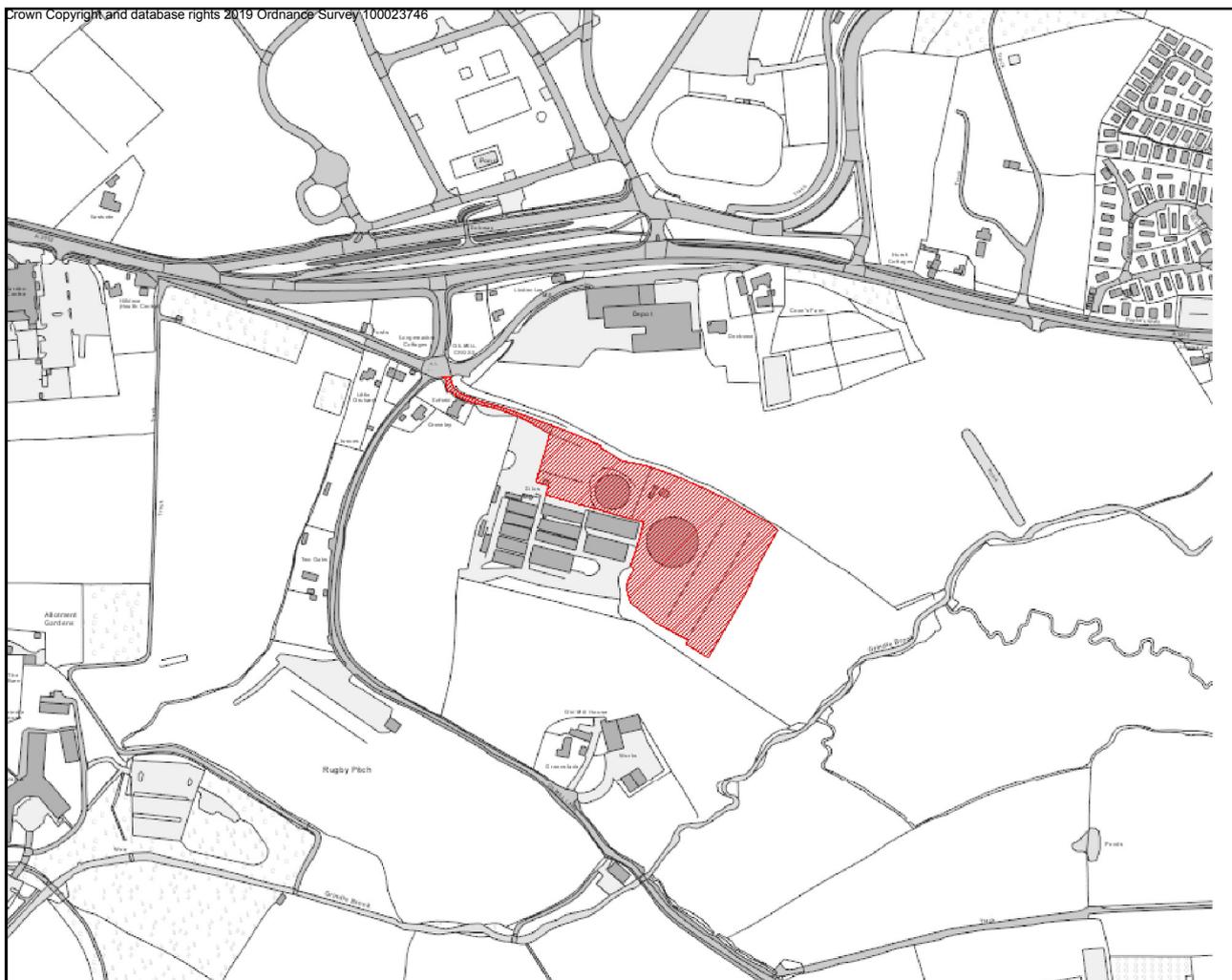
Applicant Mr David Manley (Ixora Energy Limited)

Location Enfield Farm Biodigester Oil Mill Lane Clyst St Mary EX5 1AF

Proposal Installation of a roof and roller shutter door to existing storage clamp; installation of dome to collect residual gas and installation of digestate processor unit



RECOMMENDATION: Approval with conditions



		Committee Date: 18th June 2019
Clyst Valley (CLYST ST MARY)	18/2437/MFUL	Target Date: 30.01.2019
Applicant:	Mr David Manley (Ixora Energy Limited)	
Location:	Enfield Farm Biodigester Oil Mill Lane	
Proposal:	Installation of a roof and roller shutter door to existing storage clamp; installation of dome to collect residual gas and installation of digestate processor unit	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

The application site lies in the open countryside approximately 500 metres to the east of the village of Clyst St Mary, it occupies an elevated position on land to the south of the A3052 and to the east of Oil Mill Lane. It currently comprises a dedicated bio digester and accompanying infrastructure to create renewable energy (gas) from farm waste, including pig slurry from the adjacent pig farm. The industrial buildings (including dome) and farm buildings are visible from some vantage points, however they are also read in the context of a small number of dwellings and other business operations in the vicinity. The site is access via Oil Mill Lane close to its junction with the A3052.

The application proposes to erect a dome over the final digestate tank, to provide a roof over part of the existing silage clamp and to provide a digester processing unit.

The site is already operating as an anaerobic digester creating energy to enter the national gas grid, therefore the addition of additional facilities to provide a more efficient way of producing gas and to seek to limit the impact on the locality is considered to be acceptable in principle in accordance with Strategy 39 of the East Devon Local Plan. Furthermore, the National Planning Policy Framework advises that local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources.

The application site and the adjacent pig farm to the south of the site have been the source of a number of noise and odour complaints from members of the public, the smell being of particular concern to local residents. Both the Council's

Environmental Health Officer and Officers from the Environment Agency have responded to these complaints and sought to address the issues by working with the applicant. There are a number of different component parts to the site which provide different smells at different times and can be experienced by third parties depending upon the direction of the wind.

In an attempt to reduce the odour emittance from the site, it is proposed to install a dome over the circular tank which stores the final digestate before being removed from the site to be spread on the fields. It has been identified that this could be a source of odour especially when the crust on top of the liquid is broken when tankers are filled with the digestate on collection. The dome would prevent the odour emittance but also contain any residual gas that is still contained within the liquid.

It is also proposed to provide a digester processing unit which would remove contaminants in site surface water thereby reducing the volume of this water which currently needs to be recirculated via the digester before being released into the lagoon. This would not remove any further odour from the digestate.

Finally, the application proposes a roof and roller shutter door to the existing storage clamp.

The Council's Environmental Health Officer raises no objections to the proposed development.

Impacts upon the character and appearance of the area, highway safety and surface water drainage have been found to be acceptable and on the basis that the works will allow a more efficient way of working, and more importantly for local residents, decrease the possibility for odour, the proposal is considered to be acceptable.

CONSULTATIONS

Local Consultations

Parish/Town Council

Comments:

The view of the Bishop Clyst Parish Council has not Changed due to this latest application.

We do not support this application on the following points

- o This will No longer a working farm but an industrial process plant which contravenes the original application.
- o With another Bio digester plant (crealy) within a 10 miles of this plant local agriculture farms are limited to supplies of digestant feed.
- o Distance travelled by agricultural vehicles (Tractor and trailers) to and from the plant with stock not just from the local east Devon area but from areas around the furthest side of Exeter, with an increase in size the 10-mile radius would have to be

increased. The Removal of the waste material to surrounding areas including Exmouth again in tractor and trailers for storage until suitable disposal is possible. These are activities that already take place and can only increase with the proposed increase variation. The use of these vehicles and amount of fuel used to do this must outweigh the renewable advantages of the project.

- o increased congestion on sandy gate roundabout as well as to the A3052 at clyst st mary will cause an effect on traffic movement at peak times of the day as well the movements to Exmouth via the A395 and the woodbury common road network. The damage to the highway caused by this type of vehicle will only increase and does not conform to the original application of less movements made by larger lorries with larger loads per delivery.

- o The number of recorded complaints from local residence to the Environmental department regarding the smell from the plant alone is reason not to more than double the size of the plant this has also been highlighted in the response from the environmental agency.

- o The Environmental impact on local farming as it is now more profitable for farmers to grow crops to feed the digester rather than crops for human consumption or feed stock for farm animals.

- o We believe that this type of operation contravenes our neighborhood plan for Clyst st mary

- o We also believe with the comments above that this application also contravenes east devons local plan part EN14-control of pollution including Noise, smells and transport pollution to residential areas.

Decision : Not supported

Ward Member – Cllr Howe

Further Comments having now listened to the applicant there are parts of this application that I will support, that being the installation of the roof and roller shutter to the storage clamp and the dome, as both will help reduce the impact this site is having on local residents by containing some of the points of odour. But I cannot at this time support the installation of digestate processor unit as that will increase the ability to process more.

We need to have a improvement in the smells noise and light pollution from this site before any further expansion is considered.

Technical Consultations

EDDC Landscape Architect - Chris Hariades

No comments on submitted details.

DCC Flood Risk SuDS Consultation

Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to

demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

Although it does not appear that the addition of a digestate processing unit, enclosed clamp building and a dome over an existing digester will effect the existing surface water management system, the applicant should submit details of the existing surface water management system to confirm that this is the case.

County Highway Authority

This application relates to a site located just of the C57, Oil Mill Lane, with a designated speed limit of 60mph.

The site has been used for anaerobic energy production since 2014. However this application seeks to carry out the works to facilitate the increase in material imported from 26,537 tonne to 66,000 tonne and material exported from 21,534 to 56,000 tonne. Although this is a significant increase in transport movements, the County Primary Route of the A3052 is only 50m away from this site, providing the suitable mechanism for the material to be dispersed to its ongoing destination and vice versa.

Additionally, the visibility upon the access meets contemporary national guidance for a 60mph road, even though vehicles are likely to be proportionately slower than 60mph due to the proximity of the junction of the A3052. Collision data from 2013 to 2017 also shows no recorded collisions upon this junction or in direct relation to the digester site.

Therefore the County Highway Authority have no objections to raise as part of this application.

Recommendation:

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

Environment Agency

Thank you for your consultation of 11 February 2019 in respect of the above proposal.

Environment Agency position

We have no 'in principle' objections to this proposal. However, the larger anaerobic digestion plant will need its existing environmental permit to be varied. The applicant will not be able to operate the larger plant until a varied environmental permit has been granted.

Further information is set out in our letter of 11 December 2018 in response to the consultation on application 18/2173/VAR.

Environmental Health

Planning Applications 18/2173/VAR and 18/2437/MFUL - Enfield AD Plant, Clyst St Mary

1. Introduction to PEHO comments.

The above applications, received in October 2018, both represent a very substantial increase in throughput and activity proposed at this AD plant which has been operational for almost 3 years now. The PEHO has serious concerns about the ability of this plant in this location to accommodate such an increase in throughput, together with a change in animal waste and by-products inputs, without impacting upon the amenities of residents living within 1km of the site, and also residents living further away who are affected whenever the final digestate products are spread on land. In order to comprehensively and wholistically set out our concerns we feel it is necessary to summarise in our response the background to concerns about odour and noise from the plant and its associated activities.

2. EHO consultee responsibilities.

In addition to the two current applications, four other applications have been submitted and considered since 2014 in relation to the Anaerobic Digestion plant. The responsibility of the EHO as a consultee to planning is to consider potential environmental concerns which may impact on the amenity of local residents, to articulate them, to liaise with the applicant and planning officers if necessary, and where possible to agree changes and improvements in the proposal to design out potential impacts. Where this is not possible the EHO will recommend conditions which specify mitigation and control measures which will reduce the likely impact on residents, and where this is also not possible the EHO would indicate that they are not able to support the application.

The EHO will consider the reports submitted, and will sometimes request additional information, justifying any request. In the comments submitted any data and evidence will have been obtained from the applicant's own reports or from officer investigations and observations. During the application process the EHO comments may be updated following receipt of new information or to address concerns raised by residents or other consultees. The comments of the EHO are fair and balanced and intended to assist the planning process and hence the applicant, particularly in attaining a proposal that, once constructed, is likely to operate without causing an unacceptable impact on local residents, if that is possible.

3. Relevant EDDC strategy and policy.

Considerations are made in line with planning guidance and local plan strategies. In the current East Devon local plan the specific strategy and policy is included below (specifically paragraph 21.36):

Environmental Pollution

21.35 Pollution in the environment has significant implications for people's health and quality of life. The possible pollution effects from proposed development can be a

material consideration in determining planning applications insofar as they affect development and the use of land. Where the Council considers a proposal may raise such issues the relevant statutory pollution control authorities will be consulted at an early stage. Within the powers available to it, the Council will control and reduce pollution in the environment. Where external lighting is required, as part of a development proposal, full details of the proposed lighting scheme will be required to demonstrate that this is the minimum needed for security and working purposes and minimises light pollution from glare and spillage (particularly in areas of open countryside and areas of nature conservation value) and that it will not detract from residential amenity or highway safety.

21.36 Applications involving the production or management of animal waste should demonstrate how waste and other nuisance, such as smell and flies, will be controlled.

21.37 Radon is a naturally occurring radioactive gas present in variable amounts in rocks and soils. The likelihood of amounts in East Devon exceeding the draft UK acceptable standard is thought to be remote. There is a possible risk of raised radon levels in older properties, though with modern building techniques protection and mitigation measures can address potential problems. Appropriate account should be taken of potential radon emission problems/issues in any development proposal.

EN15 - Control of Pollution

Permission will not be granted for development which would result in unacceptable levels of:

1. Pollution of the atmosphere by gas or particulates, including smell, fumes, dust, grit, smoke and soot.
2. Pollution of surface or underground waters including:
 - i) Rivers, other watercourses, water bodies and wetlands.
 - ii) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas.
 - iii) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value.
5. Fly nuisance.

4. PEHO comments on previous applications.

The PEHO has commented on each application and those comments that are relevant to consideration of these applications are copied below. Over the last few years these comments represent a comprehensive picture of how the plant has developed and the impact of the plant on the local community in terms of odour and noise in particular.

4.1 First application 14/0858/MFUL - Construction of AD plant (Approved with conditions)

This was the original application for an on-farm plant serving just the adjacent pig farm. The proposal was to take pig slurry, and a small amount of cattle manure, from the farm, mix it with crops grown on the farm in a digester, extract methane produced from

the process to feed into the national grid, and then to spread on the land the final solid and liquid digestates. The submitted odour plan stated "the solid and liquid digestates will be virtually odourless". It was on this basis that our original comments were made:

Initial comments 31/05/2014 I have considered the application and comprehensive supporting documents which address all the concerns we might usually have in relation to environmental health and community impacts. I have concerns about the importation of poultry manure in quantity because broiler manure will be mixed with wood chip which the system may not be designed to deal with. Manure from free range egg units may be infested with flies or larvae which might introduce a nuisance into this area that does not currently exist (this does not tend to be a problem with pig or cattle slurry). I would recommend that the applicant reconsider their suggestion to import poultry manure into the plant.

I therefore recommend that the following conditions are included in any approval:

1. Odour Management - The monitoring and control measures outlined in the Odour Report dated April 2014 and prepared by E4Environmental shall be implemented in full throughout the life of the installation. Reason: to ensure there is no unacceptable impact from excessive odour on the local community.
2. Deliveries to and from the site shall only take place within the hours of 8am - 6pm on Mondays to Saturdays. Reason; to ensure there is no unacceptable impact from traffic noise on the local community outside of standard working hours.

The application was approved incorporating these conditions.

4.2 Variation Application 15/1473/VAR - altering infrastructure and layout - Ammended application approved.

This application referred to a number of minor variations that were required to regularise changes made during the build of the plant. However initially it also included proposals to substantially increase throughput - to more than double that originally applied for. Inevitably the inputs would therefore need to come from a number of different suppliers, therefore moving substantially away from the "on-farm" description under which the plant was originally approved.

21/07/2015 Initial comments:

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

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

10/08/2015 Updated comments:

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

19/02/2016 Further updated comments:

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

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

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

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

Para 4.12 - "the digester is a ring in ring with weir design, with a retention time of 50-60 days." - this is not the same description as the current domed digestate storage

tank which is proposed to be used as a second digester. There is no explanation of how this second, and different, design will achieve the same end result.

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

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

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

The 2014 approved application clearly described this plant as an on-farm plant primarily intended to utilise methane produced during the breakdown of pig slurry taken from the adjacent farm. A significant quantity of crop feedstock was also to be required in order to provide the optimum conditions for producing methane which was to be fed into the national grid. Significantly the final liquid and solid products (liquid and solid digestate) were to be separated, dried and stored on-site pending spreading at suitable times back onto nearby fields. During the last 6 months it has become clear that the intention of the current amendment application is to effectively double the throughput and output of this site by sacrificing the on-site digestate storage facility in favour of a second digester tank. This would apparently result in a need for off-site storage of double the amount of crop feedstock and all the liquid digestate end product. These off-site facilities were not mentioned in the original Section 73 application on which my comments of August 2015 were based. There are now also two other related planning applications for this off-site storage on farms in the vicinity. To my mind this is a significantly different operation which is likely to have a noticeable impact on the very close by residents in this locality.

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

In conclusion, the experiences over the last 6 months do not at this stage give me confidence that a plant of double the capacity (in terms of throughput and output) of that already built would be able to operate in this location without impacting on local

residents who live close to the site entrance. The original approval was acceptable to us on the grounds that the digestate would be stored on site until being spread directly on surrounding land. Without this on-site storage capacity, and considering that the loss of on-site storage will necessarily lead to a requirement for a doubling of transport movements, I am of the opinion that this new proposal will unreasonably impact on the amenities of local residents, in contravention of policy EN15 of the New East Devon Local Plan.

17/06/2016 - Further updated comments:

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

A noise report was submitted by Atkins dated September 2015. The report refers to mitigation provided by building screening, a 2.5m bund and 3m acoustic fence around generators and the drier. The writer concludes that noise is likely to be noticeable but not intrusive (reference PPG 30 Noise). However he has not taken into account low frequency noise, or provided an assessment of new noise sources proposed in this application, notably the new pumping station, CHP unit, digestate drier or any other equipment which may cause noise audible beyond the boundary. I note that close by residents are already reporting a new noise from the plant occurring at night. It is for the applicant to be carrying out off-site assessments already to ensure compliance with the current approval but we could not conclude that we are satisfied that noise will not impact on local residents without a full evaluation of all noise sources. In the absence of an updated noise report I recommend that the same noise condition as recommended in my comments on 15/15/12 are included on any approval for this application.

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

Confirmation of exactly which type of digestate the 3000m³ refers to as the statements on this are contradictory.

28/06/2016 Final comments following response from the applicant

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

1. We are currently transferring the clamp effluent into the digester
2. Only liquid digestate will be taken to Denbow lagoon
3. Happy with this as a condition
4. The revised application refers to 5000m³ digestate exported from the site to Denbow (this is only liquid).

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

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

4.3 15/1512/FUL - Extension to plant with lagoon etc. - Refused then allowed on Appeal

10/08/2015 Initial Comments

I have been to this site during construction and considered the additional elements applied for. I do not anticipate that the additional elements referred to in this application will have a material increase in environmental health impact. There have been some odour issues during commissioning of the plant which are possibly not resolved, but the regulator in respect of issues occurring during operations is the Environment Agency.

19/02/2016 Updated Comments

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

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

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

Environmental Design Guide. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises.

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

17/06/2016 - Final comments:

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

In the event, this application was allowed on appeal with the noise condition as worded included. This was not challenged by the applicant at the time.

4.4 17/0650/VAR - Variation of Condition 7 (Feedstock sources and destinations)

– Approved

05/06/2017 - Comments

I have considered the application and would make the following observations which are relevant to the potential impact of this proposal on the amenity of the residents of East Devon district likely to be affected by it. These include residents in the proximity of the new farms proposed to be producing crop feedstock and receiving digestate, as well as residents who live close to the Enfield AD plant who are already affected by activities associated with it.

The AD plant was in a construction phase for more than 18 months, operating in an uncompleted state for around 12 months. During that time feedstock was imported and digestate exported. At times this impacted on the amenity of local residents, particularly during the harvest period (September to October) and at times when digestate was being tankered away for spreading or off-site storage. These impacts were mainly associated with large vehicles using narrow lanes, often at speed, causing noise and odour impacts on local residents along the routes used and arousing fears for safety. Residents of rural East Devon are familiar with the normal farming routines throughout the year but the concentration of activity to and from one site at certain times of the year resulted in unprecedented levels of heavy vehicle activity near homes.

The 2014 application for the AD plant stated that the site at Enfield Farm was "selected owing to its close proximity to the area where the pig slurry is produced and its closeness to land onto which the digestate would be spread" (para 12, Design and Access Volume 1 10th June 2014). Paragraph 16 stated that this was an "On-farm anaerobic digestion plant" to service the needs of the adjacent pig farm. The same owner would grow the feedstock crops required to mix with the slurry to maximise gas output. It was on this basis that the acceptability of this development in this location was considered. During the planning of this plant the need for the farm to rotate crops and be able to receive the liquid and solid digestates would have been calculated and considered sustainable. No changes in throughput of feedstock or output of digestate are proposed and therefore I see no reason that the original vision of the plant as described in 2014 should be changed.

No sustainability appraisal has been submitted with this application and I am concerned that residents living near to the additional farms to be used for the production of crop feedstock and the receipt of liquid digestate by tanker will be

impacted upon by increased large vehicle movements in the lanes serving these farms.

5. Request for Screening Opinion May 2018

The applicant submitted a request for a screening opinion with a view to submitting an application to substantially increase throughput to the plant and to accept agricultural wastes and by-products from unspecified sources. At this time complaints about the occurrence of odour and noise from the plant itself had declined although at times smell from the pig farm was noted. Critically it has been determined that these smells coincide with occasions when the AD plant refuses to take the slurry because it does not have capacity to do so. Often this is at times of heavy rainfall when surface water from the site is fed into the plant (providing the required liquids). During investigations into the reasons for this the plant manager advised that the plant runs more efficiently without pig slurry or animal wastes; they actually inhibit production. This was quite a concern to the PEHO because the farm does not currently have a back-up slurry storage facility. At times both odour and fly nuisance has occurred as a result of this situation. The PEHO is therefore extremely concerned about the request to more than double throughput and change inputs without constructing additional infrastructure because it appears that it cannot always accommodate what it is currently permitted to handle.

The PEHO comments on the screening opinion were as follows:

- a) I think we are all of the opinion that this scale of increase, both in quantity and type of inputs (as both would change significantly) must surely require a full Environmental Impact Assessment as there will be potential to impact negatively on the local environment and community.
- b) We are concerned that no further structures or storage seem to be suggested so we would require more details of raw materials management, as this was a critical part of the existing scale of operation, which appears to have reached capacity on this site with the current permitted throughput.
- c) We also have concerns about sustainability on a wider scale and would like to see a full Sustainability Appraisal because we think that the local and wider community particularly needs to be informed about how the subsidies payable, and suggested need for energy produced from waste and crops grown specifically as feedstock, are traded off against impacts on the local environment, loss of agricultural production land, transport of raw materials and impact on the communities affected by the production of crops for this process and the operation at Clyst St Mary.
- d) The existing plant does not seem to have current issues relating to unacceptable odour now that it is complete. The odour potential would change though as the inputs differ in some way from the present simple mix; dairy industry waste products for example are highly odorous and negatively affect communities wherever they are disposed of. Similarly some "agricultural industry by-products" are also highly odorous and cause local odour problems. This term is too wide to enable proper consideration of likely unacceptable impacts. Therefore a comprehensive odour report will need to form part of the EIA, with each input separately considered.
- e) The existing plant has been responsible for a number of noise issues over the past 2 years, some of which have still not been completely addressed (audible reversing alarms for example are still a regular cause of concern). A plant with more activity and increased traffic movements both around the site and in the locality is

inevitably going to impact more on local residents. A comprehensive noise report would therefore be required, with achievable and deliverable mitigation proposed.

f) We were advised by the current operator in 2017 that at times pig slurry could not be taken as the plant operates more efficiently without animal wastes, so we are surprised that the proposal would be to take more animal waste and the unspecified agricultural and dairy industry by-products which might well inhibit the digestion of crop feedstock. In view of the problems experienced in 2016 and 2017 I would therefore wish to see a scientific appraisal of how the energy production efficiency is affected by the ratio of animal wastes, industry by-products and wastes, and crop feedstocks thereby justifying why it might be necessary to introduce these potentially odorous wastes into the facility.

g) We are of the view that the increase in traffic movements is likely to have a significant impact on residents living close by, particularly in terms of noise. The Highways team do not consider impacts on residents, their remit involves the capacity of the highway and safety. Notwithstanding a suggestion that the transport movements tend to be spread evenly throughout the year, the experience of local residents to date is that traffic movements are often concentrated into periods of intensive activity, particularly during harvest time, so details of any arrangements to better manage this should be an essential element of future reports.

The planning decision was that the proposal did not meet the criteria for a full Environmental Impact Assessment to be required. However the EHO would expect that a detailed Environmental Statement would be submitted to address all of the above points in detail in order that the applicant could demonstrate how the proposal met the requirements of the local plan policies.

6. Current Application, Initial Comments.

The details submitted with the application are extremely limited. We would have expected that the applicant consider the comments of the PEHO on the screening opinion and ensure that they were comprehensively addressed during any application process because they are clearly questions that need answering. During the last two years officers have received an increasing number of complaints about an extremely foul odour released when liquid digestate is spread on land, often a considerable distance from the plant. This is in addition to previously referred to complaints about on-site pig odour when the plant is unable to take slurry. We are aware that there have been a large number of noise complaints which are followed up by the Environment Agency. The following elements, at least, are missing from the application which would enable us to make a proper assessment against the council's environmental policy:

a) No full updated odour assessment taking into account the new odorous inputs proposed (odour is mentioned only in general terms in paragraph 5.3.1 of the planning support statement).

b) Insufficient details of how these new materials (particularly the substantially increased liquid input as the supplying farm does not have on-farm storage) will be stored on site, or where they will be stored off-site and therefore how supply will be managed.

c) No comprehensive sustainability appraisal balancing the financial and subsidy benefits, and the desired needs of an increased throughput and output against the negative environmental and community impacts caused by sacrificial crop production

and digestate spreading. Sustainability is mentioned only in general terms in paragraph 5.4 of the PSS.

d) No recent noise survey (the submitted noise report refers to a survey dated September 2017 and is therefore out of date). Furthermore the report refers to 3 of 4 monitoring locations which are considerably further away than the closest residences. In fact the 4 closest residences are only 74, 108, 112 and 129 metres away, one property being immediately adjacent to the entrance lane.

e) No evaluation of current noise sources, or confirmation that the mitigation previously required has been provided. For example a fence has been put up on two sides near the CHP plant but it is only a standard wooden fence, not an acoustic fence, and therefore has limited effect and is not compliant. The boundary noise control has never been delivered, reversing alarms are still routinely heard. There is no evidence of any achievements that mitigation included to date has made.

f) No commitment to comply with the Environment Agency guidance on noise which states that specific noise must not exceed the background noise at the time (a requirement that we will also insist upon). At present there are frequent off-site noises audible, particularly at night, and the noise report acknowledges this, indicating a noticeable exceedance.

g) No evaluation of transport noise which must be included if the applicant wishes to use the BS4142 standard as a basis for an altered condition.

h) No consideration of the impact of dust on the resident of Enfield Bungalow as a result of increased HGV use of the unmade road adjacent to it.

i) No details of how surface water drainage and silage clamp run-off (from the new roof) is to be managed. The lagoon appears to be often at capacity and water is required to recirculate through the plant (instead of pig slurry) in order to provide additional holding capacity until it is of a suitable quality for release into the nearby stream.

I would be able to comment further once this information has been provided but in the absence of answers to these queries I do not consider that either of these related applications could be delivered without unacceptably impacting upon the amenities of local residents.

EHO Further response to rebuttal comments provided by Gorst Energy, dated 8th February 2019:

1. Paragraph 1 - the writer clarifies that the existing operational development has established material handling systems and procedures for "the management of feedstocks including animal wastes". It is the case that the existing systems are only known to be appropriate for the existing feedstocks (crop residue, pig slurry and cattle fym) and not the wider range of feedstocks which are proposed in the variation application.

2. Paragraph 2 - There have been complaints regarding digestate spreading at various locations across East Devon - complainants identified the Red Rock red tankers which were taking it to the fields during 2018, although other contractors are also used I understand. They advise that the smell is strong and extremely unpleasant but officers are usually unable to take follow up action because these effects are short lived. The experience is probably similar to the spreading of pig slurry, albeit that the smell itself is different.

3. Paragraph 2 - The writer suggests that the odour abatement notice which was served on Greener for Life in 2017 referred to slurry not digestate. This is not the case - tankers were followed from the plant to the fields in Clyst St George where the spreading caused severe odour issues. Only digestate comes out of the plant, slurry comes direct from farms, and in any case Greener for Life accepted the notice and the landowning farmer confirmed that he had a written agreement to accept digestate from the plant, not slurry.

4. Paragraph 3 - The plant director himself advised in 2017 that pig slurry has been refused at times when there is too much surface water to recirculate (and hence no capacity to take the slurry). This situation has occurred again on several occasions since then, including early in 2019. The suggestion that anti-biotic residues in the slurry killed "good bacteria" in the plant was discounted in 2017 because it is used only in minor quantities for the youngest pigs, they metabolise the anti-biotics so that any residue is at extremely low levels and further diluted in the majority of slurry and wash down water which comes from older pigs and the farm premises. It is again further diluted with the surface water and crop feedstocks in the digestors such that it is negligible and certainly not able to destroy bacteria in the plant. Eventually we were told by way of explanation that the plant were advised by experts in Germany that the problem they had at that time was caused by running the digestors at too high a temperature, nothing to do with the slurry quality.

5. Paragraph 3 - The adjacent pig farm is not a permitted facility (it is not large enough to require it) and currently does not have permanent contingency planning for occasions when the plant refuses to take the slurry. This is because the plant was located originally specifically to take the slurry from the farm, and therefore the farm would not be expected to require other arrangements. Should the plant receive feedstock from off-site sources this would make the farm even more vulnerable to on-site slurry management problems which may impact on pig health and residential amenity. Odours from the farm arising at times when the plant refuses the slurry can therefore be directly attributable to the management of the plant.

6. Paragraph 3 - We are not satisfied that the existing infrastructure at the plant is sufficient to accommodate twice the volume of pig slurry as well as the other suggested inputs because as mentioned above pig slurry is already refused if the plant does not have capacity (usually because of excess surface water taking up some of the volume). This is not a result of the current limit on slurry intake (6,000 tonnes per annum) because in January 2019 slurry was refused when clearly the plant had taken nowhere near 6,000 tonnes this year.

7. Paragraph 4 - A request to vary a planning condition relating to noise control forms part of this application and therefore noise is a consideration. Clearly an increased throughput on the scale proposed will increase the potential for noise problems, particularly as there are noise issues which are already apparent and the required mitigation has not been completed. The noise sources must include vehicles used in delivery and transport because the access road passes within 4m of the nearest residential dwelling, and it is clear that the number of transport movements must increase.

8. Paragraph 4 - There is significant potential for new odour sources to be introduced as some of the proposed new feedstock can be odorous as previously described (dairy waste, animal by-products and poultry manure depending on condition). Therefore an evaluation of these sources and effective mitigation is needed by the planning authority which has a duty to assess the potential for affecting the amenity of local residents. This is not something that can be left to the EA permit as the EA are unlikely to refuse to list potentially odorous inputs because all wastes of this kind will smell, especially if planning approval has been given to take this material. NB. This plant does not have planning approval as a waste site in any case.

9. Rebuttal of comments relating to EHO Section 6 a) to i):

a) There was only a scant amount of information on odour in the planning statement and this is insufficient. The writer does acknowledge existing environmental impacts by stating that installation of a 2nd dome should improve them. The updated odour report and management plan needs to form part of the planning application and it is not the case that the EA have not objected to this application; they are relying on the planning authority to predict impact on residential amenity. At present the liquid digestate storage tank which contains odorous liquid still producing gas is uncovered; it could be argued that it should have had a cover from the outset and until it does will always be a potential source of off-site odour.

b) Storage of new materials - there is not always sufficient capacity for the pig slurry to be piped directly into the plant storage at the moment, so it is unlikely to be able to accommodate more than twice the permitted volume if the current hydraulic retention times are maintained.

c) Sustainability appraisal - documents have now been submitted but they still fail to take into account negative environmental impacts (from the plant, transport and spreading) on the local and wider community, or how land made over to sacrificial crops impacts on the local agricultural economy, and to balance these against wider economic benefits to the operators.

d) Noise - The writer states that there are no additional noise related elements. This is not the case because the noise of vehicles delivering feedstocks and removing digestates will undoubtedly increase and must be taken into account if the applicant wishes to change the noise condition. Noise is a critical factor in planning as the anticipated impact on residents needs to be identified and mitigated or designed out during the planning process. The EA permit becomes effective only after the planning process.

Background noise - This is an existing plant and therefore attended noise monitoring needs to be carried out at the closest residences in order that the noise influences can be correctly identified. If the consultant is not on site they cannot identify any specific noise source correctly. This area often has higher background noise levels because of the nearby motorway, but specific noises can still dominate and cause problems, and whenever the wind is from the south the motorway will not influence. So noise monitoring must consider the worst case scenario, and not just assume that the motorway noise will mask everything else. Complaints received by the EA over the last 3 years show this.

e) Noise mitigation - the fact that the existing requirements for noise control and mitigation have not been fully met is relevant, because any additional noisy activities will just make the current situation worse (particularly reversing alarm issues and heavy vehicle noise). The current situation with noise shows that there are problems

with the existing throughput levels which will only get worse if there is a significant increase in throughput. Reversing alarm complaints have been traced directly to the plant - the coach depot has short periods of reversing but at the plant the noise can go on continuously for hours at a time.

f) Specific noise - the changes in the noise condition proposed by the applicant require all specific noises to be identified, including transport noise and this has not been done. Therefore it is not the case that these planning applications have no effect on noise as the writer suggests. For clarification the term "off-site" noise means noise audible off site but generated by an on-site source. The standard EA permit condition on noise is non-specific and therefore not sufficient for planning purposes. It is not the case that there have not been permit breaches in relation to noise, many complaints have been made and as recently as Christmas 2018 a problem was identified with noise from the flare. Previously the flare was required to be moved and replaced partly because it was causing a noise problem. The required acoustic fence has not been erected around the CHP plant, and boundary noise mitigation has not been provided. The EA have confirmed that there are unresolved noise issues.

g) Transport noise - the writer requires clarification. Of course transport noise on the public highway cannot be taken into account and controlled by the operator - the transport noise referred to is that which uses the private access lane immediately adjacent to Enfield bungalow. This is the only access onto the site. It would also include any vehicle noise on the site, such as the buck rake used on the silage store and loader used throughout the site. The writer confirms that there will no additional storage on site and therefore inevitably the frequency and number of vehicle movements will increase. We do not accept that more than doubling the amount of material being brought onto (and off) site will not increase the onsite movement of vehicles. Clearly if the inputs double, the movements of vehicles on site will at least double.

h) Dust - We are pleased to see that for the first time the applicant has committed to hard surfacing the access lane to the plant past Enfield bungalow. The resident has endured 5 years of excessive dust affecting their property during dry periods.

i) Surface water management - We were advised by the plant director that surface water is recirculated into the plant and at times therefore there is insufficient capacity to take all the pig slurry. The director also advised in 2017 that in fact pig slurry inhibits the production of gas and the gas production increases without it. This is not about calorific value but efficient metabolism of the crop feedstock by the bacteria in the process - the bacterial process effectively acts in a similar way to the stomach of an animal in converting plant material to energy. Pig and cattle faeces have already been through that process and therefore do not alone have much to contribute. We are advised that some AD plants have stopped taking pig slurry altogether for this reason, and we are concerned that in time this might happen at this site.

10. Comments on submitted Odour Management Plan dated 8th February 2019.

(i) Section 3.1 - Feedstocks - only maize silage, grass silage, fym and slurry are mentioned; there is no mention of the new types of feedstock listed in the application under consideration (such as dairy wastes, poultry manure, unspecified animal by-products).

(ii) Section 3.3 - Liquid digestate - the writer suggests that liquid digestate has a lower odour potential than raw slurry. This has not been found to be the case in practice as the smell during spreading and whenever there is an odour release at the plant can be extremely strong and unpleasant, albeit different in nature to raw pig

slurry. On site odour abatement systems are in place in order to manage this within the plant, but there is no equivalent during spreading. The only low odour final product has been found to be fully dried solid digestate. The writer states that the final liquid digestate is "low odour due to the long hydraulic retention time" and that "there is very little undigested material in the final digestate". If the throughput were to be more than doubled with no related increase in processing capacity then it is clear that the retention time will be reduced. If that is the case then the final liquid digestate will not achieve its stated "low odour" potential and will need to be removed from the site to off-site storage more frequently. This could actually cause odour problems at the off-site storage too. The statements around the subject of throughput, on-site storage capacity, traffic movements, retention time and final digestate quality are therefore contradictory.

(iii) Section 4 - Poultry litter is listed as an odour source. There will be no abatement provided for this. Poultry litter can be notoriously highly odourous when wet and the source would need careful management; for example only broiler sources (not egg layers) are likely to be suitable and this cannot be controlled through the planning process. Wet litter is highly susceptible to fly infestations. The buffer tank, separator, drier and tanker filling points are listed as potential odour sources. If odour abatement fails then the release of strong odours into the local community is inevitable, as has occurred on many reported occasions in the last few years. Unfortunately the plant has not always been able to identify the source and this is a concern because it is therefore possible that uncontrolled releases of odour will continue to occur until the operators find some way of being able to identify the cause on every occasion. The occurrences of odour has diminished since all the controls have been operational (about 18 months after first operation), and it is likely that on some occasions odour has originated from the associated pig farm.

(iv) Section 7 - Risk assessment. The writer acknowledges that poultry litter has an unpleasant odour. The writer suggests that the probability of exposure to odour on residents is low for all potential sources because of the distance to residents. It is unfortunate that his attention was not drawn to the many complaints made by residents to the EA and the Council because at times odour from the plant has been unpleasant at residences up to 1km from the plant, more frequently at those which are closer, the nearest of which is about 80m. The risk assessment is written as if there are no residents within 1km of the plant, and in fact there are many. The writer does suggest that biogas is highly odourous, but assumes it is rarely released when in fact many residents have reported gas smells at times. However he is wrong to suggest that the digestate has low odour because this has been the cause of most odour complaints that have been able to be linked to the plant.

In conclusion there are still inaccuracies in the further information provided by the applicant in relation to the potential for unacceptable odour and noise impacts. In the absence of evidence to address all of these outstanding concerns I am still unable to support the variation application 18/2173/VAR in its entirety, although I would support the requested variation in the noise condition if the outstanding queries regarding transport noise are addressed.

However, the applicant has made clear in the planning support information that application 18/2437/MFUL which includes the installation of a domed roof on the liquid

digestate storage tank, and the construction of a "digestate processor unit" is intended to "improve the quality of digestate..and to improve environmental control". Although no specific details of the processor unit are included, there would be a positive benefit if the liquid digestate were to be put through a final screening process as at present there is still a noticeable fraction of solid residue which potentially contributes to the odour. In my view this digestate still cannot be described as "low or no odour" as described in the initial applications for this site. The applicant also confirms that the dome will maximise gas collection and minimise risk of odour - thereby acknowledging that at present there is potential for both gas and odour to be released to atmosphere from the open tank. I consider that this particular application would therefore represent a positive benefit to the local community as it goes some way to improve the current situation and therefore I would have no objection to it once details of the proposed digestate processor unit have been provided.

Other Representations

18 representations have been received as a result of this application raising the following concerns:

- Growth in infrastructure facilitates increased throughput;
- Impact of 12 metre high dome on surroundings;
- The whole process contributes towards increased soil erosion;
- Increased traffic congestion on the A3052 and Oil Mill Lane;
- Noise during the night;
- Pedestrian safety compromised on Oil Mill Lane, especially when school children are present at the nearby bus stop;
- The flare on site should only be used on rare occasions, it is used frequently;
- Increased flies in the area;
- Won't solve the constant odour issues that are reported but not resolved;
- Out of scale with the village;
- Not a sustainable solution;
- Right turns at the end of Oil Mill Lane are impossible for any vehicles;
- Benefits of the dome have not been fully justified; and
- The site has grown to an unsustainable level already.

PLANNING HISTORY

Reference	Description	Decision	Date
14/0858/MFUL	Construction of agricultural anaerobic digester plant for production of renewable energy	Approval with conditions	24.07.2014
15/1473/VAR	Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant	Approval with conditions	23.08.2016

15/1512/FUL	Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds	Refusal	05.08.2016
17/0650/VAR	Variation of condition 7 (ii) of planning permission 15/1473/VAR to allow alternative site for feedstock source and variation of condition 7 (iii) to alternative destinations for digestate, and variation of condition 2 (plans condition) to replace approved transport statement	Approval with conditions	01.11.2017
17/2889/MFUL	Works to ground levels and provision of landscaped area	Withdrawn	01.08.2018

POLICIES

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

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D7 (Agricultural Buildings and Development)

Strategy 39 (Renewable and Low Carbon Energy Projects)

EN14 (Control of Pollution)

TC7 (Adequacy of Road Network and Site Access)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

Bishops Clyst Neighbourhood Plan

No relevant policies.

Site Location and Description

The application site lies in the open countryside approximately 500 metres to the east of the village of Clyst St Mary, it occupies an elevated position on land to the south of the A3052 and to the east of Oil Mill Lane. It currently comprises a dedicated bio digester and accompanying infrastructure to create renewable energy (gas) from farm waste, including pig slurry from the adjacent pig farm. The industrial buildings (including dome) and farm buildings are visible from some vantage points, however they are also read in the context of a small number of dwellings and other business operations in the vicinity.

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

Proposed Development

This application seeks full planning permission for:

- the installation of a roof over and roller shutter door to part of existing silage clamp with internal partitioning to create dry storage for various imported goods;
- the installation of a dome over the circular tank containing the resultant digestate after being processed to collect any residual gas;
- the installation of an additional digestate processor unit.

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;
- the impact on residential amenity;
- the impact on highway safety; and
- other considerations;

Background

It should be noted that this application has been submitted at the same time as application 18/2173/VAR which seeks to vary a number of conditions attached to application 17/0650/VAR, chiefly to vary condition 7 to increase the throughput of the

digester and add poultry waste into the anaerobic digestion process. This application has been refused under Delegated Powers for the following reason:

'Insufficient information has been submitted to demonstrate that the increase in throughput of the digester and scale of operations, without any increased infrastructure to process the increased inputs, would not have a detrimental impact upon its surroundings through noise and smell disturbance together with the impact of increased traffic movements on nearby residents. Accordingly the proposed development is considered to be contrary to Strategy 7 (Development in the Countryside) and Policies EN14 (Control of Pollution) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan.'

Changes to the throughput of the site and use of poultry waste do not form part of the current application for consideration although the roof over part of the silage clamp would facilitate the storage of the poultry waste which should be stored under cover if consented. However, approval of this current application would permit the construction of the roof over the silage clamp but no change to the waste that could be stored within the created building.

Principle

The site lies in the open countryside where all development should be strictly controlled so that it does not detrimentally impact upon the character and appearance of its surroundings. However, that does not represent a bar on all development, as in compliance with Strategy 7 of the EDDC Local Plan, where developments are in accordance with the aforementioned the proposal would be acceptable in principle providing its impacts do not cause harm to the locality.

In this instance the site is already operating as a bio digester creating energy to enter the national gas grid, therefore the addition of additional facilities to provide a more efficient way of producing gas and to seek to limit the impact on the locality is considered to be acceptable in principle in accordance with Strategy 39 of the East Devon Local Plan.

Furthermore, the National Planning Policy Framework advises that local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources. Anaerobic digestion makes use of organic matter which for the most part is created on farms in the countryside. It is therefore accepted that such plants should be stationed close to the places where the material is sourced to avoid unnecessary vehicle movements into more densely populated areas. Given the support for anaerobic digestion from Central Government and the benefits which have been widely recognised, the principle of the development should be viewed favourably. However, this still however requires an assessment of the specific impacts of the proposed development and any material considerations to determine whether the proposal is acceptable in detail.

Impact on surroundings

The foremost impact on the surrounding landscape would be the introduction of a second dome on site to cover the final digestate tank before it is exported from the site

to be spread on surrounding farm land. The dome (12 metres in height) would be no higher than the existing dome (13.5 metres from ground level) on site and would be viewed in the context of the existing dome together with other infrastructure on site and the adjacent farm buildings. It is however considered reasonable and necessary to condition that the colour of the dome be agreed to ensure an acceptable visual impact.

The roofing over part over the silage clamp in green profile sheeting to a height no higher than the existing clamp is likely to have only a very localised impact due to its lower height relative to other structures on site.

The digestate processing unit (5.5 metres high) would be a lower level structure in the context of other infrastructure on site and would be sited in the middle of the site minimising its wider visual impact.

Accordingly, whilst the structures would be visible in the wider landscape they would be read in the context of the existing site and its infrastructure. The landscape is not protected and given the Council's Landscape Architect does not wish to comment on the application, it is considered that the proposal would be acceptable visually in accordance with Strategy 46 and Policy D1 of the EDDC Local Plan.

Impact on residential amenity

The application site and the adjacent pig farm to the south of the site have been the source of a number of noise and odour complaints from members of the public, odour being of particular concern to local residents. Both the Council's Environmental Health Officer and Officers from the Environment Agency have tirelessly responded to these complaints and sought to address the issues by working with the applicant. There are a number of different component parts to the site which provide different smells at different times and can only be experienced by third parties depending upon the direction of the wind.

In an attempt to reduce the odour emittance from the site, the proposal is to install a dome over the circular tank which stores the final digestate before being removed from the site to be spread on the fields. It has been identified that this is a source of odour especially when the crust on top of the liquid is broken when tankers are filled with the digestate for removal from the site.

The proposed dome would prevent the odour emittance but also contain any residual gas that is still contained within the liquid.

It is also proposed to provide a digester processing unit which would remove further excess water from the digestate to provide an enhanced final product that would enrich the soil on the fields it is spread upon, it would not remove any further odour from the digestate.

With regard to the covering of part of the silage clamp, this will provide some protection from odour should the other current application at the site grant consent for the storage of poultry waste. If that application is refused, the covering of part of the clamp will have no real benefit, or dis-benefit, to odour or noise emitted from the site.

The Council's Environmental Health Officer has been consulted on the proposal and has the following comments to make:

'.....the applicant has made clear in the planning support information that application 18/2437/MFUL which includes the installation of a domed roof on the liquid digestate storage tank, and the construction of a "digestate processor unit" is intended to "improve the quality of digestate..and to improve environmental control". Although no specific details of the processor unit are included, there would be a positive benefit if the liquid digestate were to be put through a final screening process as at present there is still a noticeable fraction of solid residue which potentially contributes to the odour. In my view this digestate still cannot be described as "low or no odour" as described in the initial applications for this site. The applicant also confirms that the dome will maximise gas collection and minimise risk of odour - thereby acknowledging that at present there is potential for both gas and odour to be released to atmosphere from the open tank. I consider that this particular application would therefore represent a positive benefit to the local community as it goes some way to improve the current situation and therefore I would have no objection to it once details of the proposed digestate processor unit have been provided'.

Accordingly, the proposed addition of a roof and digester processing unit are considered acceptable and would improve the odour emittance from the site without impacting unreasonably on residential amenity in terms of the visual impact due to the distance of the proposed structures from the nearest dwellings. The proposal is therefore considered acceptable in relation to Policy D1 of the EDDC Local Plan.

Impact on highway safety

The proposed development would not increase traffic movements (or amount of waste processed at the site), and whilst there are concerns from members of the public regarding the impact that existing traffic movements have on the locality that is not a matter that can be addressed through this application. Accordingly, the proposed development is considered to be acceptable in accordance with Policy TC7 of the EDDC Local Plan.

Other matters

Devon County Flood Risk Team have raised a concern regarding how surface water on site would be dealt with, whilst they consider that the existing system could potentially accommodate the additional run off from the roof over the silage clamp and the dome over the final digestate tank they require further details of the existing system. The application form states that it would drain to a soakaway. It is considered that the surface water drainage details could reasonably be secured through a suitably worded planning condition.

Concern has been raised regarding permitting the roof over part of the silage clamp in advance of determination of application 18/2173/VAR in that it could increase pressure to grant the tandem application. However, this application must be treated on its own merits, whether or not a further planning permission for use of poultry products in the anaerobic digestion process is permitted or not would either be a factor in installing

the roof over the clamp or an alternative product could be stored within the covered clamp, on its own merits the cover would have no detrimental impact on the surroundings or residential amenity and is therefore considered acceptable. There are no reasonable planning grounds to refuse planning permission in this instance.

CONCLUSION

The application proposes to erect a dome over the final digestate tank, to provide a roof over part of the existing silage clamp and to provide a digester processing unit.

As the site is already in use as an anaerobic digester, the principle of further development on the site is acceptable in principle. Whether the proposal is acceptable as a whole is down to the acceptability of the specific details and impact from the proposal.

There has been a history of noise and odour complains at the site and in an attempt to reduce the odour emittance from the site, it is proposed to install a dome over the circular tank which stores the final digestate before being removed from the site to be spread on the fields. It has been identified that this is a source of odour especially when the crust on top of the liquid is broken when tankers are filled with the digestate on collection. The dome would prevent the odour emittance but also contain any residual gas that is still contained within the liquid.

It is also proposed to provide a digester processing unit which would remove further excess water from the digestate to provide an enhanced final product that would enrich the soil on the fields it is spread upon, it would not remove any further odour from the digestate.

Finally, the application proposes a roof and roller shutter door to the existing storage clamp which is considered acceptable. Whilst this element may only be needed if another current application at the site permits the use of poultry waste, the works in themselves are acceptable and approval of the door and roof would not mean that the other proposal at the site needs to be supported. The roof and door needing to be assessed on their own merit.

The Council's Environmental Health Officer raises no objections to this proposed development, recognising that there will be benefits locally as the proposals have the potential to address odour from the site from spreading to the surrounding area.

Impacts upon the character and appearance of the area, highway safety and surface water drainage have found to be acceptable and on the basis that the works will allow a more efficient way of working, and more importantly for local residents, decrease the possibility for odour, the proposal is considered to be acceptable.

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 installation of the dome over the final digestate tank and the roof over the silage clamp hereby approved details of the surface water drainage to accommodate the flows from these features shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved drainage details.
(Reason – To ensure that the surface water from the dome and roof are deal with in an appropriate manner to prevent run off onto third party land I accordance with Policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan.
4. Prior to the installation of the dome over the final digestate tank, details of the colour of the dome shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the dome shall be construction and retained in accordance with the approved details.
(Reason: In the interests of the visual amenity of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

DWG 001	Location Plan	23.10.18
1687_P032 REV A : PLANNING APPLICATION BOUNDARY	Other Plans	23.10.18
IX001_EN2_EL_ E_E004 : ELEVATIONS + SECTIONS	Combined Plans	23.10.18
IX001_EN2_EL_ E_E005 :	Combined Plans	23.10.18

ELEVATIONS +
SECTIONS

IX001_EN2_SP_002	Proposed Site Plan	23.10.18
IX001_EN2_EL_S_004 : SOUTH	Proposed Elevation	23.10.18
IX001_EN2_EL_S_005 : SOUTH	Proposed Elevation	23.10.18
IX001_EN2_SP_003	Proposed Site Plan	23.10.18
3000 REV P01 : SHEET 1 OF 2	Proposed Elevation	31.10.18
3001 REV P01 : SHEET 2 OF 2	Proposed Elevation	31.10.18

List of Background Papers

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

Ward Tale Vale

Reference 19/0221/FUL

Applicant Mr Lunn

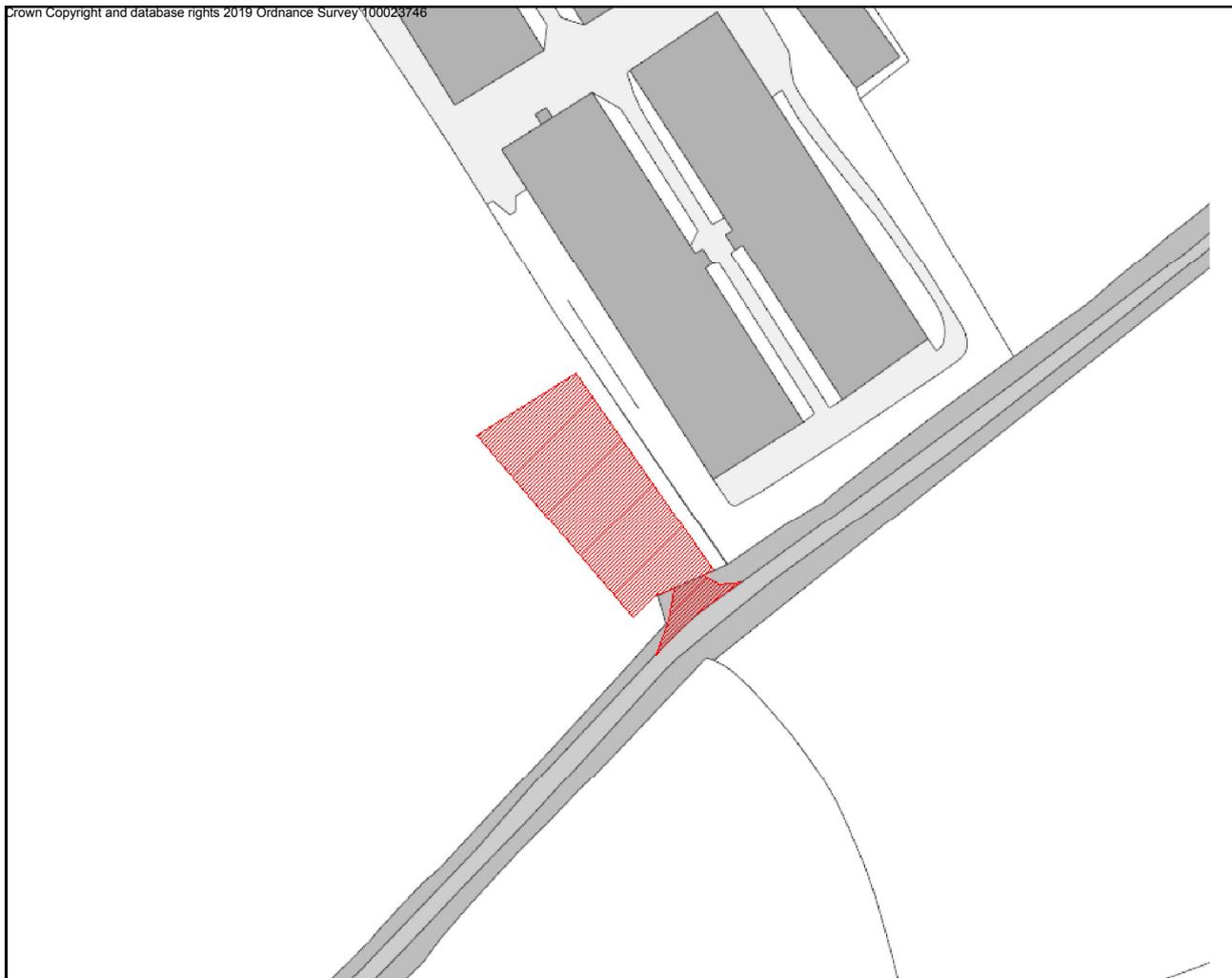
Location Land To The North Of Brickfield Farm Dulford

Proposal Erection of a second permanent rural workers dwelling



RECOMMENDATION: Refusal

Crown Copyright and database rights 2019 Ordnance Survey 100023746



		Committee Date: 18th June 2019
Tale Vale (Broadhembury)	19/0221/FUL	Target Date: 10.04.2019
Applicant:	Mr Lunn	
Location:	Land To The North Of Brickfield Farm Dulford	
Proposal:	Erection of a second permanent rural workers dwelling	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

The application is before Development Management Committee as the officer recommendation differs from that of the Local Ward Member.

The application proposes the construction of a second agricultural workers dwelling to assist in the operations at West Knapp Farm. The site is in the open countryside where there is a presumption against new isolated homes unless there is an essential need for a rural worker to live at or near their place of work in the countryside. Even if an essential need for the proposal is proven an assessment to the applications impact upon the rural landscape, local highway network and amenity of adjoining neighbours is required.

The Local Planning Authority is not satisfied by the evidence and reasoning submitted that there is an essential need for an additional worker to be present at the site at most times of the day and night. There is already a tied managers dwelling on site which appears to be, or should be meeting, the functional requirements of the poultry business. Whilst it is appreciated that the number of broiler chickens is significant, and due to increase to 220,000, it has not been adequately explained or argued how Mr Lunn's business operations have changed since the permission for the original dwelling to justify the need for a second dwelling. It is acknowledged that the poultry units require constant monitoring as they are susceptible to variations in temperature, however, to date, the ventilation of the barns have been controlled adequately.

The argument has been put forward that the second dwelling is also required to provide additional security for the site. However, the dwelling would be located away from the rest of the agricultural buildings and presumed to not contribute to the level of security already provided by Four Horseshoes.

In the absence of such justification the proposal would represent residential development in the open countryside where it would be divorced from an

appropriate range of shops, services and access to public transport and represent an unsustainable form of development

Additionally no justification has been made for the dwellings location in an undeveloped field and why the build could not be better related to Four Horseshoes and the existing barns/farm. As such the proposed dwelling would have a detrimental impact upon the open rural character of the immediate area and the application is considered to be contrary to Strategy 46 (Landscape Conservation and AONBs) and Policy D7 of the East Devon Local Plan.

CONSULTATIONS

Local Consultations

Parish/Town Council
Support

Tale Vale - Cllr Philp Skinner

I have viewed the application and been on site. I know the site very well and indeed have spoken at length to the applicant. I am of the opinion of very much supporting the proposal for a single agricultural dwelling.

On this basis of my SUPPORT I would like to see the application come forward to committee.

Other Representations
None

Planning History

Reference	Description	Outcome
92/P2010	New Poultry House	Approve
94/P0925	New Poultry House	Approve
96/P0614	Fourth Poultry House	Approve
98/P1526	Managers Bungalow Accommodation	Approval

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D7 (Agricultural Buildings and Development)

TC2 (Accessibility of New Development)

H4 (Dwellings for Persons Employed in Rural Businesses)

TC2 (Accessibility of New Development)

TC2 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Site Location and Description

Knapp Farm is located 3.5 miles east of Cullompton, just north of Dulford off the A373. The site comprises of 4 large modern poultry houses, a workshop and an existing manager's dwelling. The land within the holding is believed to amount to 35 acres and located just west of the Blackdown Hills Area of Outstanding Natural Beauty. The applicant runs a poultry rearing unit of 180,000 broiler chickens and forecasts that this number shall rise to 220,000.

Proposal

The application seeks permission for the construction of a second agricultural dwelling to assist in the day to day operation of the farm. The proposed siting of the dwelling would be located on an adjoining parcel of land south west of the existing barns. Issues with the application revolve around the principle of development, justifying the need for additional workers to be living on site and the visual impact of the proposal.

ANALYSIS

Principle of Development

The spatial strategy for development is focused around the seven main towns and larger villages with built up area boundaries, as described by Strategy 27, will form focal points for development. However, the proposed site is not included within such a settlement and therefore is not considered to have an appropriate level of services and facilities to support residential development. Therefore, for planning purposes, the proposal takes place within the open countryside and is therefore subject to restrictive rural policies.

Strategy 7 (Development in the Countryside) of the East Devon Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local Plan or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape qualities within which it is situated.

Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan 2013 - 2031 sets a strict set of criteria that proposals must fully satisfy in order to be granted permission. The criteria are as follows;

Policy H4 states as follows:

Permission for dwellings in the countryside for new agricultural or forestry workers or people employed in rural businesses or activities will be granted where the proposal fully satisfies the following:

1. There is a proven and essential agricultural or forestry or rural business need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons and the size of the proposed dwelling is commensurate with the scale of the established functional need. Where this need is unproven or a new business is being established a temporary dwelling (such as a mobile home) may be permitted to allow time to establish that there is a genuine functional and financial need for a permanent dwelling. A temporary dwelling will normally be permitted for a period of three years, subject to meeting relevant criteria detailed below.

2. In the case of a permanent dwelling, the rural business has been operational for a minimum of three years, it is demonstrable that it is commercially viable and has clear prospects for remaining so.

3. In the case of a temporary dwelling, a financial assessment, specifically in the form of a business plan setting out projected future operations, must demonstrate future operational viability.

4. The qualifying test of occupancy must involve at least one occupant being employed full time in the relevant rural business. Two occupants in partnership can meet the condition so long as their joint weekly hours equate to a full working week

5. There are no buildings on the operational holding suitable for conversion to meet the residential need or existing dwellings available now or likely to be available within a nearby location or settlement. Sale within the last three years of any dwellings or buildings suitable for conversion will be taken into account and will count against 'need' in the assessment carried out.

6. Any permission granted will be subject to an occupancy condition tying it to the relevant business on the proposed dwelling and where appropriate, any existing dwelling on the farm holding.

These criteria are discussed below, in relation to this application.

1. From details submitted within the agricultural survey it is stated there is a need for the construction of a second on-farm dwelling for the day to day operations of the farm. Essential requirements are stated to include the husbandry requirements of managing day old chick to maturity, responding to unpredicted incidents with regards to ventilation, for bio-security and general security. Additionally it is stated there is a need for a worker to be available on the holding most times of the day and night to respond

to 'out of hour' emergencies. Mr Lunn resides at Four Horseshoes an existing tied dwelling approved under 00/P2103, and manages the business from here.

The need for an agricultural workers dwelling is based on proving an identified existing functional need. The agent has assessed this need through performing a Standard Man Day Assessment (SMD). The calculation, within the submitted Agricultural Appraisal, has stated that there is 2,783 SMD's equivalent to that of 10 labour units. These workings have incorporated the rearing of chicks, general maintenance, repairs, management, cleaning and disinfecting between batches. The submitted agricultural appraisal states that there is a need for 10 labour units.

Despite this, an assessment also needs to be made as weather there is an essential need for an additional worker to be living on site. Essential need, in this case, means a specific management activity or combination of activities which require the presence of a worker at most times (and outside of daytime working hours) for the proper functioning of an enterprise is not to be compromised and which cannot be achieved by any other practical means such as electronic surveillance, mechanical watering etc. Such a need would also relate to any particular event or combination of events that could lead to adverse animal welfare or health and safety consequences which might threaten the stability and economic viability of an enterprise. In this case an assessment needs to be made to how the nature and scale of operations of the farming have changed to necessitate the need for an additional rural workers dwelling.

The submitted Agricultural Appraisal has also included a statement from St David's Poultry Team Ltd, a specialist poultry veterinary practice. The statement explains operations and requirements within the business that require a full time worker present onsite at all times. The letter details the need to ensure adequate water, feed, ventilation and temperature control in the four barns and in particular rectifying faults as to not seriously impact upon the bird's welfare. It is highlighted that the control of temperature via ventilation systems is of paramount importance in instances when temperatures exceed 30C. Reducing chick loss is understandably critically important in maintaining businesses viability.

However it is understood that Mr Lunn has effectively managed the four barn's ventilation system to date. No information has been submitted that explains why now an additional worker is required to be present on site to rectify a system failure. In the rare case that the backup generator does fail it is considered that this should be addressed by the member of staff located at Four Horseshoes. This would presumably allow for the issue to be resolved within the 15 minute timeframe given before chick mortality starts to significantly increase. Whilst it is appreciated that cover in certain instances will be required, this in itself does not justify the need for an additional house for an individual to be living on site as part of the operation of the business.

Biosecurity has also been raised as an important factor in requiring an additional rural worker to be living onsite. Concerns relate to the spread of avian viruses carried by migratory birds. To exclude the introduction of viral disease it is stated that there is a need for continual wild bird control. Again this is considered to be an operation that should be, and presumably currently, implemented by the manager residing in Four Horseshoes.

Furthermore, whilst it is appreciated the SMD assessment has concluded that there is a labour requirement for 10 man units, it is considered that the large majority of this labour does not require the presence of a worker at most times for the proper functioning of the enterprise (i.e. this work can be carried out during the day through the usual employment of staff that do not need to live on the premises).

Breaking down the SMD assessment within the Agricultural Appraisal it is evident that a large majority of the labour is a result of including 'catching, cleaning and disinfecting between batches' within the calculation. This is an operation that is currently carried out by part of the workforce that does not live onsite and therefore evidently not a process that requires or justifies the need for a full-time employee living in an additional rural dwelling. The application does not justify the need for an additional rural workers dwelling other than through the statement from the veterinary practice which in itself only states a requirement for 1 worker to be present at all times.

Taking into consideration the above it is concluded that, from the information submitted, an essential functional need for an additional rural workers dwelling has not been identified. Therefore the additional dwelling is not justified and the application should be refused.

2. Financial information has been made available to the Local Planning Authority. The business has clearly been up and running for more than three years. However the submitted accounts communicate fluctuating profits over a four year period between 2014 and 2018. Policy H4 requires that it is demonstrable that the business is commercially viable and has clear prospects for remaining so. Despite the inconsistent profit margins, there is no reason to believe that the business will not continue to be viable.

3. NA (not applying for a temporary dwelling)

4. The application would provide a dwelling for an individual that would be employed full time within the business. This criterion is therefore satisfied.

5. There are no other dwellings on the holding that would serve any demonstrated essential need. A search of property websites reveals that there are a number of properties available for sale within Cullompton (3 miles), Kentisbeare (1 mile) and Kerswell (1 mile). However none of these are considered to be within a reasonable price range. On this basis if the case were accepted of an essential need to a rural worker to live at or near their place of work it is considered that such a need is unlikely to be met other than an onsite dwelling.

6. If the case were accepted that there was an essential need for a full-time worker to be housed on site and that there were no other dwellings available to meet such a need then it would be necessary to tie the occupancy of such a dwelling to the existing business.

Impact on the Character and Appearance of the Area and Wider Landscape

The site lies in open countryside three miles west of Cullompton, just north of Dulford and located off the A373. The existing four barns and associated outbuildings occupy

a large rectangular parcel of land. The existing dwelling of Four Horseshoes is located just north east of the site. The proposed dwelling would be located in an adjoining field to the west. This site is undeveloped and forms part of a wider pastoral landscape which despite its close proximity to the A373 and Dulford maintains a remote and tranquil character. The hedgerows that encapsulate the field are cut short, and as a result, views are available across the site from local road users.

Policy D7 of the East Devon Local Plan deals with agricultural buildings and development whilst Strategy 46 deals with Landscape Character and AONBs. Policy D7 requires that development is well integrated with its surroundings and closely related to existing buildings; would not harm the character, biodiversity or landscape of the area; would be acceptable in terms of amenity impact; is necessary for the purposes of agriculture; would not lead to unacceptable increase in traffic and that drainage would be appropriately managed. Strategy 46 similarly seeks to conserve and enhance landscape character.

In this instance there are no existing agricultural buildings of any significance on site except 6 LPG storage tanks. The dwelling would be served by an existing access to the south with a driveway. However the construction of such a dwelling, in a field, which is currently undeveloped, is considered harmful to the rural landscape. No justification has been made for the dwellings location and why the build could not be better related to the existing workers dwelling and barns. The proposed dwelling is considered urban in scale, form and materials. This in conjunction with the proposed hardstanding, would amount in significant harm to the fields open and rural character. It is considered that siting of agricultural workers dwellings should take a sequential approach to ensure buildings are located in close proximity to existing buildings as to reduce their visual impact. Therefore the application is considered contrary to Strategy 7. 46, Policy D7 and H4 of the East Devon Local Plan and Policy NP2 (Sensitive, High Quality Design) of the LP.

Other Matters

The proposed dwelling would not be located near any other residential properties, therefore there are no concerns over the proposals impact upon neighbouring amenity. The application site benefits from good visibility onto the adjoining road and sufficient space has been proposed for parking and turning. Whilst the Highway Authority have not commented on the application, no issues with regards to highway safety are expected.

CONCLUSION

The application proposes the construction of a second agricultural workers dwelling to assist in the operations at West Knapp Farm. The site is in the open countryside where there is a presumption against new isolated homes unless there is an essential need for a rural worker to live at or near their place of work in the countryside. Even if an essential need for the proposal is proven, the visual impact of the proposal shall also need to be assessed.

The Local Planning Authority is not satisfied by the evidence and reasoning submitted that there is an essential need for an additional worker to be present at the site at most

times of the day and night. There is already a tied managers dwelling on site which appears to be, or should be meeting, the functional requirements of the poultry business. Whilst it is appreciated that the number of broiler chickens is significant, and due to increase, it has not been adequately explained or argued how the business operations have changed since the permission for the original dwelling to justify the need for a second. It is acknowledged that the poultry units require constant monitoring as they are susceptible to variations in temperature, however, to date, the ventilation of the barns have been controlled suitably.

The argument has been put forward that the second dwelling is also required to provide additional security for the site. However in the proposed location away from the agricultural buildings and with the presence of an existing dwelling, security is not considered to be an issue that faces the business. Security on its one is not a reason to justify an additional dwelling.

In the absence of such justification the proposal would represent residential development in the open countryside where it would be divorced from an appropriate range of shops, services and access to public transport and represent an unsustainable form of development

Additionally no justification has been made for the dwellings location in an undeveloped field and why the build could not be better related to Four Horseshoes and the existing barns. As such the proposed dwelling would have a detrimental impact upon the open rural character of the immediate area. As such the application is considered to be contrary to Strategy 46 (Landscape Conservation and AONBs) and Policy D7 of the East Devon Local Plan.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed dwelling by reason of its location and domestic appearance, would be visually intrusive and harmful to the open rural landscape. As such, the proposed development would be harmful to the character and appearance of the countryside and therefore contrary to policies D1 (Design and Local Distinctiveness) and D8 (Re-use of Rural Buildings Outside of Settlements) of the East Devon Local Plan 2013 - 2031.
2. The site is in the open countryside where there is a presumption against new isolated homes unless there is an essential need for a rural worker to live at or near their place of work in the countryside. The Local Planning Authority is not satisfied by the evidence and reasoning submitted that there is an essential need for an additional worker to be present on the site at most times of the day and night. Given that there is an existing dwelling at the site which could meet the functional need, should a need be demonstrated, it is not considered that there is a justified need for the erection of a second dwelling at the site. In the absence of such justification the proposal would represent unjustified residential development in the open countryside where it would be divorced from an appropriate range of shops, services and access to public transport and represent an unsustainable form of development contrary to Strategy 7

(Development in the Countryside), H4 (Dwellings for Persons Employed in Rural Businesses) and TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031.

Plans relating to this application:

SLP/LHFSL/2019	Location Plan	13.02.19
PGF/LHFSL/2019 9 : GROUND	Proposed Floor Plans	13.02.19
PFF/LHFSL/2019 : FIRST	Proposed Floor Plans	13.02.19
PEL/LHFSL/2019	Proposed Elevation	13.02.19

List of Background Papers

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