

**Agenda for consultative meeting of the  
Planning Committee  
Wednesday, 19th January, 2022, 10.00 am**



**Members of Planning Committee**

Councillors E Wragg (Chair), S Chamberlain (Vice-Chair),  
K Bloxham, C Brown, A Colman, O Davey,  
B De Saram, S Gazzard, M Howe, D Key,  
R Lawrence, G Pook, G Pratt, P Skinner,  
J Whibley and T Woodward

East Devon District Council  
Border House  
Heathpark Industrial Park  
Honiton  
EX14 1EJ  
DX 48808 HONITON  
Tel: 01404 515616  
**www.eastdevon.gov.uk**

**Venue:** Online via zoom

**Contact:** Wendy Harris, Democratic Services Officer  
01395 517542; email  
wharris@eastdevon.gov.uk

(or group number 01395 517546)

Issued: Monday, 10 January 2022; Re-issued: Thursday, 13 January 2022

**Important - this meeting will be conducted online and recorded by Zoom only.  
Please do not attend Blackdown House.  
Members are asked to follow the [Protocol for Remote Meetings](#)**

This meeting is being recorded by EDDC for subsequent publication on the Council's website and will be streamed live to the Council's Youtube Channel at <https://www.youtube.com/channel/UCmNHQruge3LVl4hcgRnbwBw>

**[Speaking on planning applications](#)**

In order to speak on an application being considered by the Planning 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 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.

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 and the speakers' list will be posted on the council's website (agenda item 1 – speakers' list). Applications with registered speakers will be taken first.

**Parish and town council representatives wishing to speak on an application are also required to pre-register in advance of the meeting.** One representative can be registered to speak on behalf of the Council from 10am on Monday, 10 January 2022 up until 12 noon on Thursday, 13 January 2022 by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

#### Speaking on non-planning application items

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

Between 8<sup>th</sup> December 2021 to 11<sup>th</sup> May 2022, the Council has delegated much of the decision making to officers. Any officer decisions arising from recommendations from this consultative meeting will be published on the webpage for this meeting in due course. All meetings held can be found via the [Browse Meetings](#) webpage.

#### 1 **Speakers' list and revised running order for the applications** (Pages 4 - 5)

The speakers' list has been removed.

#### 2 **Minutes of the previous meeting** (Pages 6 - 11)

Minutes of the consultative Planning Committee meeting held on 15 December 2021.

#### 3 **Apologies**

#### 4 **Declarations of interest**

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

#### 5 **Matters of urgency**

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

#### 6 **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.

#### 7 **Planning appeal statistics** (Pages 12 - 23)

Update from the Development Manager

### **Applications for Determination**

**PLEASE NOTE - If necessary the meeting will be adjourned at approximately 1pm for a 30 minutes break**

- 8 **21/2869/RES (Minor) AXMINSTER** (Pages 24 - 33)  
Land West of Burnside, Gamberlake, Axminster.
- 9 **21/1684/FUL (Minor) BEER & BRANSCOMBE** (Pages 34 - 44)  
Garlands Stovar, Long Lane, Beer, Seaton, EX12 3EA.
- 10 **21/1436/FUL (Minor) BROADCLYST** (Pages 45 - 60)  
Park Farm, Farringdon, Exeter, EX5 2JD.
- 11 **21/1213/VAR & 21/2781/FUL (Minor) COLY VALLEY** (Pages 61 - 71)  
Sceat Cottage, Colyton, EX24 6DP.
- 12 **21/1781/FUL (Minor) FENITON** (Pages 72 - 82)  
Higher Curscombe Farm, Feniton, Honiton, EX14 3EU.
- 13 **21/2474/FUL (Minor) FENITON** (Pages 83 - 90)  
Goldcombe Farmhouse, Gittisham, Honiton, EX14 3AB.
- 14 **21/2641/FUL (Minor) HONITON ST MICHAELS** (Pages 91 - 105)  
Middle Hill House, Church Hill, Honiton, EX14 9TE.
- 15 **21/0891/FUL (Minor) SEATON** (Pages 106 - 150)  
Hook and Parrot Inn, East Walk, Seaton, EX12 2LN.
- 16 **21/2530/FUL (Minor) TALE VALE** (Pages 151 - 160)  
Bottom Barn, Broadhembury, Honiton, EX14 3LN.
- 17 **21/2123/COU (Minor) WOODBURY & LYMPSTONE** (Pages 161 - 169)  
NHS Vaccination Centre, Greendale Business Park, Woodbury Salterton, EX5 1EW.

**Please note:**

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

[Decision making and equalities](#)

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

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**EAST DEVON DISTRICT COUNCIL****Minutes of the meeting of Planning Committee held at Online via zoom on 15 December 2021****Attendance list at end of document**

The meeting started at 10.03am and ended at 2.25pm. The meeting was adjourned at 1pm and reconvened at 1.30pm.

In the absence of the Vice Chair, Councillor Sarah Chamberlain the Committee agreed to Councillor Olly Davey being Vice Chair.

**77 Minutes of the previous meeting**

Members were happy to accept the minutes of the consultative Planning Committee held on 24 November 2021.

**78 Declarations of interest**

Minute 80. 21/1723/MRES (Major) SIDMOUTH RURAL.  
Councillors Kim Bloxham, Bruce De Saram, Colin Brown, David Key, Eileen Wragg, Geoff Pratt, Kim Bloxham, Mike Howe, Olly Davey, Richard Lawrence, Philip Skinner, Joe Whibley, Tony Woodward Personal, Received lobbying emails for this application.

Minute 80. 21/1723/MRES (Major) SIDMOUTH RURAL.  
Councillor Geoff Pratt, Personal, Member of the East Devon Area of Outstanding Natural Beauty Partnership.

Minute 81. 21/1516/MRES (Major) WOODBURY & LYMPSTONE.  
Councillor Bruce De Saram, Personal, Exmouth Town Councillor.

Minute 81. 21/1516/MRES (Major) WOODBURY & LYMPSTONE.  
Councillors Bruce De Saram, Colin Brown, Olly Davey, David Key, Eileen Wragg, Geoff Pratt, Kim Bloxham, Mike Howe, Philip Skinner, Tony Woodward, Personal, Received lobbying emails for this application.

Minute 81. 21/1516/MRES (Major) WOODBURY & LYMPSTONE.  
Councillor Olly Davey, Personal, Adjoining Ward Member.

Minute 83. 21/0019/FUL (Minor) TALE VALE.  
Councillor Philip Skinner, Personal, Ward Member for Tale Vale.

Minute 86. 21/2240/RES (Minor) SIDMOUTH SIDFORD.  
Councillors Bruce De Saram, Colin Brown, David Key, Geoff Pratt, Mike Howe, Olly Davey, Tony Woodward, Personal, Received lobbying email for this application.

Minute 86. 21/2240/RES (Minor) SIDMOUTH SIDFORD.  
Councillor Joe Whibley, Personal, Close friend lives directly opposite.

Minute 87. 21/2522/FUL (Minor) DUNKESWELL & OTTERHEAD.  
Councillors Colin Brown and David Key, Personal, Ward Member for Dunkeswell & Otterhead.

Non-Committee Members

Minute 80. 21/1723/MRES (Major) SIDMOUTH RURAL.

Councillor John Loudoun, Personal, Was on the Steering Group that campaigned against the site and represented it at the 2017 appeal to the Inspector.

Minute 84. 21/0768/FUL (Minor) AXMINSTER.

Councillor Sarah Jackson, Personal, Friends with an employee of the garage opposite the application site and had received a representation of objection from a resident.

Minute 84. 21/0768/FUL (Minor) AXMINSTER.

Councillor Andrew Moulding, Personal, Moulding Memories was mentioned in the report.

79 **Planning appeal statistics**

Members noted the planning statistics report that set out seven appeal decision notices, of which five had been dismissed and two allowed.

From the five appeals dismissed the Development Manager drew Members' attention to the Enforcement Notice for Hawkwell Park, Hawkchurch and was pleased to report this had been upheld.

He also updated Members' on the two appeals allowed. The first related to Barns at Higher Hawkerland Farm, Aylesbeare. The Inspector had allowed the appeal determining the local residents would not be unduly impacted by the proposed change of use. The second appeal related to a proposed dwelling at The Old School, Clyst Honiton. Although the inspector acknowledged that Clyst Honiton was not a sustainable location he considered it close to both Exeter and other areas that provide a wide range of services and facilities and allowed the appeal.

The following questions/comments were raised by Committee Members:

- Clarification sought on awarded costs to the applicant for the application relating to Barns at Higher Hawkerland. In response the Development Manager advised the applicant had made an application for costs but was turned down by the Inspectorate.
- Clarification sought on the Inspector's comments on page 13 about Strategies 7 and 27 of the Local Plan being considered out-of-date. The Development Manager advised it did not impact on decisions for this meeting and reminded Members the need to take into consideration the balance of how close each application to a range of services and facilities.

80 **21/1723/MRES (Major) SIDMOUTH RURAL**

**Applicant:**

Mr Tim and Mike Ford (OG Holdings Retirement Benefit Scheme).

**Location:**

Land East of Two Bridges, Two Bridges Road, Sidford.

**Proposal:**

Reserved matters application seeking approval of scale (pursuant to outline planning permission 18/1094/MOUT – outline application accompanied by an Environmental Statement (with scale and appearance reserved) for the change of use of agricultural

land to employment land (B1, B8 and D1 uses) to provide 8,445 sqm of new floorspace, new highway access cycle and footway, improvements to flood attenuation, building layout and road layout new hedgerow planning and associated infrastructure).

**RECOMMENDATION:**

Of approval as per officer recommendation but with an additional Informative encouraging the use of solar panels to the roof of the employment units.

81 **21/1516/MRES (Major) WOODBURY & LYMPSTONE**

**Applicant:**

3West Developments Ltd.

**Location:**

Goodmores Farm, Hulham Road, Exmouth, EX8 5BA.

**Proposal:**

Partial reserved matters application (layout, scale, appearance and landscaping) pursuant to outline planning permission 14/0330/MOUT for 191 residential units, associated roads, open space (informal) and an attenuation basin.

**RECOMMENDATION:**

Of approval as per officer recommendation.

82 **21/0649/FUL (Minor) SEATON**

**Applicant:**

Mr T Sidhu.

**Location:**

Axe Valley Mini Travel/Sureware, 26 Harbour Road, Seaton, EX12 2NA.

**Proposal:**

Demolition of existing retail store and bus garage and construction of residential apartment block containing nine residential units together with associated landscaped gardens and private parking.

**RECOMMENDATION:**

Of refusal as per officer recommendation.

83 **21/0019/FUL (Minor) TALE VALE**

**Applicant:**

Mr Johnson-Sabine

**Location:**

Colestocks Farm Cottage, Colestocks, Honiton, EX14 3JR.

**Proposal:**

Alterations to vehicular access, widening and re-alignment of access track and provision of two parking spaces and turning area for Colestocks Farm Cottage; construction of polytunnel; provision of three shepherds huts for tourist accommodation, including laying out of associated parking area (comprising six spaces and turning area).

**RECOMMENDATION:**

Of approval as per officer recommendation.

84 **21/0768/FUL (Minor) AXMINSTER**

**Applicant:**

Mr Graham Hudson.

**Location:**

Old Public Toilets, Castle Street, Axminster.

**Proposal:**

Conversion of public toilets to dwelling with new first floor/roof.

**RECOMMENDATION:**

Of approval as per officer recommendation.

85 **21/1585/FUL (Minor) AXMINSTER**

**Applicant:**

David Douglas-Mort.

**Location:**

Fawnsmoor Farm, Lyme Road, Axminster, EX13 5SW.

**Proposal:**

Conversion of barn into a dwelling with associated garden and parking area.

**RECOMMENDATION:**

Of refusal as per officer recommendation.

86 **21/2240/RES (Minor) SIDMOUTH SIDFORD**

**Applicant:**

Mrs Amanda Pettit.

**Location:**

Land adjoining 77 Alexandria Road, Sidmouth.

**Proposal:**

Construction of bungalow with garage (application for approval of details of access, appearance, landscaping, layout and scale pursuant to outline planning permission reference 19/0251/OUT).

**RECOMMENDATION:**

Of approval as per officer recommendation.

87 **21/2522/FUL (Minor) DUNKESWELL & OTTERHEAD**

**Applicant:**

Ian Edwards.

**Location:**

Quantock, Stockland, Honiton, EX14 9DX.

**Proposal:**

Change of use of artist studio/workshop, approved under permission 20/2439/FUL, for use as a dwelling (for holiday accommodation purposes) and associated works.

**RECOMMENDATION:**

Of approval as per officer recommendation but with a change to the wording of Condition 3 to link the holiday let management to Quantocks as follows:

The unit of accommodation hereby recommended for approval:

- (i) Shall be occupied for holiday purposes only;
- (ii) Shall not be occupied as a person's sole or main place of residence;
- (iii) Shall be owned and managed by the owners/occupiers of Quantocks;
- (iv) Occupation of the unit must not exceed 60 consecutive dates and there must be a minimum gap of 30 days before the units can be re-occupied by the same visitor;
- (v) The owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday accommodation and of their main home addresses and shall make this information available at all reasonable times to the local planning authority.

(Reason – to ensure that the accommodation hereby permitted is managed by the owner/occupiers of Quantocks given the close relationship of the properties and to ensure that the unit is not used as a separate dwelling where occupiers of the site would be divorced from the services and facilities needed to support day-to-day living and where the development is only permitted for holiday use as the benefits of such use are considered to outweigh the harm arising from the unsustainable location of the site, in accordance with Strategies 3 – Sustainable Development, 5B – Sustainable Transport & 7 – Development in the Countryside and Policy TC2 – Accessibility of New Development of the Adopted East Devon Local Plan 2013 – 2031.)

**Attendance List**

**Councillors present (for some or all the meeting)**

E Wragg (Chair)  
K Bloxham  
C Brown  
A Colman  
O Davey  
B De Saram  
M Howe  
D Key  
R Lawrence  
G Pratt  
P Skinner  
J Whibley  
T Woodward

**Councillors also present (for some or all the meeting)**

M Chapman

S Jackson  
G Jung  
J Loudoun  
P Millar  
A Moulding  
P Arnott

**Officers in attendance:**

Chris Rose, Development Manager  
Shirley Shaw, Planning Barrister  
Wendy Harris, Democratic Services Officer  
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)  
Amanda Coombes, Democratic Services Officer

**Councillor apologies:**

S Chamberlain  
S Gazzard  
G Pook

Chairman .....

Date: .....

**EAST DEVON DISTRICT COUNCIL  
LIST OF PLANNING APPEALS LODGED**

Agenda Item 7

**Ref:** 21/1612/FUL **Date Received** 01.12.2021  
**Appellant:** Miss Sophie Watkiss  
**Appeal Site:** Brampford House Brampford Speke Exeter EX5 5DW  
**Proposal:** Erection of a single storey sun room, with retractable glass windows, and pocket doors  
**Planning Inspectorate Ref:** APP/U1105/D/21/3288154

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**Ref:** 21/0811/FUL **Date Received** 01.12.2021  
**Appellant:** Oliver Cleaver  
**Appeal Site:** Land And Buildings Opposite Hembury Close Broadhembury Honiton EX14 3LE  
**Proposal:** Demolition of an existing barn and construction of a 4 bedroom dwelling in its place  
**Planning Inspectorate Ref:** APP/U1105/W/21/3288093

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**Ref:** 21/2232/FUL **Date Received** 02.12.2021  
**Appellant:** Mr S Taylor  
**Appeal Site:** The Meade Sanctuary Lane Woodbury Exeter EX5 1EX  
**Proposal:** Installation of new vehicular access  
**Planning Inspectorate Ref:** APP/U1105/W/21/3288212

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**Ref:** 21/2069/PIP **Date Received** 08.12.2021  
**Appellant:** Mr & Mrs ND & PF McIlveen  
**Appeal Site:** Nursery Garage Courtlands Lane Exmouth EX8 5AB  
**Proposal:** Residential development  
**Planning Inspectorate Ref:** APP/U1105/W/21/3285255

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**Ref:** 21/0875/FUL **Date Received** 08.12.2021  
**Appellant:** Mr & Mrs Bere  
**Appeal Site:** Barns North Of Luton Lane Farm Payhembury  
**Proposal:** Demolition of the existing and redundant barns and construction of a single dwellinghouse, annexe and garage (alternative to change of use of agricultural building to dwellings under class Q approval reference 19/0285/PDQ)  
**Planning Inspectorate Ref:** APP/U1105/W/21/3288638

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**Ref:** 21/1980/LBC **Date Received** 13.12.2021  
**Appellant:** Miss Sophie Watkiss  
**Appeal Site:** Brampford House Brampford Speke Exeter EX5 5DW  
**Proposal:** Single storey sun room with retractable glass windows and pocket doors  
**Planning Inspectorate Ref:** APP/U1105/Y/21/3288966

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**Ref:** 21/1795/FUL **Date Received** 16.12.2021  
**Appellant:** Mr And Mrs Peter Tyldesley  
**Appeal Site:** 1 Cowley Barton Cottages Cowley Exeter EX5 5EL  
**Proposal:** First floor rear extension with the addition of 2 x dormer, pergola to the front and single storey outbuilding to rear for use as garden room.  
**Planning Inspectorate Ref:** APP/U1105/D/21/3289211

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**Ref:** 21/1479/OUT **Date Received** 29.12.2021  
**Appellant:** Mr & Mrs Adrian & Carolyn Williams  
**Appeal Site:** The Store Mill Lane Awliscombe  
**Proposal:** Outline permission with all matters reserved for the erection of a bungalow  
**Planning Inspectorate Ref:** APP/U1105/W/21/3289923

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**EAST DEVON DISTRICT COUNCIL  
LIST OF PLANNING APPEALS DECIDED**

**Ref:** 20/1939/LBC                      **Appeal Ref:** 21/00045/LBCREF  
**Appellant:** Mr Benjamin Tomlinson  
**Appeal Site:** Hillside Farm Harcombe Lyme Regis DT7 3RN  
**Proposal:** Proposed demolition of rear extension and construction of single and two storey rear/side extensions, raised terrace with steps and associated landscaping; alterations to the existing house including windows replacement and creation of new opening to kitchen, removal of current porch doors and replacement with windows; replacement of 9 no windows.  
**Decision:** **Appeal Dismissed**    **Date:** 30.11.2021  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, listed building conservation reasons upheld (EDLP Policy EN9).  
**BVPI 204:** **No**  
**Planning** APP/U1105/Y/21/3279137  
**Inspectorate Ref:**

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**Ref:** 20/1497/FUL                      **Appeal Ref:** 21/00036/REF  
**Appellant:** Mrs Sasha Turner  
**Appeal Site:** 18 Victoria Road Exmouth EX8 1DL  
**Proposal:** Demolition of garage and erection of one bedroom dwelling  
**Decision:** **Appeal Dismissed**    **Date:** 07.12.2021  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, amenity and flood risk reasons upheld (EDLP Policies D1 & EN21 and Exmouth NP Policies EN1 & EB2).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/21/3277883  
**Inspectorate Ref:**

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## East Devon District Council List of Appeals In Progress

**App.No:** 19/0078/FUL  
**Appeal Ref:** APP/U1105/W/19/3242773  
**Appellant:** Mr & Mrs Raggio  
**Address:** Lily Cottage Goldsmith Lane All Saints Axminster EX13 7LU  
**Proposal:** Demolition of former cottage and construction of new dwelling.  
**Start Date:** 8 January 2020  
**Procedure:** Hearing  
**Questionnaire Due Date:** 15 January 2020  
**Statement Due Date:** 12 February 2020  
**Hearing Date:** To be arranged

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**App.No:** 20/2710/FUL  
**Appeal Ref:** APP/U1105/W/21/3275285  
**Appellant:** Mr Coletti  
**Address:** 2 Brooklyn Stowford Sidmouth EX10 0NA  
**Proposal;** Change of use of land and construction of hardstanding to allow the siting of 2no. shepherd huts for holiday accommodation  
**Start Date:** 6 July 2021  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 13 July 2021  
**Statement Due Date:** 10 August 2021

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**App.No:** 20/1618/FUL  
**Appeal Ref:** APP/U1105/W/21/3276272  
**Appellant:** Mr Henry Slade  
**Address:** Land To West Of B3180 Between The Existing Houses Tetry And Panorama West Hill  
**Proposal;** Proposed new two storey dwelling  
**Start Date:** 6 July 2021  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 13 July 2021  
**Statement Due Date:** 10 August 2021

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**App.No:** 19/2710/MFUL  
**Appeal Ref:** APP/U1105/W/21/3276990  
**Appellant:** S Paull (Yourlife Management Services Ltd)  
**Address:** Site Of Redgate & Land At Tesco Salterton Road Exmouth  
**Proposal;** Erection of extra care/assisted living accommodation (Class C2) with communal facilities and car parking; erection of Class B1(b) or B1(c) accommodation (322 sqm employment floorspace) with associated car parking; development to be accessed from Salterton Road.

**Start Date:** 3 August 2021  
**Procedure:** Hearing

**Questionnaire Due Date:** 10 August 2021  
**Statement Due Date:** 7 September 2021  
**Hearing Date:** 6 January 2022

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**App.No:** 20/1115/COU  
**Appeal Ref:** APP/U1105/W/21/3277838  
**Appellant:** Mr Mark Perry  
**Address:** Building North Of Harbour Close Combyne  
**Proposal;** Proposed change of use of 1 no existing structure from agricultural to B1 and B2 use

**Start Date:** 17 August 2021  
**Procedure:** Written Reps.

**Questionnaire Due Date:** 31 August 2021  
**Statement Due Date:** 28 September 2021

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**App.No:** 21/F0029  
**Appeal Ref:** APP/U1105/C/21/3278461  
**Appellant:** Mr Mark Perry  
**Address:** Building North Of Harbour Close Combyne  
**Proposal;** Appeal against an enforcement notice served in respect of the unauthorised change of use of a building from agricultural to B1 and B2 use

**Start Date:** 17 August 2021  
**Procedure:** Written Reps.

**Questionnaire Due Date:** 31 August 2021  
**Statement Due Date:** 28 September 2021

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**App.No:** 21/0162/FUL  
**Appeal Ref:** APP/U1105/W/21/3279130  
**Appellant:** WIMS (UK) Ltd.  
**Address:** Land South Of Pump Field Close Dunkeswell  
**Proposal;** Construction of 1no affordable dwelling and associated works  
**Start Date:** 8 September 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 15 September 2021  
**Statement Due Date:** 13 October 2021

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**App.No:** 21/0182/FUL  
**Appeal Ref:** APP/U1105/W/21/3279851  
**Appellant:** Mr and Ms J M and D Jones and Mayerova  
**Address:** 13 Park Way Exmouth EX8 3QG  
**Proposal;** Proposed detached dwelling  
**Start Date:** 17 September 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 24 September 2021  
**Statement Due Date:** 22 October 2021

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**App.No:** 20/2789/FUL  
**Appeal Ref:** APP/U1105/W/21/3278600  
**Appellant:** John Lomax  
**Address:** Water Tower At Mount Pleasant Exmouth Road Aylesbeare  
**Proposal;** New storage building and demolition of existing water tower  
**Start Date:** 22 September 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 29 September 2021  
**Statement Due Date:** 27 October 2021

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**App.No:** 20/1801/FUL  
**Appeal Ref:** APP/U1105/W/21/3281230  
**Appellant:** Mrs A Golding  
**Address:** Edenvale Turf Courtlands Dulford Cullompton EX15 2EQ  
**Proposal;** Proposed replacement dwelling.  
**Start Date:** 7 October 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 14 October 2021  
**Statement Due Date:** 11 November 2021

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**Ref.No:** 18/F0086  
**Appeal Ref:** APP/U1105/C/21/3283353  
**Appellant:** Darren Squires  
**Address:** Long Range Park, Whimple  
**Proposal;** Appeal against enforcement notice served in respect of caravan park homes being used as permanent residences (Nos 2,3,4,5,6,10 &12)  
**Start Date:** 18 October 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 1 November 2021  
**Statement Due Date:** 29 November 2021

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**App.No:** 20/0003/FUL  
**Appeal Ref:** APP/U1105/W/21/3281632  
**Appellant:** Mr Julian Gigg  
**Address:** Land North-West Of Littleton Villas Manor Crescent  
Honiton  
**Proposal;** Construction of timber shed.  
**Start Date:** 28 October 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 4 November 2021  
**Statement Due Date:** 2 December 2021

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**App.No:** 20/2734/OUT  
**Appeal Ref:** APP/U1105/W/21/3282287  
**Appellant:** Mr P Sparks  
**Address:** Barn Close Kennels Combe Raleigh Honiton EX14 4SG  
**Proposal;** Demolition of existing kennel buildings and construction of  
2no detached dwellings (outline application with all matters  
reserved)  
**Start Date:** 23 November 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 30 November 2021  
**Statement Due Date:** 28 December 2021

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**App.No:** 20/0933/OUT  
**Appeal Ref:** APP/U1105/W/21/3282445  
**Appellant:** Mr & Mrs C Fayers  
**Address:** Land South Of Underhill Close Lympstone  
**Proposal;** Construction of predominately single storey dwelling with  
annexe accommodation (outline application with all matters  
except access reserved)  
**Start Date:** 23 November 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 30 November 2021  
**Statement Due Date:** 28 December 2021

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**App.No:** 20/2481/FUL  
**Appeal Ref:** APP/U1105/W/21/3281523  
**Appellant:** Mr Dominic Morgan  
**Address:** New Fountain Inn Church Road Whimple Exeter EX5 2TA  
**Proposal;** Subdivision of public house to create dwelling and construction of three 2 bedroom dwellings with associated parking and gardens  
**Start Date:** 25 November 2021  
**Procedure:** Hearing  
**Questionnaire Due Date:** 2 December 2021  
**Statement Due Date:** 30 December 2021  
**Hearing Date:** 15 February 2022

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**App.No:** 21/0106/FUL  
**Appeal Ref:** APP/U1105/W/21/3280492  
**Appellant:** Miss Pia-Maria Boast  
**Address:** Land Adjacent 4 Cheese Lane Sidmouth  
**Proposal;** Proposed new dwelling  
**Start Date:** 8 December 2021  
**Procedure:** Written Reps.  
**Questionnaire Due Date:** 15 December 2021  
**Statement Due Date:** 12 January 2022

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**App.No:** 21/0110/FUL  
**Appeal Ref:** APP/U1105/W/21/3283597  
**Appellant:** Mr & Mrs Jefferson  
**Address:** Lower Marsh Farm Marsh Green Exeter EX5 2EX  
**Proposal;** Conversion of existing outbuildings to form residential dwelling  
**Start Date:** 8 December 2021  
**Procedure:** Written Reps.  
**Questionnaire Due Date:** 15 December 2021  
**Statement Due Date:** 12 January 2022

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**App.No:** 21/0238/LBC  
**Appeal Ref:** APP/U1105/Y/21/3284637  
**Appellant:** Mr Hillier  
**Address:** 4 Counters Court Mill Street Sidmouth EX10 8DW  
**Proposal;** Replacement windows and doors: 1no. window at ground floor and 1no. window at first floor on rear north elevation; 1no. window at first floor and double doors on side west elevation and 1no. door and 2no. windows on front south elevation  
**Start Date:** 15 December 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 22 December 2021  
**Statement Due Date:** 19 January 2022

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**App.No:** 20/1799/FUL  
**Appeal Ref:** APP/U1105/W/21/3285171  
**Appellant:** Mrs K Rowsell  
**Address:** 105 Victoria Road Exmouth EX8 1DR  
**Proposal;** Proposed new 1 bed annexe with under-croft for 2no. vehicle parking.  
**Start Date:** 15 December 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 22 December 2021  
**Statement Due Date:** 19 January 2022

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**App.No:** 21/1651/FUL  
**Appeal Ref:** APP/U1105/W/21/3285963  
**Appellant:** Mr Andrew Wadhams  
**Address:** Figgins Church Road Lympstone Exmouth EX8 5JT  
**Proposal;** Creation of off road parking to support installation of electric vehicle charging point  
**Start Date:** 15 December 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 22 December 2021  
**Statement Due Date:** 19 January 2022

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**App.No:** 21/1652/LBC  
**Appeal Ref:** APP/U1105/Y/21/3286111  
**Appellant:** Mr Andrew Wadhams  
**Address:** Figgins Church Road Lympstone Exmouth EX8 5JT  
**Proposal;** Removal and reinstatement of part of front wall to garden to create off road parking to support installation of electric vehicle charging point.  
**Start Date:** 15 December 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 22 December 2021  
**Statement Due Date:** 19 January 2022

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**App.No:** 21/2069/PIP  
**Appeal Ref:** APP/U1105/W/21/3285255  
**Appellant:** Mr & Mrs ND & PF McIlveen  
**Address:** Nursery Garage Courtlands Lane Exmouth EX8 5AB  
**Proposal;** Residential development  
**Start Date:** 15 December 2021  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 22 December 2021  
**Statement Due Date:** 19 January 2022

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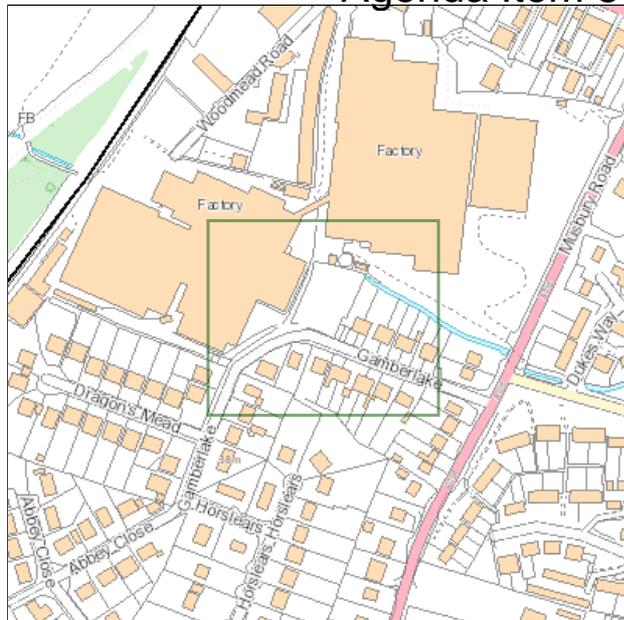
**Ward** Axminster

**Reference** 21/2869/RES

**Applicant** Josh Dufield

**Location** Land West Of Burnside Gamberlake Axminster

**Proposal** Reserved matters comprising access, appearance, landscaping, layout and scale for 18/1702/OUT (outline application for 4 No. (C3) residential dwellings with associated parking provision (all matters reserved).



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 19<sup>th</sup> January 2021</b>
<b>Axminster (Axminster)</b>	<b>21/2869/RES</b>	<b>Target Date: 30.12.2021</b>
<b>Applicant:</b>	<b>Josh Dutfield</b>	
<b>Location:</b>	<b>Land West Of Burnside Gamberlake</b>	
<b>Proposal:</b>	<b>Reserved matters comprising access, appearance, landscaping, layout and scale for 18/1702/OUT (outline application for 4 No. (C3) residential dwellings with associated parking provision (all matters reserved).</b>	

**RECOMMENDATION: Approve with conditions**

#### **EXECUTIVE SUMMARY**

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

**The application site relates to the southern part of a former car park area that previously served the wider Axminster Carpets factory site. The site is accessed off Gamberlake which serves an established residential area to the south and east of the site, to the north and west is the wider Axminster Carpets site.**

**Outline planning permission was granted, under application 18/1702/OUT, for the erection of 4 no. dwellings on the site. The site does not incorporate all of the car park area as the area to the north of the site lies within Flood Zones 2/3 and as such was excluded from the site area at outline stage. As a result the plot sizes are restricted in relation to existing properties to the east.**

**In terms of the layout, form and appearance of the buildings these largely look to reflect that of existing properties in Gamberlake and there are no objections in this regard. Parking provision at a level of 2 no. spaces per property is provided forward of each unit and some boundary planting is proposed to subdivide and visually break up this space.**

**The Town Council has raised a number of matters where it is considered that there are details lacking and which are required to allow consideration of the application. Some details have been sought from the applicant with others proposed to be controlled by condition. Given the nature of the application where outline permission is already granted and where the additional matters raised could be secured by pre-commencement conditions it is considered reasonable to do so.**

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

## **CONSULTATIONS**

### **Local Consultations**

#### Axminster - Cllr Andrew Moulding

I recommend that this application is approved

Further comments:

I agree with the recommendation.

#### Axminster - Cllr Sarah Jackson

I am inclined to echo the comments of the Town Council. There does not appear to be enough information provided to allow me to properly assess the application and the reserved matters that it should cover. Therefore I am unable to support this application at the present time.

#### Parish/Town Council

The Town Council regrets that it is unable to consider this RES application at the present time due to the lack of supplementary information, including:

Drainage Assessment (foul water and surface water)

Landscaping Assessment

Environmental Impact Study

Design and Access Statement

Materials schedule (to ensure that building integrates with existing streetscene)

Waste and recycling arrangements

Green Energy and SUDS proposals

Council welcomes sight of these documents whereupon members of the Planning Committee will consider this further.

#### Other Representations

None received.

### **Technical Consultations**

#### Devon County Highway Authority

Observations:

The access is on the outer side on the concave bend of Gamberlake, the road is not classified and therefore will not require off-carriageway turning, the parking spaces are laid out to our current best practice guidance Manual for Streets 1 and 2.

The site layout ensures the adjacent public right of way remains un-prohibited, the dropped kerbs that form the frontage footway will require a dropped kerb license

should the planning application be approved. The license should be applied directly to Devon County Council and ensures the works will be carried out to our specification and standard.

Recommendation:

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

Officer authorised to sign on behalf of the County Council  
30 November 2021

#### Contaminated Land Officer

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
18/1702/OUT	Outline application for 4 No. (c3) residential dwellings with associated parking provision (all matters reserved)	Approval with conditions	02.11.2018

### **POLICIES**

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

Strategy 3 (Sustainable Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 20 (Development at Axminster)

D1 (Design and Local Distinctiveness)

EN16 (Contaminated Land)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### Government Planning Documents

National Planning Practice Guidance

NPPF (National Planning Policy Framework 2021)

### **Site Location and Description**

The application site relates to part of a large hard surfaced parking area located to the south and east of the main factory buildings comprising the Axminster carpet site. The car park area is accessed via Gamberlake to the south and slopes down from south to north. It is enclosed by temporary security fencing on three sides and by a combination of walling, fencing and planting on the eastern boundary, where it adjoins the neighbouring property 'Burnside'. A public footpath linking Gamberlake with Woodmead road, to the north, runs parallel to the western site boundary, the other side of which there is a line of mature conifers.

The site lies within an area of mixed character, to the north and west are large industrial buildings, with which the use of the site was formerly linked, whereas to the south and east is residential development. The site is located within the built up area boundary of the town to the south of the town centre. The lower (northern) part of the car park area lies within Flood Zone 2/3 but the site itself lies entirely within Flood zone 1.

### **Proposal**

The application seeks reserved matters consent for the four dwellings that are proposed as a pair of semi-detached dwelling with parking to their frontage and small gardens to the rear.

### **ANALYSIS**

Outline permission has been granted under application 18/1702/OUT for the residential development of the site for 4 no. dwellings and associated parking provision. All matters were reserved for future consideration.

The principle of the residential development of the site for 4 no. dwellings is therefore agreed and it is only the reserved matters relating to the access, layout, scale and appearance of the development and the landscaping of the site that are subject to the consideration of the current application. These matters together with other relevant issues raised through the consultation process are considered below:

### **Layout**

The scheme proposes a continuation of the existing line of properties located to the north side of Gamberlake where pairs of semi-detached properties are set back and

down from the adjoining highway, with in most cases parking provision provided within their respective sites forward of the dwellings.

The 2 no. pairs of semi-detached properties proposed would follow the existing building line with the pair to the west side set slightly further forward in the plot where the highway begins to curve away from the site.

The plot sizes are limited as the outline application restricted the development site to land within Flood Zone 1, the land to the north representing the remainder of the former car park falling within Flood Zones 2/3. As a result, the plots are small compared with adjoining development and provide for limited rear amenity space. Nevertheless, sufficient amenity space would be provided to serve each dwelling and the opportunity for alternative layouts that also respect the existing streetscene are limited.

Parking provision in the form of 2 no. spaces per dwelling is provided forward of each unit with screened bin/recycling storage areas providing level access for these at the rear of the parking spaces.

### **Scale**

As with the proposed layout the submitted scheme seeks to respond to the form of existing development in the vicinity of the site. With this in mind the pairs of semi-detached properties proposed reflect the height and width of existing properties in Gamberlake and whilst they extend somewhat deeper into the site, no harm results from this.

### **Appearance**

The submitted drawing indicates that the building would feature white painted rendered elevations under a hipped slate tiled roof. Windows and rainwater goods are indicated as white UPVC. These materials reflect the materials used on properties in the local vicinity and are appropriate in this context. Further specification details and where required samples of materials could be secured by condition where necessary.

### **Access**

Each property would be served by an access direct to the highway with on-site parking provision of 2 no. spaces per property, in accordance with the requirements of policy TC9 of the Local Plan. Whilst such provision would prevent enclosure of the site from the public footpath to the south the extent and nature of boundary treatment along the front boundaries of properties in Gamberlake varies and on balance this approach is considered to be acceptable.

### **Landscaping**

The Town Council has suggested that a landscaping assessment is required however landscaping is a reserved matter. Opportunities for soft landscaping of the site are, given its limited size, restricted. As discussed above the site frontage is proposed to be open plan but there is some hedge planting proposed to break up the space and provide subdivision of this for each unit. The surfacing of the site parking area

proposes a permeable solution of pavers which would provide drainage benefits as well as providing a visual upgrade on a tarmac finish. The other boundaries of the site are shown as close boarded fencing atop retaining walls where required to accommodate level changes to adjoining ground levels.

The submitted drawings indicate planting areas and type of planting but lack detailed planting specification, such information has been requested from the applicant but they have indicated a preference for such details to be secured by pre-commencement condition. If the reserved matters details were otherwise found to be acceptable such details could be secured by a suitably worded condition. In addition further details of the external finish/materials for retaining walls within the site and to external boundaries could be similarly secured.

### **Other considerations**

The Town Council has raised a number of issues with the application and considers that there is a lack of supporting information on which to assess the application, one of the ward member councillors has supported this view. Officers have liaised with the applicant's agent to request such information, although not of all the matters referred to by the town council are considered to be relevant or necessary at this stage. In response the applicant has requested that such additional details be secured by pre-commencement condition. Having been given the opportunity to provide such information and requesting these matters are dealt with by condition it needs to be considered whether it is reasonable and necessary to secure details in this way, or alternatively whether the lack of such information would warrant refusal of the application. Each of the issues raised, and not already addressed is considered below.

Drainage Assessment (foul water and surface water) – The nature of the application as a reserved matters is such that permission has already been granted for the development (i.e. for 4 no residential units on the site) and it is only those matters reserved, as set out above, and any conditions on the outline permission that need to be addressed. At the time of the outline application it was indicated that surface water drainage would be by means of a 'sustainable drainage system' however no such further details were provided or secured by condition. The reserved matters details as set out on the submitted plans indicate provision of permeable paving to the proposed parking and patio areas with the rest of the rear gardens shown as lawn. Policy EN22 of the Local Plan requires, amongst other things, that the surface water run-off implications of a proposal have been fully considered and found to be acceptable and requires a drainage impact assessment on new development with potentially significant surface run off implications. In this case the existing site is entirely hard surfaced and as such the proposal is considered to represent a betterment in terms of potential surface water run-off, as more of it would be permeably surfaced. Nevertheless, it would be necessary to know how any flows would be directed, particularly given the level changes proposed it is considered that this and means of dealing with foul drainage could be secured by condition.

Environmental Impact Study – It is not clear what the Town Council means in this respect but the development is not of a type that requires an Environmental Impact Assessment. A condition requiring reporting of any contamination and agreement of

remedial measures to deal with this was included on the outline permission and remains to be complied with.

Design and Access Statement - This is not a requirement for reserved matters applications or development of this scale outside of conservation areas.

Green Energy and SUDs proposals – The issue of drainage is considered above. The proposal does not indicate any specific energy saving measures or use of renewable energy technologies, although the orientation of the properties would appear to support the use of solar PV panels. Whilst the use of sustainable means of construction and use of renewable energy are encouraged, through Strategy 38 of the Local Plan, there is currently no policy requirement for this or requirement to deliver beyond current Building Regulations requirements.

Permitted Development rights – given the limited extent of the site and the size of the dwellings proposed this would leave only limited amenity space to serve the dwellings as such it is considered reasonable to remove permitted development for further extension in order to retain control over any further extensions in the interests of amenity.

## **CONCLUSION**

The proposal seeks approval of reserved matters relating to an earlier outline permission, it should be remembered that the outline consent is *the* planning permission. The layout is logical and compatible with the surrounding environment and the scale and appearance of the dwellings similarly seeks to reflect the local context. The size and nature of the site limits the opportunities for landscaping provision and thus this is largely restricted to suitable boundary treatment with some planting forward of the dwellings to soften the appearance of the parking areas. Overall the proposal is considered to be acceptable and to comply with the relevant policies of the Local Plan including policy D1 (Design and Local Distinctiveness).

## **RECOMMENDATION**

APPROVE subject to the following conditions:

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

This Reserved Matters application numbered as shown above is made pursuant to the Outline Planning Permission 18/1702/OUT granted on 02.11.2018.

The following reserved matters have yet to be approved:

None

The following Conditions attached to the Outline Planning Permission (ref 18/1702/OUT ) referred to above are discharged:

1, 3

The following Conditions attached to the Outline Planning Permission referred to above remain to be complied with:

2, 4, 5

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

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. No development shall take place until details of the means of dealing with foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details before any dwelling on the site is occupied.  
(Reason - A pre-commencement condition is required to avoid pollution of the environment and/or flooding during and after construction in accordance with the requirements of Policies EN14 – Control of Pollution, EN19 – Adequacy of Foul Sewer and Adequacy of Sewage Treatment Systems and EN22- Surface Run-off Implications of New Development of the East Devon Local Plan 2013-2031.)
4. Prior to their installation details of the external materials for use in the development (including the retaining wall) and relating to their colour, texture and finish shall be submitted to and approved in writing by the Local Planning Authority (including where so required provision of samples). The development shall be carried out in accordance with the approved details. (Reason - To ensure that the appearance of the development is compatible with the character and appearance of the area, in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan).
5. Notwithstanding the details illustrated on drawing P-100 C hereby approved, further details of the species, number, layout and size (at time of planting) of plants to be used shall be submitted to and approved in writing by the Local Planning Authority prior to their planting.  
(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule 2 Part 1 Classes A or B for the enlargement, improvement or other alterations to the dwellings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.

(Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 – Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

In accordance with the 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:

P100 C	Proposed Site Plan	16.11.21
E100 A	Location Plan	15.11.21
P200 A	Proposed Combined Plans	15.11.21
P400 A	Sections	15.11.21

List of Background Papers

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

**Ward** Beer And Branscombe

**Reference** 21/1684/FUL

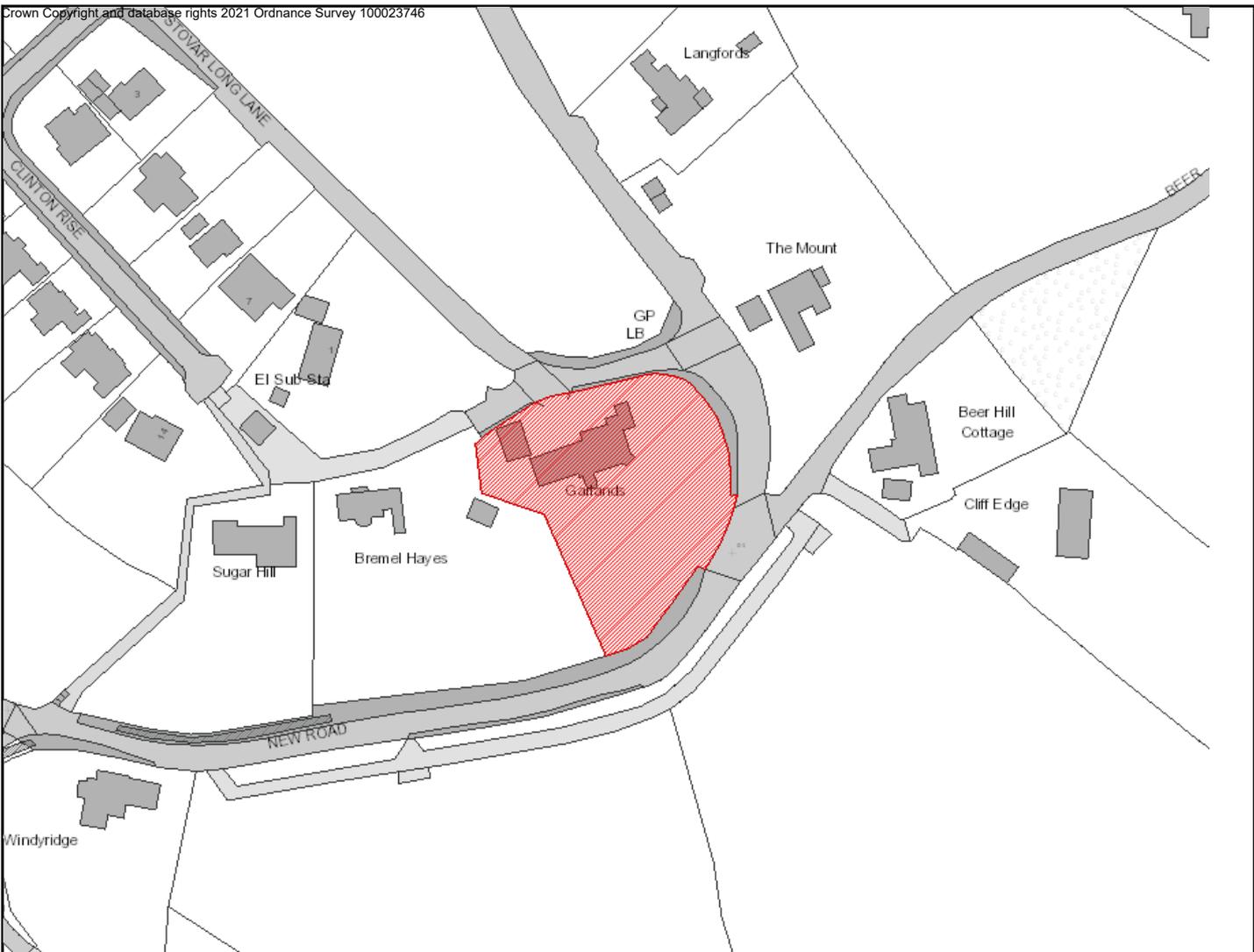
**Applicant** Mrs Helen Follett

**Location** Garlands Stovar Long Lane Beer Seaton EX12 3EA

**Proposal** Change of use of 2x holiday dwellings to residential use.



**RECOMMENDATION: Refusal**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Beer And Branscombe (Beer)</b>	<b>21/1684/FUL</b>	<b>Target Date: 30.08.2021</b>
<b>Applicant:</b>	<b>Mrs Helen Follett</b>	
<b>Location:</b>	<b>Garlands Stovar Long Lane</b>	
<b>Proposal:</b>	<b>Change of use of 2x holiday dwellings to residential use.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application has been referred from Chair's Delegation for consideration by the Committee.**

**Garlands has been extended and subdivided and comprises the applicant's living accommodation plus three holiday lets. This proposal seeks to merge one of the holiday lets with the applicant's accommodation and to use another of the holiday lets as a rental dwelling. The third holiday let would remain. Overall, the proposal would result in the loss of two holiday lets and a gain of one dwelling for long term rent.**

**Policy T4 of the Beer Neighbourhood Plan sets out the scenarios in which the loss of holiday accommodation may be acceptable. The first is that the business is unviable but in this case there is every indication that the business is viable. The only other scenario requires the proposal to deliver benefits to the local economy and community that are greater than or equal to the benefits arising from the current use as holiday lets.**

**Expanding the applicant's living accommodation would be a private benefit to the applicant and, coupled with the loss of one unit of holiday accommodation, this would have a negative effect on the local economy and community.**

**Using the second holiday let as a rental dwelling may help to meet a demand for such accommodation but there is no evidence that it would lead to greater or equal benefits to the local economy and community compared to use as a holiday let. Much of the focus of the neighbourhood plan is on providing affordable accommodation for the local community but there is no evidence that this proposal would meet the housing or affordability requirements of those within the community.**

**Overall the negative impact of merging one of the holiday lets into the applicant's accommodation combined with the uncertain or minimal benefits to the local economy and community associated with using another holiday let as a rental dwelling lead to a negative impact overall. Consequently the Neighbourhood Plan policy is not satisfied and the proposal is recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Beer And Branscombe - Cllr Geoff Pook**

I support this application although I acknowledge that the Beer NP objective 19.4 and policy t4 oppose the loss of holiday accommodation. While the policy could be applied to all accommodation I feel there should be a differentiation between a situation where the accommodation is part of a recognised commercial establishment such as a hotel or guest house in the main commercial area of the village and where the accommodation forms a minor part of the main residential accommodation.

The loss of a commercial establishment would harm the villages tourism infrastructure and would justifiably be opposed. In this case the owner wants to scale back the holiday operation and regain space in the main house by reincorporating one unit into the main house. The second unit will be changed to full time rental residence. While this is a loss to the holiday accommodation stock it is a welcome and hopefully affordable addition to the rental housing stock which is necessary and to some part mitigates any perceived harm to tourism.

One holiday unit is retained, two are lost and one small residence gained. On balance and considering the scale I believe it is acceptable.

Further comments:

In view of my support against officer recommendation I would like the item to go to committee.

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

The Committee had no objections to the application but acknowledged that the application did not accord with objective 19.4 in the Beer Neighbourhood Plan:

'To resist the loss or change of use of existing holiday facilities unless non-viability can be proven.'

The Committee agreed that the loss of holiday accommodation is minor and mitigated by the fact that one unit will become available on the open rental market which accords with policy T4 of the Neighbourhood Plan:

'The loss of tourist facilities to other uses will only be supported where: ii) the proposed alternative use would provide equal or greater benefits for the local economy and community than the current use.'

#### **Other Representations**

None received.

### **Technical Consultations**

#### **Devon County Highway Authority**

Observations:

The change of use to holiday dwellings may increase the trip generation to this location slightly, however I do not believe the intensification in trip generation is large enough to be an unacceptable impact upon the highway.

The site layout is sufficient for dedicated off-carriageway parking and off-carriageway turning, therefore in summary the County Highway Authority has no objection to this planning 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

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
77/C0042	Change of use from private dwelling house to guest house	Approval with conditions	22.03.1977
89/P1481	Extension & Garage Wing.	Approval with conditions	06.09.1989
06/1722/COU	Change of use and alterations of part garage to holiday accommodation	Approval with conditions	07.08.2006

## **POLICIES**

### Beer Neighbourhood Plan (Made)

Policy NE1 - Development and the Natural Environment

Policy NE2 - Locally Important Wildlife Sites

Policy TP2 - Car Parking

Policy TP4 - Accessibility

Policy T4 - Loss of Tourism Facilities

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

Strategy 7 (Development in the Countryside)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 44 (Undeveloped Coast and Coastal Preservation Area)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

### Government Planning Documents

NPPF (National Planning Policy Framework 2021)

### **Site Location and Description**

Garlands is located on the edge of the parish of Beer and although it is outside the Built-up Area Boundary it is part of a continuous belt of development extending from the village centre. It occupies an elevated position on the north side of the Beer to Seaton road and is in the East Devon AONB as well as the Coastal Preservation Area.

The property has been extended and subdivided and now comprises the applicant's dwelling plus three holiday lets. There is a large garden to the south and east of the building and a parking area and garage on the north side. Roads border three sides of the plot and the fourth side adjoins the neighbouring property, Bremel Hayes.

### **ANALYSIS**

On the application site there are three holiday lets known as The Boat Shed, The Seaside Inn and The Beach House, in addition to the applicant's dwelling, Garlands. This application seeks planning permission to:

- let The Boat Shed as an unrestricted dwelling;
- incorporate The Seaside Inn into the main house; and
- retain The Beach House as a holiday let.

### **Background**

The applicants live in Garlands and they operate The Boat Shed, The Seaside Inn and The Beach House as self-catering holiday cottages. All four are within the same building which is located on the edge of Beer but outside the Built-up Area Boundary.

The Seaside Inn and The Beach House were built following a grant of planning permission in 1989 and are subject to the following condition:

The accommodation hereby permitted shall be occupied solely for purposes incidental to Garlands as a guest house, either for staff or holiday accommodation. In the case of holiday accommodation the two self contained units shall not be occupied by any one person or family for more than four successive weeks in one year. The two units shall not be sold as separate units of accommodation.

(Reason - To ensure that the two self contained units of accommodation are not used permanently for residential purposes).

The Boat Shed is in part of the original house but it became a self-contained unit as part of the planning permission granted in 2006 and is subject to the following condition:

The development hereby permitted shall be used for holiday accommodation only and shall only be operated and serviced in conjunction with the occupation of the dwelling known as 'Garlands'.

(Reason - In the interests of amenity, and to comply with the policy of the Council for the provision of holiday accommodation in the countryside.)

## **Main issues**

The main issues in the determination of this application are: whether the loss of holiday accommodation is compatible with the relevant tourism policies in the Local and Neighbourhood Plans; whether the development would provide acceptable living conditions; and whether the site is in an appropriate location for an unrestricted dwelling.

### **Loss of holiday accommodation**

The proposal would result in the loss of two units of holiday accommodation and the gain of one property for rent.

Local Plan Policy E18, which seeks to retain holiday accommodation in certain parts of the district, does not apply in Beer. However, Beer Neighbourhood Plan (NP) contains the following policy:

#### **Policy T4 - Loss of Tourism Facilities**

The loss of tourist facilities to other uses will only be supported where:

- i) it can be satisfactorily demonstrated that the tourist facility is no longer viable;
- or,
- ii) the proposed alternative use would provide equal or greater benefits for the local economy and community than the current use.

In this case no evidence regarding viability has been presented but there is every reason to believe that the business is viable. In these circumstances, to satisfy the policy it would need to be demonstrated that the enlargement of one private dwelling and the creation of one unrestricted 2-bed dwelling (88.2sqm in area) would outweigh the loss of two holiday lets.

By way of background the NP explains that in 2011 around 20% of properties in Beer were holiday homes or holiday lets. By the time the plan was written in 2018 the number of holiday homes was approaching 25% (however, it is not stated whether this figure includes holiday lets and the source is also not given). The impact of holiday homes on the community is addressed in the following paragraph from the NP:

"Community consultation in recent years (see Key supporting evidence) has suggested that where market housing is developed, there is a community desire to see new homes being used for permanent occupation or short-term continual holiday lets for most of the year to eliminate predominantly empty second homes within housing estates."

Reflecting the importance of tourism to the village, the NP contains a whole chapter and five policies on the subject. It sets out a very positive message of support for the tourism industry and the overall aims and objectives could be summarised as supporting sustainable tourism growth in all forms. This echoes Strategy 33 of the Local Plan.

In terms of new holiday accommodation, it seeks to avoid the development of new second homes but promotes other types of holiday accommodation if 'demand and need' for it can be demonstrated (Policy T3). In a similar vein, Policy T4 resists the loss of holiday accommodation that is in demand (i.e. that is viable) unless the new use would provide equal or greater benefits for the local economy and community. This is a high bar given the importance of tourism and the clear support for the retention of short-term holiday letting accommodation such as that provided at Garlands.

Incorporating The Seaside Inn into Garlands would be of private benefit to the applicants and there is no evidence that it would give rise to any benefits to the local economy and community. The loss of this unit of accommodation therefore carries negative weight in the balance.

In the absence of any public benefits arising from the loss of The Seaside Inn, the acceptability of this application rests on whether any benefits associated with the use of The Boat Shed as an unrestricted dwelling would offset the harm arising from losing two holiday lets.

The only evidence provided by the applicant that there would be any benefit arising from the proposal is a brief statement on the application form which says "This would provide much needed permanent rental accommodation for someone" but this need has not been substantiated in any way.

In the absence of any evidence from the applicant, an assessment against the NP shows that it has the following aims:

Aim 9: Increase accessibility and affordability to housing for local people.

Aim 10: Support a supply of smaller dwellings to meet local needs.

In this instance, however, there is no evidence that the accommodation would be affordable for local people. Whilst the likely rent is not known (and has not been evidenced by advice from a local letting agent) the property would provide well-proportioned and well-appointed accommodation in a very attractive location with sea views, its own garden and off-road parking. The rent is therefore likely to be at the upper end of the scale for a 2-bed property and out of reach of those most in need of rental accommodation.

Further evidence regarding need and affordability can be found in a recent article published by the Office for National Statistics titled "House prices in tourist hotspots increasingly out of reach for young and low paid" (<https://www.ons.gov.uk/economy/inflationandpriceindices/articles/housepricesintouristhotspotsincreasinglyoutofreachforyoungandlowpaid/2021-09-28>; accessed on 8 December 2021).

The following is an extract from the article:

***"Growth of tenant demand appears to be exceeding supply***

*UK private rents increased by 1.3% in the 12 months to August, rising to 2.0% excluding London.*

*The fastest rates of growth were in the East Midlands (2.7%) and the South West (2.6%), while London was the only region to record a decrease (-0.4%).*

*The RICS UK Residential Market Survey suggests that an imbalance between tenant demand and the supply of lettings could be contributing to the increase in rental prices.*

*In the three months to August 2021, RICS reported that tenant demand was accelerating while landlord instructions remained in decline.*

*The fall in supply of lettings was most widespread in the Midlands, the East of England and the South West.*

*It could be that some landlords are trying to capitalise on domestic tourism through holiday lets, leaving fewer long-term lets for prospective tenants.*

*This is a particular issue for those looking to rent in tourist hotspots, where rates of second home ownership are much higher than average. Research suggests that many second homes have become holiday lets during the pandemic."*

Local evidence of the shortage of rental accommodation can be found by carrying out an online search. At the time of writing this report there were no properties available for rent in Beer and few in the wider area. Whilst this only represents a snapshot in time, the evidence from the ONS indicates that there is an acute shortage of property for rent, particularly for those on low incomes who make up a large proportion of renters in tourist hot spots where wages in hospitality are generally low. By way of further evidence, a local MP addressed the subject in an article in August 2021 ([Weekly column: East Devon's housing crisis is bigger than your backyard | Simon Jupp MP](#)) and Devon County Council recently issued a press release ([Cross-party vote to combat Devon's housing crisis - News](#)).

Returning to Policy T4, the test is whether there would be benefits for the local economy and community that offset the harm arising from losing two holiday lets.

In the context of an acute shortage of rental accommodation, there would be some benefit arising from the provision of a dwelling for rent. However, it is far from clear, given the high rental value, that it would be of benefit to those in the local community, which is what the policy requires. Furthermore whilst the occupants of a single dwelling would contribute to the local economy, in the absence of any evidence to the contrary, this is unlikely to be equal to or of greater value than the contribution made by the occupants of two holiday lets.

As noted earlier, Policy T4 justifiably sets the bar high for proposals that would result in the loss of holiday accommodation. In this instance it has not been demonstrated

that the provision of one dwelling for rent would bring benefits to the local economy and community that would offset the harm arising from losing two holiday lets. Furthermore, even if permission were to be granted there is no mechanism to prevent the applicants (or future owners) continuing to rent out the accommodation as a holiday let, which they may be inclined to do in view of the lucrative market currently. Consequently, any benefits that may arise are not guaranteed. In summary, sufficient benefits to the local economy and community have not been demonstrated to offset the harm and therefore the proposal is unacceptable in principle.

In reaching this conclusion it is acknowledged that the Parish Council and the Ward Member have reached a different view on the balance of harm and benefits. However, the recommendation is based on the available evidence and seeks to support the objectives of the Neighbourhood Plan as a whole. Furthermore, there is potential for similar arguments to be made across the parish and this would undermine the objectives of the tourism policies.

### **Living conditions**

The relationship between the enlarged accommodation at Garlands and the retained holiday let would be much the same as existing. The holiday let would also continue to be managed from Garlands. This relationship is therefore acceptable.

The Boat Shed, which would become an unrestricted dwelling, is attached to Garlands but its main outlook is to the north and east whereas Garlands has a southerly aspect. Each would have their own garden and parking area and although the access from the road would be shared there would be sufficient separation of amenity spaces to ensure that the occupants of both properties would enjoy good living conditions.

### **Location**

Policy TC2 of the Local Plan seeks to ensure that "New development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car." This is supported by Policy TP4 of the NP which has a similar objective.

Garlands is between Beer and Seaton and is situated adjacent to the boundary between the two parishes. The village centre in Beer is about 500m away and accessible on foot. Seaton town centre is just under a mile away but still readily accessible on safe pedestrian routes.

Beer has a moderately good bus service for a rural area which provides connections to Seaton and Axminster where there is a railway station. Additional services are available from Seaton.

In view of the proximity to local services and the availability of public transport, the site is considered to be in appropriate location in this instance in spite of it being outside the built-up area boundary of either settlement.

### **Other matters**

The property is not in the AONB but is in the Coastal Preservation Area. However, the proposal does not include any built development and therefore there would be no change to the undeveloped/open status of the surrounding area.

The site is about 200m from the Jurassic Coast, the Sidmouth to West Bay Special Area of Conservation and the Sidmouth to Beer SSSI. It is also 1500m east of Beer Quarry Caves SAC. However, the proposal would not intensify the occupation of the building or give rise to greater activity on the coast or in the countryside. Therefore interests of geological and natural importance would be preserved.

## **CONCLUSION**

In the absence of a viability argument, policy T4 of the NP requires the proposal to demonstrate that it would bring benefits to the local economy and community that would be equal to or greater than the benefits arising from two holiday lets.

In this case it has not been demonstrated that there would be any benefits arising from amalgamating The Boat House with Garlands, other than private benefits to the applicant. Therefore, it needs to be shown that the provision of one dwelling for market rent would bring equal or greater benefits to the local economy and community compared to two holiday lets.

Whilst it is acknowledged that the acute shortage of property to rent is a weighty material consideration, the NP forms the starting point for decision making and should usually be followed (para. 12 of the NPPF). This proposal has not demonstrated that:

- The occupants of one dwelling would contribute as much or more to the local economy as the occupants of two holiday lets;
- The rent for the accommodation would be affordable to those in the local community; and
- The benefits of providing accommodation for one household, who may come from outside the community, would be equal to or greater than the benefits to the community arising from tourism.

Furthermore, there is no mechanism to ensure that any benefits would be delivered and this means that the applicants could choose to continue renting The Boat Shed as a holiday let. Given how lucrative the holiday market currently is, this may be more appealing than long term letting, both to the current applicants and any future owner.

Owing to the lack of a convincing case to demonstrate compliance with Policy T4 of the Neighbourhood Plan and insufficient material benefits arising from the provision of one dwelling for rent that would outweigh the conflict with Policy T4, the proposal is unacceptable.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposal would result in the loss of two holiday lets and the gain of one unrestricted dwelling. However it has not been demonstrated that the provision of one dwelling for rent on the open market would deliver benefits for the local

economy and community that are greater than or equal to the benefits arising from the two existing holiday lets. Nor has it been demonstrated that the holiday accommodation is no longer viable. In the absence of adequate justification for the loss of the holiday accommodation the proposal is contrary to Policy T4 - Loss of Tourism Facilities of the Beer Neighbourhood Plan 2014-2031.

#### NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email [cil@eastdevon.gov.uk](mailto:cil@eastdevon.gov.uk).

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

#### Plans relating to this application:

Location Plan	05.07.21
Proposed Floor Plans	05.07.21

#### List of Background Papers

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

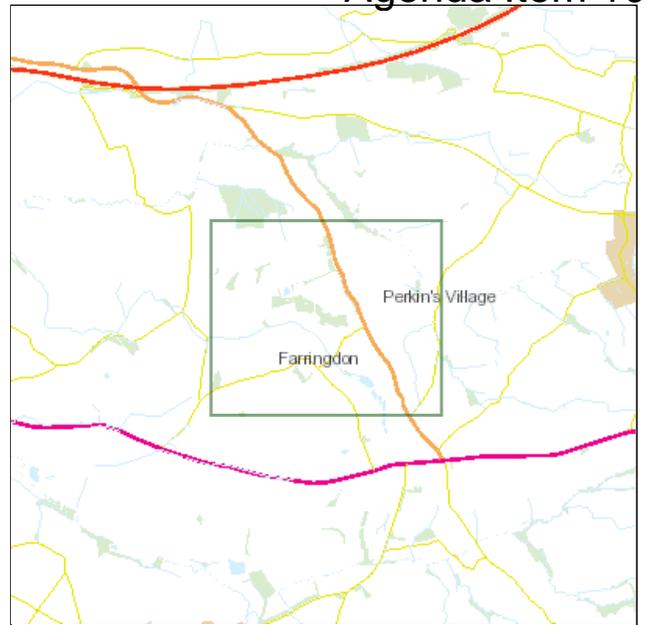
**Ward** Broadclyst

**Reference** 21/1436/FUL

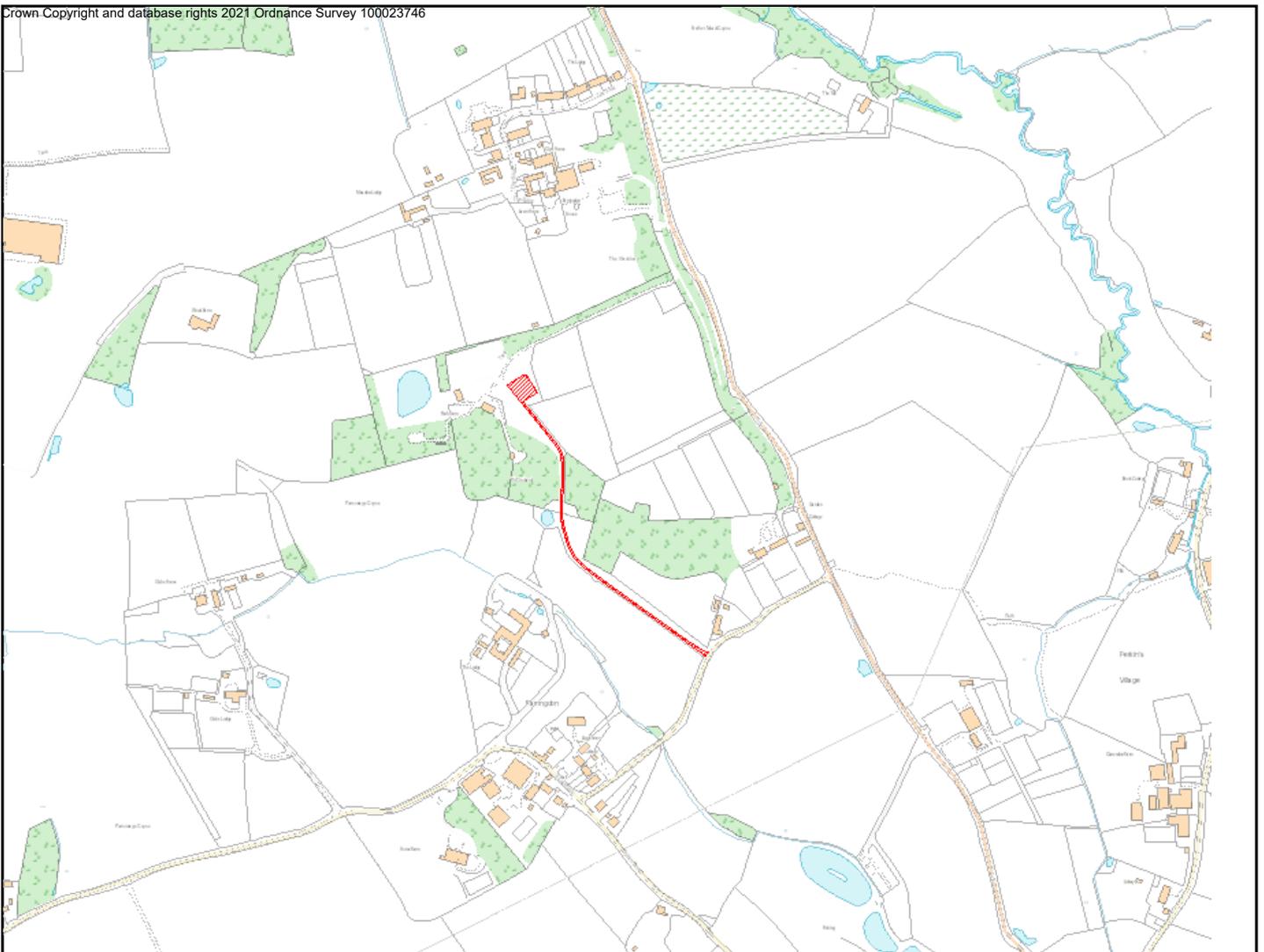
**Applicant** Mr Mike Palmer

**Location** Park Farm Farrington Exeter EX5 2JD

**Proposal** Construction of bungalow with parking space



**RECOMMENDATION: Refusal**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Broadclyst (Farringdon)</b>	<b>21/1436/FUL</b>	<b>Target Date: 02.08.2021</b>
<b>Applicant:</b>	<b>Mr Mike Palmer</b>	
<b>Location:</b>	<b>Park Farm Farringdon</b>	
<b>Proposal:</b>	<b>Construction of bungalow with parking space</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

**This application is before Committee as the officer recommendation is contrary to the view of a Ward Member.**

**This application relates to a site at Park Farm, which is located within the Parish of Farringdon. The application site is located to the east of two other dwellings at Park Farm, and is a largely level area of land close to access drive to the site. Like the whole of the Farringdon parish, Park Farm is outside of any built-up area boundary and, therefore, is considered to be in the open countryside.**

**Planning permission is sought for the construction of a three bedroom bungalow and two vehicle parking spaces.**

**As the application site is located outside a built-up area boundary, support from the East Devon Local Plan 2013 - 2031 is limited, as that seeks to protect the countryside from development. However, there are some circumstances where Local Plan polices can provide support for a dwelling in the countryside, such as Policy H4 (Dwellings for Persons Employed in Rural Businesses). In this instance though, the applicant has not provided evidence to support an application on the basis of that policy. Therefore, the Local Plan does not offer any support for the proposal.**

**However, Farringdon Parish has a 'made' Neighbourhood Plan. This contains a Policy (Farr5 - Self-build and Custom-Built Dwellings). It is under this policy that the applicant feels that the proposal can be considered/determined. That policy listed a number of criteria under which applications for a dwelling within the curtilage of an existing dwelling can be permitted. The proposal meets the majority of the criteria to Policy Farr5. However, crucially, the proposal fails to comply with two elements of Policy Farr5 and the policy states that all criteria must be met.**

The first of those is that development permitted under Policy Farr5 must be located within the curtilage of the host dwelling. In this instance, whilst there is no doubt that the site is within the ownership of the applicant, the site is not considered by officers to be within the curtilage of the host dwelling. This is on the basis that the site lies outside of the red line on the location plans when the main dwelling was granted planning permission, and the fact that the application site does not appear to have ever been within the curtilage of the dwelling is supported by aerial photographs of the site. The applicant has submitted statutory declarations to counter this argument, but Officers consider the information contained in these to be limited, and insufficient to outweigh the evidence of the planning history and aerial photographs. Consequently, it is considered that the proposal fails to comply with Policy Farr5 on the basis that it is not proposed to construct the dwelling in the curtilage of the host property.

In addition, Policy Farr5 states that dwellings permitted under it must not have an internal floor area exceeding 100m<sup>2</sup>. In this instance, the proposed property, would have an internal floor area of 101.69m<sup>2</sup>. Clearly, this fails to comply with Policy Farr5.

The proposed dwelling is considered in all other regards - such as in terms of its visual impact, parking provision and any impact on public highways. However, given the lack of any policy support for the proposal, it is considered that the application is unacceptable. Therefore, it is recommended that this application is refused.

## **CONSULTATIONS**

### **Local Consultations**

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

Farringdon Parish Council Comment

Farringdon Parish Council fully supports this application. We are aware there are three generations of family living here and that the applicant wishes to free up the larger family home and build a retirement home for himself.

-The proposed bungalow is well screened

-It will be in a large plot

-It is single storey

-It has a slate roof

-It is a traditional design and a 3 bedroom retirement property of the correct size. This proposal fully complies with the Farringdon Neighbourhood Plan Policy Farr 5

#### **Broadclyst - Cllr Eleanor Rylance**

I am concerned as I have been notified that you might be on the verge of rejecting the above application, which I believe fits in with the adopted Farringdon Neighbourhood Plan- it involves developing low-level housing for an existing resident wishing to downsize.

I believe that in the case of this application, the overall benefit to the community of allowing the application to proceed despite it being outside the BUAB of Farringdon

means that I believe that an exception should be made in this application to the rule on building outside the BUAB. The bungalow in question would be built in the grounds of the existing house, and would permit the owner to live near family support in a multi-generational set-up and would enable the whole family to remain in the community together.

I support this application and would ask that it be called in to planning committee if the intention of the planning department is to reject it.

## **Technical Consultations**

### **Building Control**

In respect of the email below, it is my understanding that to “*meet accessible and adaptable standards set out in the Building Regulations and, ideally, is also suitable for wheelchair users*” is a matter which is dealt with under a planning condition to allow the optional requirements M4(2) – *Accessible and adaptable dwellings* or M4(3) – *Wheelchair user dwellings* to be made a requirement of Building Regulations approval. Please see the extract from Approved Document M Volume 1 below. There is insufficient information on the submitted planning drawings to fully assess compliance with these requirements and site topography will influence the external access arrangements. However, broadly both optional requirements would require level or ramped access from a parking area and possibly an external canopy over entrance doors and internal layout re-planning may be required to meet the space requirements of requirement M4(3), depending on fittings and furniture arrangements etc.

### **Summary**

**0.1** This approved document gives guidance about how to comply with requirements M4(1), M4(2) and M4(3) of the Building Regulations. It contains the following sections:

**Section 1:** Category 1 – Visitable dwellings

**Section 2:** Category 2 – Accessible and adaptable dwellings

**Section 3:** Category 3 – Wheelchair user dwellings

### **Application**

**0.2** The recommendations of this volume of this approved document apply to newly erected dwellings, and dwellings undergoing material alteration, only. They do not apply to the extension of a dwelling.

### **Optional requirements**

**0.3** Requirements M4(2) and M4(3) are ‘optional requirements’ as defined in the Building Regulations. An optional requirement only applies where a condition that one or more dwellings should meet the relevant optional requirement is imposed on new development as part of the process of granting planning permission. Where no condition is imposed, dwellings only need to meet requirements M4(1). Compliance should be assessed against only one of requirements M4(1), M4(2) or M4(3) for any given dwelling.

### **Environmental Health**

I have considered the application and recommend attaching the following condition in order to cover concerns in respect to drainage:

The proposed treatment plant will need to be capable of accepting the volume of foul water generated by at least 22 people however, extra capacity must be built into the system to allow for any power cuts. This should amount to at least 2-3 days. Further information should be sought from a drainage engineer on this matter if required. The plant should be linked into an high level alarm system as per the manufactures instructions

Other Representations

No third party representations have been received.

**PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
00/P1051	Erection Of Dwelling House	Approval with conditions	11.08.2000
01/P0688	Erection Of New Dwelling	Approval with conditions	10.07.2001
15/2337/PDQ	Prior approval for change of use of agricultural building to a dwelling (use class c3) and associated operational development	PDQ Prior approval granted	24.11.2015

**POLICIES**

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

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

H4 (Dwellings for Persons Employed in Rural Businesses)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

### **Site Location and Description**

This application relates to a site at Park Farm, which is located within the Parish of Farringdon. The application site is located to the east of two other dwellings at Park Farm, and is a largely level area of land close to access drive to the site. The drive is approximately 500 metres in length and joins a minor public highway to the south of the property. That distance, in addition to trees and woodland around the property, some of which are the subject of Tree Preservation Orders (TPO's), mean that there are no public vantage points of the site. There are no listed buildings close to the site, and there are no landscape or other designations impacting Park Farm. Like the whole of the Farringdon parish, Park Farm is outside of any built-up area boundary and, therefore, is considered to be in the open countryside.

### **Proposed development.**

Planning permission is sought for the construction of a three bedroom bungalow and two vehicle parking spaces.

### **ANALYSIS**

The main issues for consideration are the principle of development, visual impact and highway safety.

#### **Principle**

As the application site is located outside a built-up area boundary, support from the East Devon Local Plan 2013 - 2031 (Known as the 'Local Plan' for the remainder of this report) is limited, as that seeks to protect the countryside from development. However, there are some circumstances where Local Plan policies can provide support for a dwelling in the countryside, such as Policy H4 (Dwellings for Persons Employed in Rural Businesses). In this instance though, the applicant has not provided evidence to support an application on the basis of that policy. Therefore, the Local Plan does not offer any support for the proposal.

However, Farringdon Parish has a Neighbourhood Plan, which was 'made' following a referendum on 6th May 2021. This contains a number of policies but, especially relevant to this proposal, is Policy Farr5 (Self-build and Custom-Built Dwellings). It is under this policy that the applicant feels that the proposal can be considered/determined. Therefore, Policy Farr5 of the Neighbourhood Plan is a key consideration in the determination of this application. Policy Farr5 reads as follows:

*In order to meet the need for additional housing identified in the Farringdon Housing Needs Assessment (2020,) up to 12 new homes in the neighbourhood area will be supported. Each new dwelling must comply with all the following criteria:*

*a) it is self-built,*

- b) the new dwelling, including access and outside space, will be located within the curtilage of an existing dwellinghouse (and limited to one dwelling),*
- c) it is single storey,*
- d) has a maximum 100m<sup>2</sup> gross internal area (as defined by RICS),*
- e) does not exceed three bedrooms; and*
- f) meets accessible and adaptable standards set out in the Building Regulations and, ideally, is also suitable for wheelchair users.*

*The development should:*

- g) be of a high quality that respects the setting of heritage assets and the rural character of Farringdon;*
- h) form a harmonious relationship with the existing dwelling and any neighbouring properties;*
- i) make adequate provision for private amenity space and off-street parking for both the existing and additional dwelling;*
- j) ensure that access arrangements do not detract from the host dwelling or neighbouring properties in terms of appearance, noise or fumes; and*
- k) include boundary treatments that reflect those prevailing in the area.*

*Development proposals which are carbon neutral, or as near to carbon neutral as is reasonably possible, shall be strongly supported provided they comply with other relevant policies of the Neighbourhood Plan.*

*The development should not lead to the overdevelopment of a site nor the unacceptable loss of amenity for neighbouring properties.*

*Permitted development rights will be withdrawn to ensure reasonable controls exist over future extension and modification of dwellings in the interests of protecting the character of the area and to ensure the size of the dwelling is controlled.*

Given the significance of this policy to the consideration of this proposal, each of the criteria in it are assessed below:

- a) it is self-built.

In part 16 of the application form, the applicant has ticked that the development would be self-built. However, it is not possible to impose a condition to ensure that this remained the case, as such a condition would be challenging to enforce. Instead, in the event that this application is approved, a legal agreement will be required to ensure that the development was self-built.

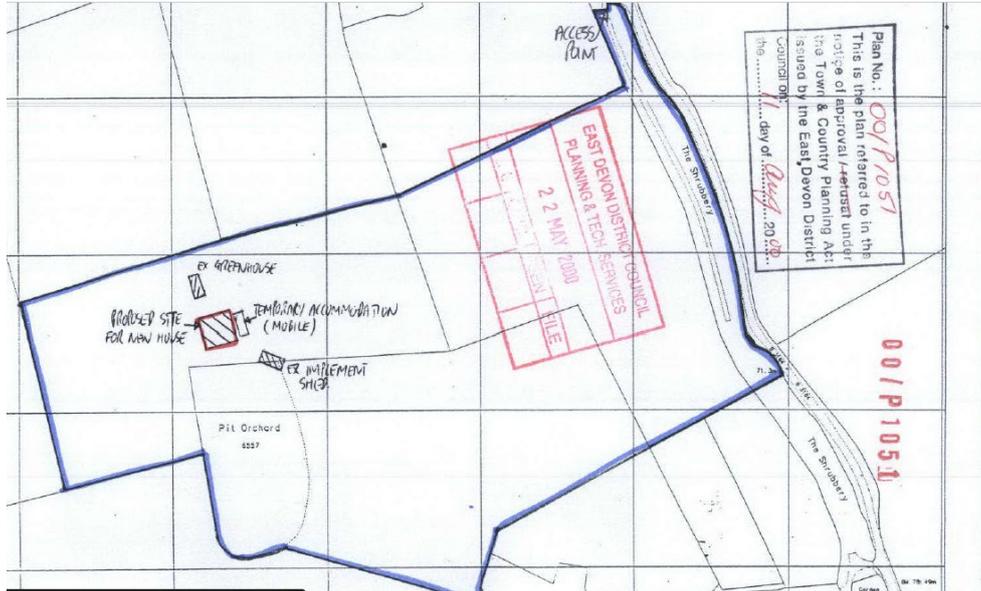
- b) the new dwelling, including access and outside space, will be located within the curtilage of an existing dwellinghouse (and limited to one dwelling)

The application site is within the ownership of Park Farm, as demonstrated by the blue line on the site location plan and by the ownership certificate on the application form. However, there is a difference between ownership and curtilage, and Policy Farr5 is clear that any new dwelling permitted under that policy must be located within the curtilage (in effect the lawful garden) of the host dwelling; in this case Park Farm.

When a dwelling is granted planning permission, its curtilage is defined by the red line on the location plan. Park Farm was granted outline permission on appeal on 23/02/01, with reserved matters consent being granted on 10/07/01 (Applications 00/P1051 and

01/P0688 refer). In both cases, as can be seen from the location plans below, the red line only outlined the location of the dwelling. This means that no curtilage for the dwelling has been defined.

00/P0151:



01/P0688:



Consequently, the Council has used aerial photos to assess its view on the extent of the curtilage associated with the dwelling approved by the aforementioned applications. It is considered that the residential curtilage of Park Farm, based on the current situation, is as outlined in red on the plan below (for information, the application site is outlined in blue):



The aerial photos shown below clearly indicate that the application site has never had a domestic use or appearance.

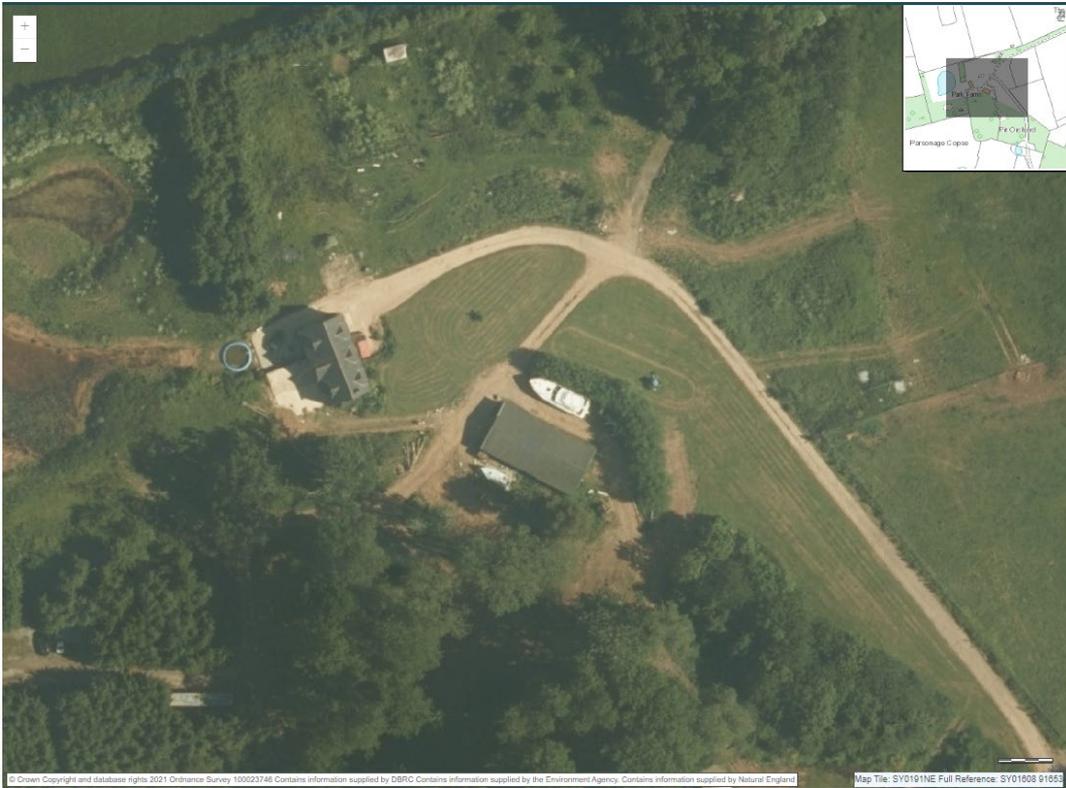
2005/6:



2010:



2014/15:



2016:



2019:



Given the evidence shown on the photos above, it is considered that the proposal to which this report relates does not fall within the curtilage of Park Farm.

For the avoidance of doubt, it is also clear that the application site falls outside of the curtilage of the property known as The Barn, which was converted to a dwelling under application number 15/2337/PDQ. The plans for that application show the following red line/curtilage area:



Notwithstanding the above, it is acknowledged that the applicant submitted two statutory declarations relating to the curtilage area of Park Farm. A Certificate of Lawfulness application has not been submitted, so the evidence/details within these declarations has not been assessed through that process. However, it has been considered during the determination of this application. It is the Officers opinion that details supplied in the statement is limited, and does not appear to be supported by clear evidence. Furthermore, there are some substantial time gaps in the declarations; for example, there is a gap of eight years between items 2 and 3, and then a further gap of the same length between items 7 and 8. Additionally, Officers are of the view that some details provided on the declarations do not necessarily demonstrate that the land in question was within the residential curtilage of the dwelling; for example, details of the council tax band or the planting of a hedge and trees.

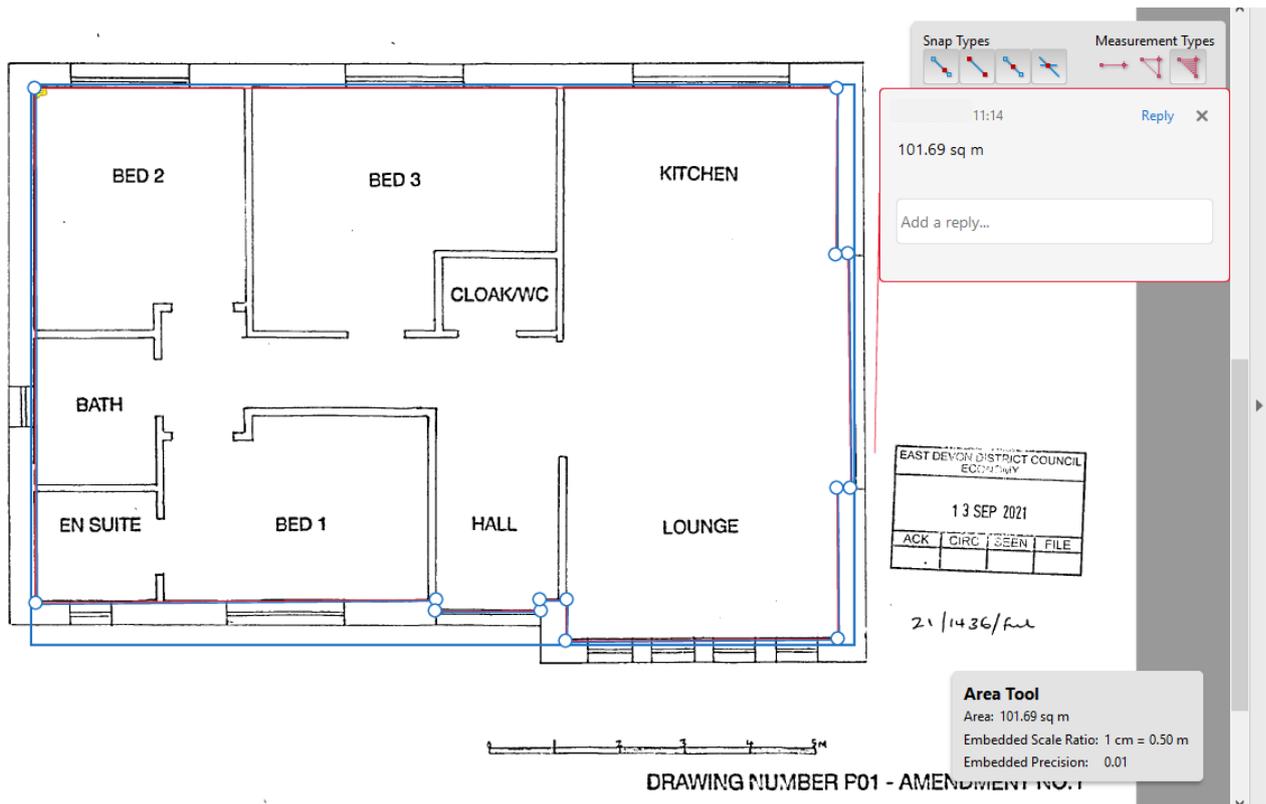
Given the above, it is considered that the site to which this application relates does not fall within the curtilage of Park Farm. Consequently, the proposal does not comply with criteria b of policy Farr5.

c) it is single storey

The submitted plan show that the proposed property would be a bungalow.

d) has a maximum 100m<sup>2</sup> gross internal area (as defined by RICS)

RICS defines the internal flood area as the area within the internal face of the walls, and their Code of Measuring Practice states that the measurement includes almost any space within that area. Critically, in this instance, the Code of Measuring Practice states that the Gross Internal Floor Area includes "columns, piers, chimney breast, stairwells, lift-wells, other internal protections, vertical ducts, and the like". Taking this into account, the internal floor space of the proposed property is measured to be 101.69 square metres. This measurement is shown below:



Clearly, this is in excess of the 100m<sup>2</sup> permitted by Policy Farr5 and, therefore, the proposal fails to comply with this element of the policy.

e) does not exceed three bedrooms.

The proposed floor plan shows that the dwelling would have three bedrooms.

f) meets accessible and adaptable standards set out in the Building Regulations and, ideally, is also suitable for wheelchair users.

Discussions with the Council's Building Control Department have confirmed that it is possible for the relevant Building Regulation requirements to ensure that a dwelling meets these standards to be imposed through a planning condition. Given that, in the event that this application is approved, a condition to ensure that would need to be imposed.

g) The development should be of a high quality that respects the setting of heritage assets and the rural character of Farringdon.

The application site is not located in a designated area, and there are no listed building within the vicinity of the site. The site is well screened by trees surrounding the site. As a consequence, there are no long distance views of the site, and the property would not be visible from the public domain. The two existing properties within Park Farm are the closest to the site. The design and scale of the proposed dwelling is considered to be such that it would not be detrimental to those properties. Therefore, the quality of the proposed dwelling is considered to be acceptable for its location.

h) The development should form a harmonious relationship with the existing dwelling and any neighbouring properties.

The scale of the proposed dwelling is such that it would not dominate the existing dwellings on the site, and is considered acceptable with regard to this criteria.

i) The development should make adequate provision for private amenity space and off-street parking for both the existing and additional dwelling.

The proposed site plan shows that vehicle parking and amenity/garden space would be provided.

j) The development should ensure that access arrangements do not detract from the host dwelling or neighbouring properties in terms of appearance, noise or fumes.

The proposed access to the site would not give rise to any issue of this nature.

k) The development should include boundary treatments that reflect those prevailing in the area.

No details of boundary treatment have been provided. However, should this application be approved, details of boundary treatment could be sought by condition.

### **Visual Impact**

The location and design of the proposed dwelling is such that it would not result in a loss of amenity to the occupiers of other dwellings. Furthermore, its scale and location are such that it would not result in visual harm to the countryside; and, in the event that the application is approved, conditions could be imposed to ensure that the materials and landscaping are suitable for the rural location.

No trees would be harmed by the proposed development.

### **Highway Safety**

Sufficient parking is provided for the size of the property, and it would not have a detrimental impact on highway safety.

Consequently, it is considered that, despite the lack of in principle support for the proposal in the Local Plan, the development would accord with Local Plan Policies D1 (Design and Local Distinctiveness) and TC9 (Parking Provision in New Development).

### **Other matters**

With regard to the National Planning Policy Framework (NPPF) 2019, it is considered that the proposal would not meet the requirement of Paragraph 80, which sets out the circumstances under which dwellings in isolated locations may be permitted. However, the location of the site in the Countryside, remote from services, is such that the proposal would not meet the requirements of Local Plan Policy TC2 (Accessibility of New Development), which seeks to ensure that new development is in a sustainable location.

The application site is located within 10 kilometres to the Exe Estuary and Pebblebed Heaths. Their European Habitat designations are 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. This development will be CIL liable and the financial contribution has been secured through a Section 111. On this basis, and as the joint authorities are working 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.

### **CONCLUSION**

It is clear from the report above that there is no support in the East Devon Local Plan 2013 - 2031 for the proposed development; this is by virtue of the site being located in an unsustainable rural location, and the property not being for a rural worker. Given this, the only policy under which the proposed dwelling can be supported is Policy Farr5 of the Farringdon Neighbourhood Plan 2018 - 2031. However, the proposal fails to comply with two elements of that policy; critically that the site is not within the curtilage of Park Farm, and secondly that the floor area of the proposed dwelling exceeds 100m<sup>2</sup>. Consequently, the proposal does not comply with any policy and, therefore, it is recommended that this application is refused.

### **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposed dwelling would be located outside of a built-up area boundary, where the construction of a dwelling is contrary to the provisions of Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013 - 2031. Furthermore, the proposal does not meet the criteria Local Plan Policy H4 (Dwellings for Persons Employed in Rural Businesses). When assessed against Policy Farr5 (Self-Build and Custom-Built Dwellings) of the Farringdon Neighbourhood Plan 2018 - 2031, it is considered that the application site is outside the curtilage of Park Farm, and that its internal floor area of the proposed dwelling would exceed 100m<sup>2</sup>. Therefore, the proposal fails to comply with the provisions of Policy Farr5. Consequently, the proposal is considered to be contrary to the provisions of both the East Devon Local Plan 2013 - 2031 and the Farringdon Neighbourhood Plan 2018 - 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 proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

##### Plans relating to this application:

LP01 and LP02	Proposed Site Plan	21.05.21
LP03	Location Plan	07.06.21
E04 : NW	Proposed Elevation	21.05.21
P02	Proposed roof plans	07.06.21
P01 (1)	Proposed Floor Plans	13.09.21
E03	Proposed Elevation	21.05.21
E01 (1) : front	Proposed Elevation	13.09.21
E02 (1) : rear	Proposed Elevation	13.09.21

##### List of Background Papers

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

**Ward** Coly Valley

**Reference** 21/1213/VAR &  
21/2781/FUL

**Applicant** Mr. D Brazendale

**Location** Sceat Cottage Colyton EX24 6DP

**Proposal** (21/1213/VAR) Variation of condition 1 on permission 07/1771/VAR to allow building to be used as an unrestricted dwelling. (21/2781/FUL) Change of use from holiday cottage to unrestricted residential dwelling (Use Class C3)



**RECOMMENDATION 21/1213/VAR: Refusal**

**RECOMMENDATION 21/2781/FUL: Refusal**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Coly Valley (Colyton)</b>	<b>21/1213/VAR</b>	<b>Target Date: 23.06.2021</b>
<b>Applicant:</b>	<b>Mr David Brazendale</b>	
<b>Location:</b>	<b>Sceat Cottage Colyton</b>	
<b>Proposal:</b>	<b>Variation of condition 1 on permission 07/1771/VAR to allow building to be used as an unrestricted dwelling.</b>	

**RECOMMENDATION: Refusal**

		<b>Committee Date:</b>
<b>Coly Valley (Colyton)</b>	<b>21/2781/FUL</b>	<b>Target Date: 11.01.2022</b>
<b>Applicant:</b>	<b>Mr. D Brazendale</b>	
<b>Location:</b>	<b>Sceat Cottage Colyton</b>	
<b>Proposal:</b>	<b>Change of use from holiday cottage to unrestricted residential dwelling (Use Class C3)</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

**These applications are before the Committee because the recommendations are contrary to the view of one of the Ward Members.**

**Both applications seek the same outcome, namely the ability to occupy Sceat Cottage as a permanent residence. The first application, which seeks to remove the condition limiting the use to holiday accommodation, cannot be approved because the resulting unrestricted use would conflict with the description of the development which case law has found to be unlawful.**

**Setting that issue aside, the main issue in both cases is whether the property is in an appropriate location for permanent occupation having regard to accessibility to local services and facilities.**

**Colyton is the nearest settlement providing a range of services and facilities and is about 1km from Sceat Cottage (1.3km to the Market Place). Journeys would not be convenient on foot or bicycle owing to the lack of a dedicated footway, limited lighting, the steep terrain, impeded visibility, lack of verges for refuge and the speed of traffic in places. For the same reasons the nearest bus stop, which is 275m in the direction of Colyton, cannot be easily accessed.**

**A bus connecting Axminster to Beer passes Sceat Cottage hourly during the day, with no evening service, a reduced service on Saturdays and no service on Sundays and Bank Holidays. There is no evidence that it operates a hail-and-ride service but even if it did the limitations of the service would not make it a convenient alternative to the car.**

**Given the lack of safe and convenient alternatives to car travel it is likely that future occupants of the dwelling would be highly car dependent.**

**In summary, the removal of the condition to allow unrestricted residential occupation of Sceat Cottage would not deliver an enhancement to the building's setting and would result in a dwelling that is not located close to a range of accessible services and facilities. Therefore neither application would accord with parts b) and c) of Policy D8 or Policy TC2 and Strategy 5B of the Local Plan. In the absence of specific policy support for the proposal it would also conflict with Strategy 7. Owing to these conflicts, and in the absence of any material considerations to justify reaching a different view, the proposal is recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### **21/1213/VAR**

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

Application not supported.

Our comments were as for the 20/2394 application plus item 3 below -

1. The 07/1771/VAR was clear in the use of Scent Cottage was only to be as a holiday let.

2. The Parish Council did not support the provision of a new dwelling in the countryside and which is part of an AONB.

3. As per the Regulation 16 Submission version of the Colyton Parish Neighbourhood Plan, Para 8.13 which states;- 'In describing the built-up area we are also confirming support for Strategy 7 of the East Devon local Plan which classes the rest of the Parish of Colyton, including the village of Colyford, as countryside where development should be severely restricted and will only be permitted where it is in accordance with a specific Local Plan or Neighbourhood Plan policy'

**Coly Valley - Cllr Paul Arnott**

I hope it is not too late to comment that I would be happy to support this as an application - appreciating the various nuances - and having discussed this matter with the applicant I am wholly satisfied both of his deep local roots and of his intention to retire to this property.

Whilst always keen to protect holiday accommodation where the case is compelling, I feel that in this case the local economy would benefit even further from Mr Brazendale's year-round contribution.

I would be very happy to attend a chair's delegated meeting if this might be useful

### **21/2781/FUL**

Coly Valley - Cllr Paul Arnott

Just to reconfirm my own support as ward member.

Parish/Town Council

The Colyton Parish Council do not support this application.

Our comments are as the 20/2394/VAR application, i.e.

i. The 07/1771/VAR was clear in the use of Scent Cottage was only to be as a holiday let.

ii. The Parish Council did not support the provision of a new dwelling in the countryside and which is part of an AONB.

### **Both applications**

Other Representations

For the two applications combined, three representations in support have been received making the following comments:

- There are 4 houses in the block and 2 of the 4 are already permanent dwellings.
- Given the demand for houses in Colyton it is madness not to allow permanent residents.
- The house would not be empty for half of the year and would bring continuous spending to the area.
- The house is already there and would cause no extra impact to the AONB.
- The bus service runs behind the house to take householders directly into Colyton without impacting on the parking issues.
- Anyone who would have previously rented the house would now use one of the many BandB or air BnB in the area.
- See no difference with the applicant living here permanently.
- It would increase the security of neighbouring properties with a more permanent resident.
- It would also be more regular support for the local businesses and schools in Colyton.

- The reduction of car transport with one to two cars travelling from around the country to the property over 30 weeks of the year and the environmental impact should be considered.

### **Technical Consultations**

None.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
98/P1062	Convert Higher Stables To Two Units Of Holiday Accommodation	Refusal Appeal allowed	15.10.1998 12.04.1999
99/P1737	Conversion Of Stables To Two Units Of Holiday Accommodation (Amended Scheme)	Approval with conditions	07.12.1999
07/1771/VAR	Variation of condition on planning permission 99/P1737 for use as holiday accommodation	Approval with conditions	16.08.2007
20/2394/VAR	Removal of condition 1 on planning permission 07/1771/VAR (Variation of condition on planning permission 99/P1737 for use as holiday accommodation) to allow the building to be used as an unrestricted dwelling	Refusal	08.01.2021

### **POLICIES**

#### **Colyton Neighbourhood Plan (In force following approval at referendum)**

Policy No. Coly1 Protecting the Natural Environment

Policy No. Coly6 Sustainable Development

Policy No. Coly11 Tourism Development

Policy No. Coly14 Public Transport

Policy No. Coly15 Walking and Cycling Routes

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

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
D1 (Design and Local Distinctiveness)  
D8 (Re-use of Rural Buildings Outside of Settlements)  
TC2 (Accessibility of New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2021)  
National Planning Practice Guidance

### **Site Location and Description**

Sceat Cottage is one of a pair of semi-detached cottages which form part of a small group of properties to the northeast of Mounthill Farm. The properties are set down and back from the southeast side of the classified road that runs northeast from Colyton to Whitford. The application site lies approximately mid distance between Colyton and Whitford and occupies an elevated hillside position within the East Devon Area of Outstanding Natural Beauty. The site is in open countryside outside of any designated built-up area boundary.

### **Proposal**

This report addresses two applications which seek the same outcome: the removal of a restriction which means that Sceat Cottage can only be used as holiday accommodation and not as a permanent residence.

The first application, 21/1213/VAR, seeks to remove the relevant condition from the extant planning permission.

The second application, 21/2781/FUL, starts afresh and seeks an entirely new permission for use as an unrestricted dwelling.

The first application has not been determined to date because case law and appeal decisions have since established that a permission cannot be varied if the resulting use would conflict with the use originally permitted. The original proposal was for 'holiday accommodation' but the applicant seeks unrestricted accommodation. This would result in a conflict between the description on the planning permission (which must remain the same as the original description) and the use to which the building would be put. Because of this conflict planning permission cannot be granted and this forms a reason for refusal for the first application.

### **ANALYSIS**

Setting the legalities of the processing of the first application aside, the main issue for consideration in both applications is whether the dwelling is in an appropriate location for unrestricted occupation having regard to local and national planning policies. Full weight can be given to the Colyton Parish Neighbourhood Plan 2020-2031 following overwhelming support at the referendum on 2 December.

### **Location**

Sceat Cottage is one of two holiday cottages created through the conversion of the former 'higher stables' at Mounthill Farm in around 2000/2001. It has four bedrooms, two parking spaces and a garden. Access is via a shared driveway that serves three neighbouring properties, including the adjoining barn conversion, Robins View. These properties are set down and back from the southeast site of the classified road that runs northeast from Colyton to Whitford. Other than these properties and Mounthill Farm, there are no near neighbours and the site is surrounded by open countryside which is within the East Devon AONB.

Strategy 7 of the Local Plan establishes that the countryside is defined as those parts of the district that are outside the Built-up Area Boundaries and outside of site specific allocations. This site is within neither and should therefore be regarded as a countryside location in the context of the LP. Policy D8 of the LP supports new uses for buildings in the countryside subject to a number of conditions. For the re-use of rural buildings for residential purposes the policy establishes that the conversion must enhance its setting and the building must be located close to a range of services and facilities to meet the everyday needs of residents. Strategy 5B and Policy TC2 of the LP seek to ensure that new development is well located to be accessible to minimise the need to travel by car.

The nearest settlements to Sceat Cottage are Colyton and Whitford, both of which are about 1km away in opposite directions. Whitford has a church and a village hall but Colyton offers a wider range of services and facilities within its town centre about 1.3km away.

Journeys to either settlement would not be convenient on foot or bicycle on a regular basis owing to the lack of a dedicated footway, limited lighting, the steep terrain, impeded visibility, lack of verges for refuge and the speed of traffic in places.

The nearest bus stop to Sceat Cottage is at Mounthill Cross which is 275m away in the direction of Colyton. This stop is served by the 20 bus between Seaton and Taunton which stops four times per day in each direction from Monday to Saturday. It is also served by the 885 bus between Beer and Axminster which stops 11 or 12 times per day in each direction from Monday to Friday, with a reduced service on Saturdays and no service on Sundays. Neither bus runs in the evenings on any day.

The route to the bus stop suffers all the shortcomings identified in respect of the walking route into Colyton, albeit for a shorter distance. In low light or poor weather conditions this would not be an attractive or safe journey on foot and therefore, notwithstanding the frequency of the bus service, it is unlikely to be a realistic alternative to the car. Furthermore, whilst it is noted that the 885 bus passes Sceat Cottage, there is nothing to indicate that it operates a hail-and-ride service and even if it did the site is not well served in the evenings and at weekends.

There is a limited ring and ride service but this would not be a dependable alternative for day-to-day needs.

Paragraph 10.11 of the Neighbourhood Plan says "We want people to get around much more often without using the motor car. It is not easy nor particularly safe in much of the Parish because of the need to walk or cycle on roads and lanes that are

shared with a variety of, often very large, commercial and agricultural vehicles." Sceat cottage is in one such location where walking and cycling is not easy or safe. The only alternative to car use is travel by bus but the bus stop is not easily accessed and the service is limited to day times, with no service on Sundays.

Owing to the very limited alternatives to car travel, permanent occupants of the property would be likely to rely on the use of a private car for most, if not all, journeys and this would conflict with part c) of Policy D8 as well as Policy TC2 and Strategy 5B of the Local Plan.

### **Other material considerations**

The applicant has drawn our attention to a number of appeal decisions which they claim support their case.

The first is an appeal at the former Otter Valley Golf Centre where, following the closure of the facility, it was proposed to convert a barn to a dwelling. In that case the Inspector considered that the established use as a golf centre would have attracted large numbers of visitors who travelled by car and that the proposed use would be likely to generate far fewer vehicle movements. The substantial reduction in vehicle movements heavily influenced the Inspector's decision and the appeal was allowed. Whilst other factors, such as being able to hail a bus, cycle to Upton or make a short car trip to Honiton, were part of the Inspector's assessment, these were not overriding factors compared to the substantial reduction in car travel. Such a benefit would not arise in relation to Sceat Cottage and therefore the Otter Valley appeal is of limited relevance.

The second appeal concerned Appledore Farm in a remote part of the countryside within Farway parish. The proposal was to remove a holiday condition to allow permanent occupation and the Inspector allowed the appeal concluding that "a residential use is already existing and there is no evidence that any increase in travel would be significant. I, therefore, find no conflict with the aims of Policy TC2". However, this analysis fails to recognise that the purpose of the policy is not simply to compare one use to another and approve the one that would generate least traffic.

Paragraph 26.4 of the Local Plan states "One of the key means by which the District Council can most positively influence travel and movement patterns is through promoting development in the most sustainable locations." This means considering the needs of future occupants and whether those needs could be met by way of active travel. Tourism is a major part of the local economy and many tourists in this rural district will inevitably arrive by car and want to travel to places that are not readily accessible on foot, by bike or using in public transport. To some extent these car journeys are offset by the economic benefits. In contrast, a settled resident should be given opportunities for sustainable travel to access the services and facilities they need day to day. To this end the Local Plan differentiates between tourist accommodation, which benefits from some support in rural areas, and dwellings which are directed to towns and villages. Owing to its failure to recognise the context within which Policy TC2 sits, this appeal is of limited relevance.

The third appeal concerns the conversion of a barn to a dwelling outside Newton Poppleford. In that case the barn was not considered to be in an isolated location, being around 400m from the edge of the village and close to other dwellings. The lane leading to the village was also relatively quiet. These conditions contrast with Sceat Cottage which is on a busier, steeper road and further from the built-up area. These differences are significant enough to be a deterrent to walking and cycling and therefore the appeal is of limited relevance.

What is evident from these appeals is that every case must be considered on its merits. Moreover, for every appeal that has been allowed it is possible to identify one that has been dismissed (for example: APP/U1105/W/21/3269783 (Apple Barrel Barn); APP/U1105/W/18/3202489 (Bucknole Farm); and APP/U1105/W/18/3206768 (Hawkern Cottage)). The current application should therefore be determined on its own facts rather than those of any other case.

### **Other matters**

Whilst neither the Local Plan nor the Neighbourhood Plan contain policies resisting the loss of holiday accommodation that would apply to this proposal, the NP notes the value of tourism to the local economy and promotes sustainable growth of tourism businesses. In this context the loss of holiday accommodation would be a disbenefit but not one that carries material weight given the lack of any relevant policy.

It is claimed that a lack of recorded accidents involving pedestrians and cyclists on Colyton Hill is evidence that the road is safe for such users. However, it could equally be evidence that the road is unsafe and that few pedestrians and cyclists use it for that reason. This evidence is therefore given little weight in the overall balance.

A more permanent residential use might give rise to more impact on the immediate setting of Sceat Cottage through domestic paraphernalia such as boundary enclosures to improve privacy, erection of garden buildings, a washing line, etc. However, in the context of the neighbouring properties such changes would not appear out of character or harmful to the landscape and scenic beauty of the AONB.

### **CONCLUSION**

The removal of the condition to allow unrestricted residential occupation of the building would not deliver an enhancement to the building's setting and would result in a dwelling that is not located close to a range of accessible services and facilities. The removal of the occupancy restriction would therefore not accord with parts b) and c) of Policy D8 or Policy TC2 and Strategy 5B of the Local Plan. In the absence of specific policy support for the proposal it would also conflict with Strategy 7. Owing to these conflicts, and in the absence of any material considerations to justify reaching a different view, the proposal is recommended for refusal.

### **RECOMMENDATION**

**REFUSE 21/1213/VAR** for the following reasons:

1. The application site lies in open countryside outside of any designated Built up Area Boundary or Strategic allocation within the East Devon Local Plan and where there are no Local or Neighbourhood Plan policies that would explicitly support the development. Unrestricted residential development in this location would be unsustainable due to the distance to and access route to essential services and facilities required for daily living and where public transport access is limited. As a result, future occupiers are likely to be heavily reliant on the use of private transport for the majority of journeys and the proposal would be contrary to the provisions of Strategy 5B (Sustainable Transport), Strategy 7 (Development in the Countryside) and Policies D8 (Reuse of the Rural Buildings Outside of Settlements) and TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.
2. Removal of the condition would result in a conflict between the intended unrestricted use of the dwelling and the description of the development ('holiday accommodation'). A change in the description of the development to accommodate the proposed use is also beyond the powers under s73 of the Town and Country Planning Act 1990 and cannot be made. Therefore planning permission cannot be granted and a fresh planning application is required.

Plans relating to this application:

None.

**REFUSE 21/2781/FUL** for the following reasons:

1. The application site lies in open countryside outside of any designated Built up Area Boundary or Strategic allocation within the East Devon Local Plan and where there are no Local or Neighbourhood Plan policies that would explicitly support the development. Unrestricted residential development in this location would be unsustainable due to the distance to and access route to essential services and facilities required for daily living and where public transport access is limited. As a result, future occupiers are likely to be heavily reliant on the use of private transport for the majority of journeys and the proposal would be contrary to the provisions of Strategy 5B (Sustainable Transport), Strategy 7 (Development in the Countryside) and Policies D8 (Reuse of the Rural Buildings Outside of Settlements) and TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.

Plans relating to this application:

Block Plan	16.11.21
Location Plan	16.11.21

NOTE FOR APPLICANT

**Informative:**

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

**Informative: Confirmation - No CIL Liability**

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email [cil@eastdevon.gov.uk](mailto:cil@eastdevon.gov.uk).

List of Background Papers

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

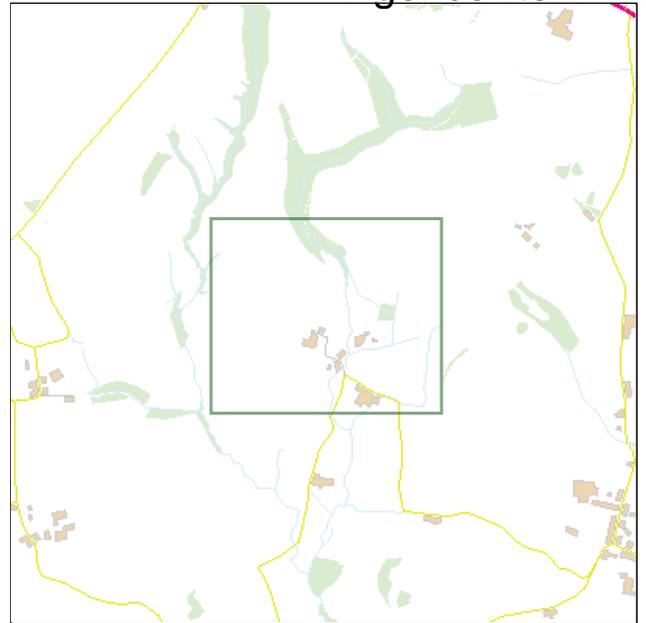
**Ward** Feniton

**Reference** 21/1781/FUL

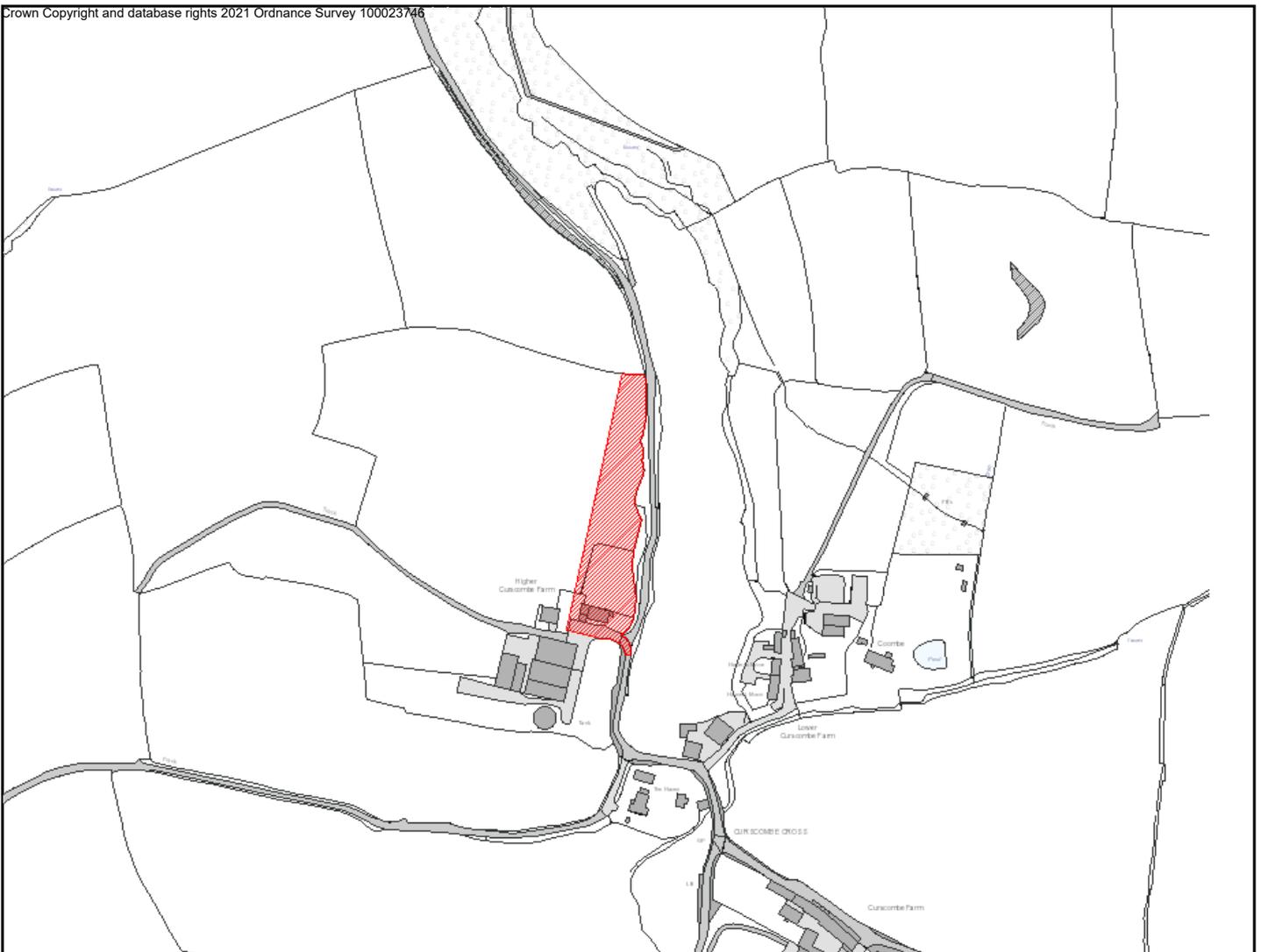
**Applicant** Richard Coker

**Location** Higher Curscombe Farm Feniton Honiton EX14 3EU

**Proposal** 3 no. new glamping Pods



**RECOMMENDATION: Refusal**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>	
<b>Feniton (Feniton)</b>	<b>21/1781/FUL</b>	<b>Target</b>	<b>Date:</b>
		<b>01.09.2021</b>	
<b>Applicant:</b>	<b>Richard Coker</b>		
<b>Location:</b>	<b>Higher Curscombe Farm Feniton</b>		
<b>Proposal:</b>	<b>3 no. new glamping Pods</b>		

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

**This application is before the Committee as the officer recommendation differs from the view of the ward member.**

**The proposal involves the provision of 3no 'glamping' pods, in the form of shepherds hut-style structures, and associated access and vehicle parking provision within part of an agricultural field, forming part of an area of Grade 3 agricultural land, to the north of Higher Curscombe Farm, located within open countryside, devoid of any landscape designation, around 2 km. to the north of Feniton.**

**Whilst the provisions of Policy E19 (Holiday Accommodation Parks) of the adopted Local Plan could be argued to weigh in favour of the principle of the form of development proposed, among the criteria that it applies are requirements that it is within, or in close proximity to, an existing settlement and avoids the use of the best and most versatile agricultural land.**

**In this case, the site is located approximately 2 km. from Feniton, the nearest village with any facilities or services, including access to public transport, from which it is also isolated owing to the absence of any opportunities for connectivity by means of public rights of way or close public transport service or cycle routes. Access between the site and services, facilities and other tourist attractions is therefore only readily available by means of private car.**

**It has been argued by the applicant and his agents that the proposal would meet the requirements of Policy E4 of the Plan insofar as it would amount to a rural diversification project and, as such, should be regarded as being in compliance with the relevant guidance set out in the National Planning Policy Framework (NPPF) relating to schemes of this nature and outweighing any conflict with other local plan policies.**

However, it is not accepted that the proposal can be properly regarded as such a scheme. The underlying purpose of this policy is to enable farmers and those directly employed within the wider agricultural industry, which forms a significant element of the rural economy, to diversify and expand upon agricultural economic activity. It is not, and has not previously been, regarded as a means of more widely enabling any person that is resident within the countryside to realise the commercial benefits of development of their land.

In this case, whilst the applicant is engaged in limited agricultural activity, supporting the wider family's beef cattle rearing enterprise through the letting out of buildings at Higher Curscombe with some seasonal rearing included, the principal income is derived from employment elsewhere. Whilst there is a stated intention to utilise the income from the letting of the proposed 'glamping' units as a means of re-establishing the farming business in the future, this cannot be guaranteed off the back of a grant of permission in this instance and is not, in any event, the purpose of Policy E4, which is to allow development that enables existing agricultural activity to be diversified, not development to be permitted that may support future intentions for agricultural activity.

It is therefore considered that little weight can be given to Policy E4 in the assessment of the proposal.

The site also occupies a larger area of what is potentially best and most versatile agricultural land where Policy E19, among its other criteria, requires that proposals avoid such land. Similarly, Policy E4 - were it otherwise considered could be applied to the application scheme - carries an identical criterion, thereby adding further weight to the objections to the proposal.

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

No comment was made.

#### Feniton - Cllr Alasdair Bruce

Yes, please register my formal approval of this application.

### **Technical Consultations**

#### Devon County Highway Authority

Observations:

The access and associated visibility will remain as per the existing access for the agricultural farm. I do not envisage that the proposal of 3 holiday glamping pods will produce an intensification of trip generation that is unacceptable. The site layout will allow ample space for both off-carriageway parking and turning.

Therefore the County Highway Authority has no objection to this planning 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

### Other Representations

One representation of support has been received.

### Summary of Grounds of Support

1. Can appreciate and understand how moving into tourism complements the farm and enhances the viability of the holding.
2. Pods would be well hidden and cause no visual impact on the landscape.
3. Post-pandemic, and as more people become sceptical about foreign travel, UK breaks such as this could provide the escapism and mental well-being that are needed.

## **POLICIES**

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

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 28 (Sustaining and Diversifying Rural Enterprises)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

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

EN22 (Surface Run-Off Implications of New Development)

E4 (Rural Diversification)

E19 (Holiday Accommodation Parks)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Feniton Neighbourhood Plan 2016-2031 Policies  
E1 (Rural Character and Historic Environment)

Government Planning Documents  
NPPF (National Planning Policy Framework 2021)

## **ANALYSIS**

### **Relevant Planning History**

There is no previous history relating to the application site.

### **Site Location and Description**

Higher Curscombe Farm is located approximately 2 km. to the north of 'old' Feniton village and 1.5 km. to the north west of Buckerell.

It comprises an established farm complex set within an undulating landscape mostly consisting of a mix of arable and pasture fields interspersed with hedges and small pockets of woodland. Although not within either of the designated Areas of Outstanding Natural that cover much of the District, or indeed the subject of any other landscape designation, it nevertheless forms part of a most attractive and tranquil area of open countryside.

The application site itself is the lower eastern portion of a large open field to the north of the complex bordered to the east by an unmade sunken track (Curscombe Lane) that connects the loose grouping of buildings formed by Curscombe, Lower Curscombe and Higher Curscombe Farms with the A373 at Hembury Fort Cross, approximately 1.7 km. to the north.

### **Proposed Development**

The application proposal involves the provision of three 'glamping pods' for holiday occupancy within the site together with the laying out of a main access driveway with further separate short lengths of driveway to each 'pod' to provide connectivity for prospective occupiers between each of them and an open area alongside the farmhouse.

Details accompanying the application show that the 'pods', which would measure around 6.6 metres by 3.3 metres and resemble timber shepherds huts, would be laid out in a largely linear arrangement and positioned 'end on' to the nearby hedged field boundary with Curscombe Lane. Each would be provided with parking spaces immediately alongside served by the individual tracks extending off of the shared track, which itself would run from south to north.

### **Considerations/Assessment**

It is considered in this case that the principle of the development falls to be assessed against a number of key national and local policies as set out in the National Planning Policy Framework (NPPF) and the adopted Local Plan. These are discussed in turn as follows

The site is located within the open countryside outside of any town or village with a defined settlement boundary as set out in the adopted Villages Plan where the provisions of Strategy 7 (Development in the Countryside) only permits development where it is in accordance with a specific local or neighbourhood plan policy and where it would not harm the area's distinctive landscape, amenity and environmental qualities.

Paragraph 84 of the NPPF requires that planning policies and decisions should, among other things, enable the development and diversification of agricultural businesses and sustainable tourism developments which respect the character of the countryside.

This guidance is applied locally through the provisions of Local Plan Strategy 33 (Promotion of Tourism in East Devon) and Policies E4 (Rural Diversification) and E19 (Holiday Accommodation Parks) of the Local Plan.

Strategy 33 facilitates the provision of high quality tourism in the District that promotes a year-round industry that is responsive to changing visitor demands; however, it should be sustainable and should avoid damaging the natural assets of the District and aim to attract new tourism-related businesses that can complement the District's high quality environment.

Policy E19 is also essentially a permissive policy that - among other things - allows, outside of designated landscape areas (such as the application site in this case), proposals for new holiday accommodation park sites subject to five main criteria being met. Whilst this policy is aimed at larger holiday parks, the criteria can be used to assess this proposal for 3 holiday pods. These are set out, and considered, in turn as follows.

**1. The proposal relates sensitively in scale and siting to the surroundings and includes extensive landscaping and visual screening to mitigate against adverse impacts. They do not affect habitats or protected species**

The development, as stated, would consist of only three units of accommodation that would be positioned where there would be an appreciable separation distance between each. Furthermore, the positioning of the development within the lowest part of the field close to its boundary with Curscombe Lane would, taken together with the presence of established hedge and tree screening along this boundary, would largely mitigate any landscape harm caused by their presence. Indeed, the only point of public vantage from which the development is likely to be visible in the landscape is a short length of footpath no. 7 leading to Buckerell, on a hillside around 750 metres to the south east 'as the crow files'. From here, it is likely that views of the units would be filtered by the trees on this boundary.

In addition, although running immediately alongside the site at much closer vantage, Curscombe Lane itself is, as stated, an unmade sunken lane that does not have any status as a public right of way. As such, and again considered alongside the screening provided by the hedge and trees along it, no part of the development would be readily visible from it.

It is thought therefore that the proposal would fulfil the requirements of this criterion of the policy.

## **2. They are within, or in close proximity, to an existing settlement but would not have an adverse impact on the character or setting of that settlement or the amenities of adjoining residents**

The site is not within any existing settlement and, as stated, is around 2 km. from the nearest village with any reasonable level of service/facility provision (Feniton). Furthermore, its relative isolation is reinforced by the absence of any ready proximity to any public transport routes or indeed the existence of any footpaths or bridleways connecting the site with Feniton that might otherwise facilitate access by means other than private car, either for local recreation or to access attractions and places of interest for prospective tourists further afield.

It is therefore questionable whether the proposal could be regarded as meeting this criterion, which also essentially reflects the broader objectives of Local Plan Policy TC2 (Accessibility of New Development) which, among other things, requires new development to be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need for car travel.

## **3. They would not use the best and most versatile agricultural land**

The site occupies part of a more extensive area of land that is classified Grade 3 under the Agricultural Land Classification. It is therefore amongst the categories of best and most versatile agricultural land (BMV). The applicant has confirmed that this land is Grade 3A.

The provisions of Local Plan Policy EN13 (Development on High Quality Agricultural Land) seek to protect BMV agricultural land from development not associated with agriculture or forestry and only exceptionally allows it if there is an overriding need for it and either sufficient land of a lower grade is unavailable or such land has an environmental value recognised by a statutory wildlife, historic, landscape or archaeological designation and outweighs agricultural considerations or the benefits of the development justify the loss of high quality agricultural land. If BMV land needs to be developed and there is a choice between different grades, land of the lowest grade available must be used except where other sustainability considerations, including the nature conservation value of a site, outweigh land quality issues.

Although this issue is discussed at greater length later in the report, the classification of the land in this case may be considered to weigh against the proposal when considered under Policy E19 when considered in tandem with Policy EN13 and the more restrictive provisions of the latter.

#### **4. They will be provided with adequate services and utilities**

There is no evidence to suggest that the proposal would be contrary to this criterion. The proposal would represent a comparatively small scale level of tourist accommodation provision with only limited services/utilities likely to be required.

#### **5. Traffic generated by the proposal can be accommodated safely on the local highway network and safe highway access to the site can be achieved**

The isolated rural location aside, there is no evidence to suggest that the level of traffic and traffic movements that would be likely to be generated on the local highway network, given the modest number of units proposed, could not be accommodated safely. Although the road connecting the site with Buckerell, in particular, is especially narrow for traffic, it is accepted that it would be difficult to argue against the proposed development on highway grounds in this case.

In addition, access off of the public highway is well positioned on the outside of a sharp deviation in the road carriageway of more than 90 degrees where traffic speeds would necessarily be reduced while there is ready access to the site and space available for the accommodation of vehicles alongside the farmhouse in addition to the direct vehicle parking provision intended alongside each of the proposed units.

These factors are reflected in the consultation comments relating to the proposal that have been made by the Highway Authority and their position in expressing no objection to it.

A number of these issues are also held in common with the Policy E4 criteria, against many of which it is accepted that the proposal would be compliant.

However, there is a more fundamental issue in relation to this policy which requires detailed consideration, which follows in the next section of the report.

Policy E4 is essentially a permissive policy that allows for proposals to diversify and expand upon the range of traditional agricultural-related economic activities undertaken in rural areas.

One of its key criteria, and indeed integral to the policy, is the requirement that any such proposals should be complementary to, or compatible with, agricultural operations in the rural area or on a farm and operated as part of an overall holding.

In other words, the policy is expressly intended to enable and support farmers to supplement their income from agricultural productivity, at a time of change in the role of agricultural industry within the broader rural economy, through the realisation of appropriately sensitive diversification projects, such as recreation and tourism-centred development. It is not considered that it should be applied to cases where applicants occupying countryside locations, but are not actively employed in agriculture, wish to seek permission for commercial projects.

The extent to which this requirement may be regarded as being complied with in this case has formed the basis for detailed discussion involving the applicant and his agents in the light of officer concerns in this regard and further information to seek to demonstrate that this criterion would be met has been provided upon request.

This has taken the form of statements from both parties, from one of which (that prepared by the applicant) it appears evident that there is some part-time involvement, on the part of the applicant and his partner, in assistance with the summer rearing of organic beef cattle for his sister and brother-in-law. Although principally involved with farming at Lane End Farm, Broadhembury, they also, in effect, rent farm buildings at Higher Curscombe from the applicant in which to house the cattle and pay charges to him in connection with the rearing activity.

However, it appears clear that the main source of income for the applicant and his partner is not currently derived from this but from elsewhere. The relevant part of the statement advises as follows:

'For us to build and grow our family farm we will need to spend our time working here instead of earning our main income outside the farm environment. The land and cattle need our time and it is not financially sustainable for us to carry on working part time on the farm, we need to be here full time. Our only option is to diversify to enable us another source of income. By having a small number of glamping pods/comfortable/luxury accommodation, we can provide a beautiful environment for people to enjoy and have the unique experience of such a peaceful area, we can then be onsite when needed whether it be farming or visitor capacity.'

Additional information provided by the agent's statement, includes the following:

'Richard Coker (the applicant) had from 15 years ago been running the farm on this own after his father due to illness could no longer work the land, and has struggled to maintain a supportive income. As of 5 years ago Phillipa joined Richard to an attempt to bring the farm back to its former success, however due to Brexit and more devastatingly the global Covid-19 pandemic this has resulted in a vast loss of income from the farm's agricultural business and to survive the applicants have had to take up second jobs.

Their future goal is to build the farm business back to its former success with the eventual purchase of their own livestock, however, in their current financial position this cannot be achieved with having to earn monies elsewhere to subsidize their recent loss of income due to circumstances outside their control.

The proposal for the three glamping units will allow this transition giving the applicants the opportunity to be on the farm while income from tourism supports them in the short term financially. This would be in the spirit of Policy E4.'

It has not been explained in any level of detail how Brexit and the pandemic have adversely impacted income derived from the previous farming activity. However, the current situation is that the level of agricultural activity with which the applicant is involved is limited and that the principal income received is not derived from it. Moreover, there can be no certainty that the provision of the proposed 'glamping'

accommodation will necessarily be the precursor to any resumption of agricultural activity. The Council, as Local Planning Authority, is not in a position to insist that this takes place through any grant of planning permission for the development.

As such, it is not considered that the project is one that can be regarded as meeting the provisions of Policy E4. These expressly seek to support the agricultural sector and industry, which forms a mainstay of the wider economy of the District, by enabling farmers to diversify their existing agriculture-related economic activity and the income received from it. The policy is not intended as a means of allowing rural property owners more generally to develop their land on a commercial basis as a means of seeking to enable possible future investment in agriculture.

As such, although there is recognition of the applicant's agricultural background as well as the current agricultural activity that is carried out from Higher Curscombe Farm, it is not the applicant that is principally employed in this activity. Taken together with the no more than limited involvement in agriculture with which there is engagement at the present time, it is not thought that the project to which the application proposal relates can be properly regarded as a 'bona fide' rural diversification scheme for the purposes of Policy E4.

It is also drawn to Members' attention that another key criterion of this policy is that proposals should avoid the use of BMV agricultural land in much the same way as that of Policy E19 referenced above. Given that the land in question is classified Grade 3A, it is thought that this represents a further issue of concern when the application proposal is considered in the wider planning balance alongside the lack of proximity to any existing settlement.

## **CONCLUSION**

Whilst there is some sympathy with the applicant and the reasons behind the application, as the applicants gain their income from elsewhere, with the farm run by family, it is not considered that the proposal represents farm diversification under Policy E4. There being a concern that anybody with land in the countryside could apply for holiday accommodation and claim diversification without having a business already established and with no planning mechanism available to ensure any profit is ploughed into a future agricultural business, the proposal is contrary to Policy E4.

In addition, the site is not in a sustainable location should Policy E19 be considered to apply and finally, the proposal results in the loss of best and most versatile Grade 3A agricultural land contrary to criteria to policies E19 and E4.

Overall therefore, it is felt that the scheme would fail to meet the underlying principles and objectives of Policy E4 as a rural diversification project as well as contravene the Policy E19 requirement that the site be located where well related to an existing settlement. Both policies also carry criteria that seek to prevent development of BMV agricultural land. As such, it would not amount to a sustainable rural tourism development in line with the support offered for such proposals in paragraph 84 of the NPPF.

## **RECOMMENDATION**

REFUSE for the following reason:

1. The proposed development would be located where it would not be within, or in close proximity to, an existing settlement and would be divorced from services and facilities, including means of public transport, and would therefore lead to additional travel by private vehicles. It would also involve the use of an area of best and most versatile agricultural land. As a consequence, and in the absence of sufficient justification for the proposal through a demonstration that other material considerations would outweigh it, it would be contrary to the provisions of Policies E19 (Holiday Accommodation Parks), EN13 (Development on High Quality Agricultural Land) and TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031.

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

##### Plans relating to this application:

8193-LP	Location Plan	07.07.21
8193-01 B	Proposed Site Plan	29.06.21

##### List of Background Papers

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

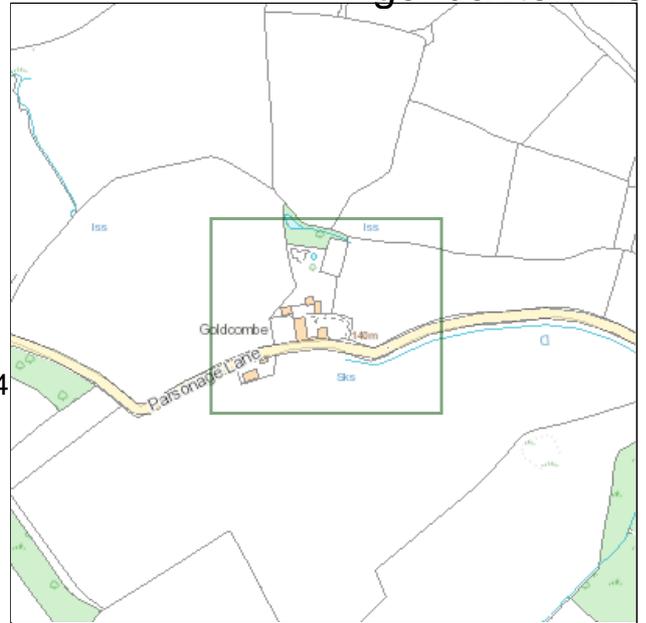
**Ward** Feniton

**Reference** 21/2474/FUL

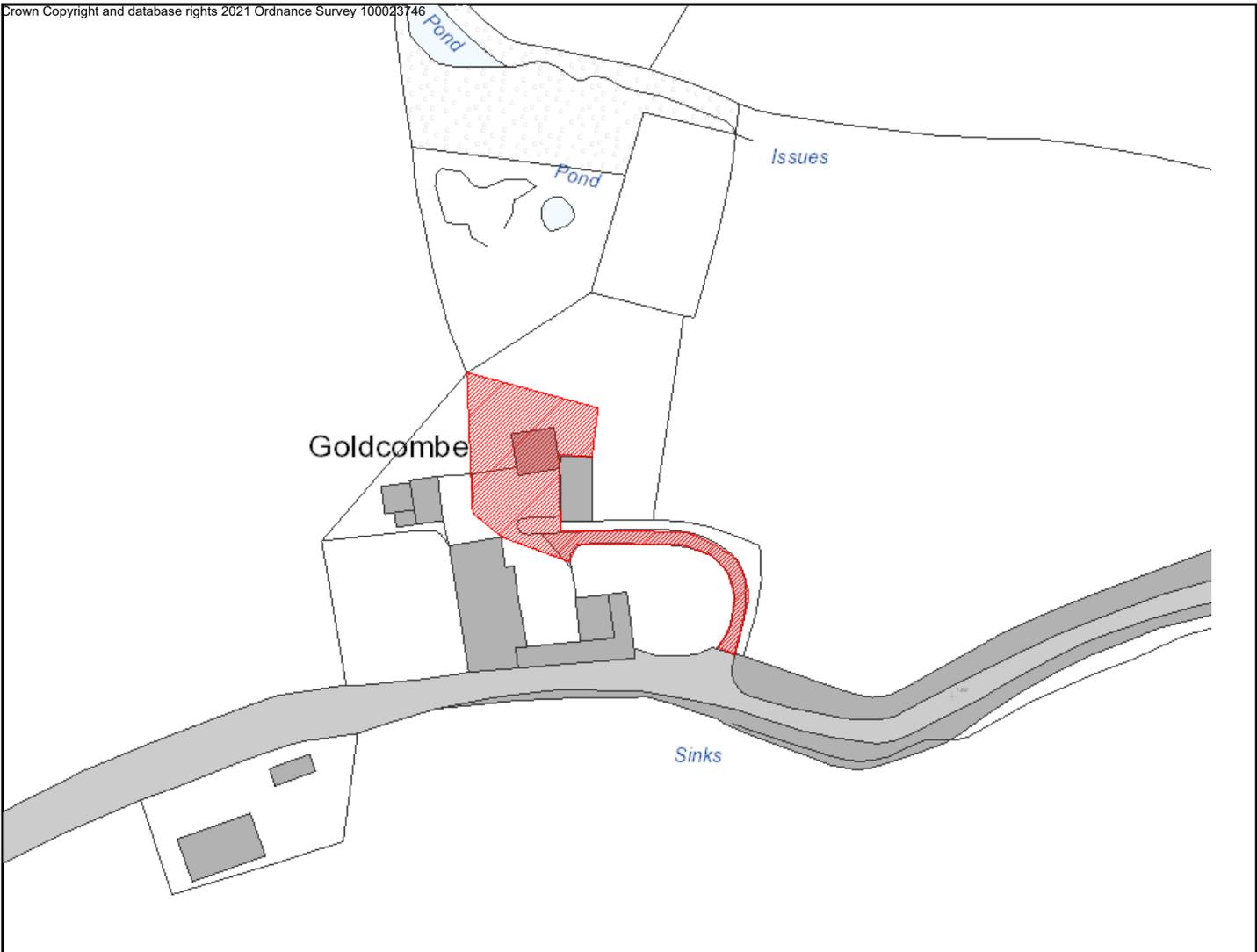
**Applicant** Mr & Mrs P & A Stansell

**Location** Goldcombe Farmhouse Gittisham Honiton EX14 3AB

**Proposal** Change of use of holiday let to dwelling



**RECOMMENDATION: Refusal**



		<b>Committee Date: 19<sup>th</sup> January 2021</b>
	<b>21/2474/FUL</b>	<b>Target Date: 22.11.2021</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs P &amp; A Stansell</b>	
<b>Location:</b>	<b>Goldcombe Farmhouse Gittisham</b>	
<b>Proposal:</b>	<b>Change of use of holiday let to dwelling</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

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

**The application seeks planning permission to change the use of a holiday let known as the Cider Barn to an independent dwelling.**

**The main issues for consideration is the principle of development and accessibility of the application site for day to day use as a residential dwelling.**

**There is general support for the conversion of rural buildings through the provisions of Policy D8 (Re-use of Rural Buildings Outside of Settlements). However criteria c) of the policy requires development to be located close to a range of accessible services and facilities to meet the everyday needs of residents. This overarching objective of the Local Plan to ensure development is sustainably located and is accessible by public transport, cyclists and pedestrians is reflected within Policy TC2 (Accessibility of New Development).**

**In this case the building in question is located approximately 700m away from the village of Gittisham. There is debate to whether individuals would walk to the village from this distance without access to any public footpaths and pavements. Additionally, the Village of Gittisham is not considered to have a wide range of services and facilities to be considered a sustainable location and the site is also remote from Honiton, the nearest settlement providing such amenities. The sheer distance between the application site to Honiton and lack of opportunities to utilise public transport is likely to result in occupants of the dwelling being solely reliant on private modes of transport for day to day living. As the proposal does not meet all of criteria in Policy D8, particularly criterion (c), the use of the building as an unrestricted dwelling conflicts with this policy.**

**Therefore the site is not in a suitable location for unrestricted residential development. Additionally weight is attributed to economic benefits that tourism accommodation to the districts economy that would be lost through the proposal.**

**In the absence of any material considerations to indicate otherwise, despite support from a Local Ward Member, the Parish Council and third parties, it is recommended that the application be refused in accordance with the development plan.**

## **CONSULTATIONS**

### **Local Consultations**

#### Feniton - Cllr Alasdair Bruce

I would be in favour

#### Parish/Town Council

Gittisham parish councillors have no objection. Members fully support the application, and welcome having additional rented properties in the village.

Cllr Valentine declared an interest.

### **Other Representations**

9 letters of support have been received. Some comments are given below;

*“With 7 hotels spread across the South Coast and employing over 100 staff we are always on the look out for staff accommodation. Having another option within walking distance of the hotel would aid this greatly, many of the staff we employ have not yet passed driving tests or cannot afford a car. I cannot see what the addition of accommodation here would do to cause any disruption to the local area and as I say I feel it would be a useful addition.”*

*“I fully support this application. We need more long term rentable accommodation in East Devon as there is a lack of house for the local workforce.”*

*“I am writing to confirm that in my professional opinion, there is currently a shortage of properties in the Honiton local area to rent.*

*I can imagine that there would therefore be high demand for the property owned by the above named clients' - two bedroom properties are rather like gold dust on the residential lettings market at the moment!”*

*“I fully support this application. Additional rental properties being available in the community will facilitate the ability of families, and in particular young families, to live affordably in the locality.”*

*“Need for affordable properties locally”*

## **POLICIES**

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

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

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

TC2 (Accessibility of New Development)

### Government Planning Documents

NPPF (National Planning Policy Framework 2021)

## **Site Location and Description**

The site is located off Parsonage Lane, a single track rural road that runs east out of Gittisham. The surrounding landscape forms part of the designated East Devon Area of Outstanding Natural Beauty. Goldcombe Farmhouse is a Grade II listed property, with the listing including the western walls that enclose the garden. The Cider Barn and the Owl Loft are located to the north east of the farmhouse and are joined at one corner but detached from other buildings. They are finished in a combination of stone, render and timber boarding and have slate roofs. The Owl Loft is accessed directly at first floor level from the adjacent driveway which then descends to a small courtyard enclosed by the buildings from where The Cider Barn is accessed.

## **Planning History**

Application 20/0912/VAR sought to vary the conditions applying to the two holiday lets (Cider Barn and Owl Loft). This follows an earlier application in 2019 relating to only one of the holiday lets which was withdrawn following an indication that the application would be recommended for refusal (19/0259/VAR).

The buildings were converted to holiday lets in around 1990 after approval of applications 84/P0792 and 87/P1345. Application 20/0912/VAR that sought permission to remove the holiday tie from the application building (the Cider Barn) so that it can be occupied as an independent dwelling (requiring removal of both conditions 5 and 6 of the original consent to convert the barns) was approved albeit the decision by the Local Planning Authority to apply a condition that continued to restrict the Cider Barn's use as holiday accommodation prompted an appeal.

The Inspector for the appeal (APP/U1105/W/21/3267313) concluded that in light of the findings of the '*Finney*' judgement to allow the unrestricted residential use of one or both of the units is beyond the scope of the s73 application made to the Council. This would require the submission of a fresh planning application. This application is now before the Local Planning Authority.

## **Proposed Development**

Subsequent to the findings of the inspector in his assessment of APP/U1105/W/21/3267313 this application seeks planning permission to change the use of the Cider Barn from a holiday let to a dwelling. No external alterations are

proposed as part of the application. As such, it is purely the principle of the change of use that is being considered.

## **Principle**

High Court case *Mills v SOS* (2019) EWHC 3476 provided a judgement on how local planning policy E18 - Loss of holiday accommodation should be interpreted. Previously it was held by both the LPA and Planning Inspectorate that policy E18 and its stipulations were applicable to the whole of the District. What the high court decision has clarified, in effect, is that the restrictions within it only apply to the four named settlements of Exmouth, Budleigh Salterton, Seaton and Sidmouth. Therefore this policy has no bearing on the current proposal which is situated outside of these settlements.

The loss of the holiday accommodation in this instance is not a relevant policy consideration. Despite this, it remains the case that tourism is a key sector of the East Devon economy and therefore economic factors are a relevant consideration in the determination of this application and are considered later in this report.

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, Gittisham is not included as such a settlement and therefore was not considered to have an appropriate level of services and facilities to support further residential growth. Therefore, for planning purposes, the proposal takes place within the open countryside and 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.

There are a number of policies within the Local Plan that support residential development in countryside locations. Whilst the provisions of Policy H4 (Dwellings for Persons Employed in Rural Businesses) allows the provision of dwellings that meet an identified need at or near their place of work, the use of the Cider Barn would not be for meeting a need for a rural worker.

Reference is made within the submitted Design and Access Statement to Policy D8 (Re-use of Rural Buildings Outside of Settlements) which does permit the conversion of buildings in the countryside to residential use subject to certain criteria. In particular the policy explicitly highlights the need for residential uses to be located close to wide a range of accessible services and facilities to meet the everyday needs of residents. In this case the building in question is located 700m away from the village of Gittisham. There is debate to whether individuals would walk to the village from this distance without access to any public footpaths and pavements. Additionally, the Village of Gittisham is not considered to have a wide range of services and facilities to be considered a sustainable location and the site is also remote from Honiton, the nearest settlement providing such amenities. The sheer distance between the application site

to Honiton and lack of opportunities to utilise public transport is likely to result in occupants of the dwelling being solely reliant on private modes of transport for day to day living. As the proposal does not meet all of criteria in Policy D8, particularly criterion (c), the use of the building as an unrestricted dwelling conflicts with this policy.

### **Accessibility**

For reasons already highlighted above in the assessment of policy D8(c), it is also concluded that the development would be contrary to Policy TC2 (Accessibility of New Development) as the development would not be accessible to pedestrians, cyclists and public transport and increase the need to travel by car.

Whilst it is acknowledged that the building in question has permission as a holiday let, it is considered that an independent residential use would be different and would result in an increase trips made to and from the site. This position is supported by case law demonstrates that the situation is nuanced. The High Court case of Moore v. SSCLG [2012] EWCA Civ 1202 and appeal decisions APP/Q0505/C/18/3196460 and APP/G3110/C/19/3239740 indicate that each case needs to be considered on its facts and that a holiday use can be materially different to a full time residential use. In particular, these cases show that holiday use can be characterised by a largely transient pattern and frequency of occupancy, compared to the settled pattern of occupancy usually associated with full time occupation.

Furthermore an inspector within their findings during the assessment of APP/U1105/W/21/3269783 at Apple Barrel Barn, Dunkeswell, concluded that journeys by private car would be likely to increase as the occupiers of the building as a permanent residential dwelling would need to regularly access goods and services including those for employment or education. Subsequently it was concluded when comparing a holiday use to an unrestricted residential use that “it is likely that this would be quite different to journeys a holiday maker may make as they are likely to spend more time at the property to enjoy the peaceful environs of the site, and only make journeys from the building for leisure purposes”.

Another noteworthy appeal decision includes an appeal decision at Blossom Hill Park, Dunkeswell (APP/U1105/W/17/3214117 provided in Appendix 1) where the Inspector concluded that *“the use of the units for unrestricted residential use would be materially different from a holiday use and would conflict with the Development Plan and in particular, policies (sic) Local Plan Policies 7, 33, 35 and [Dunkeswell Neighbourhood Plan] Policy HP1”*.

### **Other Considerations**

Paragraph 2 of the NPPF states that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Two representations have been made by local estate agents who emphasize that there is a shortage of rental properties within the local rural area. However there is no robust evidence before the Council or an adopted Neighbourhood Plan with policy that emphasizes a need for such accommodation and therefore little weight is attached to this argument. In addition, there can be no guarantee that the

unit would be rented as once the holiday tie is removed, the building could be sold with no guarantee of it being rented to meet the needs identified by the third parties.

Comments have also been submitted by the applicant's accountants and tax advisors David Collard & Co. Their comments state that they have seen a downward trend in respect of the client's holiday business and for the year ending 5<sup>th</sup> April 2019 a loss was recorded. Despite this, it is understood that the four years proceeding this date profits were recorded and no further up to date evidence has been submitted to indicate that since 2019 this has continued to be the case. In addition, following Covid19 and the restrictions on foreign travel and uplift in staycations, the experience of officers is that holiday accommodation is currently in high demand if and where marketed well.

The Local Plan highlights the contribution holiday accommodation makes to the local economy and therefore loss of such uses should be resisted unless evidence indicates otherwise. Whilst the council has on occasion granted permission to vary, remove or since the *Finney* case, change the use of holiday accommodation, these applications were supported by robust evidence to clearly demonstrate that the continued use would be clearly unviable and, in some cases, a marketing effort conducted in an attempt to sell the freehold. In this case the application has failed to provide any substantive evidence regarding the reason for the decline in bookings or documented any attempts that have been made to turn around the business.

## **CONCLUSION**

The supporting information refers to declining interest in the use of the building as a holiday let and the applicant's desire to make effective use of the building. However, the application is not supported by suitable evidence to demonstrate that the existing use is no longer viable, that the property has been appropriately marketed to attract interest or that other efforts to secure its use for holiday letting purposes have been explored. Therefore the evidence provided carries little weight in the determination of this application. In addition, the building is located where future occupiers are likely to be almost entirely reliant on private motor transport to access shops, services, and employment to meet their day-to-day needs and as such unrestricted residential occupation would represent an unsustainable form of development. In the absence of any material considerations that indicate otherwise, the application should be determined in accordance with the development plan.

Having regard to the LP policies read as a whole, the site is not a suitable location for unrestricted residential development and therefore the condition is reasonable and necessary. The limited benefits to the vitality of Gittisham from providing two unrestricted dwellings would be outweighed by the conflict with the Local Plan and the greater economic benefits of tourism development. The application is therefore recommended for refusal.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The application site lies in open countryside outside of any designated Built up Area Boundary or Strategic allocation within the East Devon Local Plan and where there are no Local or Neighbourhood Plan policies that would explicitly support the development. Unrestricted residential development in this location would be unsustainable due to the distance to and access route to essential services and facilities required for daily living and where public transport access to further afield settlements is limited. As a result, future occupiers are likely to be heavily reliant on the use of private transport for the majority of journeys and the proposal would be contrary to the provisions of Strategy 5B (Sustainable Transport), Strategy 7 (Development in the Countryside) and Policies D8 (Reuse of the Rural Buildings Outside of Settlements) and TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.

#### NOTE FOR APPLICANT

##### Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email [cil@eastdevon.gov.uk](mailto:cil@eastdevon.gov.uk).

##### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant listed building concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

##### Plans relating to this application:

Location Plan	16.09.21
Block Plan	16.09.21

##### List of Background Papers

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

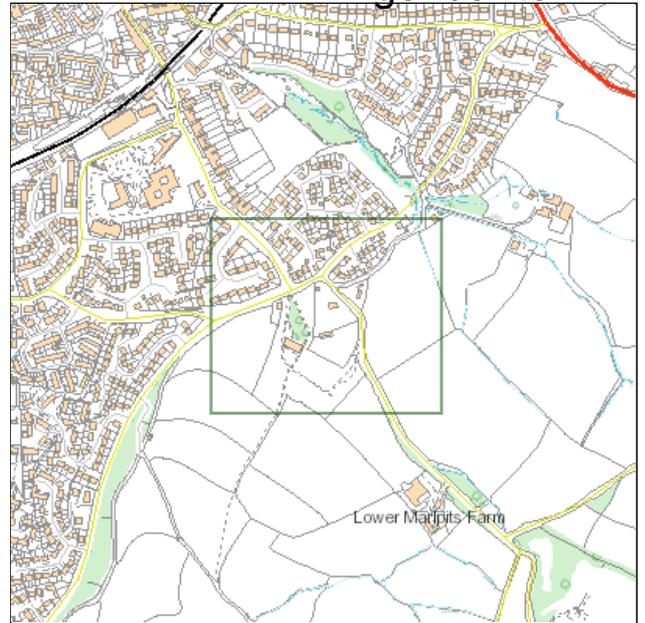
**Ward** Honiton St Michaels

**Reference** 21/2641/FUL

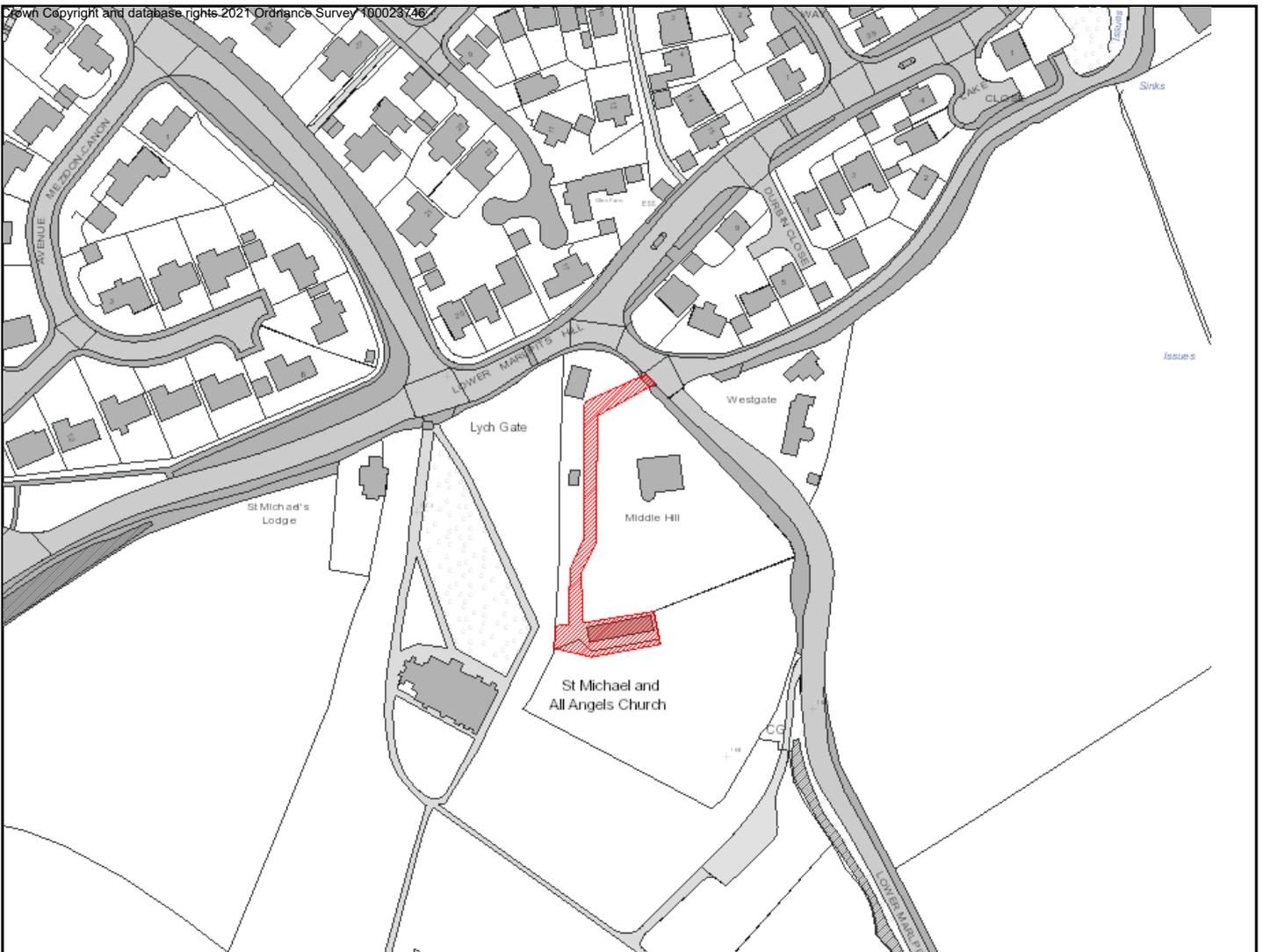
**Applicant** Richard Hooper

**Location** Middle Hill House Church Hill Honiton EX14 9TE

**Proposal** Proposed demolition of existing barn and construction of new dwelling (replacement to dwelling approved under 20/2256/FUL) and associated works.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Honiton St Michaels (Honiton)</b>	<b>21/2641/FUL</b>	<b>Target Date: 02.12.2021</b>
<b>Applicant:</b>	<b>Richard Hooper</b>	
<b>Location:</b>	<b>Middle Hill House Church Hill</b>	
<b>Proposal:</b>	<b>Proposed demolition of existing barn and construction of new dwelling (replacement to dwelling approved under 20/2256/FUL) and associated works.</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is before committee as the proposal represents a departure from the development plan and is recommended for approval contrary to the view of a Ward Member.

The site is located to the south side of Honiton outside of the built-up area boundary and therefore Strategy 7 of the Local Plan applies. This policy seeks to strictly control development in the countryside unless explicitly supported by another policy of the Local, or where relevant, Neighbourhood Plan. In this instance there are no other policies that would explicitly support the development, however there is an existing permission in place to convert the timber barn on the site to a dwellinghouse (20/2256/FUL). That permission, granted approximately a year ago and capable of implementation, represents a fallback position which is material to the determination of the application and in terms of the principle is considered to be sufficient to allow consideration of an alternative scheme, subject to other considerations being satisfied.

The proposed design reflects that of the existing building it seeks to replace in terms of form, layout and footprint and through the proposed use of timber cladding to the external elevations. The width of the building is increased slightly and this and a steeper pitched roof, to allow use of natural slates, also results in an increase in height. Nonetheless the overall scale of the building remains similar and in terms of impact on the character and appearance of the area, the setting of the adjacent grade II\* listed church and the wider Area of Outstanding Natural Beauty it is not considered any additional harm would arise.

As with the previous scheme, the site would be served by an existing vehicular access serving Middle Hill and its converted garage (a separate dwelling), although visibility at the site access appears to be below standard, given the

relatively low traffic speeds and volume it is not considered that refusal would be warranted on these grounds.

In terms of access to services and whilst outside the built-up area boundary of the town, the train station and town centre are within relatively easy walking/cycling distance as are local bus stops. As such the site is considered to be sustainable in terms of its accessibility by a variety of modes of transport.

In all other respects the proposal is considered to be acceptable or can be made so through the imposition of conditions and the application is therefore recommended for approval.

## **CONSULTATIONS**

### **Local Consultations**

#### **Town Council**

Honiton Town Council OBJECTS to the application for the following reasons:

- o The applicant was given planning permission under ref 20/2256/FUL to convert and re-use a redundant rural building under Policy D8 of the Local Plan.
- o The applicant now seeks to use this grant of planning to construct a new dwelling outside the build-up area boundary for Honiton and within the Blackdowns Area of Outstanding Natural Beauty. Such development is contrary to planning policy Strategy 7 of the East Devon Local Plan.
- o Honiton Town Council re-iterates the objections raised under application 20/2256/FUL.

#### **Honiton St Michaels - Cllr Phil Twiss**

This application seeks to replace a building on the site using similar materials, footprint and external design, where permission already exists for approved application 20/2256/FUL where I hope more energy efficient materials would be used in the proposed replacement dwelling.

21/2641/FUL has no additional detrimental impact/s to 20/2256/FUL in terms of its relationship to the AONB or adjacent redundant Grade II \* listed church and is close to transport services, shops and other services in Honiton.

I support this application.

Further comments:

A balanced and reasoned report, with nothing to add from me thanks.

#### **Honiton St Michaels - Cllr Jake Bonetta**

Although I object to the renovation taking place altogether - due to its positioning within the Blackdown Hills AONB and outside of the Honiton BUAB boundaries - I am willing to support the application on the basis that prior approval was given in 2020 for similar plans.

#### **Honiton St Michaels - Cllr Mike Allen**

I object to this development since it is a departure from plan policy to stop development in the AONB. This is a distortion of the intent of the originally granted approval and should be resisted since it is the express intent of policy to stop such creeping development outside settlement boundaries.

### **Technical Consultations**

#### Historic England

Thank you for your letter of 13 October 2021 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

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

#### EDDC Trees

The submitted arboricultural information demonstrates that by implementing the proposed tree protection measures, shown on the tree protection plan, and following the processes described in the associated arboricultural method statement, the proposed development can be carried out without significant impact on the retained trees.

I am satisfied on arboricultural grounds with a condition to be -

Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the plans submitted within this application and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority

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

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

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

(d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or

destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

The report does highlight the absence of any information regarding service routes to the new building. In order to avoid any chance of damage occurring to tree roots through the inappropriate location of service trenches I ask that the following condition be applied to any forthcoming decision:

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed Construction Specification and Method Statement for the layout and construction of service runs/trenches shall be submitted to and approved in writing by the Local Planning Authority. This shall provide for the long term retention of the trees and detail the means by which damage to any tree roots is to be avoided. Any unavoidable but necessary root severance and soil disturbance is to be minimised by providing a specification for root pruning in accordance with BS 3998: 2010. No development or other operations shall take place except in complete accordance with the approved Construction Specification / Method Statement.

#### Blackdown Hills AONB Partnership

I write in response to the above application, which was erroneously sent to East Devon AONB. I apologise for this delayed response.

The AONB Partnership supports its local planning authorities in the application of national and local planning policy in order to ensure that any development in the AONB conserves and enhances the natural beauty of this nationally designated landscape. In support of this, the Blackdown Hills AONB Management Plan 2019-24 is the agreed policy framework for conserving and enhancing the AONB and seeks to ensure that all development affecting the AONB is of the highest quality. It contains the following policy of particular relevance to development proposals:

#### Planning and development PD2

All necessary development affecting the AONB will conserve and enhance natural beauty and special qualities by:

- Respecting landscape character, settlement patterns and local character of the built environment,
- Being sensitively sited and of appropriate scale,
- Reinforcing local distinctiveness, and
- Seeking to protect and enhance natural features and biodiversity

In respect of this application, it is not apparent in what way this larger new build would harmonise better with its surroundings than the approved conversion of the simple functional building and we would consider the application of relevant planning policy to be key here.

Other Representations

None received.

**PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
16/0145/FUL	Alterations and extensions to existing garage to form dwelling house; construction of 5 no. detached dwelling houses; construction of detached outbuilding to provide garaging and ancillary accommodation to existing house, and associated access and landscaping works	Withdrawn	
20/2256/FUL	Proposed conversion of agricultural building to form residential dwelling and associated works	Approval with conditions	16.02.2021

**POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN9 (Development Affecting a Designated Heritage Asset)

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

### **Site Location and Description**

Middle Hill House is a detached two storey property set within a generous broadly triangular shaped plot. The property is accessed via a private entrance onto Lower Marl pits Hill in the northeast corner of the site.

To the south of the formal garden area is a small paddock that is accessed through the residential garden. In the north-western corner of this paddock is the outbuilding the subject of the application. The barn is single storey, recti-linear in plan form and timber clad under a cement fibre sheet roof. The building is constructed on a level platform cut into the natural slope of the land which falls from south to north.

To the west of the site and separated from it by mature tree/hedge planting lies the churchyard and church of St. Michael and All Angels (grade II\* listed). A public footpath, Honiton Footpath No. 9, runs south through the churchyard before turning east to the south of the site and joining the highway. Beyond the church to the west and to the east and south lie open countryside with residential development on the opposite side of Weatherhill Road to the north. The site falls within the Blackdown Hills Area of Outstanding Natural Beauty.

### **Background**

The application site forms part of a larger site which includes all of the paddock and garden to the north and which was the subject of an earlier withdrawn application, as set out above, under application 16/0145/FUL.

More recently permission has been granted for the conversion of the agricultural building, now proposed for demolition and replacement, to form a residential dwelling under application 20/2256/FUL.

### **Proposed development**

The application proposes the demolition of the existing timber barn on site and the construction of a replacement building as a dwellinghouse.

The replacement building seeks to reflect the single storey and linear form of the building it would replace but is of increased width (by 1.9 metres) with the whole building extending the maximum width of the existing building and lean-to extension combined. As a result of the increased width, and to allow for a steeper roof pitch to accommodate the use of slate tiles, the overall height of the building has also increased (by 1.75 metres). The measurements now proposed are 22 metres x 7.8 metres with a ridge height of 4.85 metres.

The external materials proposed are horizontal timber cladding to the elevations under a natural slate roof.

## **ANALYSIS**

The application proposes the alteration and extension of the outbuilding to facilitate the change of use to a single dwelling. The main issues in the determination of the application are considered to be:

- Principle of development
- The design and impact on the character and appearance of the area
- Accessibility of the site
- Arboricultural Impact
- Ecological Impact
- Heritage Impact
- Access and Highway Safety
- Other considerations

### **Principle of development**

The site lies to the south of and outside the designated built up area boundary for Honiton. The built-up area boundary line being to the south side of Lower Marl pits Hill/Weatherhill Road, approximately 75m to the north of the application site. The site is therefore considered to fall within open countryside where development is strictly controlled, by Strategy 7 of the Local Plan, unless explicitly permitted by another policy of the Local (or where relevant) Neighbourhood Plan.

The whole of Honiton Parish has been designated as a Neighbourhood Area but to date no draft plan has been produced and there are therefore no policies, draft or otherwise, which might support the development. The Town council's website states that plans for a Neighbourhood Plan are temporarily on hold.

In terms of the Local Plan, whilst there is policy support, subject to meeting listed criteria, for conversion of redundant rural buildings to alternative uses, including in certain circumstances residential use, there is no support for new build residential development, unless required to meet an essential rural worker or affordable housing need. The proposal therefore falls to be considered as a departure from the development plan.

It is though necessary to consider if there are any other material considerations that would weigh in favour of the proposal and which indicate that a departure from the policies of the development plan should be considered. The applicant's supporting statement draws attention to a Court of Appeal decision, *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314*, where consideration was given to when a 'fallback' development may be a material consideration in relation to the determination of alternative proposals for the development of a site. Whilst the reference case law applied to a Class Q barn conversion development it is argued that it is equally applicable in this instance. The relevance in the current case is that permission has been granted for the conversion of the existing building on site to a

dwellinghouse (20/2256/FUL), that permission is still extant and could be implemented and would equally result in the creation of a dwellinghouse in the same location, albeit through conversion as opposed to new build. It is also worth noting that policy H6 of the Local Plan permits the replacement of exiting dwellings in the countryside subject to a number of listed criteria being met. Although this policy would not apply at present as there is no existing dwelling on site, were the conversion scheme to be implemented the applicant could then apply to replace the dwelling as now proposed and where the other criteria of policy H6 would appear to be met. This being the case it is considered that the principle of residential development in this location, as an alternative to the approved conversion scheme is acceptable as a departure from the Local Plan but the acceptability in other regards remains to be determined.

### **The design and impact on the character and appearance of the area**

Policy D1 of the Local Plan seeks to ensure that new development respects the key characteristics and special qualities of the area in which the development is located and that the scale, massing, density, height, fenestration and building materials relate well to their context.

In this instance the proposal seeks to replicate the overall form and appearance of the existing building it seeks to replace. The simple recti-linear form is retained and whilst the increased width and roof pitch have resulted in a taller building it would remain single storey. The increased roof pitch would allow the use of a natural slate roof covering in lieu of the approved standing seam metal roof. The elevation treatment again seeks to reflect the materials used on the existing building with horizontal timber cladding. The fenestration proposed is slightly simplified.

The proposal would result in a building of a very similar external appearance to that approved for the conversion of the existing building on site. The principal change is the increased height and massing. However, outside of the site these changes are considered to result in very little if any discernible impact.

The site is set back the highways to the north and east of the site and screened from these directions and from public footpaths to the south and west by mature tree/hedge planting around the wider site. In the wider context any public views would see the proposal in association with Middle Hill House and the adjoining St. Michael and All Angels church, it would not encroach onto the undeveloped area to the south of the site or propose any change of use to that land and as such the natural beauty of the surrounding Area of Outstanding Natural Beauty would be conserved.

### **Accessibility of the site**

The site is located in countryside to the south of Honiton but is only just outside the built-up area boundary (less than 100 metres). The pedestrian route to the town centre is, from just opposite the site entrance, served by a dedicated and lit footway. The distance to the train station is approximately 500 metres and to the edge of the town centre area approximately 650 metres. Although the walking/cycling route involves a relatively steep hill it clearly offers a viable alternative to private car transport for some journeys. There are also regular bus services to Exeter, Seaton and Axminster with stops relatively close to the site.

In consideration of the previous application for the conversion the site was determined to be located close to a range of accessible services and facilities to meet the everyday needs of residents and where these can be accessed by a variety of modes of transport, this remains the case.

### **Arboricultural Impact**

The application is accompanied by an arboricultural report, tree protection statement and arboricultural method statement. The report assesses the condition and quality of trees on site, or adjoining and which are likely to be affected by the proposed development. Subject to conditioning that development proceeds in accordance with the recommendations of the report and that additional details of services runs are provide to take account of root protection areas, the proposal would avoid harm to trees of amenity value on or adjoining the site and accord with policies D1 and D3 of the Local Plan.

### **Ecological Impact**

The application building is not of a design considered likely to house protected species and the type of roofing materials proposed and lack of roof void further decreases probability. The development site is restricted to a small area around the building and again the likelihood of this being used by protected species is considered to be limited. As such there is no reason to consider the proposal would result in harm to protected species. However in the event of an approval an informative could be added to any decision notice recommending a precautionary approach to avoid harm or disturbance to any wildlife that may be using the site. A condition on the previous permission for conversion required, amongst other things, the planting of a native hedge to the south side of the parking area/building. If the current application were otherwise found to be acceptable a similarly worded condition could be imposed. Such a condition would assist in providing biodiversity enhancement and habitat creation and would ensure that the requirements of policy EN5 of the Local Plan are met.

### **Heritage Impact**

The application site lies adjacent to the church and churchyard of St. Michael and All Angels which is a grade II\* listed building. The development proposed therefore has the potential to impact on the setting of this designated heritage asset and the town council has objected on this ground.

At present the church is not in use but the churchyard is in continuing use with the newer area being to the south of the site. In terms of potential impacts these would be as a result of any physical changes to the site and from any change in the character of the site resulting from the proposed use.

Most of the shared boundary between Middle Hill and the churchyard is formed by, a mature hedge boundary which restricts inter-visibility between the sites, this is proposed to be retained. The proposal does propose an increase in the width and height of the building over that presently on site and which would have a resultant increase in its massing, however the form and external appearance would be similar.

External works would, as previously approved, be limited to some upgrading works to the current access track and to create a parking area, these would be low key and not publicly visible. As was the case with the previous permission, permitted development rights which might allow other works of extension or the erection of subsequent outbuildings could be removed to enable control over any such development to be retained.

Policy EN9 of the Local Plan together with paras. 201 and 202 of the NPPF require consideration to be given to the impact of development on the significance of designated heritage assets and where appropriate to weigh any harm against the public benefits. In this case there would be no direct impact on the heritage asset with any impact restricted to impact on its setting. Historic England have advised that they do not wish to comment on the application and whilst EDDC's conservation team have not commented on the current application they raised no concerns with the previous scheme. Although the proposal has the potential to have a slightly greater impact on the setting of the adjoining designated heritage asset, largely due the increased height and mass it would remain subservient in scale and low key in terms of its form and appearance reflecting that of the existing building. The hedgerow separating the site from the churchyard would be retained and subject to this it is not considered that the proposal would result in harm to the setting of the designated heritage asset.

### **Access and Highway Safety**

In terms of highway safety the existing access which serves Middles Hill and the separate property know as Middle Hill Annexe has restricted visibility in both directions. However, the proximity to the road junction to the north means vehicles passing the site are likely to be travelling at lower speeds and this section of road also appears to be relatively lightly trafficked. Whilst the visibility at the site access has not been demonstrated and is considered to be less than standard it is not considered that the increased use of this existing access to serve an additional property would result in an unacceptable impact on highway safety that being the test set out at para. 109 of the NPPF. On this basis and taking into account the provision of a policy compliant level of on-site parking provision the proposal is considered to meet the requirements of policies TC7 and TC9 of the Local Plan.

### **Other considerations**

As with the previous application a new sewage treatment plant to serve the dwelling, is proposed, the nearest public sewer connection being over 100 metres from the site.

The location of the site in relation to the nearest unrelated residential property is such that the proposal would not give rise to any concerns of impacts on amenity of existing residents. The proposal would be served by limited but adequate amenity space to serve future residents.

The upgrading of the internal access track to serve the site has the potential to have an impact on both any below ground architectural deposits that may be present and on the root protection area of trees/hedges on or adjacent to the site. In order to avoid any such impact it is recommended that the access track and parking area are formed

through a no-dig construction method, subject to this and compliance with the submitted tree protection measures the potential for such harm could be avoided.

The applicant has been asked to demonstrate how the replacement of the existing building would represent a more sustainable form of development than the conversion of the existing building, Strategy 39 of the Local Plan seeking, amongst other things, to encourage new development to utilise sustainable methods of construction and use of renewable energy technology. In response, it has been suggested that, the conversion of the building requires retention of the existing structure and that this places restrictions on how the building can be converted and retrofitted to achieve the necessary thermal and energy performance requirements under Building Regulations. Whereas the approved conversion would be capable of exceeding these requirements and providing a much higher standard of envelopment. It is also indicated that the proposal would include an air source heat pump, although there appears to be no reason why such could not also be used on the conversion scheme it would certainly be likely to operate more efficiently in a more air tight building which in turn would be easier to achieve in a new build.

## **CONCLUSION**

The application proposes the construction of a new dwelling house on the site of an existing timber barn which has an extant planning permission for conversion to a dwelling. Whilst the site lies outside the built-up area boundary of the town it is located close to a range of services and facilities and the 'fallback' position of the conversion scheme is material to the determination of the application. In terms of environmental impact of the development the embodied energy in the existing building would be lost but improvements are likely to be achieved in the energy efficiency of the new building over its lifetime. Whilst it may be preferable to see the conversion of the existing building (as already approved), as opposed to its replacement with something similar, policies of the Local Plan allow for replacement of existing dwellings. In this case where the other impacts of the proposal, in particular visual and character and social and economic, are very similar it is not considered that the principle of replacement could be reasonably resisted. The application is therefore recommended for approval subject to the conditions set out below.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

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

3. Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the plans submitted within this application and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority

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

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

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

(d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

4. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed Construction Specification and Method Statement for the layout and construction of service runs/trenches shall be submitted to and approved in writing by the Local Planning Authority. This shall provide for the long term retention of the trees and detail the means by which damage to any tree roots is to be avoided. Any unavoidable but necessary root severance and soil disturbance is to be minimised by providing a specification for root pruning in accordance with BS 3998: 2010. No development or other operations shall take place except in complete accordance with the approved Construction Specification / Method Statement.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

5. Prior to their installation, as part of the development, details (and where so required samples) of materials to be used for the external cladding of the roof and elevations of the building shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be built in the materials approved.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness and Stgy 46 - Landscape Conservation and Enhancement and AONBs of the Adopted East Devon Local Plan 2013-2031.)

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within the Schedule 2 Part 1 Classes A or E for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool, [other than any enclosure approved as part of the required landscaping scheme]

(Reason - The space available would not permit such additions with detriment to the character and appearance of the area and to protect the setting of the building within the designated Area of Outstanding Natural Beauty and the setting of the adjoining designated heritage asset in accordance with Stgy 46 - Landscape Conservation and Enhancement and AONBs & Policies D1 - Design and Local Distinctiveness and EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

7. Prior to the initial occupation of the dwelling house a landscaping scheme shall have been submitted to and approved in writing by the Local Planning Authority; such a scheme to include:

- Details of the planting of a native hedge to the west, south and east boundaries of the site (with such details to include plant size and numbers, layout and species mix).
- Details of the final finished surfacing of all areas of hardsurfacing, including the parking/turning area and access drive.
- Details of any other walls, fences or other boundary treatments

The landscaping scheme shall be carried out in the first planting season after commencement of the development 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 Adopted East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

##### Informative:

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

##### Plans relating to this application:

HOOPERPRO Rev 1.2	Proposed Elevation		06.10.21
HOOPERPRO2 Rev 1.2	Proposed Plans	Combined	06.10.21
	Location Plan		06.10.21
SP500 Rev 1.1	Proposed Site Plan		06.10.21
	Arboriculturist Report		06.10.21

##### List of Background Papers

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

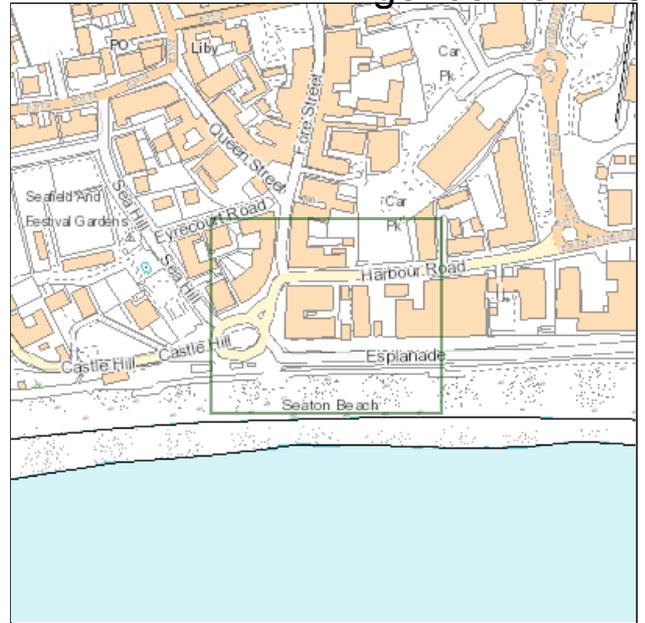
**Ward** Seaton

**Reference** 21/0891/FUL

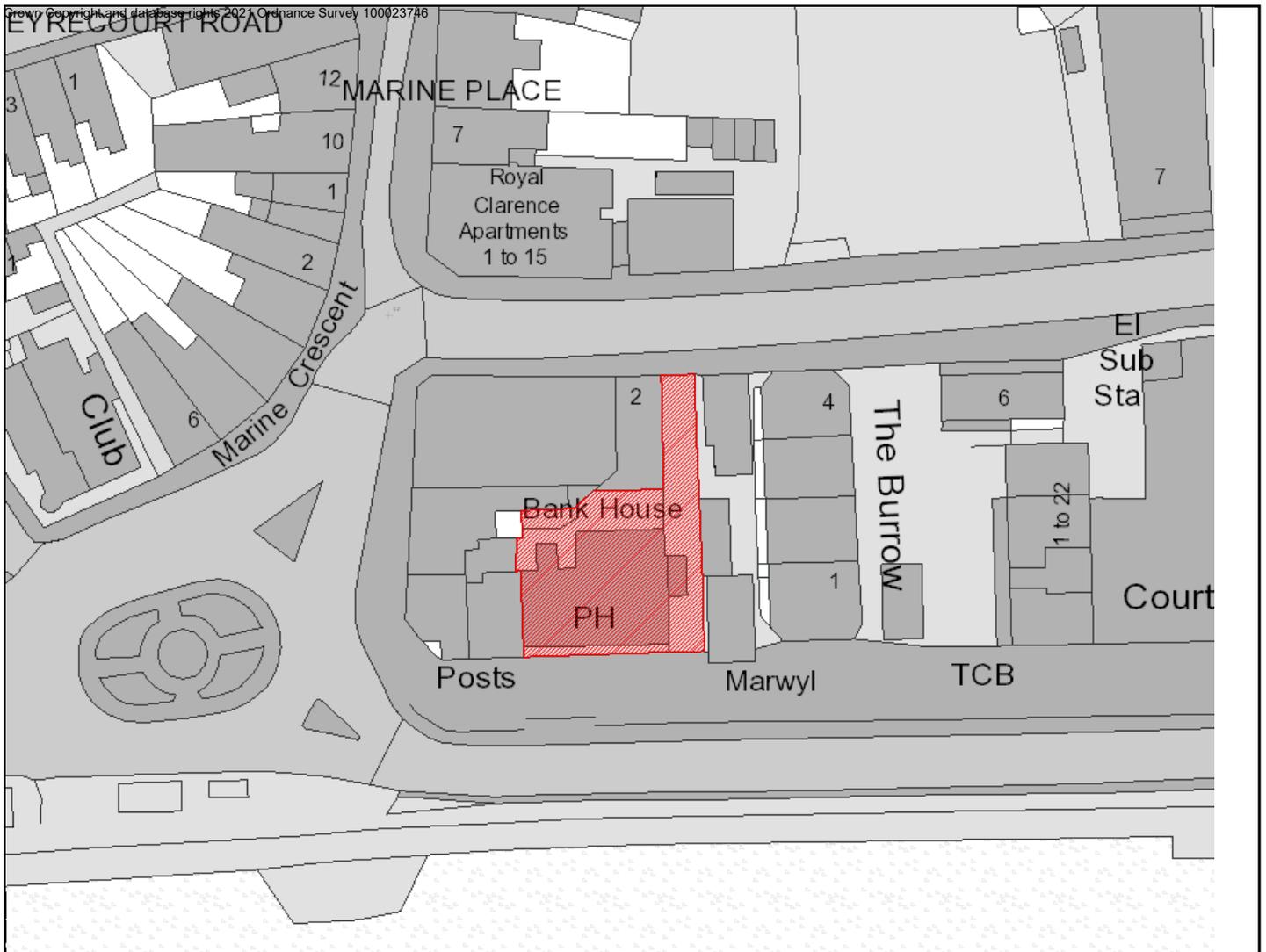
**Applicant** Wilkins

**Location** Hook And Parrot Inn East Walk Seaton EX12 2LN

**Proposal** Demolition of existing public house and 3 residential apartments and construction of replacement bar/restaurant and 9 apartments.



**RECOMMENDATION: Refusal**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Seaton (Seaton)</b>	<b>21/0891/FUL</b>	<b>Target Date: 11.06.2021</b>
<b>Applicant:</b>	<b>Wilkins</b>	
<b>Location:</b>	<b>Hook And Parrot Inn East Walk</b>	
<b>Proposal:</b>	<b>Demolition of existing public house and 3 residential apartments and construction of replacement bar/restaurant and 9 apartments.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

The following report is an updated version of the original report to committee to reflect the scheme now presented, the original and amended comments of consultees and third parties are provided for comparison.

This application was originally presented at the Planning Committee meeting on 4<sup>th</sup> August 2021. At that time a decision was taken to defer determination of the application to allow the applicant to; a) rectify issues with the site location plan, relating to the area defined by the red line, and; b) to seek to address other issues with the originally submitted proposal relating primarily to scale, design, materials and impact on the conservation area and impact on residential amenity.

Notice has now been served on East Devon District Council as landowner of the Esplanade and (as a precaution) on Devon County Council who maintain it. In addition, the design of the replacement building has been amended through: a reduction in the height and width of the building; changes to external materials; removal of enclosure to balconies and instead addition of balcony screens.

The effect of the scheme amendments has been to lessen the degree of harm that would arise to the conservation area to the extent that whilst harm would still arise this is now considered to be less than substantial. This is primarily as a result of the building now proposed being reduced in scale and a more appropriate material palette being proposed. These changes to the design and the ability to control aspects of the scheme by suitably worded conditions leads to the view that in these regards the public benefits that would be brought by the scheme would weigh in favour of support.

However, the Environment Agency who raised no objections in relation to the original scheme has advised that the development should be subject to the sequential (and where relevant exceptions) test, the aim of which is to steer new development to areas at lowest risk of flooding. In applying the sequential test it is necessary to consider whether the development proposed could be delivered

on an alternative and reasonably available site of lower flood risk. The applicant disagrees with the need to apply the sequential test but has suggested, if it needed to be applied, that there are no other sites that could deliver the development as only this site would deliver the demolition of the existing building and redevelopment of this brownfield site. This stance is not shared as arguing that the redevelopment of a particular site could only be carried out on that site could be argued for any site and where such an approach would undermine the purpose of the sequential test in steering new residential development to areas of lowest flood risk.

Whilst there are acknowledged benefits to the revised scheme which represent an improvement on the original proposal these do not outweigh the harm that would arise from allowing redevelopment and residential intensification in the use of a site within a high risk flood zone and where it has not been demonstrated that such development could not be delivered on any site of lower flood risk. The application is therefore recommended for refusal on the basis of its location in the flood zone and failure to pass the sequential test.

## **CONSULTATIONS –**

Seaton - Cllr Marcus Hartnell

### **Amended scheme comments:**

No comments received.

### **Original scheme comments:**

I have no objection to the application and agree with the comments raised by the Town Council.

Parish/Town Council

### **Amended scheme comments:**

Seaton Town Council noted the amended plans submitted and have no objections to the application.

### **Original scheme comments:**

Seaton Town Council have no objections to the principle of development of the site and support the application.

There are a few points which the Planning Committee raised which they would like the district council to take into consideration when making a decision on this application and any conditions applied to the granting of planning permission as are necessary. These points are:

' The Planning Committee thought the proposed colours of the development were too dark and would like to see materials of a lighter colour used which reflects the sites position on the seafront. This would soften the image of the building and make it appear less tall .

' The Planning Committee would like to be certain that the balconies on the southern elevation of the building do not encroach across the building line and would like this checked by the Officers at the district council.

' In light with the Town Council's Environmental Policy the Council would like to see more information with regards to the environmental credentials of the building and particularly the apartments.

' With regards to the opening hours of the bar/restaurant the Council are concerned that any noise generated by the business does not have a negative impact on the residents of neighbouring dwellings and apartments. They noted that Environmental Health mentioned in their submission for the application that construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays, but do not mention what they consider are reasonable opening hours for the bar/restaurant so as to not have a negative impact on the occupiers of neighbouring properties.

' Concerns were raised about the provision of car parking to the rear of the development. It was noted that the access to the parking area is down a very narrow driveway which exits onto Harbour Road. The Police state on <https://www.askthe.police.uk/> 'It is not illegal to reverse into a main road but it is not advisable - this is for safety reasons'. Some measures should be put in place to prevent a vehicle having to reverse onto Harbour Road if there is another vehicle trying to exit the car park at the same time or having to reverse out due to the fact there is not enough room to turn around safely in the car parking area. The Council would like clarification on what measures will be taken to ensure vehicles can safely enter and exit the car parking area.

' On the plans submitted with the application it shows that in Units 1, 2, 5, 4 & 8 Bedroom 2 does not have any obvious means of escape. Bedroom 2 in Units 1 & 4 appear to be adjoining the wall of the neighbouring apartment with no window or means of escape and with Units 2, 5 & 8 being in between units, again there appears to be no window or means of escape and all units have no natural light coming into them. The Council would like this clarified and any amendments made to the plans if necessary.

## **Technical Consultations**

### **Environmental Health**

#### **Amended scheme comments:**

I recommend approval with conditions:

Where's there's a risk of pollution/contamination being caused by the demolition of structures from the development site the developer must undertake a risk assessment identifying the potential risks for airborne nuisance, additional land/water contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors. Due to the age of the building asbestos is a concern in this situation. The demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

#### **Original scheme comments:**

I have considered the application 21/0891/FUL and I recommend approval with conditions:

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

Noise data will need to be submitted for the lift and for any kitchen extraction system.

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

#### Conservation

#### **Amended scheme comments:**

No comments received.

#### **Original scheme comments:**

The significance of this site is by virtue of its archaeological value as evidenced by the numerous records held within the Devon Historic environment Record (HER) and elsewhere. It has historical value by virtue of the former uses e.g. salt, fishing of the site and then the later change in the late 19th century with the town becoming more of a tourist destination with the arrival of the train line. The Architectural value is through its architectural style. A traditional Victorian building with sash windows with a vertical emphasis. Typical features are the main roof, in this case the main ridge line follows the others in a West-East linear form. These main roofs have a distinctive secondary gable feature as well as the chimneys on the ridge. This is further enhanced by the traditional materials such as the natural slate roofs, painted render, timber doors and windows and timber (projecting) fascia's. There is an additional communal value as it is evidenced that this has been a drinking establishment (of different types) that has been enjoyed for well over a century to the present. The setting makes a positive contribution by virtue of its group value of the Victorian architectural aesthetic that share common features such as the windows, main roof, chimneys and the smaller gable feature. The setting of the conservation is severely compromised by the modern developments to the East of the sit, however these are rightly outside of the conservation area boundary and are considered to be of no value within some degree of harm to the setting of wider and distant historic landscape.

The existing building retains many key historic features that identifies it as being of Victorian origin. It has the main, natural slate roof, chimneys, decorative projecting fascias (as seen in the East gable end), the smaller gable feature on the front (South). Vertical timber sash windows (as found on the upper floors and rear main section. The ground floor has lost all of its pleasing symmetry with its former central doorway, however, it there has bene sufficient photographic evidence submitted to inform some degree of reinstatement.

The rear lower ground and ground floor extensions are of no value and there is scope to remove these to better reveal the historic main construction. The current condition of the building has not been considered as a suitable justification for any loss (as per section 16 of the NPPF, para 191). It is always beneficial to maintain regular maintenance of any building.

There seems to be insufficient justification for the total demolition of the existing building. It is not supported by a robust condition survey. Demolition is contrary to meeting the government's target of being carbon neutral by 2050. Current research shows that sympathetically upgrading and reusing existing buildings, rather than demolish and build new, could greatly improve a building's energy efficiency. It would also make substantial energy savings with its CO2 emissions as they are already embodied within the existing building and not lost through demolition. Historic England state that; " Demolishing buildings also not only produces millions of tonnes of waste (one third of all waste produced in the UK every year comes from construction and demolition), but building new has high energy costs, guzzles resources and accounts for 26% of the world's plastic consumption".

The proposal has been designed out of context to the local vernacular (i.e. Victorian aesthetic), albeit in a sympathetic 21st century response. The small gable feature has been taken to an extreme to the detriment of the character of the roofscape of the town and its conservation area. The roof height overwhelms the setting and nearby historic buildings. There are principle views to and from this site, in part due to its seafront location. The materials although the natural slate for the roof is welcomed, it makes no reference to re-using any existing materials from site. The black brick built constructions has no relevance at all to the setting and am at a complete loss to comprehend its use in this way for this traditional East Devon site. There is some vertical emphasis to the fenestration, however this is to the detriment by its proportion to the building as a whole.

The Seaton Conservation Appraisal makes reference to the impact of harm on character (section 10), "The character and appearance of the conservation area is considered to be suffering as a result of the following detracting features..... instances close to or on the seafront where original frontages are being unduly compromised by barely restrained seaside commercialism introducing a cocktail of contemporary artificial materials, intentionally eye-catching, but that can be judge as having little regard to the historic context, to original architectural detail".

The red boundary line seems to have changed from the location plan to the proposed drawings, with the front (South) elevations and the balconies protruding forward of the adjacent building frontages. There is great concern that should there be a recommendation for approval, that there is no certainty of any development after total demolition of this historic building.

In conclusion, taking into consideration the lack of justification to retain the historic building (although there is scope for some change), being contrary to the government's targets to achieve carbon neutral, a design that is entirely out of context, its size and massing, the proposed unsympathetic materials, the singular black dominant colour of the building, it has a negative, cumulative impact on the significance of the conservation area. It is considered that the development would lead to substantial harm to the designated heritage asset.

#### Environment Agency

#### **Most recent comments:**

Thank you for re-consulting us on this application.

#### Environment Agency position

Further to reviewing the additional information submitted by the applicant, we consider that our previous comments and conditions still stand. We reiterate our position that whilst we have no in-principle objection to the proposed development, it will only be acceptable where

conditions relating to the management of flood risk are included on any permission granted. The suggested wording for the conditions: Scheme to be agreed: Flood Resistance and Resilience Measures and Flood warning and Evacuation are included on our letter dated 2nd November 2021.

We consider that the Sequential Test is applicable to this proposal, for the reasons outlined below, however we note that applicant's comments surrounding its application to a site which is proposed to be regenerated. It is for your Authority to consider the area/scale within which the Sequential Test is applicable in this case.

Reason - The revised Flood Risk Assessment (FRA) suggests that the site is located in flood zone 1 (low risk) however this is not correct for the purposes of assessing flood risk to the proposed development site. We stated in our previous response that wave overtopping had not been considered and therefore the flood level was not fully understood. There is evidence and photographs of the defences being overtopped and the esplanade flooding in January 2021. It is wave overtopping that caused the 2021 flooding rather than still water level so the undefended still water level alone is not sufficient in fully understanding flood risk.

With future sea level rise over the next 100 years plus 1.4m on current levels, the site could very probably be at risk from a similar event and it is therefore important to not rely solely on what the existing model suggests. There are also photos online of this flood waters running down onto Harbour Lane which is the proposed access and egress route. The fact that the FRA does not consider this means that it cannot conclude that the development is safe over its lifetime.

The above is why we have suggested that the Sequential Test is applicable to the proposal.

Further, our comments relating to flood resilience and resistance, undercroft parking and safe access and egress outlined in our previous response dated 2nd November 2021 are still relevant. We may suggest that you Authority consult with the Building Control team on the matter of structural robustness of the proposal in the context of a flood event and cars damaging the structure.

Please re-consult us if you require any further advice.

#### **Amended scheme comments:**

Thank you for re-consulting us on this application.

Environment Agency position:

Whilst we have no in-principle objection to the proposed development, we wish to clarify our position further to that outlined in our response dated 10th May 2021:

The development will only be acceptable where conditions relating to the management of flood risk are included on any permission granted. The suggested wording for these recommended conditions are provided below, along with the reason for this position and further advice about the proposal. If your authority considers that these conditions would not meet the tests of planning conditions, we recommend that you request further information from the applicant at this stage.

Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy

Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

Condition - Scheme to be agreed: Flood Resistance and Resilience Measures:

The development hereby permitted must not be commenced until such time as a scheme to propose appropriate flood resistance and resilience measures has been submitted to, and approved in writing by, the local planning authority.

The scheme should include, but not be limited to, the following:

- o raising floor levels,
- o food barriers,
- o non-return valves,
- o raising electrics and wiring,
- o flood resilience measures for the proposed lift,
- o building structural integrity to withstand vehicle impact during a flood, with further commentary on this included within the Flood Risk Assessment and,
- o consideration of sea level rise and wave action with associated climate change allowances.

The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Condition - Flood warning and Evacuation:

The development hereby permitted must not be commenced until such time that a Flood Warning and Evacuation Plan is submitted to, and approved in writing by the Local Planning Authority.

Reason for position:

Site Flood Risk and Flood Risk Assessment:

The development site is located within flood zone 3, identified by Environment Agency flood maps as having a high probability of flooding. The site is at risk of tidal flooding specifically. Whilst the submitted flood risk assessment (FRA) broadly assesses the flood risks to and from the site, further information is required in order to establish whether the proposed development can be made safe over its lifetime, consistent with national planning policy. Flood levels in the FRA are stated as between 4.23-4.34mAOD (0.5%AEP) and 4.24-4.36mAOD (0.1%AEP) and the finished floor levels of the residential and restaurant are, at a minimum 7mAOD. This indicates that both uses proposed are well above the flood level, however, it should be noted that on further review there are some aspects of the FRA that are not in line with national guidance. With regard to climate change allowances for tidal scenarios we require sea level rise and wave action to be considered and not fluvial climate change increases. The FRA states 85% and 40% which is under the fluvial guidance and the assessment has not taken sea level rise and wave action into account. As a result, the FRA has not accurately calculated the flood level.

Undercroft Parking:

The undercroft parking on the ground level is at high risk of flooding and during a flood event, the ground level could be inundated to significant depths. In order to reduce damages and provide an additional level of safety, flood resilience measures must be incorporated into the design of the development. We therefore recommend the above condition in order to secure additional detail on the details including raising floor levels, food barriers, non-return valves, raising electrics and wiring above the ground level. With regard to the lift and risks associated, any electrical operation on the ground floor car park level would be at risk of damage and the

lift pit would fill with water. Therefore, resilience measures should also be designed to address this concern.

As mentioned in our previous response, it should also be demonstrated that any flood inundation into the ground floor car park/storage area can drain away post-flooding to ensure that there will not be a level of trapped standing water. In this instance undercroft parking is an appropriate use of the ground floor however, during flood conditions, flood waters could lift and move cars, potentially resulting in structural damage to the building. The building should be constructed to ensure structural soundness during flood events should cars be knocked into the walls of the building. Further discussion on this matter should be included within the FRA.

#### Safe Access and Egress:

Harbour Road is at a lower level than the esplanade and the development. The FRA states that this area is safe, and within flood zone 1 which is not the case. It is located within flood zone 3 (high risk) and submitted maps in the FRA appendices show the flood level for node 4 (just where access/egress will be required) is 4.23 for the undefended 0.5% event. This data is not including latest sea level rise allowances so it is acceptable to assume that flood levels will be greater. There is recorded flooding on Harbour Road from tidal source in 2014 and an additional high risk of flooding from surface water along this road with water ponding which would also prevent safe access or egress. It is therefore likely that this road would be inundated during a flood event leaving no safe access or egress. With this in mind, safe refuge would be the only option for the residents and the visitors/employees of the restaurant. The flooding is tidal and so would be in the region of 6 hours until flood waters recede. The lack of safe access/egress route highlights the importance that all electrics should be raised to ensure that there will be no power outage for stranded residents or restaurant visitors for the duration of flooding/longer if damages are incurred. We recommend that you consult with your Authority's Emergency Planners to determine whether a 'stay put' safe refuge strategy is acceptable.

#### Flood Warning and Evacuation Plan:

A flood warning and evacuation plan must be developed for both the residential properties and the restaurant. It must detail who will be responsible for the maintenance and deployment of any property flood resilience measures as detailed in the condition above.

Please contact us again if you require any further advice.

#### **Original scheme comments:**

Environment Agency position

We have no objection to this proposal.

Reason

The Flood Risk Assessment (FRA) prepared by RMA Associates (ref. RMA-C2121, dated 04 March 2021) has been reviewed. The Environment Agency can agree with the conclusions and recommendations of the report.

Advice - Flood risk

Going forward, we advise that the proposals look to specify more definite flood resistance and resilience measures to account for potential flood risks, in extreme events, to the basement/lower ground floor. It is felt that the provision of a flood barrier would be appropriate to prevent the entry or flood water at this level.

Similarly, finished levels on the basement/lower ground floor should allow for flood waters to drain in the event of inundation.

#### Contaminated Land Officer

#### **Amended scheme comments:**

I recommend approval with conditions:

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

#### **Original scheme comments:**

I have considered the application 21/0891/FUL and I recommend approval with conditions in relation to contaminated land.

Where's there's a risk of pollution/contamination being caused by the demolition of structures from the development site the developer must undertake a risk assessment identifying the potential risks for airborne nuisance, additional land/water contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors. The demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

#### DCC Flood Risk SuDS Consultation

#### **Further Comments:**

Recommendation:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration

basins.

(b) A detailed drainage design based upon the approved Flood Risk Assessment, The Hook and Parrot, Seaton, Proposed Restaurant & Residential Development, Report Ref RMA-C2121 Rev H dated 18th November 2021 and the results of the information submitted in relation to (a) and (b) above

(c) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(e) A plan indicating how exceedance flows will be safely managed at the site.

(f) Evidence there is agreement in principle from South West Water for a connection into their network

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

Following my previous consultation response FRM/ED/0891/2021, dated 29.10.21, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Flood Risk Assessment, The Hook and Parrot, Seaton, Proposed Restaurant & Residential Development, Report Ref RMA-C2121 Rev H dated 18th November 2021

The applicant has submitted details on exceedance flow paths and maintenance as per my previous formal response.

The applicant has proposed a feasible surface water drainage strategy which will restrict flows prior to discharge into the local sewer network. We have conditioned infiltration testing as this should be assessed thoroughly as per the surface water management hierarchy

### **Amended scheme comments:**

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:

Further to my last formal response on 13th May 2021 we are still awaiting details of how exceedance flows will be safely managed at the site as well as information on who will likely be responsible for maintenance of the proposed network and maintenance schedules should be submitted.

It is understood there has been a revision to the height and width of the proposed buildings. If there are any increases in impermeable area as a result of the revision, the drainage strategy should be updated accordingly.

### **Original scheme comments:**

#### 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:

We are delighted that a rainwater harvesting tank is being proposed as part of the surface water management strategy for this site. Attenuation will take the form of underground attenuation and permeable paving to limit runoff to 1.39 l/s for the design storm event.

The applicant should submit a plan indicating how exceedance flows will be managed at the site. The applicant should indicate who is likely to be responsible for maintaining the surface water drainage at the site and provide maintenance schedules for all components proposed within the surface water network.

### EDDC Urban Designer

### **Amended scheme comments:**

#### DRAWINGS

Looking through the revised drawings I remain confused about what is going on with this building and what the designer is thinking as the drawings do not agree with each other. Section AA (drawing number 087.57\_revB) shows the lower ground and upper ground floors lining through at the south elevation, but this is not the case on the plans shown in drawing 087.50\_revB. Which is correct? If the section is correct then getting a car in and out of the parking spaces will demand either special driving skills or an oxy-acetylene torch. If the plans are correct then the front façade will most likely end up on top of the car parking spaces so removing the need to worry about whether or not they are accessible in the first place.

On the upper ground floor level either the section is incorrect or the section lines on the plans and elevations are in the wrong place as the section shows a wall thickness to the south façade and not glazing. At the upper floor the section fails to indicate any material thickness to the roof over the living area of the top floor flats making it a bit of guesswork what is going on there. The section should have a fill where there is some sort of roof-build rather than air. At the moment there are just a series of lines that tell me nothing. In the section drawing the roof does not appear to extend over the projecting walls that enclose part of the balconies where the elevations and roof plan suggest that it does.

#### SCALE AND MASSING

The redesign has done the job of reducing massing and the form is now more in keeping with what is around it.

## MATERIALS AND STRUCTURE

The building overhang is puzzling as before. Glazed brickwork is very durable and reasonably self-cleaning which is good where seagulls are around. It is also very expensive and very heavy. Without anything underneath to prop up the overhang it makes me rather worried. Perhaps a more light-weight structure could be achieved using glazed ceramic tiles? Perhaps something could be put underneath to hold the overhang up? In terms of colour the choice of pale grey and white makes me wonder whether it is going to look like an inside-out public toilet. I would suggest something with less mass, similar durability and more colour. There is a very wide range of colours available in ceramic tiles and with deep glazing they can offer real visual depth that cannot be achieved with a brick. I have attached images of ceramic tiles that have deep glazing, texture and colour. I am not suggesting these colours though they could work, the images are included to demonstrate a ceramic glaze that offers greater visual interest.

The base of the building is rendered, but the drawing does not say what colour. The choice to put render at ground level is not a good one as render is notoriously bad at withstanding knocks and scrapes and cannot be successfully patched without repairs being visible. Harder, durable surfaces like glazed brick or ceramic tiles would be better at ground floor with render being kept as the cheaper surface material used above. So the building is not just inside-out it is upside-down.

The raised area in front of the building is faced in glazed brick, which being supported by the ground is OK, but there is nothing to say what colour they are.

The re-use of the existing slates on the proposed roof is a nice idea but there is a question over whether enough will be salvaged to cover the area required. Slates do degrade over time so an assessment of their condition will be critical to whether or not any of them can be used or whether they will provide the necessary design-life. Building-integrated PV panels (BIPV) are much better than the usual PV panels that are mounted over the roof finish. In this case the panels are mounted on roof pitches that are not at the optimum orientation. I suspect that when it comes to detailed design and costing these will be lost as it becomes apparent that the installation cost does not compare well with the savings or income they might provide. This then leaves us with the question of what materials will cover the area that is left and I doubt there will be enough salvaged slates to do the job.

There is nothing to tell me what materials are being used for the side or rear elevations.

As discussed before, I am struggling to see how the building will stay upright and would love to discuss the structural solution with a very imaginative engineer as on the face of it there will either be an elegant but expensive lattice of long-span steelwork tying the building together or the building will be on its face all over the esplanade.

## OVERALL IMPRESSIONS

In planning terms the scale and massing will be fine at this location. The form of the building is better and in its relative simplicity would work. The building remains taller than its immediate neighbours but the presence of the apartment tower further down the esplanade means that this is not an undue concern, not that this tower should be taken as any form of precedent, as my previous comments should have made clear. The colours of the glazed bricks should be looked at again as should the use of bricks. Ceramic tiles would be far better as they are lighter and provide more aesthetic choice. A deeper colour and glaze would be very welcome. Render should be avoided at ground floor level as it will be damaged easily and repairs will show. More information is needed to fill the gaps about materials used on the other three sides of the building.

However, there are plenty of other issues that make me very sceptical about this proposal. The material and design choices are expensive and the proposal does not appear to be very realistic either in cost or structure. This impression is compounded by the drawings not matching and the impression given is a design that indulges a fantasy rather than a serious business proposal. I expect there to be significant changes once a contractor is asked to quote or once a QS is appointed. I would expect these changes to have material impact on the design such that it either cannot go ahead or it will become an entirely different building.

On top of the more minor issues such as materials choice there are some fundamental issues must be addressed. I would urge the applicant to revise the drawings so that they agree with each other; to provide the missing information on materials; to provide a structural solution to the revised drawings that demonstrates the design will be able to stand up; to provide some evidence that there is a realistic costing of the design that provides some reassurance that it will be built as drawn.

### **Original scheme comments:**

#### Key points:

- For its context within this particular urban block within the Seaton conservation area the proposal has too great a scale and massing
- The apparent precedent is not quite right for the location but the interpretation of it is also not right
- The materials chosen do not fit with the context or apparent precedent. If the black brick continues to be used in any re-design there should be a clear explanation for their use that follows a design logic
- The structural solution to the building is not apparent though the design appears to present significant challenges, particularly with unsupported overhangs and significant clear spans at ground and lower ground floor levels. This may force a redesign
- The parking area does not afford much manoeuvring space. Reversing either in and out of it is not an option.

#### Key recommendations:

- Reduce the height by 1 storey
- Find a more appropriate precedent either through clearer reference to the physical surroundings or by closer research of the history of the site and the town. Would suggest not recreating a gun-battery
- Provide evidence that the structural solution for the building is workable or revise the design to be structurally sound
- Provide evidence that the parking area provides adequate space for manoeuvring or redesign.

#### Introduction

The comments made here will be largely structured around the National Design Guide and will use this document and other current design guidance as the basis on which to consider this application. I will not make any exhaustive descriptions of the site or proposal where this has already been covered by the applicant. However, I will provide additions or corrections where this is appropriate and relevant to the proposal and the comments made.

#### Context

The site is part of the sea-front at Seaton running between the old town and the harbour at Axmouth. This area of land is within the estuary of the river Axe that over the course of centuries has silted up. This was historically used as salt pans before the building of the railways opened up the area to travel and ultimately to tourism. Seaton catered for a less wealthy visitor than those in Exmouth. Up until this point Seaton was largely dependent on salt production, fishing and coastal shipping of goods and passengers. Tourism has never had the same success at Seaton as for other nearby towns such as Exmouth.

The existing building on the site was one of the first buildings to be developed on this seafront along with the Beach Hotel about 200m to the east. It was originally a single storey café with owner's accommodation attached within a two storey bay-fronted house. A cluster of other buildings, also primarily for tourists, developed around it soon after to form a small urban block of late Victorian and Edwardian buildings all of which are between two and three storey as are most of those in the rest of the conservation area. The café building had an additional floor added in the 1920's to form the building that is there today, though windows and front façade have been altered. This block is the only part of the seafront within the Seaton Conservation Area, reflecting the age of the buildings, their history as part of the earliest development on the seafront, and the fact that their massing has remained largely unchanged since the early 20th century, although the facades have suffered a lot of unsympathetic changes in the same way as the building on the site.

Since that time, development of holiday accommodation, care homes and individual homes has taken place along the whole seafront between Seaton and Axmouth. The buildings are all 2-3 storey apart from one that reaches 4 but within a mansard. The three exceptions to this are the three closest apartment blocks of 7, 4 and 6 storeys. The nearest, the 7 storey tower, was designed in the 70s to reflect its seaside location by being the architectural equivalent of a bag of smashed crabs. The two others complete a trilogy of mediocrity that work hard to reduce the attractiveness of the seafront. These should not be taken as precedent and should not be taken as a context with which to fit.

#### Response to context

The Design and Access Statement correctly notes that there has been a recent change in design quality and ambition of buildings in this part of Seaton. The proposal wants to continue this trend and in some respects does so.

It clearly aims to demonstrate ambition on the part of the designer and client. The proposal makes a break from the appearance of the buildings around it to both positive and negative effect.

The proposal replaces the existing buildings with one of 4 storeys with a deep plan compared to the existing building and the rest of the block. Those in the block it sits within are two and three storey, as are most in the rest of the conservation area.

To work with the conservation area context the design of anything new here needs to create a design narrative that references either the physical surroundings or the history of the site. In this case it appears that the design references bonded warehousing to provide a 'back-story' explaining a building of this scale where everything else is much smaller. This precedent would be appropriate in a maritime, river or canal-side location with an industrial-era mercantile history but this is not the case for Seaton. Before tourism the town's economy was based on fishing and fish tend not to respond well to being warehoused. In a maritime environment this form of warehousing also tends to be set back from the seafront to reduce exposure to the weather and the sea and the risk of materials and goods being spoiled. If the

warehousing were for salt this would still be the case, given the affinity that salt has for water. This makes the precedent inappropriate for this location.

The choice of colour for most of the elevations may have been chosen to reflect the warehouse or industrial-era precedent but the material itself, black brick, does not lend itself to this. If elevations appeared black on this style of building at this time it would have been because they used hung-slates as weather protection or creosoted timber planks. Black bricks were rare, relative to standard red bricks, and used sparingly only where their harder wearing properties were needed.

### Design identity and form

The proposed building has a distinct identity that sets it apart from its neighbours. This is not in itself a bad thing though an identity needs to be appropriate to the building and the area around it even if to contrast with it.

The enclosed balconies are a good feature but the design needs attention, especially the materials, more on which below. Design could change if a different precedent or other design language is used in any redesign that addresses other issues.

The material choice of brick is puzzling, especially for the enclosed balconies. A particular quality of bricks is that they are heavy. This becomes very noticeable when trying to support a lot of them stacked on top of each other. Overhanging structures were seldom made of brick for this reason and lighter materials were used, such as timber. Given that it is not just the balconies but the whole of the front façade above ground floor level that overhangs this is a significant break from any historic precedent. This brings up the puzzling structure of the building. The ground and lower-ground floors have large clear spans, no apparent structural frame and standard thickness perimeter walls. This would suggest either great structural ingenuity or that the building might become much shorter all of a sudden. It would be good to understand what is going on so there can be some confidence in the structural solution for this building as otherwise this in itself is going to force a redesign that will certainly change the appearance overall.

### Movement

The parking does not appear to be enough space for manoeuvring into and out of the spaces at the western end. Tracking diagrams would be helpful to see whether the space works and whether there is enough space for cars to turn and avoid having to reverse in or out. Providing charging to each space is good to see.

### Nature and public space

There is no natural or green space on the site at present and the proposal does not change this. It would be good to incorporate some planting or other landscaping to the front of the building.

### Homes and Buildings

#### Floor plans of the flats:

- Balconies are a usable size so that is good. Bi / tri-fold doors are also good to enable good links between indoor and outdoor space.

- o The flats are very deep, following the footprint of the building. This results in several bedrooms having no - Natural light which, although not a deal breaker, is not particularly attractive either. It also means there is a question over the supply of fresh air and ventilation to these rooms.
- Can't understand why the bathroom and entrance hall is different between the eastern flats on the floorplate and the other two. This seems a needless waste of space. It would be good to understand this design decision as on the face of it there is a loss of space and increased external wall surface, increasing costs and decreasing thermal performance.
- The design point above also increases the amount of space where there is a degree of uncertainty over ownership and management. This could be easily avoided so some reasoning behind this decision should be provided.

Floor plans of the restaurant and parking:

- The restaurant floor area seems ambitious. Either that or it is designed specifically for people suffering claustrophobia, which if true is laudable but perhaps a bit too niche.
- Good to see electric car charging for all parking spaces.
- The parking area appears to have limited manoeuvring space so may force people in some spaces to reverse in and out. Tracking diagrams would be helpful to provide assurance that space is indeed adequate
- There does not seem to be adequate structure on these floors that explains how the rest of the building will stay up. Perhaps structural engineering has moved on a bit recently but some evidence for how this is going to work would be very helpful. Otherwise there is going to be a substantial redesign.

Lifespan

The structure of the building does not look convincing so the lifespan could be very short. The materials indicated are durable but not suited to the context.

Conclusion

It is good to see that the design approach is quite crisp and modern while still referencing the past. The way this building relates to the immediate context demonstrates that some thought and consideration has been given as a way of explaining the scale and massing. However, the precedent does not work in this location as it does not fit with any part of the history of site or of Seaton. A better precedent would be to work with the tourism background of the area and a more light-hearted appearance; either that or a more in depth study of the history of the area and Seaton could suggest another design approach that would work and create interest.

The scale and massing as presented is too great relative to surroundings. A reduction of one storey would be an easy way to make any design fit better with the context but otherwise a half-storey with accommodation in roof-space may work better. Floor to ceiling heights should remain as they are so they continue to line through with the other buildings in the block.

The structure of the building does not fill me with confidence but I may be overly pessimistic. However, some reassurance that the lack of apparent structure on the ground floors does not have an untoward effect on the ability of the building to stay upright would be very welcome.

The materials choice needs to be revised to better follow the design language of the building. This will hold true for any redesign following a more suitable precedent. At present this will sit very awkwardly amongst the rather more domestic and comfortable buildings either side of the site.

I would not support the building in its current form for the reasons above. However, there is clearly a will to produce a good, attractive design that I hope will be applied to any more suitable redesign.

### Devon County Archaeologist

#### **Amended scheme comments:**

I refer to the above application and your recent re-consultation. The Historic Environment Team have no additional comments to make to those already made.

#### **Original scheme comments:**

I refer to the above application. The proposed development lies in an area of archaeological potential on part of the Esplanade shown on the mid-19th century Tithe Map as being occupied by a coal yard and adjacent to an area identified in the county Historic Environment Record as containing the site of a possible WWI military coastal defences. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the 19th century and later military activity in this area. 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 (2019) 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 (2019), 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/>.

#### Devon County Highway Authority

##### **Amended scheme comments:**

None received.

##### **Original scheme comments:**

Observations:

The site will utilise the existing vehicular access. Two bollards on either side of the vehicular access will warn pedestrians on the Harbour Road of the chance of exiting vehicles of which due to the nature of Harbour Road will be slow moving.

The proposed layout allows for one parking space per dwelling which together with the secure cycle storage, bus services, public car parks, services and facilities of Seaton, I believe will be sufficient to avoid on-carriageway parking and help promote sustainable travel and reduce a high increase in vehicle trip generation.

A 6m gap between the parking rows allows for vehicles to turn off-carriageway and re-enter the carriageway in a forward facing motion.

Overall the County Highway Authority, has no objection to this planning 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

Police Architectural Liaison Officer

##### **Amended scheme comments:**

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application.

I note the inclusion of a sliding door to the entrance of the under-croft parking area which is welcomed and supported. This area can not be left open with unrestricted pedestrian or vehicular access as it is somewhat concealed and lacks surveillance opportunities, therefore it is likely to attract crime, misuse and anti-social behaviour (ASB) such as rough sleeping, drugs use etc. particularly in a town centre location.

The door must be secure and robust enough to prevent unauthorised access. It is recommended that either automated gates are installed meeting the relevant statutory safety standards and CE marked accordingly. Or automatic roller shutters certificated to one of the following minimum security standards LPS 1175 SR1, STS 202 BR1 or LPS 2081 SRA. Either should be capable of being operated remotely by the driver whilst sitting in the vehicle.

Further recommendations in relation to the under-croft parking area to ensure it is a safe space for residents and legitimate users include:

- Lighting should be at the levels recommended by BS 5489:2020.
- Walls and ceilings should have light colour finishes to maximise the effectiveness of the lighting as this will reduce the luminaires required to achieve an acceptable light level. Reflective paint can reduce the number of luminaires needed to achieve the desired lighting level and reduce long-term running costs.
- Any internal door that gives access to the residential floors should have an access control system.
- It would also be preferable if access to the lift and external stairs leading to residential flats and communal areas, was restricted to legitimate users, through the use of access control and a visitor entry system. Any potential system should not have a tradesperson or timed-release mechanism as they have been proven to contribute to crime, ASB and unlawful access to communal developments.
- Emergency egress from the flats and car park must also be facilitated.
- The bin and bike stores must be robust and secure in order to protect against theft, damage and arson. They are located in a vulnerable area with little surveillance opportunities therefore measures should be taken to adequately secure them.

### Further Recommendations

- External letterboxes that meet the requirements of the Door and Hardware Federation standard Technical Standard 009 (TS009) could be considered for mail delivery.
- All external doors and accessible windows are advised to be tested and certificated to an appropriate nationally recognised security standard.
- Consideration should be given to installing a monitored intruder alarm covering the restaurant area. For police response, the system must comply with the requirements of the Security Systems policy, which can be found at [www.securedbydesign.com](http://www.securedbydesign.com) under the 'Group Initiatives' tab.
- The development would benefit from CCTV, particularly the north elevation and the under-croft parking area. However, I appreciate that any system is unlikely to be monitored and would therefore only be effective as a possible deterrent and aiding in the detection of an offence. I am happy to discuss further if needed.
- An effective light scheme should be in place to reduce the fear of crime and increase surveillance opportunities for legitimate users.

### Original scheme comments:

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application.

My only concern with the design of the scheme is in relation to the 'open' nature of the under-croft parking area. The space is somewhat concealed and lacks surveillance opportunities, therefore unrestricted access can contribute to crime, misuse and anti-social behaviour (ASB) such as rough sleeping, drugs use etc. particularly in a town centre location.

To ensure that such a risk is minimised, I respectfully ask that the following planning condition is considered should the application progress:

Condition: An access control system should be applied to vehicular and pedestrian entrances to the under-croft car park to prevent unauthorised access and casual intrusion.

Reason: To reduce the opportunity for crime and anti-social behaviour.

Further recommendations in relation to the under-croft parking area to ensure that criminal opportunity is minimised and the safety of legitimate users maximised include:

- Any potential gates (inward opening automatic) or roller grilles should be located at the building line to avoid the creation of a recess. They should be capable of being operated remotely by the driver whilst sitting in the vehicle.

- Lighting should be at the levels recommended by BS 5489:2013.

- Walls and ceilings should have light colour finishes to maximise the effectiveness of the lighting as this will reduce the luminaires required to achieve an acceptable light

level. Reflective paint can reduce the number of luminaires needed to achieve the desired lighting level and reduce long term running costs.

- Any internal door that gives access to the residential floors should have an access control system.

- It would also be preferable if access to the lift and external stairs leading to residential flats and communal areas, was restricted to legitimate users, through the use of access control and a visitor entry system. Any potential system should not have a tradesperson or timed-release mechanism as they have been proven to contribute to crime, ASB and unlawful access to communal developments.

- External letterboxes that meet the requirements of the Door and Hardware Federation standard Technical Standard 009 (TS009) could be considered for mail delivery.

- Emergency egress from the flats and car park must also be facilitated.

#### Further Recommendations

- The bin store and bike parks must be robust and secure in order to protect against theft, damage and arson. They are located in a vulnerable area with little surveillance opportunities therefore measures should be taken to adequately secure them.

- All external doors and accessible windows are advised to be tested and certificated to an appropriate nationally recognised security standard.

- Consideration should be given to installing a monitored intruder alarm covering the restaurant area. For police response, the system must comply with the requirements of the Security Systems policy, which can be found at [www.securedbydesign.com](http://www.securedbydesign.com) under the 'Group Initiatives' tab.

- The development would benefit from CCTV, particularly the north elevation and the under-croft parking area. However, I appreciate that any system is unlikely to be monitored and would therefore only be effective as a possible deterrent and aiding in the detection of an offence. I am happy to discuss further if needed.

- An effective light scheme should be in place to reduce the fear of crime and increase surveillance opportunities for legitimate users.

#### Senior Manager - Regeneration & Economic Development

My comment would be to support the delivery of this development on the site, but would defer to the concerns of the Urban Designer in relation to the structure (support of the balconies), colour/impact of appearance and to the access and capacity of the car park for the number of spaces shown. Also, noting the requirement for them to discuss with EDDC re: acquisition of a strip of council land at the front of the site.

## Other Representations

### **Amended scheme comments:**

A further 6 no. of representations have been received in relation to the amended scheme of which 4 are considered to be in support and 2 to raise specific objections to it, The reasons for support and objection are summarised as follows:

#### Reasons for Support

- Developers have listened to the issues raised reducing the building height and improving the design.
- Huge positive to Seaton and massive improvement to the seafront.
- The proposal can act as a catalyst to other investment in the town.
- Schemes such as this will help to 'raise the bar', that will kick start other businesses and investors to 'up their game'.

#### Objection reasons

- Previous concerns still stand, demolition of this important original building. And it s replacement with any modern design would spoil the group of buildings forming Marine Crescent. The loss of this building and the impact on the area would be an absolute travesty.

### **Original scheme comments:**

A total of 78 representations were received to the original scheme of which 51 were considered to be in support and 22 to raise specific objections to it, The reasons for support and objection are summarised as follows

#### Reasons for Support

- Current building is 'an embarrassment to the town'
- Replacement of building with a 'quality pub/restaurant in a prominent location
- The seafront requires investment and improvement which this well designed building will bring.
- The proposal will provide job opportunities and income for the town.
- The design will provide a precedent to follow for further redevelopment
- Destination restaurant of benefit to locals and visitors
- The residential development provides further high quality options for seafront living
- The proposal is the most realistic way of retaining and thriving and viable Real Ale outlet in the town (CAMRA)
- The proposal will add vibrancy and activity to the sea front
- Fantastic modern design to help smarten up sea front
- Proposal will support the night time economy

#### Objection reasons

- The proposed development is too tall and should be reduced by a storey
- The materials/colour are inappropriate
- Loss of public house
- Seaton does not need another apartment block
- The design lacks architectural merit is too tall and is out of keeping with surrounding buildings
- The existing building should be preserved.
- Impact of any redevelopment works on the use/enjoyment of the seafront and other local businesses.
- Redevelopment should be timed to avoid disruption to the main tourist season
- Extension beyond existing building line and provision of projecting balconies is inappropriate
- Loss of light to adjoining residential flats/businesses
- The proposal will result in an extremely dominant structure on the sea front.
- Loss of privacy resulting from proposed balconies
- Overbearing impact of development on adjoining developments
- Consideration should be given to providing residents parking bays on the sea front to compensate for the disruption caused.
- Design out of keeping with surrounding vernacular style and scale will dominate surrounding properties
- A reduced height building with fewer apartments would be more appropriate
- Will result in more second homes unaffordable to locals.
- Safety concerns related to increase use of vehicular access
- Proposal restricts rights of access to surrounding properties
- Lack of bin storage for residents

## **PLANNING HISTORY**

There are a number of historical planning applications relating to the building concerning matters such as fenestration changes, advertisement signage, external seating etc. none are considered to be particularly relevant to the current proposal.

## **POLICIES**

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

Strategy 3 (Sustainable Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 25 (Development at Seaton)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

Strategy 38 (Sustainable Design and Construction)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

EN5 (Wildlife Habitats and Features)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN21 (River and Coastal Flooding)

E2 (Employment Generating Development in Built-Up Areas)

E9 (Town Centre Vitality and Shopping Areas)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

#### **Procedural Note**

The location plan has been amended to include all of the land related to the development, as such notice has been served on East Devon District Council as owner of the Esplanade to the front of the site and on Devon County Council who are responsible for its maintenance.

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

The Hook and Parrot public house occupies a traditional pitched roof building of two storey form. There is additional accommodation within the roof and a lower ground floor set below the street level of the Esplanade. The principal (south) elevation and roofline run parallel with the Esplanade but there is a lower projecting gable fronted element on the west side. At ground floor level there is a full width projecting bay and there are 2 no. flat roof dormers to the front roof slope. The elevations are rendered and painted and the roof covered in slate. To the rear the original building has been variously extended with later additions including a full width 2 storey flat roof extension.

There is pedestrian access direct from the Esplanade and to the rear pedestrian and vehicular access via a private road from Harbour Road. This access road leads to a service yard area between the rear of the building and adjoining properties.

The building is currently vacant but the ground and lower ground floor of the building have previously been in A4 use as a public house with 2 no. residential flats to the first floor and a further flat at second floor level.

The site occupies a prominent location on the sea front in area of mixed residential and commercial development and where there is some variation in the form, age and design of buildings. The site lies within the defined town centre area and also falls with the Seaton Conservation Area and land designated as Flood Zone 3.

### **Proposed Development**

The application proposes the demolition of the existing public house and the redevelopment of the site in the form of a 4 storey building (plus lower ground floor level). The proposed building would occupy the same part of the site as the existing public house but the footprint would be extended slightly to the east and north sides. Vehicular access would continue from Harbour Road to the north and would lead to a basement parking area providing 9 no. parking spaces (1 no. for each of the residential units).

At (upper) ground floor level a restaurant use is proposed with an elevated dining terrace on the front elevation set above the level of the adjoining pavement.

The 3 floors above the ground floor would each house 3 no. 2 bed apartments, providing 9 no. apartments in total. The upper floors would be accessed via an external staircase and lift on the rear elevation of the building.

The building would have a recti-linear plan form with the building mass contained within a single block punctuated by the projecting gabled elements on the front elevation. The amended scheme includes a reduction (from the original proposal) in overall height of 1 metre and in width by 600 mm, the depth remains the same, although the cowling to the balconies has been removed.

In terms of materials, the use of black brick, previously proposed, has been eschewed in favour of a lighter palette consisting of white and light grey glazed bricks with some use of a 'copper' coloured glazed brick to the front terrace elevations. The areas of pitched roof would be covered in slate. Fenestration is proposed as aluminium units with the principal elevation of the ground floor of the unit fully glazed.

### **ANALYSIS**

#### **Principle and policy compliance**

The site lies entirely within the built-up area boundary of Seaton where under Strategy 6 of the Local Plan the principle of development is accepted subject to; compatibility with the character of the site; not adversely affecting flood risk or coastal erosion; it would not damage (and where possible promote) wildlife, landscape, townscape and historic interests; would not result in loss of land of local amenity or recreational importance; would not impair highway safety or traffic flows and would not prejudice the development of an adjacent site.

Strategy 25 of the Local Plan deals specifically with development proposals for Seaton. It seeks to support Seaton's 'green' tourism role and specifically mentions the esplanade in relation to the strategy for the town centre which seeks, "The enhancement of the existing fabric and character of the town, including design improvements and expansion of commercial opportunities in waterfront areas (sea wall and esplanade and harbour and estuary) will underpin Seaton's developing role as year-round destination." In relation to new homes there is also specific reference to allocating land for new housing within and adjoining the town.

The proposal lies within the defined town centre area where policy E9 of the Local Plan seeks to ensure that the vitality and viability of the town centre is maintained. It permits both retail and non-retail uses which would add variety and increase activity subject to a number of criteria relating to impact on the character, visual amenity and viability and viability of the town centre. In this instance the proposal would constitute a change of use from a sui generis use as a public house (formerly A4) to an E class commercial/business use (formerly A3). However, in terms of impacts on the vitality and viability of the area, on residential amenity and on issues such as traffic generation the impacts are considered to be similar. At present the site is vacant and there is no business trading from the premises. The proposal would introduce a new employment generating use to the site which would have the potential to provide similar (and potentially greater) employment and wider economic benefits to those provided by the former public house use. It would also reintroduce an active use to the ground floor of the building in this prominent sea front location and as such add to the vitality and viability of the town centre.

In addition, Strategy 32 seeks to resist the loss of existing employment, community uses and states permission will not be granted for the change of use of current premises where it would harm employment, business of social/community gathering purposes in the area. Unlike the former public house use there is unlikely to be the same level of community involvement/use of the restaurant as may have been the case with a public house, nonetheless there are other public houses and community gathering venues within the town and the site has not been nominated as an Asset of Community Value. Its loss on community grounds would therefore be hard to substantiate.

In relation to the proposed residential uses on the upper floors of the development this reflects the current use of the first and second floors of the existing building. Policy E13 of the Local Plan also supports in principle the residential use of the upper floors of premises within Town Centre Shopping Areas.

In terms of national planning policy, para. 85 of the NPPF states that planning decisions should support the role that town centres play at the heart of local communities and take a positive approach to their growth, management and adaptation, Sub paragraph c) seeks to retain and enhance existing markets and where appropriate introduce new ones and f) recognises the role residential development can play in ensuring the vitality of town centres.

### **Impact on the character and appearance of the area/Conservation Area**

The site lies within the designated town centre conservation area and as such the general duty of care set out at Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area, is engaged. This requirement to preserve or enhance conservation areas and their ‘...setting or views in or out of...’ such areas is also set out within policy EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031.

Para. 193 of the NPPF states that, when considering the impact of development, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). It goes on to confirm that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Para. 194 goes on to state that, any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paras. 195 and 196 of the NPPF set out how the degree of harm resulting from a proposed development, be this substantial or less than substantial, should be weighed against the public benefits of the scheme. Policy EN9 of the Local Plan reflects the requirements of the NPPF in this respect. Where substantial harm is considered to occur para. 195 advises that consent should be refused unless such harm is necessary to achieve substantial public benefits that would outweigh that harm, or all of the following criteria would be met:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use

Where the proposal is considered to result in less than substantial harm para. 196 states that the harm should be weighed against the public benefits of the proposal.

Advise in the Planning Practice Guidance (Paragraph: 019 Reference ID: 18a-019-20190723) in relation to the assessment of degree of harm in conservation areas states:

*“An unlisted building that makes a positive contribution to a conservation area is individually of lesser importance than a listed building. If the building is important or integral to the character or appearance of the conservation area then its proposed demolition is more likely to amount to substantial harm to the conservation area, engaging the tests in paragraph 195 of the National Planning Policy Framework. Loss of a building within a conservation area may alternatively amount to less than substantial harm under paragraph 196. However, the justification for a building’s proposed demolition will still need to be proportionate to its relative significance and its contribution to the significance of the conservation area as a whole.”*

The application is accompanied by a Heritage Statement that describes the site and its history, considers the significance of the site and assesses the impact of the development on the designated heritage asset. It describes how Seaton has grown over time from a small fishing village, through its mid 19<sup>th</sup> Century expansion as a seaside resort, following the development of the railways. The Hook and Parrot forms part of the Victorian development of the town and was one of the first buildings to be built along the Esplanade, appearing on the 1889 Ordnance Survey map. It is suggested the building was originally a coffee tavern later changing to public house. In terms of assessment of impact the statement considers the contribution the existing building makes to the conservation area to be minimal, reference being made to it having been 'heavily altered'. In terms of the proposed replacement building the increased height and scale of that proposed is acknowledged but it is suggested the design approach/quality of design elements would mitigate the impact to a degree. Overall it concludes that the proposal would result in 'less than substantial harm' and that this harm should therefore be weighed against the public benefits of the scheme (See below.) This statement has not been updated in relation to the amended scheme.

Additional information in the form of a letter from a Chartered Structural Engineer has been provided. This provides an overview assessment of the condition of the existing building and its suitability for renovation/re-use. The following specific areas of defect/concern were noted: significant movement and damage to masonry and; significant signs of decay to parts of the timber structure, including timber floors. The report goes on to suggest that on the visible evidence and taking into account additional loading to floors that would arise (for conversion) in order to meet current building regulations, that the existing joists would be unlikely to support such a change. The letter concludes that,

*"In terms of the structural adequacy of the building, this could not be guaranteed which would likely be required in terms of its proposed usage. As the extent of remedial works would encompass most of the building it is not considered a viable proposition."*

Planning policy (at para. 196 of the NPPF) is clear that where there has been deliberate neglect of, or damage to, heritage assets the deteriorated state of the asset should not be taken into account in any decision. However, in this instance this is not considered to be the case and where deterioration has occurred over time and partly as a result of the site's expose location.

To determine the degree of harm resulting from the development it is necessary to consider the impact both from the loss of the existing building and from its replacement. The existing building is unlisted and is not identified as a key building in the Seaton Conservation Area Appraisal, however, it is within a block that is the only part of the seafront within the Seaton Conservation Area, which reflects the age of the buildings, their history as part of the earliest development on the seafront, and the fact that their massing has remained largely unchanged since the early 20<sup>th</sup> century. Whilst it is recognised that the building has had a number of unsympathetic additions over time, it nevertheless retains many key historic features identifying its Victorian origins including, its form and layout, traditional roof form, fenestration and materials. There is an additional communal value derived from the historic use of the building as a drinking establishment (of different types) for well over a century to the present. It

has previously been suggested that it would be possible to better reveal the building's significance through the removal of the harmful later additions and some degree of reinstatement, particularly on the front elevation.

The information now provided in terms of the aforementioned structural inspection letter is limited in its extent but nevertheless provides a useful initial assessment of the building's condition and the extent and nature of the work likely to be required to bring it back into its lawful or another similar commercial use. It is further acknowledged that the cost implications of carrying out such refurbishment work may make the viability of such an approach questionable, although the submitted information does not go far enough to demonstrate this to be the case.

In relation to the proposed replacement building, the amended design has gone some way to moderating the impact of this by reducing, to a limited extent, the height and width and altering the design to remove the cawling to the balconies and to lighten the material pallet. Whilst the proposal would still result in a considerably taller and more bulky building, than the existing, it is acknowledged that the design now proposed would have a reduced visual impact. Furthermore, as a result of the changes to the proposed material finishes these would no longer represent such a discordant addition to the streetscene.

Views of the building would still be afforded from Castle Hill to the west of the site and along the Esplanade to the east, as well as from land to the north (including the public car park north of Harbour road. In such views the building would be seen projecting above the roofline of surrounding buildings and others in the conservation area. Reference has been made to Fosse Way Court, and Seaton Beach developments further to the east of the site. Both of these lie outside the conservation area boundary. In relation to Fosse Way Court this is generally considered to be a poor example of later 20<sup>th</sup> century development and not an appropriate template for subsequent development. Seaton Beach much further to the east is considered in a different context to the application site and is not directly comparable.

The site's immediate context is the surrounding development to the north, east and west and includes the buildings to the west that front onto Marine Place and which are identified in the Conservation Area Appraisal as a key building group which makes a significant contribution to the townscape. These surrounding buildings and others in the conservation area, including the existing building on site, are characterised by, amongst other things, the use of painted stone or render to the elevations under slate roofs. There are though some examples of brickwork but this is red/orange in colour. The proposed amendments to the colour pallet are considered to be a significant improvement over the black brick finish previously proposed and would assist in reducing the prominence of the building as it would sit more comfortably with its neighbours, nevertheless the use of glazed bricks as proposed would appear to be without precedent in the conservation area.

In terms of the form and massing, the replacement building at four stories (above basement level) and even with some reduction in height, remains a storey higher at least than all of the adjoining buildings and others in the conservation area. There are examples of taller buildings elsewhere along the seafront but these lie outside the conservation area and are viewed in a different context. In several cases those

buildings themselves appear too tall in relation to adjoining properties and are not seen as setting any appropriate precedent for the development of the application site to follow. Whilst it is clear that there is ambition to provide a statement building that looks to lift the quality of design in the area and as a standalone the design has some merit, it remains somewhat out of context with its surroundings. In addition, to the use of materials and overall height, the depth and plan form of the building results in a bulky building which the trio of gabled projections only disguise to a limited extent. In views from the east and west the depth of the building will remain clearly visible where it will appear larger and somewhat out of scale with adjoining development to either side.

Taken as a whole the loss of the existing building and its proposed replacement is considered to represent harm to the significance of the designated heritage asset (Seaton Conservation Area). This harm is as a result of the loss of the existing building and the impact of the proposed replacement. However the reduction in height and changes to external materials reduce the degree of harm from the originally proposed scheme. It is also acknowledged that some evidence has been provided of the structural condition of the existing building and requirements necessary to bring this back into use. On balance and whilst harm to the character and appearance of the conservation area is considered to remain, such harm is considered to be less than substantial and as such this harm needs to be weighed against the public benefits of the proposal.

Setting aside the need to undertake the balancing exercise in relation to harm and benefits, in terms of impacts on the conservation area the proposal needs to be assessed against policy EN10 of Local Plan and how it would affect the setting of the conservation area and views in and out of the area. In this regard the reduction in height of the building and changes to the proposed external materials are considered to reduce the impact of the development and particular in terms of material colouring to sit more comfortably with surrounding development within the conservation area. The Council's Urban Designer considers the scale and form of the building to now be appropriate for its context but remains concerned in relation to the use of glazed brick, suggesting ceramic slips as an alternative, and their colour. The applicant has responded to these comments raising concern with the longevity and maintenance of ceramic tiles. In terms of colour palette in order to assimilate itself with some degree of success, the colour of the materials needs to be respectful of its surroundings and in this regard the chosen colours are considered appropriate.

### **Flood Risk/Drainage**

The application site lies on Seaton seafront located to the north side of the Esplanade on the opposite side of the Esplanade from the public walkway and beyond this the sea wall and beach. The site and indeed the entire seafront and much of the land to the north (with the exception of the former regeneration site) is classified as Flood Zone 3 - High Risk. The main flood risk to the site arises from the potential for overtopping the sea wall in extreme weather events.

The application is accompanied by a Flood Risk Assessment (FRA) which examines the potential flood risks in more detail and which considers that the development can be made safe from a flood risk point of view. The FRA takes in to account existing flood defence measures including the sea wall and concludes that the development,

including its access from Harbour Road would be safe from flooding events during the lifetime of the development. The FRA suggests that taking into account the topographical data for the site that it would not be at risk of flooding during the design flood event (even taking into account climate change) and that the site should be considered to be in flood zone 1. In terms of mitigation it is proposed to set the internal FFL of the building significantly above all modelled flood levels. It is also proposed that a Flood Evacuation Plan (FEP) would be produced to ensure users of the building were made aware of forecast flood events and to provide appropriate egress/refuge provision in any unpredicted flood events.

Residential development is classified as more vulnerable development, in accordance with flood risk vulnerability classification set out in the National Planning Practice Guidance (NPPG) which accompanies the National Planning Policy Framework (NPPF). As such, any such proposals within High Risk Flood Zones are required to pass two tests prior to them being considered acceptable in flood risk terms. These tests are known as the 'Sequential' and 'Exceptions' Tests. The original and amended FRA's however consider that topographical data actually demonstrates the site to be within Flood Zone 1 and therefore that the sequential and exceptions tests need not to be applied.

In their original response to the application the Environment Agency (EA) advised that they had no objections to the proposal and that they agreed with the conclusions and recommendations of the submitted FRA - these conclusions included that the site was considered to fall within Flood Zone 1. On this basis it was taken that the EA shared the view that the site should be considered to fall within FZ1 and that the sequential and exceptions tests need not be applied.

In response to the amended plans submitted the EA have provided a more detailed and comprehensive response to the scheme and whilst maintaining a no 'in-principle' objection to the development have advised that the Local Planning Authority should carry out the sequential and (where necessary) exceptions tests and that failure of the sequential test is sufficient justification to refuse the application. This is the case even where the development may be designed so as to be safe in the event of a flood event.

The sequential and exceptions tests are set out below and need to be passed for the development to be considered in flood risk terms. In relation to the management of flood risk relating to the proposed development, the EA has recommended the imposition of conditions to address flood resistance and resilience measures and flood warning and evacuation. With regards to the submitted FRA they consider that whilst the finished floor levels appear to be set well above flood level this has not taken into account allowances for sea level rises as a result of climate change. In relation to the proposed undercroft parking area, this is considered to be at high risk of flooding and additional details of flood resilience measures are requested, these they suggest could be secured by condition. During a flood event it would be necessary to ensure that safe access and egress could be achieved, or where not possible, as is considered to be the case here, that safe refuge could be provided until flood waters recede. EDDC's Emergency Planner has been consulted on the suitability of a 'stay put' safe refuge strategy in this instance and has confirmed that this would be acceptable.

### Sequential Test

There is disagreement between the EA and the applicant on the need to apply the sequential test for site selection. The applicant's view and one which appears to have previously been accepted by the EA is that whilst the site is located within an area defined as Flood Zone 3 the actual topographical data for the site indicates that it should be considered as falling within Flood Zone 1. Certainly the finished floor levels of the building are set well above the relevant flood levels and there appears to be agreement on this point. However, in their more recent responses the EA have advised that consideration of the site lying on Flood Zone 1 is not appropriate as it doesn't take into account wave overtopping and where there is recent evidence of sea defences being overtopped and flooding of the esplanade. Taking into account future sea level rises over the next 100 years (calculated as 1.4m over existing levels) the development could be at risk from a wave overtopping flood event. The EA therefore disagrees with the conclusion of the FRA that the development is safe over its lifetime and that the sequential test should be applied.

In relation to the sequential test para. 162 of the NPPF states:

*"The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."*

In order to pass the sequential test it must therefore be demonstrated that there are no reasonably available (and appropriate) sites which could provide the development proposed in an area of lower flood risk. The first stage of the sequential test is therefore to define the area over which it is appropriate to carry out an alternative site search

There is some limited national guidance (NPPG) on what information is required to inform the Sequential Test, which essentially suggests that a developer discuss with a local planning authority (LPA) what it requires.

Guidance on the application of the Sequential Test is set out in the National Planning Practice Guidance (NPPG). This states that for individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration.

The issue has been raised with the applicant and the opportunity given for them to provide evidence to support the carrying out of the sequential test. The updated FRA maintains that the sequential test need not be carried out as it is maintained that the site is considered to lie in Flood Zone 1 where no such test is required. It is however suggested that a sequential approach has been taken to the development with the

residential development located at first floor and above. It is further suggested that as the proposals represent a redevelopment scheme and where the sea front location is considered essential to the viability of the restaurant and where all of the seafront falls within Flood Zone 3 that there are no other sites available at lower risk of flooding. Additional information from the applicant's agent suggests that the search area for carrying out the sequential test should be further narrowed to the site itself as it is the only site that could facilitate the demolition and redevelopment of it as a specific brownfield site.

In terms of similar developments that might act as a reference to the current proposal the most recent comprehensive redevelopment on the seafront was for 8 dwellings at Trebere (now Seaton Beach) on East Walk (reference 16/2795/FUL). In that case officer's view was that there were other sites available and appropriate within the town and the wider area where the development could be delivered and where the identified benefits that would be brought through the redevelopment of a brownfield site and delivery of additional residential units could be similarly delivered. However in determining the application members, at the time, considered the combined regeneration and economic benefits to the seafront justified a smaller Sequential Test area focussed on the seafront and as a result the Committee considered the Test was passed in that instance.

The applicant has suggested, were there to be a need to apply the sequential test, that this should be restricted to the seafront and/or the site itself as only in these areas would the regeneration benefits of the development be delivered. The NPPG confirms that local factors can be considered when deciding the area of search to draw up. Strategy 25 of the Local Plan, which covers development at Seaton, includes support for *'improvements and expansion of commercial opportunities in waterfront areas (sea wall and esplanade and harbour and estuary)'* but this does not represent a specific regeneration policy, does not mention residential development, and the site is not within the designated area for regeneration (the Seaton Town Design Statement 2009 defined the 'zone 1' regeneration area as the land lying north of Harbour Road). It is recognised that the proposal represents a brownfield site and that there are benefits in redeveloping such sites but there is no consideration of other sites and limited justification for restricting any search to Seaton sea front.

The application seeks to provide for a restaurant and 9 no. residential flats, it needs to be demonstrated that there are no other reasonably available sites appropriate for 'the development' in an area of lower flood risk. This might include disaggregation of the proposed uses with the residential units being provided on a different site to the restaurant. It is accepted that there may be some degree of cross-subsidisation between the residential use and the commercial use and the applicant has indicated that this is the case. It is further acknowledged that there may be viability issues with bringing the existing building back into use. However, neither case has been fully made and there is therefore a lack of evidence to demonstrate that:

- a) It would not be viable to bring forward a scheme involving the re-use of the existing building to provide for the restaurant element and residential development that does not exceed the existing number of units, or that there is evidence of marketing of the site to explore the potential for such;

- b) Setting aside any cross-subsidisation, that in terms of the residential element alone that there are no other sites that could deliver this element in an area of lower flood risk elsewhere in Seaton, or any other sites throughout the district (particularly as the scheme is not proposing to meet any specific local need);
- c) That were it to be accepted that the development needed to be delivered on a single site and that this needed to be a brownfield site that there are no other reasonably available alternative sites appropriate for the development elsewhere in the district.

The NPPG confirms that it is for the developer to justify with evidence to the local planning authority what area of search has been used. In this instance the developer considers the search area should be limited to the site itself or at most the sea front. It is not considered that restricting the site to such a confined area is justified and on this basis the sequential test is not considered to be passed.

### Exception Test

This test is not applicable where the Sequential Test is failed. However, in the event that Members consider the sequential test is passed analysis of the Exceptions Test follows below.

To pass the Exceptions Test is must be demonstrated that:

- The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

Both criteria must be satisfied to pass the test.

The cited benefits of the proposal are that it would bring about the redevelopment of the site and provide a new restaurant that would help to facilitate the regeneration of this section of the seafront, provide new employment opportunities and act as a draw to visitors. Setting aside the physical impact of the development and appropriateness of the proposed design it is acknowledged that at present there is no business operating from the site and no such benefits arising. Were the sequential test to be passed it is considered that some wider sustainability benefits would arise and that as flood risk could be effectively managed and would not increase flood risk off-site that these benefits would outweigh such risk.

Whilst the EA has raised a number of points with the submitted information they have confirmed that they have no objection in principle and have recommended conditions to address outstanding areas of concern. EDDC's emergency planner is satisfied that safe refuge can be provided for occupiers of the residential flats and users of the restaurant for the temporary period in the event of tidal flood event.

Were the sequential test to be considered to be passed the exception test would also be met in this instance.

Aside from the Flood Risk relating to the proposals, as considered above, it is also necessary to consider the proposal for the management of surface water run-off related to for the scheme. Policy EN22 of the Local Plan requires that new development fully considers run-off implications of new development; includes appropriate remedial and maintenance measures, and; where there are potentially significant surface water runoff implications includes a Drainage Impact Assessment. In relation to major developments there is an expectation that surface water would be managed by sustainable drainage systems.

A drainage strategy is included as part of the submitted FRA and sets out how surface water drainage would be managed, it includes provision for increased rainfall resulting from climate change. In order to reduce the rate of surface water run-off it is proposed to install an attenuation tank below the building and for all hardsurfacing areas outside the footprint of the building to be permeable. Flows to the existing public combined sewer will thus be attenuated to ensure that flows to the public sewer are within acceptable levels, as set out by South West Water. Devon County Council responding in their Flood and Coastal Risk Management capacity has advised that they have no objections in principle to the proposal in principle but that additional information is still required indicating how exceedance flows will be managed at the site, infiltration testing and setting out how and by whom the surface water management infrastructure would be managed. Details of the means of dealing with events which exceed the design level or during periods of flooding have also been provided with essentially flows directed towards Harbour Road. In relation to management of the drainage features it is suggested that the responsibility would lie with the developer or appointed third party. Devon County Council has indicated in their latest response that they have no objections to the scheme subject to relevant conditions being imposed.

### **Economic Impact/Public Benefits**

The proposal would result in the loss of the existing public house use from the site, albeit this is not currently operating as such. The principle of such a change is discussed above but in terms of economic benefits and setting aside whether it would be viable to refurbish and re-open the existing building as a public house, it is recognised that there are clear potential benefits to bringing the site back into an active commercial use.

The application as originally submitted was supported by a Public Benefits Assessment Statement which sought to identify the key economic, social and environmental benefits that could arise from the development.

In terms of economic benefits these can be direct, indirect or induced. Direct benefits would be those arising from jobs created in the construction and operational phases of the development as well as wage income and profit. Indirect benefits would arise from the benefits of the development to businesses in the supply chain (again both at the construction and operational phase). Finally, induced impact relates to the benefits that may derive from increased spending as a result of increased income and spending within the wider economy. The applicant's figures suggest that for each £1 invested this creates an increase in Gross Domestic Product of £3.08, extrapolating out those

figures they consider that the construction investment required of approx. £1.5 million would result in an estimated increase of £4.62 million in GDP.

Relating directly to increased expenditure from new residents (based on a minimum of 2 no. additional residents per unit) it is suggested that the overall annual expenditure on convenience, comparison and leisure spend would be between £117,144 and £175,716 p.a. However, it should be recognised that not all of this spend would be focussed on Seaton (or even East Devon). It is further suggested that as a destination restaurant the proposed business would also attract visitors to Seaton and increase visitor spend in the town.

In terms of job creation it is suggested that the proposal would support approximately 50 construction jobs for the duration of the build and following this the restaurant would support an estimated 30 full/part time posts.

Further benefits would potentially accrue through New Homes Bonus payment and increased council tax/business rates. Finally, in terms of economic benefits it is suggested that investment in the construction industry is one of the best ways to help aid the economic recovery from the effects of the COVID-19 pandemic.

In terms of social benefits it is acknowledged that the proposal would provide a small number of additional homes and would provide a continued social gathering space within the town centre, albeit at the loss of an existing one.

Setting aside other issues relating to the impact of the development on the conservation area and the appropriateness of the design it is acknowledged that the proposal would reintroduce an active use to the seafront which may help to provide a catalyst for further regeneration.

Overall in terms of potential benefits it is acknowledged that the proposal has the potential to provide fairly significant economic benefits to the town both during the construction and operational phases of development and that these weigh in favour of the scheme. The proposal would also provide some limited but positive social benefits. These benefits need to be weighed against any environmental impacts, this balancing exercise is undertaken in the conclusions section below.

### **Highways and Access Issues**

The proposal seeks to utilise the existing vehicular access that serves the site, this access leads from Harbour Road to the north of the site and runs between neighbouring developments to the main part of the site. At present there is limited parking provision on site, the area to the rear of the public house acting as a service yard.

The scheme looks to provide a parking area at basement/lower ground floor level providing 9 no. car parking spaces and a similar provision of cycle parking spaces in this town centre location such provision is considered to be appropriate.

Seaton Town Council has previously sought some reassurance that the proposal would not result in vehicles having to reverse onto the public highway. Devon County

Council as the Local Highways Authority has confirmed that they are satisfied that on-site turning can be achieved and that they are otherwise satisfied with the proposal from a highways perspective, as such the proposal is considered to be acceptable in this regard and to meet the requirements of policy TC7 and TC9 of the Local Plan.

### **Amenity Impact**

The application site is surrounded on three sides by existing development and which include residential uses and therefore development on the site, particularly on the scale proposed, has the potential to impact adversely on adjoining occupiers.

The existing building on site is ostensibly of two storey form, albeit with additional accommodation within the roof and at basement level. The building sits within a block of buildings of similar height and where there are similarly commercial uses at ground floor level with residential above. Whilst there is an existing tight knit grain to the development in the area there is a degree of 'breathing space' around the building particularly to the east and north sides where the yard area provides separation from adjoining properties to the north and where the upper floors of existing building are set back due to the narrower span of the original building.

The proposed scheme has been amended through a reduction in overall height of 1 metre and in width of 600mm, In addition the covered balconies have been removed thereby reducing the depth of the building. These amendments result in some reduction in overall impact but the proposed building would remain taller, deeper and wider than the existing building. As a result, the building would be of greater massing and in closer proximity to some of the neighbouring properties and has the potential to impact on the amenity of adjoining occupiers. There is also the potential for increased overlooking and overshadowing/loss of light.

Consideration is given below to potential impacts on neighbouring properties as follows:

#### **West of site**

To the immediate west of the site is a building with a café at ground floor level and maisonette above. The proposal would introduce a taller building immediately adjoining this and extending back deeper into the site above ground floor level. The revised scheme has removed the enclosures to the balconies on the projecting gables to the front of the proposed building and as a result the side elevation only extends slightly beyond the front elevation of the first floor of the neighbouring building.

The maisonette has a projecting first floor balcony with openings onto this and 2 no. dormers in the roof slope above. In order to avoid the potential for overlooking of the balcony and views back towards other windows in the front elevation obscure glazed screens are proposed to all of the projecting balconies on the front elevation of the development. In addition the reduction in projection of the side elevation and change to lighter facing materials reduces the impact of the development and the previous concern over the oppressive impact on the use of the adjoining balcony has been addressed.

In relation to the rear of the site, there is a window to the rear of the adjoining flat that would be directly blocked by the proposed development. The applicant advises that they have met with the owner of the property who, they state, is happy with the amended proposals due to the reduced massing and that the window in question already receives little light and is used infrequently. Whilst this may be the case, any decision needs to be taken in relation to future occupiers and not just the current occupants of the flat. The applicant suggests that the change in facing materials on the development would reduce the impact as the proposed lighter finishes would help to reflect light. It is accepted that the change would lessen the impact in relation to this window and that the existing outlook is limited, nonetheless this would be severely restricted by the proposed development. The applicant has suggested that they have offered to install a rooflight in the neighbours building to provide further light to the affected room but this is not something that can be controlled under this application and as such cannot be taken into account. As it stands whilst the proposed changes to the submitted scheme would have the effect of reducing the level of harm to neighbouring amenity it is considered some diminishment would still result.

Further to the west windows in the rear elevation of properties fronting Marine Place view east over the site and rear yard area the increased height and depth of the building over the upper floors has the potential to reduce light to the upper floor windows of some units but the change in colour if the facing materials are likely to reduce impact to an acceptable degree.

### **North of site**

The buildings here front onto Harbour road and are in commercial use at ground floor level. No. 2 to the immediate west of the site access is 2 storey with the Ocean View further to the west being 3/4 storey. The upper floors are in residential use, with windows/rooflight openings viewing toward the site as well as external terrace areas. At present, the upper floors of the building on the application site are set further away from the flats to the north and contain fewer windows whilst there is currently rear access to the upper ground floor level there is no external access above this level other than emergency escape routes. The revised scheme has slightly reduced the height and width of the proposed building but would still introduce a new taller building to the south of these neighbouring properties and within between 4.5m and 11 metres of facing elevations. It is acknowledged that the outlook from these adjoining properties is at present limited but this would be further compromised and the introduction of an external access stairs/walkways to serve the proposed residential unit and windows in the rear elevation of the building have the potential to result in loss of amenity to neighbouring occupiers through increased overlooking/loss of privacy. It is though accepted that windows to the rear serve bathrooms/bedrooms or entrance hallways and that given the orientation and outlook from the rear entrance walkways that these are unlikely to be used as external amenity areas.

The increased height and depth of the building together with its position due south of neighbouring residential properties is likely to reduce levels of natural light to those properties at certain times. However the change in colour of external materials to a lighter palette would have some benefits in reducing any overbearing impact from the scheme.

## East of Site

Marlwyl to the immediate east of the site is a 3 storey building but as a result of lower floor to ceiling heights has a lower overall height than the existing building on the application site. It is in commercial use at ground floor level with 2 no. flats above. At present there is approximately a 4 metre gap between the main part of the existing building and this neighbouring building. The amended proposal would reduce the separation distance to approximately 2.6 metres. The removal of the covered balconies on the amended scheme and lightening of the material palette would reduce the impact on this property. Marlwyl has 2 no. windows on the west elevation at both first and second floor level and the outlook from and light to these would be reduced. The applicant has commented that these windows are either obscure glazed or secondary windows and that as such they consider the impact of the development would be minimal. The windows at the northern end are obscure glazed and the increased separation distance and lightening of the material palette alleviates previous concerns in relation to loss of light. With regards to the secondary windows towards the southern end of the west elevation there is a potential loss of privacy arising from the proximity of windows in the facing elevation of the proposal. At first and second floor level the windows serving the proposed living areas would be in close proximity to the existing windows on the neighbouring property and could give rise to a loss of privacy. If the application was otherwise considered to be acceptable these windows could be conditioned to be obscure glazed and fixed shut.

Further to the east The Burrow is a short terrace running perpendicular to the site, as with other neighbouring properties the ground floors are in commercial use and the upper floors residential with their principal aspect to the east. The rear of these properties face west viewing toward the site. These properties are set further away from the proposed site and their rear outlook is already compromised to varying degrees by Marlwyl as such it is not considered that the amenity of any occupiers is likely to be significantly compromised by the proposed development.

Overall, the proposed amendments to the scheme have had some affect in reducing the potential impact on the amenity of neighbouring residents. This has been achieved through a combination of a reduction in height and massing of the building but primarily through a change to a lighter material palette which is likely to be more reflecting of natural light and less austere in appearance. It remains the case though that the increased scale and massing of the development is considered likely to diminish amenity levels as a whole and that no detailed analysis of impacts on sunlight or sights lines between existing and proposed windows has been undertaken. On the other hand, the applicant has pointed out that the proposal would provide some amenity benefits to neighbouring residents by providing an improved bin storage area for their use and on land owned by the applicant – such provision is indicated on the proposed lower ground floor plan but not detailed, such detail could though be secured by condition. Additionally, it is suggested that the provision of security lighting to this area would improve amenity for existing and future residents alike. Finally, whilst not currently operating as such the site has previously operated as both a public house and nightclub and could do again and where access/egress to the latter has been from the rear of the site. The removal of these uses and public access to the rear of the site

would in itself be likely to represent some amenity improvements through the removal of potentially nuisance impacts.

Overall in relation to amenity impacts and taking into account the changes from the originally submitted scheme, the limited positive amenity impacts that would arise and the potential to control certain of the impacts by condition it is considered that whilst some harm would remain this has been reduced to the extent that refusal on this ground would no longer be warranted.

### **Other Issues**

A decision on the originally submitted scheme was deferred on the basis that it appeared to propose development outside of the site red line area and where the relevant notice had not been served. As part of the revised scheme the applicant has served notice on East Devon District Council as the owner of the Esplanade to the front of the site and over which the upper ground floor terrace would be constructed and the upper floor balconies would overhang. To carry out the development there would need to be separate negotiations in relation to the sale or lease of this strip of land but no objections in principle have been received at this stage to this.

The proposed demolition of the existing building has the potential to result in the loss of or destruction of wildlife habitat and in particular bat roosts. The application is accompanied by a Bat and Protected Species report detailing survey work undertaken of the building. The report concludes that the building is not considered to '*...support a bat roost, and that the proposed works are unlikely to result in disturbance to bats or to significantly affect the distribution or abundance of local bat populations.*' Similarly no evidence of the use of the building by nesting birds were identified. In both respects precautionary recommendations are made in the event any bats or nesting birds were to be encountered. Subject to a condition requiring development to proceed in accordance with the recommendations of the report the requirements of policy EN5 of the Local Plan could be considered to be met.

In terms of biodiversity enhancement, encouraged by Strategy 47 of the Local Plan and para. 175 of the NPPF, measures are set out within the report to achieve this, again these measures could be conditioned.

Strategy 38 of the Local Plan seeks to encourage the use of sustainable design and construction in development schemes whether this be through conversion, or new development. Advice in the National Design Guide includes at para. 144 that, '*The re-use and adaptation of existing buildings reduces the consumption of resources and contributes to local character and context.*' The proposal seeks the wholesale demolition of the existing building and as such would result in the loss of the embodied energy therein. Some consideration as to the refurbishment and re-use of the existing building and a condition survey carried out but it is suggested that such an approach would not be viable or deliver the benefits of the proposed scheme. Invariably the proposal would create building waste and require higher energy consumption in construction of the new building, although the new building would be more energy efficient once completed. The D&A Statement makes reference to the use of solar photovoltaic panels and these are now indicated on the roof plan provided, it is understood that these would be built-in panels. The Council's Urban Designer has

questioned the likely efficiency of these given their orientation and has suggested these might be removed when fully costed against potential savings. In response the applicant has advised that the panel installers have assessed the generating capacity of the panels which indicates the energy that would be created and the CO2 emissions saved. The use of air source heat pumps is also proposed and the orientation of the building facing due south and with large elements of glazing would provide some natural solar gain reducing the need for heating.

The Urban designer has also raised questions in relation to the structural integrity of the proposed design, in response the applicant has provided some further information from their structural engineers which outlines the engineering solution for the building, the drawing have also been amended to address previous discrepancies.

The Historic Environment Service of Devon County Council has identified the site as having archaeological potential. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with 19th century and later military activity in this area. In order to mitigate the potential impact of development upon the archaeological resource a Written Scheme of Investigation (WSI) is recommended, this would set out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. Such a scheme would be required to satisfy the requirements of paragraph 199 of the NPPF and Policy EN6 of the Local Plan. In the event that the proposal was otherwise found to be acceptable this could be secured by means of a pre-commencement condition and the applicant has indicated their acceptance of such a condition.

## **PLANNING BALANCE**

The application seeks the comprehensive redevelopment of the site through the demolition of the existing building and construction of a new 4 storey building (plus basement level). The site lies within the designated conservation area and occupies a prominent position on the sea front. The conservation officer raised concerns in relation to the original scheme both in terms of the loss of the existing building, which represents one of the earliest developments on the Esplanade, as well as the impact of the new building on the conservation area. As a whole the originally submitted scheme was considered to result in substantial harm to the conservation area and therefore a requirement for the proposal to demonstrate substantial public benefits that would outweigh such harm.

The amended scheme now proposed includes some reduction in the height and width of the building as well as a reduction in depth, through the removal of the previously proposed balcony enclosure. The external appearance has also been altered to a lighter palette more in keeping with the finishes used elsewhere in the conservation area. Since the original report to committee the applicant has also provided additional information on the condition of the existing building and works required to enable it to be brought back into use. The conservation officer has not responded to the revised design for the building but in any case these changes would not overcome their in principle objection to the demolition of the existing building. Nevertheless, the amendments are considered to represent an improvement on the original scheme and

whilst some harm would still arise, the degree of harm now resulting is considered to be reduced to the extent that it is now considered to be less than substantial.

On a separate point the Environment Agency has now advised that whilst they have no objection in principle to the development, it should be considered to fall within Flood Zone 3 and therefore should be subject to the sequential test which seeks to steer development to sites of lowest flood risk. This represents a change in stance from the Environment Agency's original comments but nevertheless needs to be taken into account.

In considering the benefits arising from the scheme it is acknowledged that the proposal would bring forward economic benefits both in terms of direct job creation but also indirect benefits to the wider economy. The provision of some additional residential units would also provide some modest social benefits. The applicant has also indicated that any reduction in the number of units, which would be required to facilitate any further reduction in height, would make the scheme unviable, however this element has not been formally tested.

The benefits put forward are not insignificant and weigh in favour of the scheme. Balanced against these benefits is the environmental harm resulting from the loss of the existing building and impact of its replacement; any harm arising to the amenity of neighbouring occupiers and harm arising from increasing the amount of more vulnerable development (residential units) in Flood Zone 3. Whilst the public benefits that would arise from the scheme in relation to harm to the significance of the conservation area are considered to fall in favour of support for the scheme and the degree of harm to residential amenity has, or could be, reduced to an acceptable degree, the harm from flood risk has not been similarly addressed. The site lies in Flood Zone 3 and insufficient evidence has been presented as to why development of this nature could not be sited in an alternative location in the District which is at lower risk of flooding. Although the Environment Agency has no objection in principle to the scheme they do advise that the sequential test needs to be applied and that failure of this test is sufficient justification to refuse an application. The proper application of the sequential test is an important tool in delivering national and local planning policy in terms of management of flood risk and where failure to apply it appropriately on individual developments could serve to undermine its wider value. This being the case, whilst the amended application is otherwise considered to be acceptable, the additional units proposed result in the failure of the sequential test that weighs strongly against it and as such, on balance, the proposal is recommended for refusal on this basis.

## **RECOMMENDATION**

REFUSE for the following reason:

1. The proposed development includes an intensification of the 'more vulnerable' use of a site situated within Flood Zone 3, an area of high flood risk and where local and national planning policy require a sequential test to be undertaken to ensure development is delivered in areas of lowest flood risk. It has not been demonstrated why the area of search for this test should be less than the whole of the East Devon District area. Furthermore, it has not been demonstrated

that there are a lack of alternative sites available for the proposed development that are at less risk of flooding and therefore the development does not pass the Sequential Test and unnecessarily increases the amount of 'more vulnerable' development, in terms of numbers of residential units, at risk of flooding contrary to Policy EN21 of the East Devon Local Plan 2013 - 2031 and Guidance in the National Planning Policy Framework and the National Planning Practice Guidance.

## NOTE FOR APPLICANT

### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

### Plans relating to this application:

087.01 C	Location Plan	07.10.21
087.62 B	Proposed roof plans	01.10.21
087.61 C Residential Parking Arrangement	: Other Plans	25.11.21
087.64 B Materials Schedule	: Construction Details or Drawings	25.11.21
087.58 F Proposed	: CC Sections	25.11.21
087.57 E Proposed	: AA Sections	25.11.21
087.56 I North/West	: Proposed Elevation	25.11.21
087.55 E	: South Proposed Elevation	25.11.21
087.50 : LGF Car Park	Proposed Floor Plans	25.11.21
	Flood Risk Assessment	25.11.21

087.60 C                      Proposed Site Plan                      29.11.21

087.51C                      Proposed Floor Plans (1 & 2) 01.10.21

List of Background Papers

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



		<b>Committee Date: 19<sup>th</sup> January 2021</b>
<b>Tale Vale (Broadhembury)</b>	<b>21/2530/FUL</b>	<b>Target Date: 23.11.2021</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs D &amp; G Thorpe</b>	
<b>Location:</b>	<b>Bottom Barn Broadhembury</b>	
<b>Proposal:</b>	<b>Change of use of land for the siting of 15 self-storage units</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

**This application is before members as the proposals are considered a departure from the Development Plan.**

**The application seeks permission for the siting of 15 storage containers on land at Bottom Barn. The units would be sited within an existing silage clamp and predominantly be leased out to members of the public for storage purposes.**

**Due to the site's remote rural location the application is subject to restrictive rural policies within the Development Plan. In this case there is general support within the East Devon Local Plan for small scale economic development and expansion of existing sites outside Built-Up Area Boundaries through the provisions of Policies E5 and E7. However, the objectives of Policy E5 steer development towards the re-use of existing buildings or, if new buildings are required, these are constructed on previously developed land. As for Policy E7, the storage units would largely be run as an independent venture from Blue Moon Events that currently operate from the site and as such the proposals are not considered an expansion of an existing site.**

**Despite this, the proposal would cause no harm to the setting of adjacent listing building or the rural character of the immediate area. Furthermore, the low scale nature of the storage business would not lead to unacceptable pressure on the local highway network through the generation of additional traffic to and from the site. Finally with appropriately worded conditions controlling external lighting and operating hours, it is considered that the development would not cause undue harm to the amenity enjoyed at adjacent properties.**

**As such, despite being considered a departure from the Development Plan, in light of the limited harm identified and the economic benefits provided by the proposal it is considered that the development is acceptable and recommended for approval subject to conditions.**

## **CONSULTATIONS**

### **Local Consultations**

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

Minutes of planning meeting held on Friday 8th October:

Present: Cllrs Bradshaw, Howgill and Powell

COMMENT: SUPPORTED

#### **Tale Vale - Cllr Philip Skinner**

Dear Team

I am responding to application number 21/2530/FUL which is for the 15 storage container units.

I understand there was a pre application with officers and a suggestion of reducing the numbers from 20 units to 15 of which this was complied with.

The site sits perfectly on a main road and from the scheme at the moment has no highways issues.

There has been proven a demonstrated need for this type of facility and indeed having smaller, well situated sites only means the likelihood will be predominantly local take creating shorter traffic journeys than some bigger sites that journeys become longer.

From a perspective of reducing 'miles being travelled' then we have a choice....we either have very large facilities that people travel to or we have some smaller sites that can quite easily fit in to the rural areas and create a local facility giving people choice or indeed both.

The both gives people choice and also crates a competitive edge which can only be good in a general sense.

It is in my view that the success of such facilities will not be predicated upon the planning permission but more upon location, location, location.

This site sits well within the applicants ownership and is one I will very much be supportive.

It is on this basis I will SUPPORT this application.

I reserve the right to have a change of opinion if indeed evidence relating to this application were to differ from any previous knowledge that I may have had at the time of writing.

### **Technical Consultations**

#### **Devon County Highway Authority**

Self-storage units tend to incur limited trip generation once the initial construction and movement of goods is in place. The number of storage units being 15 is comparably quite low in comparison to other rural storage settings within East Devon.

The site layout includes visibility which meets our current best practice guidance of Manual for Streets as well as sufficient room for off-carriageway parking and turning.

The site is strategically placed, being just off the county road A373 for network distribution of traffic. This junction and the lane to the access both have no recorded collisions within the last 5 years of our record currently (2016-2020 inclusive).

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

#### Environmental Health

If any external lighting is to be installed the following condition is recommended - Before the development commences an assessment shall be carried out of the potential impact of any external lighting and a scheme for ensuring that residents do not suffer loss of amenity due to light pollution shall be submitted to and agreed in writing with the Local Planning Authority. Works shall be carried out in accordance with the approved details.

Reason -To protect the amenity of neighbouring residents and to regulate and control light spillage to protect the character and appearance of the area.

#### Other Representations

One objection comment has been received with concerns over the following;

- Loss of neighbouring amenity.
- Increase in vehicle movements.
- Impact of the shipping containers and any associated signage on the character and appearance of the area.
- Further expansion of the business would be harmful to the character and appearance of the area.
- Lack of need for the development, more appropriate in larger settlements.

### **POLICIES**

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

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

E5 (Small Scale Economic Development in Rural Areas)

E7 (Extensions to Existing Employment Sites)

EN14 (Control of Pollution)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

#### Broadhembury Neighbourhood Plan (Not made)

## **Site Location and Description**

The site comprises part of a complex of farm buildings located to the north west of Crammer Barton, a Grade II listed farmhouse located approximately 200 metres to the west of the A373 within open countryside. The site is around 2 km. to the west of Broadhembury and 1 km. south of Kerswell.

Access to the buildings is currently available from the adjacent Class C road to the south via a field entrance located almost opposite a residential property known as The Pretties and an unmade track that curves to the north east and to the north of a former silage clamp.

Neither the site nor the surrounding area is the subject of any landscape designations or other material constraints.

## **Proposed Development**

The application seeks planning permission for the siting of 15 storage containers to be operated as a commercial storage business. The containers would be sited within what remains of a silage clamp.

## **ANALYSIS**

Issues with the proposal can be summarised as follows;

- Principle of development
- Impact upon the setting on Crammer Barton.
- Impact upon the character and appearance of the area.
- Impact upon the surrounding highway network.
- Impact upon the amenity of adjoining residents.

Each bullet point in turn shall be discussed below.

## **Principle of Development**

The application site is located outside of any settlement with a development boundary and therefore considered to be, in planning terms, in open countryside. 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. Therefore, for planning purposes, the proposal takes place within the open countryside and therefore subject to restrictive rural policies.

Strategy 7 (Development in the Countryside) states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan Policy. In this instance Policy E5 (Small Scale Economic Development in Rural Areas) supports development in rural areas designed to provide jobs to local people where various criteria is met. In particular Policy E5 specifies that,

for such uses, the conversion of existing buildings are explored prior to considering the construction of new buildings. If new buildings are considered then development should be steered towards previously developed land. Or if a Greenfield site, the building and its use shall be related in scale and form in sustainability terms to the village and surrounding areas.

In this case the proposals do not involve the conversion of an existing building. The proposed siting of the containers relates to an area of hardstanding immediately forward of an existing barn that previously formed part of a silage clamp. The planning history available to the LPA indicates that the site was last used for agriculture in 2004 and, despite the most northern barn now being occupied by Blue Moon Events, there does not appear to have been any material change in use for southern barn or area of hardstanding upon which the containers would be sited. As such, without any evidence to the contrary, the position is that this barn and land to which this enquiry relates is still considered agricultural.

Consequently, taking into account the Local Plan's definition of Previously Developed Land (see below), the area where the containers are to be sited would be considered as a greenfield site.

*'Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes: land that is or has been occupied by agricultural or forestry buildings;** land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.'*

The proposal would therefore be assessed against criteria 3 of Policy E5 which require sites to be well related in scale and form and in sustainability terms to the village and surrounding areas. One of the underlying objectives of E5, which is reflected within the preamble of the policy, is to reduce out commuting. In this case, owing to the site's distance away from the nearest settlements of Kerswell, Broadhembury, Plymtree and Payhembury, there appears to be a degree of conflict with point 3 of policy E5 of the Local Plan.

The Local Plan highlights the importance of developing the district's employment base and, where appropriate, extensions to existing sites should be supported to encourage economic development. This approach is reflected within the provisions of Policy E7 (Extensions to Existing Employment Sites).

However, the development is not an expansion of Blue Moon Events who currently operate from the building immediately to the north. Whilst the council is led to understand that some of the containers would be used by Full Moon Events when needed, the storage containers would form a standalone business available to the public to use.

As such the development does not fit neatly within either policy identified within the Local Plan that supports economic growth in rural areas. As such, the application is considered a departure from the development plan. The National Planning Policy Framework states at paragraph 3 that “Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise” Any material considerations will be considered further below.

### **Impact on the Setting of Crammer Barton and Character and Appearance of the Area**

The site sits to the rear of a grade II listed farmhouse known as Crammer Barton and its grade II listed curtilage buildings to the west and East of the house. The proposal site is physically separate from Crammer Barton and accessed separately.

However due to the proximity of the proposed containers to Crammer Barton it is necessary to consider the heritage impact on the setting of the designated heritage assets.

Since initial pre-application discussions took place, the proposed number of shipping containers was reduced from 25 to 15. The 15 containers are located immediately south west of the existing barn. Where there are glimpsed views available of the listed barns to the west along the adjoining highway, these are distant and the shipping containers would be largely screened by the timber sleepers and green verge that encompasses the existing caravan. Views of Crammer Barton and the outbuildings are available directly south of the property’s access, however, the curtilage listed outbuildings and shipping containers would be screened by the existing property.

As such, particularly in light of the reduced number of shipping containers, it is considered that the scheme would cause limited wider visual landscape harm and have no impact upon the setting and therefore significance of the adjoining listed buildings.

Despite this, it is recommended that care should be taken to minimise the amount of signage and external lighting and that the proposed fencing and gates are well considered and are sympathetic to the character and appearance of the area. In this case it has been deemed appropriate to attach a condition requiring further details of lighting in order to assess the potential impact of light spill on the amenity of adjacent properties and the character and appearance of the area.

### **Impact upon adjoining residents**

The enquiry site is located near three residential properties to the east that could be affected by the development. The nearest property, Crammer Barton, is located almost immediately south east and is slightly set below the application site. There is an arrangement of outbuildings that form a courtyard relationship. The garden area runs along the north east of the applicants land. In this case, whilst the occupants of Crammer Barton may be able to see the shipping containers and be aware of an increase in comings and goings from the site it is not thought that the proposals would lead to unacceptable loss of amenity. The screening provided by the existing

outbuildings that line the south eastern corner of the site in addition to container 15 (DRWNG 2414 PL-01) will obscure line of sight into adjacent garden areas. Furthermore the separation distance between the containers and the property is approximately 50 metres.

In this case comments from our Environmental Health team have stated that any external lighting shall need to be carefully considered as not to harm the amenity of nearby properties through light spill.

Additionally, it is considered that the hours of operation should be restricted similar to those that have been applied to the motocross management and consultancy business to the north. This will restrict deliveries and collections between the hours of 08:00 until 17:00 Monday to Friday, 08:00 until 13:00 on Saturdays, and not at all on Sundays or Bank Holidays.

### **Accessibility of Development**

One of the overarching objectives of the Local Plan is to ensure that development is appropriately located and that, where possible, is accessible by sustainable forms of transport. These objectives are most evident within the provisions of Policy TC2 (Accessibility of New Development).

The site is not accessible via public transport and, due to the nature of the business, it is unlikely that users of the storage containers are going to be cycling or walking in order to drop off or collect items. As such, it is anticipated that users are likely to be travelling to the site in private motor vehicles and owing to Bottom Barn's proximity to the M5 (5km) and the A373 it is considered that the business would be accessible to those within the district or further afield who wish to use the storage containers. It is also noted that the applicants and owners of the business live at Navaah Barn across the road therefore reducing the extent of out commuting required for part of the anticipated work force.

Additionally the number of day to day trips is anticipated to be low. The business on offer is anticipated to be a 'drop off and leave' type of set up where users in need of additional storage leave items for long term rather than making regular visits.

### **Impact on Highway Network and Parking Provision**

The County Highway Authority have been consulted. Within their comments it is acknowledged that the scale of development is relatively low. The site is described as having good visibility and sufficient room for off carriageway parking and turning.

### **CONCLUSION**

Concerns have been raised by third parties, if permission were to be granted, over further expansion of commercial activity at the site. However, in terms of the storage container business, the low scale nature of the operation in addition to the screening provided by the existing silage clamp is considered to important factors in leading officers to believe the scheme is acceptable. Further development outside of the silage

clamp could lead to adverse landscape harm to the area and the agricultural character of the site.

Overall, in light of the limited harm identified and economic benefits, it is felt that the support offered by the NPPF at paragraphs 81 and 85 tips the planning balance in favour of the scheme. Furthermore, in light of support offered by the Parish Council and a Local Ward Member, the application is recommended for approval subject to the conditions listed below.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Prior to the installation of any external lighting, details shall be submitted to and agreed in writing with the Local Planning Authority. Works shall be carried out in accordance with the approved details.  
(Reason -To protect the amenity of neighbouring residents and to regulate and control light spillage to protect the character and appearance of the area in accordance with policy D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the East Devon Local Plan).
4. Storage containers shall not be stacked and shall be stored at ground level only, with no container or any stored items exceeding a height of 4 metres above ground level.  
(Reason - To limit the height of the stored items to protect the character and appearance of the area and to comply with the provisions of Policy D1 - Design and Local Distinctiveness - of the adopted East Devon Local Plan 2013-2031.)
5. No deliveries shall be accepted or despatched to or from the site except between the hours of 08:00 until 17:00 Monday to Friday, 08:00 until 13:00 on Saturdays, and not at all on Sundays or Bank Holidays.  
(Reason: In the interests of preserving the amenity of nearby residents in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031).

### NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email [cil@eastdevon.gov.uk](mailto:cil@eastdevon.gov.uk).

Plans relating to this application:

2414 (PL-) 01 A	Proposed Site Plan	23.09.21
2414 (S-) 01	Location Plan	23.09.21

List of Background Papers

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

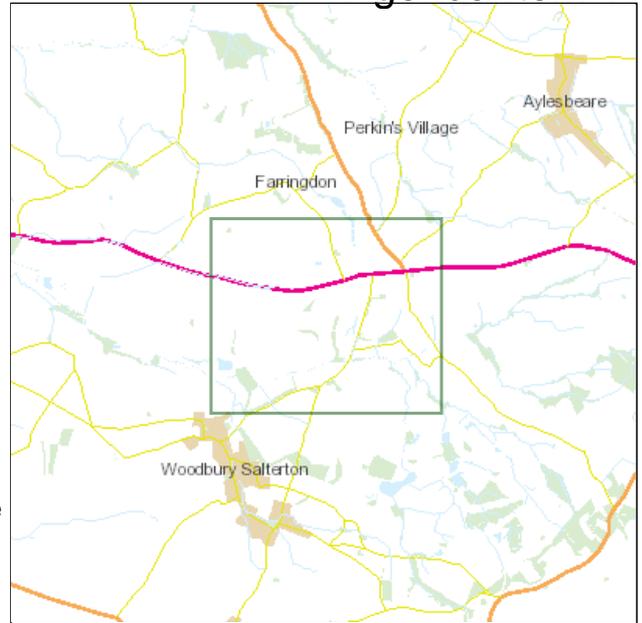
**Ward** Woodbury And Lymptone

**Reference** 21/2123/COU

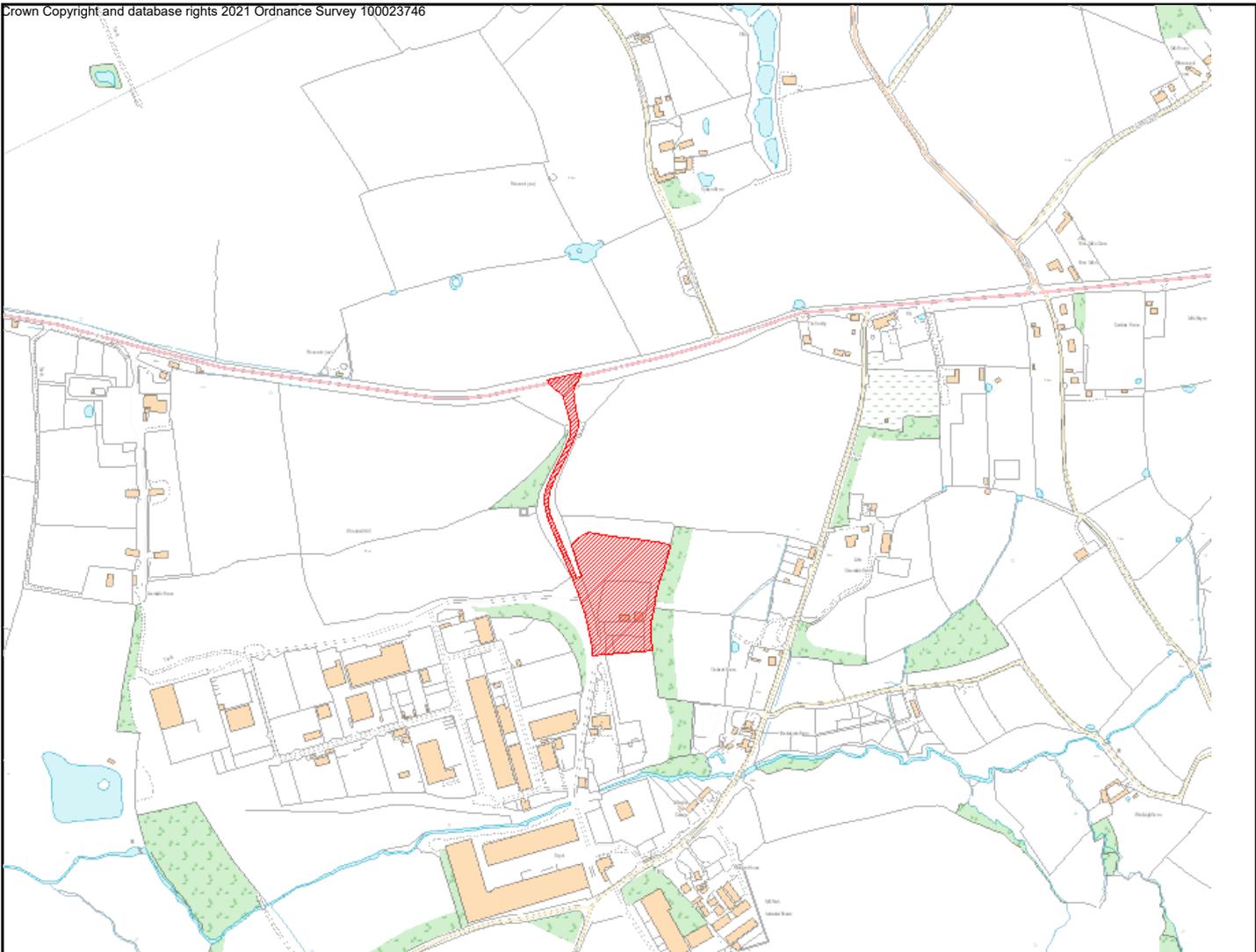
**Applicant** FWS Carter & Sons Ltd

**Location** NHS Vaccination Centre Greendale Business Park Woodbury Salterton EX5 1EW

**Proposal** Continued use of Greendale Vaccination Centre by the NHS until 31st December 2022



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Woodbury And Lympstone (Woodbury)</b>	<b>21/2123/COU</b>	<b>Target Date: 01.10.2021</b>
<b>Applicant:</b>	<b>FWS Carter &amp; Sons Ltd</b>	
<b>Location:</b>	<b>NHS Vaccination Centre Greendale Business Park</b>	
<b>Proposal:</b>	<b>Continued use of Greendale Vaccination Centre by the NHS until 31st December 2022</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the proposal represents a departure from adopted development plan policy. The parish council and both ward members support the proposal on the basis that the use and building is only allowed for a short period of time for the NHS during the fight against Covid 19.**

**The site lies in the open countryside outside of the established developable area of Greendale Business Park as defined by Strategy 7 of the EDDC Local Plan and the Villages Plan DPD on a site where retrospective planning permission for employment use has previously been refused and enforcement action has successfully been taken to return the land to its former condition. The application has been advertised as a departure.**

**Clearly, the use of the land and building would not normally be permitted on this site, however, the government introduced emergency legislation in 2020 to enable the NHS to commission buildings to be built to aid in fighting the global pandemic meaning that the building that has been built and its use as a vaccination centre did not require planning permission. However, this permitted development right was due to run out on 31st December 2021. Permission is now sought to retain the use of the site and building for a further year until 31<sup>st</sup> December 2022. Although immediately prior to the publication of this report, and from the 11<sup>th</sup> January 2022, the Government have extended the Permitted Development Right until the 31<sup>st</sup> December 2022. As such this proposal no longer requires planning permission. IT is however before members as the applicant did not want to withdraw the application.**

**Given that the proposal will be Permitted Development from the 11<sup>th</sup> January 2022, and given the need for the facility to deal with the emergency global pandemic treatment required to the wider public, it is in the public interest for the use to**

**continue on site until 31<sup>st</sup> December 2022 and planning permission can be granted even though it is not now required. After the 31<sup>st</sup> December 2022, the applicant will have a year to remove the buildings or require a new permission would be required to continue the use and retain the building.**

**Issues of the character and appearance of the countryside, residential amenity and highway safety are discussed in the report, but have been found to be acceptable.**

**As such, and although no longer required, the application is recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

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

Woodbury Parish Council supports this application.

#### **Woodbury And Lympstone - Cllr Ben Ingham**

I recommend approval

Further comments:

I support the recommendation

#### **Woodbury And Lympstone - Cllr Geoff Jung**

I have viewed the further documents for 21/2123/COU for continued use of building as a vaccination centre until 31.12 2022' at NHS Vaccination Centre Greendale Business Park Woodbury Salterton.

As this building has been built without planning consent under the government emergency measures, which unfortunately comes to an end at the end of this year, the NHS therefore needs to apply for planning permission to enable the facility to continue as a vaccination centre. I would support a temporary planning permission to cover the required period up to the end of 2022.

However, I reserve my final views on the application until I am in full possession of all the relevant arguments for and against.

Further comments:

Thank you for the report and recommendation which I support.

### **Technical Consultations**

#### **Devon County Highway Authority**

The use of this site has not generated a raise of traffic concerns to the County Highway Authority (CHA), The access and site layout is existing and established including adequate parking and vehicle turning, the one-way system partially in place also helps to stagger traffic flows.

Recommendation:

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

Other Representations

There have been no third party representations received as a result of this application.

**POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

E7 (Extensions to Existing Employment Sites)

EN14 (Control of Pollution)

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

D2 (Landscape Requirements)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

**Relevant Planning History**

The Greendale Business Park has an extensive planning history. However, the most relevant applications to the proposal to which this report relates are:

15/2592/MOUT - Hybrid application for detailed planning permission for extension to compound 33A and attenuation pond and warehouse, office building and hardstanding to compound 39 and outline planning permission for B1/B2/B8 units (access to be determined). Refused 07/07/2016.

16/2597/FUL Land At Greendale Business Park Woodbury Salterton EX5 1EW - Change of use of the site to a storage yard, including the erection of warehouse, office building, fencing and associated works (retrospective application). Refused - 22/03/2017. This application was later dismissed at appeal, and the Inspectors decision was then upheld by the High Court.

**Site Location and Description**

This application relates to the current vaccination centre located to the east of the main entrance off the A3052 into the Greendale Business Park. The site is located in the countryside, outside of a built-up area boundary and the boundary of the business park, both designated in the East Devon Local Plan. The land rises to the north of the building, and drops to the south and east. There are trees and/or hedging to the north, east and west of the building. The building is a large structure with the appearance of an industrial unit. There is a surfaced area to the east, south and west of the building which is used for car parking.

Since the submission of this application, and following the accelerated Covid19 booster roll-out, a new access road and car park have been provided to the north of the site to alleviate high traffic volumes and queuing on the A3052 on approach to the centre. This new road and car part are permitted until the end of 2021 with a planning application being prepared for the NHS for their retention.

### **Proposed Development**

Planning permission is sought for the continued use of the vaccination centre until 31st December 2022.

### **Consideration and Assessment**

The main considerations in the determination of this application relate to:

- The principle of the proposed development
- The impact of the use and building on its surroundings;
- The impact on residential amenity; and
- The impact on highway safety.

### **Principle**

The site lies in the open countryside where all development should be strictly controlled so that it does not detrimentally impact on its surroundings or the character and appearance of the area in accordance with Strategy 7 of the East Devon Local Plan, however that does not represent a 'bar' on all development as proposals that are in accordance with other policies contained in the plan for the use of the site can be acceptable. In this instance there are no other policies that would enable use of the land outside the defined boundary of Greendale Business Park as outlined in the Villages Plan DPD and as such the proposal to continue the use as a vaccination centre would be contrary to adopted development plan policy. Accordingly, the proposal has been advertised as a departure.

It is important to consider whether, in light of the proposal being contrary to policy, there are any material considerations that might outweigh the harm of the proposal being outside the developable area of Greendale Business Park.

Firstly the NPPF - whilst there are many paragraphs which support health and wellbeing and facilities for healthcare, these paragraphs encourage this development to take place in sustainable locations close to the public that they serve, the proposal being in the open countryside could not be said to be in a sustainable location.

Furthermore, the planning history for the site indicates that development on this site is likely to have a detrimental impact on the character and appearance of the area, in appeal reference APP/U1105/C/16/3165341 an inspector commented on the following in respect of development on this site, having already concluded that the principle of the development was contrary to policy.

*'The development has altered the land form and character of the countryside through the excavation and construction of the compounds, the creation of extensive areas of concrete hard standing, the introduction of steel fencing and security lighting, the erection of the warehouse on compound 39, the siting of portacabins offices, the open storage of mobile homes and other materials, etc. The effect of the development is significantly to change the character of the site from rolling open countryside to urbanised development having little relationship with its countryside setting. It is intrusive and, because of the change in levels, parts of the site are also prominent, particularly in respect of the warehouse on compound 39.*

*The appellants' Landscape and Visual Impact Assessment submitted with the earlier applications concludes that the impact on landscape character after mitigation would be slight-moderate adverse and there would be neutral impact on visual amenity due to the limited opportunity to view the site from publicly accessible locations. However, this does not affect my own conclusion in respect of the impact of the development on countryside character and appearance which I consider to be significant and harmful.*

*I note that the Council considered the landscape harm to be at an acceptable level when the 2009 permission was granted but this related to the lower compound 11 site which is considerably smaller in area than the appeal site.*

*I conclude on this issue that the development is harmful to the character and appearance of the wider countryside'.*

However, the development to which this application relates was constructed under permitted development rights established in light of the Covid-19 pandemic; Part 12A of The Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020 refers. This legislation granted permission for emergency development by a local authority or health service body – and it is under this legislation that the new access and car park were recently constructed.

However, that legislation states that the use of buildings constructed under the legislation must cease on 31st December 2020, with buildings removed within 12 months of the use ending. As the pandemic is, sadly, still continuing, the government extended these permitted development rights in July 2021, with the extension meaning that the use of buildings constructed under the legislation must cease on 31st December 2021, with buildings removed within 12 months of the use ending. However, with the pandemic still ongoing, permission is sought to continue the use of the building, which the NHS is currently using as a vaccination centre, until 31st December 2022. Clearly, given the situation regarding the pandemic, this is considered to be a strong, reasonable and logical justification for the proposal.

However, just as this report was being published, the Government released an update to the General Permitted Development Order that extends the Permitted Development Right for the proposal until the 31<sup>st</sup> January this year (2022). In light of this, this planning application is no longer required and the site benefits from the necessary permission until the end of the year.

The application is still on the Agenda as the applicant has not withdrawn the application in light of the update legislation.

Accordingly the proposal is considered acceptable for a short timeframe for use by the NHS as a vaccination centre and then the land should be returned to its former condition in accordance with the previous appeal decision on this site.

### **Impact on surroundings**

As the aforementioned permitted development rights mean that the building can remain in situ until the end of 2022, the impact of the building itself would be time limited, and extended by a year should this application be approved, as previously mentioned, this would be a short time frame and can be conditioned to be removed within a year of the use of the site ceasing.

Concerns have been expressed regarding the long term use of the site and that the building should not be permitted to remain particularly in light of the aforementioned appeal decision. Those matters would need to be considered at a later date, should an application be submitted to retain the structure for a period longer than that allowed by this permission or should the buildings not be removed when permission expires.

Therefore, whilst this permission would give rise to a building that would have an impact on its surroundings together with the earthworks that have been carried out to create a level surface and car park, these are considered to be short term impacts and can be set aside whilst the global pandemic is being dealt with.

### **Impact on residential amenity**

The location of the building, in the open countryside, is not sufficiently close to any residential for its continued use as a vaccination centre to result in a loss of amenity to the occupiers of any residential property and the activities that take place would not give rise to any undue noise emittance such that the use of the temporary building for the purposes of fighting the pandemic are acceptable in relation to Policy D1 of the EDDC Local Plan.

There is a tandem application under consideration 21/3049/FUL for the lighting scheme in an around the building and car park to be agreed.

### **Impact on highway safety**

The site is already operational as a vaccination centre given its use before 1st January 2022 was permitted development, access has been formed into the site from the main estate spine road serving a car park that operates on a one way system operated by vaccination centre employees/volunteers. The County Highway Authority has

confirmed that the continued use of the building as a vaccination centre will not result in any highway safety concerns.

During recent weeks and thanks to the accelerated roll out of the booster programme there has been significant congestion on the A3052 with people trying access the centre on a walk in basis rather than through booking an appointment, as a result, under permitted development the landowner on behalf of the NHS has implemented a new access road to the north of the site. A planning application for the short-term retention of this is in the process of being prepared and submitted for the NHS.

The proposal is therefore considered acceptable in relation to Policy TC7 of the EDDC Local Plan.

## **CONCLUSION**

This proposal represents a departure from adopted development plan policy, the proposal is now permitted development due to a change to the permitted development legislation published just before the publication of this report.

In light of the proposal now being permitted development, and given the short term permission sought and the emergency global pandemic treatment required to the wider public, the proposal must be supported.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The building shall be used as a vaccination/NHS centre only in relation to the Covid19 pandemic and the use of the building hereby approved shall cease on 31st December 2022 unless amended by a further grant of planning permission. The temporary building and all the resulting materials shall be removed from the land and the land restored to its former condition by 31st December 2023 unless varied by a further grant of planning permission.  
Reason: The use of the building and its siting are acceptable in exceptional circumstances to aid in dealing with the global pandemic to fight Covid 19, the use of the site and building are contrary to Strategy 7 (Development in the Countryside) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan being outside the defined developable area of Greendale Business Park as defined by the Villages Plan DPD and the building would have a detrimental impact on the character and appearance of the surroundings.

## NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email [cil@eastdevon.gov.uk](mailto:cil@eastdevon.gov.uk).

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:

8274-04	Proposed Combined Plans	06.08.21
8274-05	Proposed Elevation	06.08.21
8274-06 E	Proposed Site Plan	06.08.21
8274-LP	Location Plan	06.08.21

List of Background Papers

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