

Agenda for Planning Committee Tuesday, 26th September, 2023, 10.00 am

Members of Planning Committee

Councillors B Bailey, I Barlow, C Brown, A Bruce,
S Chamberlain (Vice-Chair), S Gazzard,
A Hall, J Heath, M Howe, Y Levine,
H Riddell, E Rylance, S Smith, D Wilson and
E Wragg (Chair)

Venue: Council Chamber, Blackdown House, Honiton

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

(or group number 01395 517546)
Issued: Friday, 15 September 2023



East Devon District Council
Blackdown House
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Honiton
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This meeting is being recorded for subsequent publication on the Council's website and will be streamed live to the [East Devon District Council Youtube Channel](#)

[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 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) on the Friday before the meeting. 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 Tuesday *** up until 12 noon on Friday *** by leaving a message on 01395 517525 or emailing planningpublicspeaking@eastdevon.gov.uk.

Speaking on non-planning application items

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

1 Speakers' list and revised running order for the applications

Speakers' list removed.

2 Minutes of the previous meeting (Pages 5 - 10)

Minutes of the Planning Committee meeting held on 22 August 2023.

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)

There is one item to be dealt with after the public (including press) have been excluded.

Local Government (Access to Information) Act 1985 – Exclusion of Press and Public

“that under Section 100(A) (4) of the Local Government Act 1972 and in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discuss this item in private session (Part B)”

Applications for Determination

7 23/0331/MOUT (Major) HONITON ST PAULS (Pages 11 - 69)

Land at Middle Northcote Farm, Honiton, EX14 4PR.

8 20/1663/VAR (Other) CRANBROOK (Pages 70 - 88)

South Whimble Farm, Clyst Honiton, EX5 2DY.

- 9 **23/0867/FUL (Minor) CLYST VALLEY** (Pages 89 - 99)
Enfield, Oil Mill Lane, Clyst St Mary, EX5 1AF.
- 10 **22/1104/VAR & 22/1106/VAR (Other) CLYST VALLEY** (Pages 100 - 135)
Enfield Farm Biodigester, Oil Mill Lane, Clyst St Mary, EX5 1AF.

AFTERNOON SESSION - the applications below will not be considered before 2pm

- 11 **22/2633/FUL (Minor) NEWBRIDGES** (Pages 136 - 151)
Ashdale Farm, Dalwood, EX13 7HS.
- 12 **23/0847/FUL (Minor) WOODBURY & LYMPSTONE** (Pages 152 - 177)
Meadowgate, Church Road, Lymptone, EX8 5JU.
- 13 **23/1113/FUL (Minor) WEST HILL & AYLESBEARE** (Pages 178 - 194)
Elsdon House, land at Orchard Cottage, Elsdon Lane, West Hill.
- 14 **23/0615/VAR (Other) SIDMOUTH RURAL** (Pages 195 - 206)
Salcombe Regis Camping & Caravan Park, Salcombe Regis, EX10 0JH.
- 15 **23/1131/VAR (Other) WOODBURY & LYMPSTONE** (Pages 207 - 215)
The Glade, Stony Lane, Woodbury Salterton, EX5 1PP.
- 16 **23/1478/FUL (Minor) BROADCLYST** (Pages 216 - 224)
Land to the north of Stuart Way, Clyst St Mary.

PART B

17 Verbal update regarding Planning Appeal to Members

Under the Openness of Local Government Bodies Regulations 2014, members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chair has the power to control public recording and/or reporting so it does not disrupt the meeting.

[Decision making and equalities](#)

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

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 22 August 2023

Attendance list at end of document

The meeting started at 9.35 am and ended at 4.08 pm. The meeting was adjourned at 1.03 pm and reconvened at 2 pm.

In the absence of the Vice Chair, Councillor Sarah Chamberlain, the Committee agreed to Councillor Anne Hall being the Vice Chair for this meeting.

42 Minutes of the previous meeting

The minutes of the Planning Committee held on 18 July and 28 July 2023 were confirmed as true records.

43 Declarations of interest

Minute 47. 23/0538/FUL (Minor) EXMOUTH LITTLEHAM.

Councillor Anne Hall advised that although she had made a comment on this application as a Ward Member her views were not predetermined and that she remained open minded and would listen to all the relevant arguments for and against the application before voting.

Minute 48. 23/0078/FUL (Minor) EXMOUTH LITTLEHAM.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution the Chair on behalf of Councillors Brian Bailey, Ian Barlow, Colin Brown, Anne Hall, John Heath, Yuhudi Levine, Henry Riddell and Simon Smith advised lobbying in respect of this application.

Minute 52. 22/0975/MFUL (Major) BROADCLYST.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution the Chair on behalf of Councillors Brian Bailey, Ian Barlow, Colin Brown, Anne Hall, John Heath, Yuhudi Levine, Henry Riddell and Simon Smith advised lobbying in respect of this application.

44 Planning appeal statistics

The Committee noted the planning appeals report setting out the appeals lodged, decided and in progress.

The Development Manager updated Members on an appeal lodged for application 23/0401/OUT – Exton Lodge, Mill Lane, Exton advising that it would be dealt with by written representations.

The Development Manager advised that there had only been one appeal decided which related to application 22/0481/FUL – Marwood House, Offwell. The Inspector had dismissed the appeal on grounds relating to the location within the countryside and landscape impact.

Finally, the Development Manager updated Members on a further public inquiry scheduled for November 2023 for application 22/2120/MFUL – Jewson Ltd., Fore Street, Exmouth.

45 **23/1124/MFUL (Major) YARTY**

Applicant:

c/o Agent.

Location:

Pound Road BESS, land north east of Axminster National Grid Substation, Pound Road, Hawkchurch.

Proposal:

Installation of a battery energy storage system with associated infrastructure and works.

RESOLVED:

Refused contrary to officer's recommendation.

Members considered that:

1. The proposal was not considered to be a renewable or low carbon energy project as there is no evidence that it would be used to store energy from low carbon sources and therefore represents inappropriate development in the countryside. Furthermore it would have a harmful impact on the landscape character and quality of the area when considered in combination with other installations in the locality and would therefore be contrary to Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013 - 2031.
2. It would lead to a loss of best and most versatile agricultural land and if so whether there is an overriding need for the development, sufficient land of a lower grade is available that could accommodate the development or the benefits of the development justify the loss of the high grade agricultural land. As a result the development is considered to be contrary to policy EN13 (Development on High Quality Agricultural Land) of the East Devon Local Plan 2013 - 2031.
3. There was insufficient information on the health and safety measures that would be put in place to control battery leakages and fire that could arise in the event of a failure at the site and as a result it is considered that the development could lead to a significant health and safety risk to residents that would be contrary to policy EN14 (Control of Pollution) of the East Devon Local Plan 2013 -2031.

46 **23/0624/FUL (Minor) NEWTON POPPLEFORD & HARPFORD**

Applicant:

Mr D Welch.

Location:

Luscombes, Back Lane, Newton Poppleford, EX10 0EZ.

Proposal:

Replacement of five outbuildings associated to one dwelling, with three new outbuildings for workshop/store and stables.

RESOLVED:

Approved with conditions as per officer's recommendation subject to an additional condition for the porous hardstanding to be agreed by the Local Planning Authority and a requirement for the tree planting to include heavy standards.

47 **23/0538/FUL (Minor) EXMOUTH LITTLEHAM**

Applicant:

Mr David Crocker.

Location:

Chestnuts, 65 Salterton Road, Exmouth, EX8 2EJ.

Proposal:

Construction of ground floor and first floor extensions to create an additional ten HMO bedrooms, creation of new vehicular access onto Salterton Road and provision of parking to the front of the site.

RESOLVED:

Approved with conditions as per officer's recommendation with an amendment to Condition 4 requiring the new hardstanding to be porous.

48 **23/0078/FUL (Minor) EXMOUTH LITTLEHAM**

Applicant:

Iain McNeill.

Location:

2 Turner Avenue, Exmouth, EX8 2LF.

Proposal:

Construction of new attached dwelling in garden of existing house.

RESOLVED:

Approved with conditions as per officer's recommendation with additional condition regarding hours of construction.

49 **23/0092/FUL (Minor) OTTERY ST MARY**

Applicant:

Mrs Kerry Kennell.

Location:

Changing Rooms, Strawberry Lane, Salston, Ottery St Mary, EX11 1RG.

Proposal:

Construction of a multi-use games area (MUGA) with pavilion extension, additional parking and landscaping.

RESOLVED:

Approved with conditions as per officer's recommendation.

50 **23/1115/FUL (Minor) HONITON ST MICHAELS**

Applicant:

Antony Paul.

Location:

24 Cherry Close, Honiton, EX14 2XT.

Proposal:

Construction of a new dwelling.

RESOLVED:

Refused as per officer's recommendation.

51 **23/1102/LDO Revised boundary for the adopted Local Development Order for District Heating Networks**

The report presented by the Project Manager Simplified Planning outlined the need to revise the boundary for the Local Development Order (LDO) for District Heating Networks in East Devon's West End.

The Project Manager Simplified Planning outlined the purpose of the LDO which would give permitted development rights to developers to extend underground pipes and cables and some minor above ground works without the need to apply for planning permission. Members noted that if the LDO was endorsed it would not affect landowners rights or give rights to developers to undertake such work without the landowners consent.

The boundary proposed would extend down south of the A30 to the Hill Barton Industrial Estate where pipes would be installed from the existing energy centre to Hill Barton to support the roll out of decentralised heating systems in East Devon.

Members noted the following imposed conditions:

- No above ground development over 1m in height or 2.5 sq.m.
- No above ground pipe over 2m in length.
- No development on listed buildings, locally listed structures or scheduled ancient monuments.
- No above ground development within flood zones 2 & 3.
- Development in or within 5m of landfill areas will require a remediation strategy to be implemented.

RESOLVED:

The revised boundary for the District Heating Local Development Order be adopted.

52 **22/0975/MFUL (Major) BROADCLYST**

Applicant:

Eagle One MMIII Limited.

Location:

Land adjacent Old Tithebarn Lane, Clyst Honiton.

Proposal:

Construction of four commercial, business and service units (Class E) and nine dwellings with associated access, parking and infrastructure.

RESOLVED:

1. The Appropriate Assessment as set out in Appendix A be adopted.
2. Refused as per officer's recommendation with the reason for refusal regarding drainage omitted.

53 **23/0976/VAR (Major) BROADCLYST**

Applicant:

Eagle One MMLl Limited.

Location:

Land to the east of Anning Road/Tithebarn Way, Redhayes, Exeter.

Proposal:

Variation of Condition 22 (requiring the development to connect to the Decentralised Energy Network) of planning permission 21/3148/MOUT (up to 6,000 sq.m of office development) to allow flexibility for alternative heating options to be considered.

RESOLVED:

Refused as per officer's recommendation.

54 **23/1079/OUT (Minor) WOODBURY & LYMPSTONE**

Applicant:

The Trustees (Strawberry Hill Holdings).

Location:

Land north east of Grange Close, Lymington, EX8 5LD.

Proposal:

Outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale and landscaping reserved for future consideration).

RESOLVED:

Approved with conditions as per officer's recommendation subject to amended condition 5 that a detailed scheme for surface water drainage be submitted and approved by the Local Authority in consultation with the Lead Local Flood Risk Authority.

55 **23/0446/FUL (Minor) WOODBURY & LYMPSTONE**

Applicant:

Mr Pete Clutton-Brock.

Location:

Coombe Park Farm, Woodbury Salterton, EX5 1PZ.

Proposal:

Proposed erection of a glamping pod.

RESOLVED:

Approved with conditions as per officer's recommendation.

Attendance List

Councillors present (for some or all the meeting)

B Bailey
I Barlow
C Brown
A Bruce
S Gazzard
A Hall
J Heath
Y Levine
H Riddell
S Smith
D Wilson
E Wragg (Chair)

Councillors also present (for some or all the meeting)

C Burhop
P Faithfull
N Hookway
B Ingham
D Mackinder

Officers in attendance:

Wendy Ormsby, Development Manager
Anita Williams, Principal Solicitor (Deputy Monitoring Officer)
Wendy Harris, Democratic Services Officer
Frances Wadsley, Project Manager, Planning, Growth, Development & Prosperity
Ed Freeman, Assistant Director Planning Strategy and Development Management
Liam Fisher, Senior Planning Officer

Councillor apologies:

S Chamberlain
M Howe
E Rylance

Chairman

Date:

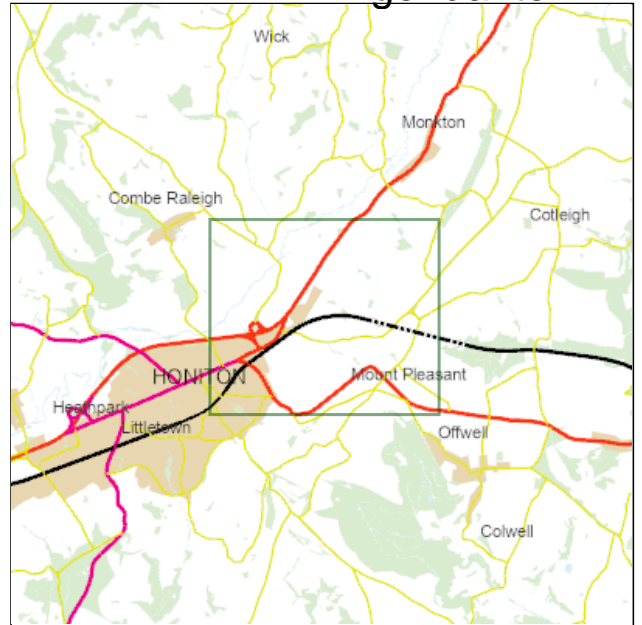
Ward Honiton St Pauls

Reference 23/0331/MOUT

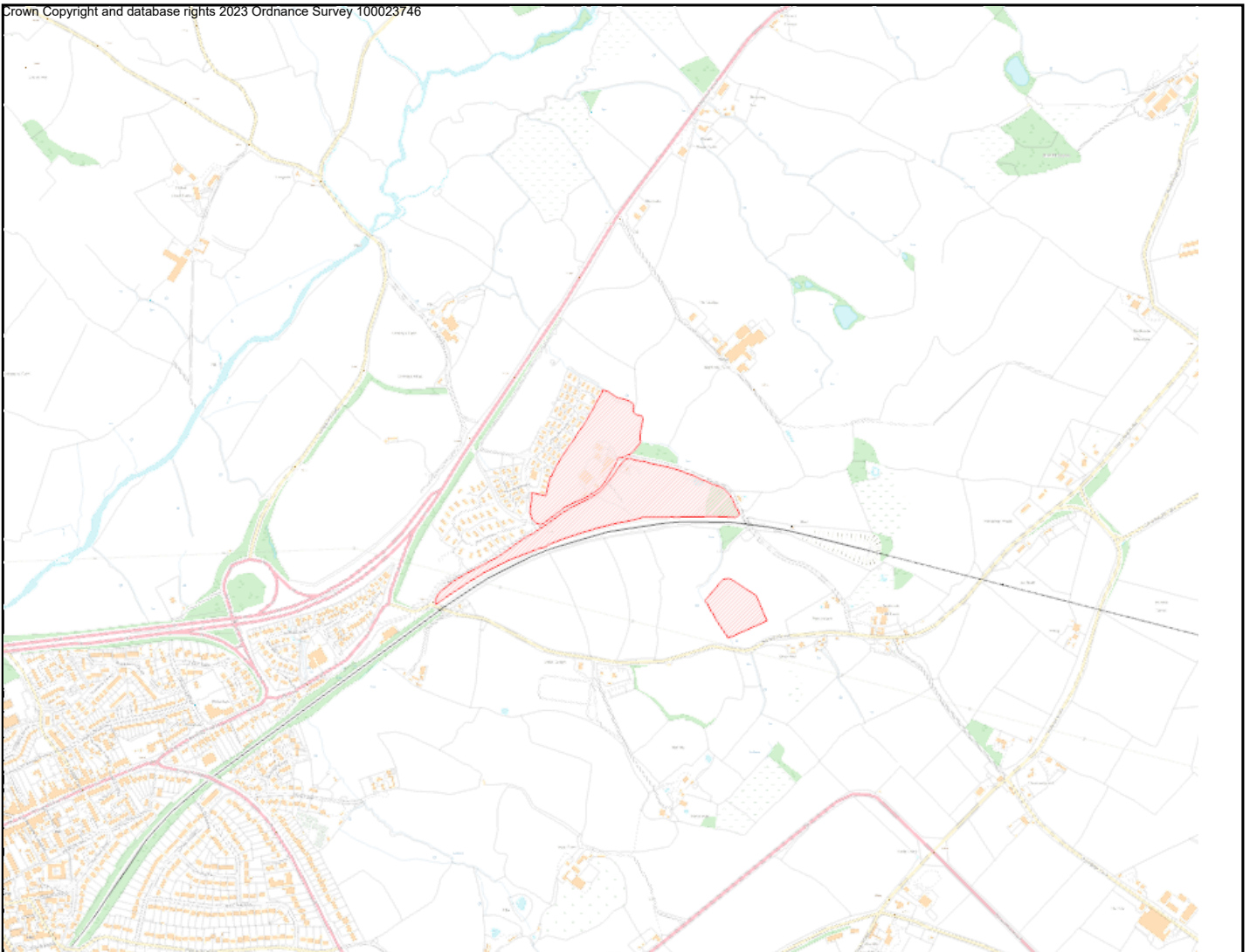
Applicant C/O Agent

Location Land At Middle Northcote Farm Honiton EX14 4PR

Proposal Outline application (with all matters reserved except for access) for the demolition of existing buildings and erection of up to 115 dwellings, public open space, sustainable drainage systems, landscaping, vehicular access via Tunnel Lane and associated highways improvements and infrastructure.



RECOMMENDATION: Resolution to approve subject to conditions and completion of a S106.



		Committee Date: 26.09.2023
Honiton St Pauls (Honiton)	23/0331/MOUT	Target Date: 18.05.2023
Applicant:	C/O Agent	
Location:	Land At Middle Northcote Farm Honiton	
Proposal:	Outline application (with all matters reserved except for access) for the demolition of existing buildings and erection of up to 115 dwellings, public open space, sustainable drainage systems, landscaping, vehicular access via Tunnel Lane and associated highways improvements and infrastructure.	

RECOMMENDATION: Resolution to approve subject to conditions and completion of a S106.

EXECUTIVE SUMMARY

The proposal seeks outline planning consent for the erection of up to 115 dwellings with public open space, SuDs systems, landscaping and associated infrastructure. Access is to be considered at this stage and plans have been submitted which shows how the main access route to the site would be altered to accommodate the development.

The proposal takes place outside of the built up area for Honiton and is therefore situated in the countryside. However, due to the current lack of a 5 year housing land supply within the district government guidance in the form of the National Planning Policy Framework make clear that restrictive policies of the development plan which would have restricted such development should be considered out of date. As a result the presumption in favour of sustainable development applies and a “tilted balance” assessment is required to assess whether any adverse impacts of granting consent would significantly and demonstrably outweigh the benefits.

The site is within walkable distance of Honiton Town centre with good linkages to regional highway networks beyond. The site would expand the settlement of Honiton in a westerly direction but from visual receptors the impact on the character an appearance of the countryside would be limited and could be overcome with sensitive landscaping. The alterations to the highway would not result in safety issues and the proposal would provide the requisite quantum of affordable housing (25%). The potential for flood risk can be avoided and

discussions with DCC Lead Flood with regards to drainage indicate that this can be made acceptable.

Boosting the supply of housing is one of the main thrust of government policy and the proposal would bring this forward in a sustainable manner. As such the recommendation is for an approval subject to the completion of a s106 agreement.

As this recommendation conflicts with the view of the Ward Member this proposal is referred to Members of the Development Management Committee.

CONSULTATIONS

Local Consultations

Parish/Town Council

Members considered the amended plans and RESOLVED to maintain their SUPPORT subject to the agreement of the Senior Historic Environment Officer (Policy) and National Highways and County Highway Authority.

For 5; Against 1, Abstentions 0.

Honiton St Pauls - Cllr Tony McCullom

I am writing on behalf the residents of Otter Valley Park reference the proposed site for development of 115 residential properties on land next to the park.

I have received direct to me 24 responses by letter and 4 by email all of which have strongly objected to this development, plus I am sure more respondents objecting on the consultation website.

I have listed below their reasons for objecting in no particular order.

1. Otter Valley park is a retirement community with residents ageing from 55 to 100 some who are not in the best of health.
2. They enjoy currently a peaceful and feel safe and secure as everyone knows each other on a site with no fences where residents have respect and look out for each other.
3. The residents purchased their property's in good faith because they were sold to them as being a quiet location, not being overlooked and because it give them a quality peaceful life in their later years in a countryside environment with no children and minimum daily disruption.
4. Loss of surrounding green spaces and wildlife habitat on the edge of the AONB.
5. Increase of light, noise and vehicle pollution.
6. Loss of privacy with some properties been overlook if this plan goes ahead.

7. Concerns with the effect of increase traffic along the current road to the park which many residents enjoy walking with their dogs or just to get some daily exercise taking into account their age and possible limits to their walking distance capability.

8. Months/ years of disruption during construction.

9. Large increase of daily vehicles usage to new estate.

10. Total transformation of the retirement park residents lifestyle.

11. Increase of traffic to and from the new estate will make it more difficult enter or exit Monkton road junction onto the A35.

12. Concerns with the increase in housing for Honiton with problems already with infrastructure like doctors, dentists, parking and schools.

13 Trespassing / security with children and other people walking around the park who are not residents.

14. Residents adjacent to the field with wall would have complete invasion of privacy and to make matters worse, with the road being one way in and one way out, the traffic would increase creating distress to those residents. You would have houses overlooking their bedrooms at the back. There would be houses to the back and side to No1 The Orchard how is this allowed. Anyone who lived there would be boxed in. The stress that would befall this occupier is beyond words.

15. These properties will be devalued and no longer fit for retirement purposes that they were meant for. This will make them harder to sell.

Some have in last 6 weeks brought their home because of the views and location and feel that this should have been told to them because she is now extremely upset.

As District Councillor for St Paul's Ward, I fully support the views and concerns of these residents.

I will deliver hard copies of all complaints, objections etc to the office on Monday morning.

Kind regards
Cllr Anthony McCollum

Technical Consultations

Police Architectural Liaison Officer - Kris Calderhead

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

I appreciate that the layout of the site is only illustrative at this stage however, I would like to make the following comments and recommendations for consideration. They relate to the principles of Crime Prevention Through Environmental Design (CPTED) and should be embedded into the detailed design of the scheme to reduce the opportunity for crime and anti-social behaviour (ASB).

- o Should the application progress, it would be beneficial if designing out crime is referenced in any future Design and Access Statement (DAS) or any addendum to the existing one, in order to detail how the scheme has considered and embedded designing out crime principles into its design.

- o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets with accessible space to the rear of plots avoided.

- o Any existing or new hedgerow that is likely to comprise new rear garden boundaries must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

- o Boundary treatments to the front of dwellings are important to create defensible space to prevent conflict between public and private areas and clearly define ownership of space. The use of low-level railings, walls, hedging for example would be appropriate.

- o Treatments for the side and rear boundaries of plots should be adequately secure (min 1.8m height) with access to the rear of properties restricted via lockable gates. Defensible space should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.

- o Pedestrian routes throughout the development must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided as shrubs and trees have a tendency to grow over the path creating pinch points, places of concealment and unnecessary maintenance.

- o Presumably the site will be adopted and lit as per normal guidelines (BS 5489). Appropriate lighting for pathways, gates and parking areas must be considered. This will promote the safe use of such areas, reduce the fear of crime and increase surveillance opportunities.

- o Vehicle parking will clearly be through a mixture of solutions although from a crime prevention point of view, parking in locked garages or on a hard standing within the dwelling boundary is preferable. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms.

Rear parking courts are discouraged as they provide legitimate access to the rear of plots and are often left unlit with little surveillance.

o Play areas should be well overlooked and located so as not to cause disturbance or conflict with nearby dwellings.

Designing Out Crime Officer

Environment Agency

Thank you for consulting us again on this application. Our position remains the same as per our previous response sent on 13/03/2023 as outlined below;

Thank you for consulting us on the above planning application.

Environment Agency position

We have no objections to the proposal as submitted. It appears that the proposed development can be delivered within the site, without the need to locate development within the floodplain associated with the watercourse that flows along the northern boundary of the site. However, we recommend that a condition is included within any permission granted to ensure that there will be no development or raising of ground levels within the floodplain.

The suggested wording for this condition and associated advice is set out below.

Condition - No development or raising of ground levels in the floodplain
There should be no development and no raising of ground levels, whether temporary or permanent, within the areas of the site designated as Flood Zone 3 (high probability of flooding).

Reason: To safeguard the function of the floodplain thus ensuring an increase in flood risk does not occur.

Advice - Flood Risk

Part of the application site is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. Technically, the application will therefore be subject to the flood risk Sequential Test as set out in the NPPF. However, the Illustrative Masterplan 20424 BL-M-06 Rev H indicates that the flood zone will not be developed, but will instead form part of the green infrastructure network. We welcome this and are satisfied that a sequential approach has been taken to the layout of this site.

It is important that the principle of not developing within the floodplain is carried forward to the detailed design stage. This would include no raising of ground levels within the open space because this could displace flood water and increase flood risk to third parties. We consider that the above condition will be sufficient to secure this important principle as the proposals progress.

Advice to applicant - Pollution Prevention

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and a Construction Environment Management Plan (CEMP) should address how such run-off can be

minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:
Pollution prevention for businesses - GOV.UK (www.gov.uk)

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

Blackdown Hills AONB Project Partnership

Thank you for this further opportunity to comment on this application, and I confirm that we do not wish to make additional observations at the current time.

Natural England

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 13th March 2023 (Our Ref: 422705).

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

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

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered.

National Highways

National Highways Ref: 97734

Referring to the notification of an Outline planning application referenced above, (all matters reserved except access) for the demolition of existing buildings and erection of up to 115 dwellings, public open space, sustainable drainage systems, landscaping, vehicular access via Tunnel Lane and associated highways improvements and infrastructure, at land at Middle Northcote Farm, Honiton, EX14

4PR, notice is hereby given that National Highways' formal recommendation is that we:

- a) offer no objection (see reasons at Annex A);

National Highways Ref: 97734

Referring to the notification of an Outline planning application referenced above, (all matters reserved except access) for the demolition of existing buildings and erection of up to 115 dwellings, public open space, sustainable drainage systems, landscaping, vehicular access via Tunnel Lane and associated highways improvements and infrastructure, at land at Middle Northcote Farm, Honiton, EX14 4PR, notice is hereby given that National Highways' formal recommendation is that we:

- a) offer no objection (see reasons at Annex A);

Annex A National Highways' Recommends No Objections

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Statement of Reasons

The application is for a development of up to 115 new dwellings on agricultural land that lies on the north-east edge of Honiton, outside the existing built-up area, and accessed off Tunnel Lane via Northcote Hill and Monkton Road. Monkton Road runs west from the junction with Northcote Hill and then forms the major arm of the priority 'T' junction at the end of the A30 westbound off-slip of the A30/A35 Langford junction. Monkton Road continues west towards Honiton town centre, where it meets with the A35 trunk road at a priority T-junction. The A35 north arm of this junction provides access to the A30 westbound on slip and both eastbound slip roads of the Langford junction. The site is located immediately north of the London Waterloo to Exeter rail line, and approximately 200 metres north-east of the Monkton Road junction with the A30 westbound slip. Due to the site location and limited route options, almost all of the traffic from the site is expected to impact upon the SRN.

The application site is currently unallocated but is understood to be included in the emerging East Devon Local Plan review as a draft allocation (GH/ED/39a), capable of delivering in the order of 100 dwellings.

Pre-application Consultation

The applicant entered into pre-application discussions with East Devon District Council (EDDC), with National Highways provided with a copy of the Transport Scoping Note. We provided comments on the Transport Scoping Note in October 2022, with our comments summarised below:

- Transport Assessment (TA) to be consistent with the requirements of Circular 02/2013
(Note: Circular 02/2013 has now been superseded, and this review has been undertaken in accordance with Circular 01/2023 “Strategic road network and the delivery of sustainable development”)
- Confirmation of the site planning status
- Required review of A30 Langford junction existing operating conditions and layout.
- Details of all works to the local highway network at the Northcote Hill junction with Monkton Road to be supplied
- Trip rates and distribution accepted for use as part of this assessment, but additional detail for routing required
- Assessment of the A30 westbound off slip for year of opening and review year will be required
- Supporting information requested for growth rate assumptions.

Impact on Strategic Road Network

Traffic Impact

The vehicle trip rates agreed during pre-application discussions and resultant trip generation are reproduced below.

	AM Peak (0800-0900)			PM Peak (1700-1800)		
	Arrive	Depart	Total	Arrive	Depart	Total
Trip Rates	0.179	0.449	0.628	0.332	0.133	0.465
Trip Generation	21	52	72	38	15	53

Whilst National Highways considered the presented PM peak trip rates to be low, they were accepted in this instance on the basis that a higher rate comparable with the AM trip rate was unlikely to result in a material difference to the assessment findings.

The agreed vehicle trip distribution is based upon 2011 Census travel to work data for the East Devon 002 Middle Layer Super Output Area (MSOA) which covers Honiton. Traffic data for the Monkton Road junctions with the A30 westbound off slip and the A35 was obtained from new traffic counts undertaken in October and November 2022. The traffic surveys covered the three-hour morning and evening peak periods of 0700-1000 and 1600- 1900 and confirm the network peaks as 0800-0900 and 1700-1800.

A development opening year assessment has been undertaken for the year 2024, using TEMPRO growth factors to uplift background traffic. Whilst the detail supporting adopted TEMPRO growth factors was requested at the pre-application stage and has not been included within the submitted Transport Assessment, the growth factors do appear to be of an appropriate scale.

Operational assessments have been undertaken for the A30 westbound off-slip junction with Monkton Road, and the A35 junction with Monkton Road using the TRL Junctions10 software (PICADY). In both cases, the submitted opening year assessment indicates that the junction will operate with significant reserve capacity. Whilst no baseline validation is provided for the junction modelling, based on the forecast traffic impact we consider the development unlikely to result in an unacceptable impact on the safe operation of the strategic road network, as defined by NPPF.

Recommendation

National Highways has no objections to application reference 23/0331/MOUT.

Standing advice to the local planning authority

The Climate Change Committee's 2022 Report to Parliament notes that for the UK to achieve net zero carbon status by 2050, action is needed to support a modal shift away from car travel.

The NPPF supports this position, with paragraphs 73 and 105 prescribing that significant development should offer a genuine choice of transport modes, while paragraphs 104 and 110 advise that appropriate opportunities to promote walking, cycling and public transport should be taken up.

Moreover, the build clever and build efficiently criteria as set out in clause 6.1.4 of PAS2080 promote the use of low carbon materials and products, innovative design solutions and construction methods to minimise resource consumption. These considerations should be weighed alongside any relevant Local Plan policies to ensure that planning decisions are in line with the necessary transition to net zero carbon.

EDDC Landscape Architect

1 INTRODUCTION

This report forms the EDDC's landscape response to the outline application for the above site.

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

The site is situated on the lower slopes of the Otter Valley to the east of the main Honiton conurbation and south of the A30. It extends to just over 7ha and comprises

of three fields of grassland, bounded by Devon hedgebanks, and a farm buildings complex set towards the northeastern side. The mainline railway runs along the southern boundary and Otter Valley Park, a static homes site, adjoins the northernwestern boundary. A tributary watercourse to the River Otter runs along the northern site boundary. Site access is from the south via Northcott Road, becoming Tunnel Lane beyond the entrance to Otter Valley Park. The lane runs across the site with one field and the farm complex to the northwest and the remaining two fields to the southeast. Tunnel Lane is well used by locals for recreational access.

The site is gently to moderately steeply sloping with an overall northeasterly aspect and level change of 20m. There are numerous site trees primarily within hedgebanks and lining the watercourse, with woodland area to the northeastern and eastern edge. A few trees remain from a former orchard within the northwestern most field. The farm buildings comprise of a C19th century farmhouse and range of small to medium size modern barns. Despite the proximity to the railway and Otter Valley Park, the site has a pleasant rural feel which contributes positively to surrounding landscape character.

There are extensive, attractive views from the site northwards to the Blackdown Hills and particularly Dumpdon Hill which is an iconic local landmark. Views in other directions are more constrained by a combination of vegetation cover and topography. Principle visual receptors are likely to be residents of Otter Valley Park, users of Tunnel Lane and visitors to Dumpdon Hill and to a lesser extent travellers on Northcott Hill to the south.

There are no landscape designations covering the site. The Blackdown Hills AONB boundary arcs around the site to the north, east and south, coming to within 120m at its closest point. Dumpdon Hill (2.3km distant) is a scheduled monument.

2 REVIEW OF SUBMITTED INFORMATION

2.1 LVIA

The LVIA methodology is generally in accordance with industry best practice guidance.

Viewpoint photographs are of variable quality due to some being taken in poor light/ weather conditions. Contrary to best practice guidance, images are presented as wide angle panoramas which need to be printed at A1 size and held in an arc to represent actual viewing experience. In most instances a single frame image presented on an A3 sheet with 40 degree horizontal field of view would have sufficed and provided a more user friendly and consequently more accurate representation.

The assessment of landscape and visual effects should have considered construction phase impacts including the likely period of construction.

In relation to existing development, it should have been noted that the site is somewhat removed from the urban envelope of Honiton and in views from the north would read as an outlier development to it, as evidenced in the photograph for viewpoint 12, albeit as an extension of the existing Otter Valley Park.

No consideration has been given in the LVIA to the impact of lighting on surrounding night skies. As there is presently no street lighting within the single storey Otter Valley Park, the introduction of two/ two and a half storey development on higher ground adjacent to it and associated highway lighting is likely to have an adverse effect on the perception of dark skies particularly in views from the Blackdown Hills to the north and Northcott Hill road to the south, which should have been assessed and appropriate mitigation proposed.

The LVIA presents a highly optimistic assessment of the impact of development on existing site vegetation and contribution of new planting. The assessment of the beneficial effects of proposed mitigation should be tempered by the possibility that new mitigation planting may not establish as well as anticipated and that the quality of existing retained trees and hedgerows too often declines post-occupancy due to a combination of neglect, unsympathetic cutting back by residents and erection of close boarded fencing adjacent to it.

The LVIA assessment of major to major/ moderate adverse visual effect for residents of Otter Valley Park and users of Tunnel Lane at year 0 (completion) is accepted although the reduction in degree of effect at year 15 appears over optimistic and moderate adverse visual effects are likely to remain for these receptors.

For view point 2 (Northcott Hill) effects are likely to be somewhat greater than stated given that the proposed development will be nearer, taller and sited on higher ground than Otter Valley Park which is currently visible in this view. Proposed development will also introduce external lighting which would be evident in this view.

Notwithstanding the above points, the conclusions of the assessment that the proposed development will not have a significant impact on the special qualities of the AONB and local landscape are accepted, subject to securing appropriate mitigation and high quality design layout and detailing. Similarly, other than for residents of Otter Park and users of Tunnel Lane it is accepted that the visual effects of the development are not significant.

2.2 Parameter strategy and masterplans

Access & Movement Strategy

Development of the site has potential to increase use of Tunnel Lane by motor vehicles. To prevent this consideration should be given to closing Tunnel Lane to motor vehicles and downgrading it to bridleway status.

Para. 4.7 of the Transport Assessment refers to carriageway widening and removal/ translocating existing hedgebanks. It is not clear where this will occur and details should be provided.

Drainage strategy

Design of the attenuation basin should be naturalistic avoiding the straight edge evident on the southern side in the layout plans. The design of outlets and inlets

should be carefully considered to avoid an over engineered appearance and the need for guard rail surrounds. In accordance with CIRIA guidance inlets and outlets should be designed to either contribute positively to, or have a neutral impact on, visual amenity.

The drainage strategy should include a range of treatments for dealing with surface water as part of a SuDS train. As part of the drainage/ sustainability strategy all rear gardens should be provided with rainwater butts to collect roof runoff for watering purposes.

Masterplan (indicative) and Landscape Masterplan

The canopy of tree T37 (A cat oak) extends over much of the garden of the adjacent plot to the southeast. This is likely to result in pressure from occupants to thin/ crown lift/ remove. To reduce this risk, the layout should be adjusted to avoid garden overhang of the canopy.

The proximity of the proposed access road serving the dwellings fronting Tunnel Lane in the southwesern block appears to be aligned too close to the existing hedgebank and should be set back from it to prevent damage to the root zone.

More trees should be provided along the southern end of the primary access road. Trees should be included within or adjacent to the northwestern boundary with Otter Park.

Cycle/ pedestrian crossings connecting development either side of Tunnel Lane are generally best avoided as these will require new breaks in the existing hedgebanks which could compromise their integrity. Due to likely level differences between Tunnel Lane and higher ground to the east it is unlikely that cycle links could be provided at the required gradients.

3 CONCLUSIONS AND RECOMMENDATIONS

3.1 Acceptability of proposals

The submitted details are generally considered acceptable in terms of overall landscape and visual impact and outline design subject to some amends as noted at section 2.1 above.

Prior to determination of the application clarification should be provided on the location and extent of proposed translocation of existing hedgerow as noted in para. 4.7 of the Transport Assessment.

3.2 Landscape conditions

In the event that satisfactory clarifications as noted at section 3.1 above are provided and approval is recommended, the following conditions should be imposed:

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

- a) A full set of hard landscape details for proposed walls, fencing, retaining structures, pavings and edgings, site furniture and signage.
- b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation including lux levels plan.

External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.

- c) A site levels plan(s) at 1:250 scale or greater indicating existing and proposed levels and showing the extent of earthworks and any retaining walls. This shall be accompanied by at least 5 sections through the site at a scale of 1:200 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings.
- d) Surface water drainage scheme incorporating appropriate SuDS features including proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of rain gardens, filter strips, check dams, inlets and outlets etc.
- e) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:
 - a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
 - methods for stripping, stockpiling, re-spreading and ameliorating the soils.
 - location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
 - schedules of volumes for each material.
 - expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.
 - identification of person responsible for supervising soil management.

- g) A full set of soft landscape details including:
 - i) Planting plans at 1:200 scale or greater,, showing locations, species and number of new tree, shrub and herbaceous planting, type and extent of new amenity/ species rich grass areas, existing vegetation to be retained and removed.
 - ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.
 - iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.

iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

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

3) No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 20 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:

Extent, ownership and responsibilities for management and maintenance across the site.

Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.

A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.

Landscape and ecological aims and objectives for the site.

Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:

- o Existing trees, woodland and hedgerows.

- o New trees, woodland areas, hedges and amenity planting areas.

- o Grass and wildflower areas.

- o Biodiversity features - hibernaculae, bat/ bird boxes etc.

- o Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.

Arrangements for Inspection and monitoring of the site and maintenance practices.

Arrangements for periodic review of the plan.

Management, maintenance and monitoring shall be carried out in accordance with the approved plan.

4) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

5) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

EDDC Trees

A tree constraints report and arboricultural impact assessment (AIA) prepared by RPS has been submitted, the report generally appears to be in accordance with BS5837. A tree protection plan (TPP) has also been submitted, based on the masterplan layout.

The layout generally allows for the retention and protection of the principle trees on the site, there are some arboricultural issues though.

-With reference to tree T37, the large A category oak in the hedge bank to the south east of Tunnel Lane, the tree canopy would dominate the garden of the adjacent plot to the south and result in an unsatisfactory relationship with the property. Furthermore the corner of the proposed house is just within the tree's RPA and the required construction space means there would be further incursion into the RPA. These issues could be addressed by retention of T37 wholly within public open space, rather than within a residential plot.

Within the same hedge bank to the south east of T37 there is a linear group of several smaller but good quality trees, mostly oaks. T35 oak is shown as removed on the masterplan TPP to allow formation of a cycle/foot path link but this appears unnecessary tree loss - if the path is essential no-dig methods should be used for the formation of the path, as suggested in the tree report. It would be desirable to retain the tree in order to maintain the integrity of the group. T35 is recorded as C category in the tree survey, but it appears to be undervalued and is considered to be comfortably a B category feature.

The access road serving the plots to the south east of Tunnel Lane appears too close to the hedgerow H2 and this would not allow sufficient space for root protection measures to be implemented. The proximity of the new road to the hedge would likely result in significant root severance, this should be amended to allow for sufficient preservation and protection of the root systems. Furthermore, the masterplan shows a number of breaches in the hedgerow to the south of Tunnel

Lane, this will degrade the integrity and connectivity of the hedgerow and the number of openings should be reduced.

It is noted that several sizable areas of scrub woodland S5, S6, S7 either side of Tunnel Lane are proposed to be removed, also G14 to the west of the farm buildings. Suitable compensatory replacement planting should be required to ensure there is an increase in tree cover on the site in the longer term.

It is also noted that the traditional orchard remnants (T47, T51, T52, and T53) will be removed but that replacement orchard planting is proposed in the corridor of land next to Northcote Lane. The new planting proposals should be covered in a detailed soft landscaping scheme.

If the outline scheme is approved a suitable tree protection condition should be used requiring submission of the following details:

Environment Agency

Thank you for reconsulting us on this application. Our position remains unchanged following our last response on the 13th March 2023, as set out below;

Environment Agency position

We have no objections to the proposal as submitted. It appears that the proposed development can be delivered within the site, without the need to locate development within the floodplain associated with the watercourse that flows along the northern boundary of the site. However, we recommend that a condition is included within any permission granted to ensure that there will be no development or raising of ground levels within the floodplain.

Advice - Flood Risk

Part of the application site is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. Technically, the application will therefore be subject to the flood risk Sequential Test as set out in the NPPF. However, the Illustrative Masterplan 20424 BL-M-06 Rev H indicates that the flood zone will not be developed, but will instead form part of the green infrastructure network. We welcome this and are satisfied that a sequential approach has been taken to the layout of this site.

It is important that the principle of not developing within the floodplain is carried forward to the detailed design stage. This would include no raising of ground levels within the open space because this could displace flood water and increase flood risk to third parties. We consider that the above condition will be sufficient to secure this important principle as the proposals progress.

Advice to applicant - Pollution Prevention

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and a Construction

Environment Management Plan (CEMP) should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:

Pollution prevention for businesses - GOV.UK (www.gov.uk)

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

County Highway Authority

Addendum 11/07/2023:

The CHA has reviewed the re-consultation of this application and has no further comments to add.

Original reply from 19/06/2023:

Observations:

The scheme will result in the addition of a dedicated cycle way/footway which assists Northcote Road/Tunnel Lane.

The existing site does hold permitted agriculture use, although it is acknowledged that this development will present a trip generation intensification over that benchmark.

A Travel Plan to help mitigate the trip generation from this site has been prepared for this application, including a Travel Plan coordinator as well as an array of initiatives within the resident welcome packs to encourage sustainable travel.

The Chartered Institution of Highways and Transportation, (CIHT) recommends a maximum walking distance of 800m which would incorporate the more frequent Langford Lane bus stop, though the CIHT also recommends a 400m walk to bus stops, which the less frequent 368 and 682, Otter Valley Park services include.

The streetlights can be relocated to the back of the footway without further calculations, but the County Highway Authority (CHA) do not count post/poles as visibility obstructions due to their slim nature.

The visibility splays proposed for the cycle/footway, footway crossing and vehicle junction, conform to the typical speeds of this service road, in accordance with our current best practice guidance, Manual for Streets 1 and 2.

The reserved matters design will need to ensure that the inter-visibility to accommodate the Otter Valley Park access conforms to the requirements of Manual for Streets 1 and 2.

Should the application gain approval, I would recommend the provision of secure cycle storage to encourage sustainable travel and help mitigate the trip generation from this proposal, together with a Construction and Environment Management Plan (CEMP), to mitigate the effect of construction upon the local highway network.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. The site access shall be constructed, laid out and maintained for that purpose, where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the

public highway (identified as Y) shall be 43 metres in both directions.

REASON: To provide a satisfactory access to the site and to provide adequate visibility from and of emerging vehicles.

3. No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel to ***** in accordance with policy *****.

EDDC District Ecologist - Will Dommett

1. Introduction

This report forms the EDDC's Ecology's response to the outline application for the above site.

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

2. Review of submitted details

Ecological Impact Assessment (EcIA) March 2023

The ecological surveys to support the application are within 12 months of the application and follow best practice guidelines and therefore considered suitable to support the application. The EcIA is of high quality with good recommendations for proposed ecological mitigation and enhancement measures, with the provision of a Biodiversity Net Gain (BNG) assessment.

Bat roosts

The report identified a number of bat roosts, primarily associated with the farmhouse and two outbuildings. These include non-breeding day roosts of common pipistrelle and brown long-eared bats, and lesser horseshoe bat day and night-roosts. The survey notes that greater horseshoe bats were observed foraging within Building 7, which provides a covered area over a free-flight access area to Building 8 (a confirmed bat roost). Greater horseshoe bats were recorded each month at each static bat detector location during the static bat activity survey and greater horseshoe bats were also observed around the buildings on the site during the manual activity survey. Building 10, an open-fronted building was also a confirmed lesser horseshoe bat night roost (identified by droppings).

Given that greater horseshoe bats have been recorded over the site, including potentially exploring Building 7/8, the number of open-fronted buildings on the site, proximity to a train tunnel, and number of potentially suitable buildings that could be used by night roosting greater horseshoe (and other) bats, it is recommended that any further survey to inform a licence application include the deployment of a static bat detector within Building 8 and 10, to determine whether these buildings are also used by greater horseshoe bats. Internal inspections should also be made following any updated emergence surveys.

The proposed replacement bat roost is located in the north part of the north of the site within an area of Public Open Space (POS), with the illustrative masterplan indicating play areas in this location therefore could be subject to disturbance and vandalism. The proposed replacement roost is stated to follow recommendations within the lesser horseshoe bat conservation handbook (Scofield, 2008) and would be approximately 6 m long x 4 m wide and 2.5 m in height which is acceptable, assuming the 2.5 m height is the void height, i.e., loft floor to apex height and is an uncluttered roof design, i.e., not trussed rafters.

Section 4.1.22 states the roost structure could be used a summer house or other structure if an alternative location above a garage was identified. This use of a residential garage is not recommended for a replacement bat roost given the potential conflict with ongoing monitoring and maintenance as well as the increased risk of disturbance from residence.

The provision of 20 integrated bat tubes within dwellings and 30 bat boxes on trees is considered suitable.

Bat activity survey

The manual and static activity survey has identified the use of the site by at least 10 species of bat, including Annex II greater horseshoe, lesser horseshoe, and barbastelle bats. Common pipistrelle bat accounted for the highest percentage of bat calls. The second most frequently recorded species during the static bat activity surveys was *Myotis* sp. The site was assessed as being of Parish level importance for bats.

Given the assemblage of bat species over found over the site, including Annex II species with greater horseshoe bat (a Devon BAP species) recorded each month at each static location, I would suggest a value of at least District/County importance, especially considering other suggested valuing mechanism, e.g., Wry et al, 2010, CIEEM, 2022.

The EcIA indicates that the broadleaved woodland, hedgerow network along Tunnel Lane and hedgerow network along the watercourse in the east would be retained and provide a functional flight corridor for bats.

The issues of lighting is discussed and references ILP 2018 guidance for onsite lighting. However, the lighting design should also follow Devon County Council (2022) guidance - Maintaining dark corridors through the landscape for bats. In

particular, major development proposals with potential impacts on light adverse bat species should include a network of dark corridors, with a minimum 10 m width open grassy corridor maintained next to natural linear features. The dark corridors should be no more than 0.5 lux (or above existing baseline lighting levels) as shown on a horizontal illuminance contour plan, measured at 1.5m and be managed to maximise insect prey. The use of vegetation should also be incorporated to provide a buffer from the built development.

Dormice

Dormice are confirmed as nesting on site and clearance of woody vegetation prior to development will require a European protected species licence from Natural England.

Mitigation is proposed to replace habitat at a minimum ratio of 2:1 for habitat loss (90 m of hedge proposed for removal) and 20 dormouse nest boxes. The BNG metric indicates 980 m of new hedge planting which is likely to be suitable in mitigation, depending on implementation of planting, appropriate management etc. However, there is likely to be increased pressure of onsite habitats from hedge management and cats.

Reptiles

The site supports three species of reptiles and is considered to be a 'Key Reptile Site' (Froglife, 1999). The proposals recommend a reptile translocation but no receptor site has been identified. Any receptor site should be provided in accordance with current .GOV guidance, e.g., provides the same functionality and area of the habitat loss, the receptor site is safeguarded from future development, any translocated reptiles are not producing a burden on existing reptile populations etc. These details would need to be provided within any management plan, e.g., LEMP.

Nesting birds and invertebrates

The site supports a wide assemblage of nesting birds and recommendations are made for nest boxes to be provided at a ratio of one per two units. In accordance with BS42021:2022 Integral nest boxes should be provided at a ratio of one per unit. It is agreed the site is unlikely to be of high value to invertebrates but is recommended the % of invertebrate bricks could be increased from 20%. There are opportunities with the proposed biodiversity net gain (BNG) off-site provision to increase habitat for brown hairstreak, e.g., sucking blackthorn, and habitat for barn owls, e.g., rough grassland.

Biodiversity Net Gain

The submitted biodiversity metric includes both on-site and off-site provision. There is a watercourse within the redline boundary of the site but not watercourse assessment has been undertaken.

Some of the proposed created grassland habitat onsite and the retained hedgerows are assessed as being in 'Good' condition. There are considerations whether 'good'

condition of these habitats is realistic as they are within public realm, e.g., could be subject to management, trampling etc. It is unsure whether a restrictive covenant on householders affecting hedges is achievable/would be enforceable.

The off-site proposals include the enhancement of an area of modified grassland into good condition other neutral grassland. Whilst the enhancement of habitat within proximity to the site is welcomed, it is considered there are further opportunities to enhance the south-west boundary connecting with the existing line of trees with the hedge to the south. There is an existing field boundary that could be enhanced through management and increase landscape connectivity.

At least 10% net gain should be delivered through separate activities which are not required to mitigate or compensate for protected species impacts. This would be considered if the proposed offsite BNG area is recommended as a reptile receptor area.

Other

The site includes a watercourse along the eastern boundary and surveys for otter and water vole have been undertaken. The site is a beaver activity zone, and they are known to have been present in Honiton and upstream of the River Otter. The presence or otherwise of beaver has not been scoped in/out.

3. Conclusions and recommendations

Acceptability of the proposal

The submitted ecological survey information, general ecological avoidance, mitigation, enhancement measures (subject to the above comments and conditions below), and indicative biodiversity net gain calculations are considered acceptable and proportionate.

Recommended conditions

1. No works shall commence unless the Local Planning Authority has been provided with a copy of the dormouse and bat mitigation licences issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead. Any mitigation and compensation measures should be in accordance within an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.

2. The development shall deliver at least a 10% biodiversity net gain (BNG). Any subsequent reserves matters application and detailed site design should be supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0), a biodiversity gain plan, and habitat maintenance and management plan following best practice principle, including BS 8683, and following current or subsequently updated BNG guidelines.

3. The development shall proceed in accordance with the submitted ecological impact assessment (EAD Ecology, 2023), in particular no works shall commence

until the following information has been submitted and approved in writing by the Local Planning Authority.

- ☐ A Landscape and Ecological Management Plan (LEMP),
- ☐ *Construction and Ecological Management Plan (CECoMP); and*
- ☐ *A lighting design for bats following Devon County Council (2022) guidance, including provision of lux contours and dark corridors.*

In particular, the submitted documents shall include details of how protected species including dormice, bats, reptiles, nesting birds, otter, and badgers will be protected during the development and following construction, and include details of working practices, compensatory habitat, receptor site, monitoring, compliance, and remedial measures.

It should include a detailed design of the bat house, including materials, access, location, and measures to ensure it remains protected from disturbance. The location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, permeable fencing and other features should clearly be shown on submitted plans.

The LEMP should also be fully in accordance with the recommended condition provided by the landscape architect.

Reason:

To ensure that the development has no adverse effect on protected and notable species, and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.

DCC Historic Environment Officer

My ref: ARCH/DM/ED/38362b

I refer to the above application and your recent consultation. The planning application is now supported by a written scheme of investigation prepared by RPS and South West Archaeology. This document is acceptable to the Historic Environment Team with regard to informing and supporting the planning application.

As such, I would advise that this planning application is not determined by your Authority until the results of this programme of archaeological works have been submitted in the form of an appropriately detailed and illustrated report. The information gained from these investigations will enable an informed and reasonable planning decision to be made by the Planning Authority.

I will be happy to discuss this further with you, the applicant or their agent.

Amended Plans

My ref: ARCH/DM/ED/38362c

I refer to the above application and your recent consultation. The interim report summarising the results of the archaeological field evaluation has now been submitted to your Authority. In the light of the results as set out in this report, and assurances to the Historic Environment Team that a full final report will be produced by the applicant's archaeological contractor, the Historic Environment Team is able to withdraw its previous objection and does not consider that any further archaeological mitigation is required.

As such, the Historic Environment Team has no comments to make on this planning application.

DCC Flood Risk Management Team

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:

The applicant have submitted Land off Northcote Road, Honiton Flood Risk Assessment & Drainage Strategy (Report Ref. 570, Rev. A, dated 12th January 2023).

The proposed development will involve demolition of existing buildings, and construction of 115 residential dwellings. The total site area is 7.05ha with an estimated 3.15ha for residential development. The assumed impermeable area is 2.29ha (65% of 3.5ha).

Infiltration testing carried out demonstrated that soakaway are not suitable for the proposed development site.

It is proposed to attenuate the surface water via an attenuation wet pond to Qbar of 16.2l/s (7.1l/s/ha) with a 45% allowance for climate change. The pond will have a permanent water level to provide treatment to the surface water runoff.

The applicant also mentioned that additional SuDS features will also be considered during detailed design, for example, swale, rain gardens, water butts and permeable pavements.

The applicant shall submit Source Control model outputs to demonstrate the attenuation storage volume required.

An ordinary watercourse runs through this site, so if any temporary or permanent works need to take place within this watercourse to facilitate the proposed development (such as an access culvert or bridge), Land

Drainage Consent must be obtained from Devon County Council's Flood and Coastal Risk Management Team prior to any works commencing. Details of this procedure can be found at:

<https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>.

14.06.23

Recommendation:

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

Observations:

The latest submitted information is not related to surface water drainage. Our previous response FRM/ED/0331/2023 dated 08th March 2023 remains valid and to be addressed.

20.07.23

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:

The applicant are proposing to connect the existing ditches at the middle of the site to the proposed sewer. It is unsure the source of water from these ditches and how the runoff has been accounted for in sizing the attenuation required. It is not a normal practice to connect the ditch into the attenuation system.

It is also proposed to divert an existing spring located to the North of the proposed development. There is an existing pipe connecting to the existing spring that is used to feed the farm building. Looking through the Land Registry information, the location of the spring is outside the ownership of the applicant. The applicant shall submit the relevant information regarding this diversion during the later stage of submission.

The applicant also advised that Network Rail provided information about a water supply to the existing site that is used for farm animals water troughs. The source of water is from the surface water runoff from the railway which is stored in a Network Rail tank. Any excess water that is not used for the farm is discharging into the existing ditch adjacent to Tunnel Lane. It is proposed to capped the existing water supply but the landowner is intending to maintain a water supply for animal troughs to the South of the railway. The applicant shall submit the relevant information so that the associated flood risk can be assessed.

05.09.23

We are now in receipt of the previously outstanding DCC Lead Flood consultee response – they no longer object subject to the suggested condition which would need to be added;

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Land off Northcote Road, Honiton Flood Risk Assessment and Drainage Strategy (Report Ref. 570, Rev. B, dated 30th May 2023).
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site.
- (e) Evidence there is agreement in principle from the landowner/DCC highways/Network Rail for any water diversion or modification.
- (f) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

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:

The applicant shall not connect the ditch into the attenuation system.

It is also proposed to divert an existing spring located to the North of the proposed development. There is an existing pipe connecting to the existing spring that is used to feed the farm building. Looking through the Land Registry information, the location of the spring is outside the landownership of the applicant. The applicant shall submit the relevant information regarding this diversion during the later stage of submission.

The applicant also advised that Network Rail provided information about a water supply to the existing site that is used for farm animals water troughs. The source of water is from the surface water runoff from the

railway which is stored in a Network Rail tank. Any excess water that is not used for the farm is discharging into the existing ditch adjacent to Tunnel Lane. The applicant shall submit further information in a later stage to demonstrate that the pre and post construction will not have major impact to the existing ditch.

Any temporary or permanent works that need to take place within the ordinary watercourse to facilitate the proposed development (such as an access culvert or bridge), Land Drainage Consent must be obtained from Devon County Council's Flood and Coastal Risk Management Team prior to any works commencing. Details of this procedure can be found at: <https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>.

Environment Agency

Thank you for consulting us on the above planning application.

Environment Agency position

We have no objections to the proposal as submitted. It appears that the proposed development can be delivered within the site, without the need to locate development within the floodplain associated with the watercourse that flows along the northern boundary of the site. However, we recommend that a condition is included within any permission granted to ensure that there will be no development or raising of ground levels within the floodplain.

The suggested wording for this condition and associated advice is set out below.

Condition - No development or raising of ground levels in the floodplain
There should be no development and no raising of ground levels, whether temporary or permanent, within the areas of the site designated as Flood Zone 3 (high probability of flooding).

Reason: To safeguard the function of the floodplain thus ensuring an increase in flood risk does not occur.

Advice - Flood Risk

Part of the application site is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. Technically, the application will therefore be subject to the flood risk Sequential Test as set out in the NPPF.

However, the Illustrative Masterplan 20424 BL-M-06 Rev H indicates that the flood zone will not be developed, but will instead form part of the green infrastructure network. We welcome this and are satisfied that a sequential approach has been taken to the layout of this site.

It is important that the principle of not developing within the floodplain is carried forward to the detailed design stage. This would include no raising of ground levels within the open space because this could displace flood water and increase flood

risk to third parties. We consider that the above condition will be sufficient to secure this important principle as the proposals progress.

Advice to applicant - Pollution Prevention

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and a Construction Environment Management Plan (CEMP) should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:

Pollution prevention for businesses - GOV.UK (www.gov.uk)

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

Please contact us again if you require any further advice.

Environmental Health

I recommend approval with conditions:

The proposed properties closest to the railway will require the provision of noise mitigation, as detailed within the applicants noise assessment to achieve suitable internal ambient noise levels. No development shall take place until details of proposed acoustic mitigation to be installed/provided have been submitted to and approved by the Local Planning Authority.

A Construction and Environment Management Plan (CEMP) 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. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. 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 and no high frequency audible reversing alarms used on the site.

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

Amended Plans –

As per my previous comments

Devon County Archaeologist

Land At Middle Northcote Farm Honiton EX14 4PR - Outline application (with all matters reserved except for access) for the demolition of existing buildings and erection of up to 115 dwellings, public open space, sustainable drainage systems, landscaping, vehicular access via Tunnel Lane and associated highways improvements and infrastructure: Historic Environment

My ref: ARCH/DM/ED/38362a

I refer to the above application. The proposed development site has been subject to an archaeological desk-based assessment and geophysical survey. A programme of intrusive field evaluation is currently being agreed with the applicant's consultant RPS. However, in the absence of the results of the archaeological field evaluation I would consider that the information submitted in support of this planning application is not sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the proposed development upon these heritage assets.

Given the unknown potential for survival and significance of below ground archaeological deposits and the absence of sufficient archaeological information, namely the results of a programme of intrusive field evaluation, I would advise - in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance and EN8 Significance of Heritage Assets and their Setting, and paragraphs 194 and 195 of the National Planning Policy Framework (2021) - that this application is not determined until this information is made available to enable an informed response from the Historic Environment Team.

Blackdown Hills AONB Project Partnership

Thank you for seeking comments from the Blackdown Hills AONB Partnership on this application and I apologise for this delayed response.

We recognise and welcome the consideration that has been given to how the proposed development could be well integrated with its landscape setting. Key to how successful this will be is dependent on a strong commitment to the design principles, development parameters and landscape strategy that are set out being followed through at later stages of the development process, and we would support measures to ensure that this is the case.

Natural England

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

Natural England's generic advice on other natural environment issues is set out at Annex A (document online).

NHS Royal Devon & Exeter NHS Foundation Trust

Introduction

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF.

Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.

As the attached document demonstrates, Royal Devon University Healthcare NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. It is further demonstrated that this development will create potentially long term impact on the Trust ability provide services as required. The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trust is unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated. Furthermore, it is important to note that the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide the services and capacity required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.

CIL Regulation 122

The Trust considers that the request made is in accordance with Regulation 122:

“(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
(a) necessary to make the development acceptable in planning terms;
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development.”

S 106

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount of **£104,431.00** sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

Network Rail

Following an internal consultation, our drainage team have the following concerns that need to be addressed:

1. We note that the Flood Risk Assessment has identified one Network Rail culvert passing under the site to the west, and that the applicant has confirmed that this asset will not be affected by the scheme – except for the construction of a footpath and the foul rising main. However, there is another more significant structure located to the east of the site which has not been discussed in the FRA. The culvert head wall is shown on the topographical survey of the site and from our own inspections we know this to be a 900mm diameter culvert draining land to the south of the railway. Whilst our initial review would suggest that the proposed masterplan will not impact the structure directly, this must be confirmed as part of the risk assessment. It is also essential that its ownership and maintenance is established and agreed prior to approval of the application. An extract of the survey and our own mapping is provided at the end of this email. We note that some assumptions regarding the interception of pluvial flood risk by the railway cutting may need to be reconsidered given the presence of this culvert. We recommend that the LLFA consider whether they are satisfied with the assessment of flood risk given the presence of this culvert.
2. We note that the applicant has proposed a SUDS scheme and that this has been sized based on post development impermeable areas with preliminary design details provided. However very few storm durations have been analysed, with no short duration storm results provided. We also note that surcharged outfall to the ditch has not been considered in the design. We

assume the LLFA are aware of this and will be seeking further details as design progresses or to be secured by condition.

3. Currently Northcote Farm receive a water supply from our asset with a proportion of the drainage from Honiton Tunnel being diverted to a system serving the property. Should this supply be terminated then there may be increased pressure on the tunnel lane drainage. We also need to consider the optimum location to abandon the supply equipment to avoid risk of washout to our earthwork assets. We request that the applicant/developer engage with us to discuss their intentions regarding the water supply.

Furthermore, due to the close proximity of the proposed development to Network Rail's land and the operational railway, Network Rail requests the applicant /developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing. This will allow our ASPRO team to review the details of the proposal to ensure that the works can be completed without any risk to the operational railway.

County Highway Authority

Observations:

The scheme will result in the addition of a dedicated cycle way/footway which assists Northcote Road/Tunnel Lane.

The existing site does hold permitted agriculture use, although it is acknowledged that this development will present a trip generation intensification over that benchmark.

A Travel Plan to help mitigate the trip generation from this site has been prepared for this application, including a Travel Plan coordinator as well as an array of initiatives within the resident welcome packs to encourage sustainable travel.

The Chartered Institution of Highways and Transportation, (CIHT) recommends a maximum walking distance of 800m which would incorporate the more frequent Langford Lane bus stop, though the CIHT also recommends a 400m walk to bus stops, which the less frequent 368 and 682, Otter Valley Park services include.

The streetlights can be relocated to the back of the footway without further calculations, but the County Highway Authority (CHA) do not count post/poles as visibility obstructions due to their slim nature.

The visibility splays proposed for the cycle/footway, footway crossing and vehicle junction, conform to the typical speeds of this service road, in accordance with our current best practice guidance, Manual for Streets 1 and 2.

The reserved matters design will need to ensure that the inter-visibility to accommodate the Otter Valley Park access conforms to the requirements of Manual for Streets 1 and 2.

Should the application gain approval, I would recommend the provision of secure cycle storage to encourage sustainable travel and help mitigate the trip generation from this proposal, together with a Construction and Environment Management Plan (CEMP), to mitigate the effect of construction upon the local highway network.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. The site access shall be constructed, laid out and maintained for that purpose, where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.

REASON: To provide a satisfactory access to the site and to provide adequate visibility from and of emerging vehicles.

3. No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel to ***** in accordance with policy *****.

Officer authorised to sign on behalf of the County Council 21 May 2023

Parish/Town Council

SUPPORT subject to the agreement of the Senior Historic Environment Office (Policy) and National Highways and County Highway Authority.

For 3, Against 2, Abstentions 0.

Other Representations

There have been 21 letters of objection and 3 letters of support;

Objections (in summary)

The access is unsafe

The development would add to pressure on overstretched services and infrastructure

The proposal is contrary to the development plan

The development would be outside the built-up area boundary of Honiton

It would result in a loss of grade 2 agricultural land

The adverse impact on traffic congestion in the town

The risk of flooding and displacing of surface water

Flawed methodology of report submitted with the planning application.

The loss of trees and hedgerows and the impact on wildlife

The visual impact

The impact on amenity

Pollution

Inadequate public transport

Support (in summary)

- Preferred site in emerging local plan.
- Easy walking distance to town centre/shops
- There is a need for new housing, of an appropriate mix, within Honiton
- Benefits local trades with increased expenditure

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)
 Strategy 4 (Balanced Communities)
 Strategy 5 (Environment)
 Strategy 5B (Sustainable Transport)
 Strategy 7 (Development in the Countryside)
 Strategy 24 (Development at Ottery St Mary)
 Strategy 34 (District Wide Affordable Housing Provision Targets)
 Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)
 Strategy 37 (Community Safety)
 Strategy 38 (Sustainable Design and Construction)
 Strategy 43 (Open Space Standards)
 Strategy 46 (Landscape Conservation and Enhancement and AONBs)
 Strategy 47 (Nature Conservation and Geology)
 Strategy 48 (Local Distinctiveness in the Built Environment)
 Strategy 49 (The Historic Environment)
 Strategy 50 (Infrastructure Delivery)
 D1 (Design and Local Distinctiveness)
 D2 (Landscape Requirements)
 D3 (Trees and Development Sites)
 D6 (Locations without Access to Natural Gas)
 EN5 (Wildlife Habitats and Features)
 EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)
 EN13 (Development on High Quality Agricultural Land)
 EN18 (Maintenance of Water Quality and Quantity)
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
 EN21 (River and Coastal Flooding)
 EN22 (Surface Run-Off Implications of New Development)
 H2 (Range and Mix of New Housing Development)
 TC2 (Accessibility of New Development)
 TC4 (Footpaths, Bridleways and Cycleways)
 TC7 (Adequacy of Road Network and Site Access)
 TC9 (Parking Provision in New Development)

Government Planning Documents

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

Honiton Neighbourhood Plan

Not 'made'

Site Location and Description

The site is situated on the lower slopes of the Otter Valley to the east of the main Honiton conurbation and south of the A30. It extends to just over 7ha and comprises of three fields of grassland, bounded by Devon hedgebanks, and a farm buildings complex set towards the northeastern side. The mainline railway runs along the southern boundary and Otter Valley Park, a static homes site, adjoins the

northernwestern boundary. A tributary watercourse to the River Otter runs along the northern site boundary. Site access is from the south via Northcott Road, becoming Tunnel Lane beyond the entrance to Otter Valley Park. The lane runs across the site with one field and the farm complex to the northwest and the remaining two fields to the southeast. Tunnel Lane is well used by locals for recreational access.

The site is gently to moderately steeply sloping with an overall northeasterly aspect and level change of 20m. There are numerous site trees primarily within hedgebanks and lining the watercourse, with woodland area to the northeastern and eastern edge. A few trees remain from a former orchard within the northwestern most field. The farm buildings comprise of a C19th century farmhouse and range of small to medium size modern barns. Despite the proximity to the railway and Otter Valley Park, the site has a pleasant rural feel which contributes positively to surrounding landscape character.

Proposed Development

The proposal seeks outline planning 115 dwellings with associated landscaping, public open spaces and children's play space (LEAP) on agricultural land outside the settlement of Honiton. The only matter to be considered at this stage is the access, with the remainder reserved matters to be assessed at a later stage.

With regards to the access the main route to serve the development would be from Northcote Road which runs parallel to the route of the adjacent railway line.

In terms of works needed to this access route along Northcote the following highway works are proposed;

- Installation of 2m footway at access point
- Relocating low bridge warning sign
- Repositioning lighting column
- Giveaway road marks laid down.
- Existing 60mph reduced to 30mph from Northcote Hill junction to Ottery Valley Park Junction
- Existing 60mph reduced to 20mph from Ottery Valley Park junction and continuing into the development site
- Devon Bank installed in places along the access route
- Otter valley park junction altered to comply with a visibility splay 2.4 by 25 metres (resulting in the relocation of existing Devon hedge/bank)

As shown edged in blue on the latest location plan a sizable field parcel is also owned by the applicant to the south of the development site. Within this field parcel an area has been allocated for Bio Diversity Net gain.

ANALYSIS

The main issues concerning this proposal are;

- The principle of the development, in the context of a lack of a 5 year housing supply within the district.
- Connectivity to services and facilities
- The impact on the character and appearance of the area (including the setting of the AONB)
- The impact on highways
- The potential for flood risk
- Surface water and foul drainage
- Impact on trees
- Ecology and BNG
- Archaeology
- The impact on Network Rail
- Conclusions

The principle of the development

In taking into account the planning merits of this proposal it is firstly important to consider the statutory provisions in s70(1)(a) of the 1990 Act and section 38(6) of the 2004 Act. Those provisions are not displaced by paragraph 11 or by any other part of the National Planning Policy Framework (the Framework), as Framework paragraph 12 makes clear. In the context of s38(6), the Framework has the status of a material consideration. This (when considered together with any other relevant material considerations) may or may not indicate that a planning application should be determined otherwise than in accordance with the development plan. The Framework is a material consideration to be taken into account and so this government document does not form part and parcel of the development plan.

The framework states that plans and decision should apply a presumption in favour of sustainable development. Explicitly paragraph 11 of the Framework, in the decision-taking section states;

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay

; and

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed

; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 sets out an exhaustive list of the policies in the Framework that paragraph 11 d) i. refers to and makes it clear that paragraph 11 d) i. does not refer to

development plan policies. This development does not take place within a designated landscape which would disengage the tilted balance.

The recent report to strategic planning committee on the 14th September 2022. This report stated that the 5 year housing supply in the district (plus buffer) has dropped to 4.65 years. This has direct consequence with regard to paragraph 11 of the Framework as footnote 8 states 'this includes, for applications involving the provision of housing, situation where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...'

The policies of the adopted East Devon Local plan which are directly related to the supply of housing have evidently not maintained a suitable supply of housing within the district. These policies include, amongst others, establishing settlement boundaries to control sporadic development and a hierarchy of settlements. Whether a policy is out-of-date or not can be assessed against the way in which it operates in relation to the determination of the particular proposal, rather than solely in a generic manner.

Clearly the definition in planning terms between settlement and the countryside beyond concern policies which are most important to the determination of this outline planning application. As such a paragraph 11 is clear in that it applies a so called 'tilted balance' to granting permission, i.e. unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This tilted balance is the applicable to the determination of this planning application. Before applying this it is necessary to consider contextual matters which could impact on the success of this proposal.

Honiton does not have a 'made' Neighbourhood Plan in place and so this would not be an additional factor to account for at the time of writing.

In terms of the emerging local plan it is noted that this site formed part of a larger area previously submitted for housing allocation under a call for sites. Our policy department, for the purposes of plan formation, considered the qualities of the site. Under the site selection process this site was given the reference GH/ED/39. It should be noted that this site was much larger than that which is now under consideration. This larger area to the south of the train line was principally discounted from an allocation due to landscape harm and impact on the AONB. This site assessment for GH/ED/39 reads;

Infrastructure implications:

Access: The site is accessed via either Northcote Hill or Northcote Road/Tunnel Lane, which are narrow country lanes leading from the A30/A35 junction at the eastern end of Honiton. Access to the majority of the site is constrained by relatively narrow roads under railway bridges. Access improvements and associated traffic management may be required. Development has the potential to impact on Junction 29 of the M5, which suffers from congestion at peak periods.

The centre of the site is approx. 1.6km from Honiton train station. The site is not currently served by any bus routes, but Honiton is well connected to regular routes.

The Taunton-Dunkeswell-Honiton-Seaton bus runs over the A35/A30 junction (approximately 810m away from the centre of the site) five times a day and the Exeter-Cranbrook-Ottery-Honiton-Axminster bus runs along the A35, which is approx. 945m away from the centre of the site. Either route could potentially be improved to serve the site. Public Rights of Way link the site to Honiton, though the detached nature of the site from the town would raise questions of whether people would actually walk to it.

Education: Honiton primary schools have a small amount of capacity left, but not enough to serve the scale of development proposed by the site promoter (550 dwgs). This would also not be sufficient development to support a new primary school. There is potentially capacity for some small expansion at Honiton Community College.

Health: Depending on the scale of development there may be a need to provide additional primary health care facilities.

Other: Development could potentially help to secure improved sports pitch provision and an eastern by-pass to the town linking the A30 and A35, which are local aspirations. Broadband: Homes/businesses adjacent to the site have access to superfast broadband. It should be relatively easy to roll this out to any new development.

Whilst the emerging local plan is at an early stage meaning very limited weight can be placed upon the above assessment to be sound and reflective of current considerations and conditions.

Connectivity to services and facilities

In terms of pedestrian connectivity the site is relatively well connected. From the site a footpath would run adjacent to the vehicular access route towards a crossing point at the site entrance. From here it connects to Northcote Hill which in turn connects to Monkton Road, which then connects to the town centre beyond. This route is fairly flat, benefits from street lighting for much of the route, good passive surveillance and is approximately 700 metres to Honiton High Street – thereby complying with recommended distance standards within Manual for Streets.

On a wider scale the site is directly accessible to the highway network via Northcote Road, which connects onto Northcote Hill/Monkton Road. From here, the National Highway Network (A35 and A30) are within close proximity. The A35 connects Honiton to Southampton and the A30 is one of the main roads through Devon and Cornwall, extending north east to London.

The site is accessible to the local bus service, which offers access to local destinations and beyond, including Taunton, Seaton and Exeter. Honiton Train Station is located 2km west of the site on the Main Line and provides frequent services to destinations including London Waterloo and Exeter St David's.

Therefore the site is recognised as having good pedestrian and vehicular linkages so that intended occupiers would not be reliant on private modes of transport. As such this weighs in favour of the scheme.

Affordable Housing

In considering residential development such as this, outside identified Built Up Area Boundary (BUAB) strategy 34 of the Local Plan states that an affordable housing target of 50% applies. If the proposal was situated within the BUAB of Honiton a 25 % affordable target would be sought as per the same policy. Due to the absence of a five year housing land supply however policies important for decision making in regard to housing delivery are considered to be out of date. As such less emphasis can be placed on built up area boundaries and it is therefore reasonable to assess affordable housing requirements for sites immediately adjoining BUAB's as if they are within which in this case would require a 25% affordable housing figure.

An affordable housing statement has been submitted with this planning application. The outline application is for a total of up to 115 dwellings, including provision of 25% affordable housing in accordance with the requirements outlined for East Devon's Adopted Local Plan. This level of affordable housing is reflected within the draft S106 Heads of Terms provided at Appendix 4 of the Planning Statement.

The intended housing tenure mix considered appropriate as part of the outline application is 70% Social Rent and 30% Intermediate (Shared Ownership) which is to be confirmed during the application and applied for in detail as part a subsequent Reserved Matters application.

For the reasons set out above this level of affordable housing is considered to be acceptable and weighs in favour of the development meeting one of the social objectives in providing a much needed range of homes.

The impact on the character and appearance of the area

The residential elements of the development is relatively contained due to the surrounding topography. The site overall, in terms of the landscape character, falls under 'Upper farmed and wooded valley slopes'.

Within and immediately adjacent to the site the following landscape character zone were identified;

- Landscape Character Zone 1 - Foraging Trail - This area is a naturalistic landscape with a rich mosaic of hedgerow planting. The railway fence is quite a dominating feature and so there is opportunity for this to be screened. There is an opportunity to extend this eastward beyond the community green.
- Landscape Character Zone 2 - Community Green - The Community Green is to provide a communal space - to serve existing residents and future residents.
- Landscape Character Zone 3 - Otter Valley Park - This zone includes the existing ditch and hedgerow. The proposals include planting along this extent to create a scrub mosaic with small canopy trees. Opportunities exist for strengthened and it would appear that this area would been to be managed via a management company.

- Landscape Character Zone 4 - Tunnel Lane - intended to be a pedestrian and cycle route with retained ditches and hedgerow.

Landscape Character Zone 5 - Railway Edge - the vision for this to break up the way the landscape pattern is divided up, softening and integrating the railway line. Reinforced planting in W boundary would be beneficial.

Visually the site is somewhat removed from the urban envelope of Honiton and in views from the north would read as an outlier development to the main settlement. That said in terms of experience when traveling to the site from the town centre of Honiton it would feel like a continuation of the built form.

No consideration has been given in the LVIA to the impact of lighting on surrounding night skies. As there is presently no street lighting within the single storey Otter Valley Park, the introduction of two/ two and a half storey development on higher ground adjacent to it and associated highway lighting is likely to have an adverse effect on the perception of dark skies. Therefore in the reserved matters details this should be considered by the applicant with the aim to protect the dark skies.

The major to major/ moderate adverse visual effect for residents of Otter Valley Park and users of Tunnel Lane at year 0 (completion) is accepted although the reduction in degree of effect at year 15 appears overly optimistic and moderate adverse visual effects are likely to remain for these receptors.

The conclusions of the assessment that the proposed development will not have a significant impact on the special qualities of the AONB and local landscape are accepted by the Landscape Officer. This is subject to securing appropriate mitigation and high quality design layout and detailing which could come forward at reserved matters stage.

The landscape officer has stated that clarification should be provided on the location and extent of proposed translocation of existing hedgerow as noted in para. 4.7 of the Transport Assessment. Such clarification could be brought forward when the reserved matter of Landscaping is to be considered and therefore this would not preclude the grant of this outline.

In summary the proposal would result in the intrinsic change in character of the existing rural landscape. However the site can accommodate the proposal as a matter of principle without harm to the character and appearance of the wider area.

Although some of the suggested conditions should not be imposed on the outline consent, as landscape is a reserved matter.

Highways

Within the emerging local plan site allocation one of the recognised constraints was 'Access to the majority of the site is constrained by relatively narrow roads under

railway bridges'. In order to reach the site drivers would be required to use a stretch of single carriage width highway.

It would be Devon County Council responsible for the local highway network immediately affected by the development. The proposed access strategy incorporates the following;

- o Off site pedestaling and cycle infrastructure improvements to provide a continuous link
- o Provision of dedicate ped/cycle link.
- o Widening of Northcote Hill to 5.5 m
- o Retention of Tunnel Lane as ped/cycle only
- o Vehicular link back on to Tunnel Lane to the east of the site.

DCC advised that Monkton Road has recently been realigned and has good visibility and that Northcote Hill has an established use and that 5.5m width would indeed be required. Further, that the access proposals appeared appropriate and was complimentary on the provision of the proposed ped/cycle only link on Tunnel Lane. A TRO would be required to deliver proposed ped/cycle only link on.

The scheme would result in the addition of a dedicated cycle way/footway which assists Northcote Road/Tunnel Lane. The existing site does hold permitted agriculture use, although it is acknowledged that this development will present a trip generation intensification over that benchmark.

A Travel Plan to help mitigate the trip generation from this site has been prepared for this application, including a Travel Plan coordinator as well as an array of initiatives within the resident welcome packs to encourage sustainable travel.

The Chartered Institution of Highways and Transportation, (CIHT) recommends a maximum walking distance of 800m which would incorporate the more frequent Langford Lane bus stop, though the CIHT also recommends a 400m walk to bus stops, which the less frequent 368 and 682 services.

The streetlights can be relocated to the back of the footway without further calculations, but the County Highway Authority (CHA) do not count post/poles as visibility obstructions due to their slim nature.

The visibility splays proposed for the cycle/footway, footway crossing and vehicle junction, conform to the typical speeds of this service road, in accordance with our current best practice guidance, Manual for Streets 1 and 2. The reserved matters design will need to ensure that the inter-visibility to accommodate the Otter Valley Park access conforms to the requirements of Manual for Streets 1 and 2.

Provision of secure cycle storage to encourage sustainable travel and help mitigate the trip generation from this proposal, together with a Construction and Environment Management Plan (CEMP), to mitigate the effect of construction upon the local highway network have been suggested by DCC Highways.

On the basis that DCC Highways and Highway England are satisfied this would not prevent the development from going ahead. As such the proposal would accord with policies TC7 and TC9 of the East Devon Local Plan.

Flooding Risk

Although the flood zone 2 and 3 skirts the periphery of the site to the north and east there is no reason why footprints of intended buildings could not be positioned outside of this and indeed this is what the masterplan illustrates.

The Environment Agency have no objections to the proposal as submitted. It appears that the proposed development can be delivered within the site, without the need to locate development within the floodplain associated with the adjacent watercourse that flows along the northern boundary of the site. However, the EA recommend that a condition is included within any permission granted to ensure that there will be no development or raising of ground levels within the floodplain.

Part of the application site is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. Technically, the application is therefore be subject to the flood risk Sequential Test as set out in the NPPF. However, the Illustrative Masterplan 20424 BL-M-06 Rev H indicates that the flood zone would not be developed, but will instead form part of the green infrastructure network.

It is important that the principle of not developing within the floodplain is carried forward to reserved matters stage. The EA's suggested condition could secure this and subject to this the potential for flood risk does not weigh against the scheme.

Therefore the proposal complies with policy EN1 of the local plan and guidance within the NPPF in this regard.

Surface water and foul drainage

Soakaways are not proposed following on site testing demonstrating that infiltration rates are not suitable.

Surface Water will discharge into an existing watercourse with flow limited to Q_{bar} (reduced for Devon requirements) for events up to and including the 100 year event with a 45% allowance for climate change. Attenuation will be provided by a Wet Pond with surface water discharging into this.

Additional SuDS features will also be proposed where appropriate so that wherever practical surface water from driveways and Rain Water pipes will be collected by SuDS features prior to discharging into the sewer network although these maybe restricted by site gradients.

Foul flows from within the site would drain by gravity to a new foul pumping station. The pumping station will discharge via a new rising main to an existing South West Water sewer either within Roman Way or Monkton Road.

Consultations have been carried out with DCC Flood Risk team who do not have an objection to this outline planning application. It has been necessary though to secure additional information in order to demonstrate that all aspect of the surface water drainage management system have been covered. This includes infiltration testing and a source control model output to demonstrate the attenuation storage volume needed.

To connect the existing ditches at the middle of the site to the proposed sewer. It is unsure the source of water from these ditches and how the runoff has been accounted for in sizing the attenuation required. It is not a normal practice to connect the ditch into the attenuation system. The applicants have offered to remove this connection and to keep existing.

The proposal to divert an existing spring located to the North of the proposed development. There is an existing pipe connecting to the existing spring that is used to feed the farm building. Looking through the Land Registry information, the location of the spring is outside the ownership of the applicant. The applicant shall submit the relevant information regarding this diversion during a reserved matters submission.

Network Rail provided information about a water supply to the existing site that is used for farm animals water troughs. The source of water is from the surface water runoff from the railway which is stored in a Network Rail tank. Any excess water that is not used for farming is discharged into the existing ditch adjacent to Tunnel Lane. It would appear that there is the intention to maintain a water supply for animal troughs to the South of the railway. The applicant has confirmed at the water used for the farm was for water troughs and so removal of this supply would have a negligible impact. This is unlikely to weigh against the scheme.

Taking the above into account there is compliance with policies EN19 and EN22 of the East Devon Local Plan.

Impact on trees

A tree constraints report and arboricultural impact assessment (AIA) prepared by RPS has been submitted, the report generally appears to be in accordance with BS5837. A tree protection plan (TPP) has also been submitted, based on the masterplan layout.

The layout generally allows for the retention and protection of the principle trees on the site, there are some arboricultural issues though.

With reference to tree T37, the large A category oak in the hedge bank to the south east of Tunnel Lane, the tree canopy would dominate the garden of the adjacent plot to the south and result in an unsatisfactory relationship with the property. Furthermore the corner of the proposed house is just within the tree's RPA and the required construction space means there would be further incursion into the RPA. These issues could be addressed by retention of T37 wholly within public open space, rather than within a residential plot.

Within the same hedge bank to the south east of T37 there is a linear group of several smaller but good quality trees, mostly oaks. T35 oak is shown as removed on the masterplan TPP to allow formation of a cycle/foot path link but this appears unnecessary tree loss - if the path is essential no-dig methods should be used for the formation of the path, as suggested in the tree report. It would be desirable to retain the tree in order to maintain the integrity of the group. T35 is recorded as C category in the tree survey, but it appears to be undervalued and is considered to be comfortably a B category feature.

The access road serving the plots to the south east of Tunnel Lane appears too close to the hedgerow H2 and this would not allow sufficient space for root protection measures to be implemented. The proximity of the new road to the hedge would likely result in significant root severance, this should be amended to allow for sufficient preservation and protection of the root systems. Furthermore, the masterplan shows a number of breaches in the hedgerow to the south of Tunnel Lane, this will degrade the integrity and connectivity of the hedgerow and the number of openings should be reduced.

Several sizable areas of scrub woodland S5, S6, S7 either side of Tunnel Lane are proposed to be removed, also G14 to the west of the farm buildings. Suitable compensatory replacement planting should be required to ensure there is an increase in tree cover on the site in the longer term. This could be secured when landscaping is to be considered at a later stage.

It is also noted that the traditional orchard remnants (T47, T51, T52, and T53) will be removed but that replacement orchard planting is proposed in the corridor of land next to Northcote Lane. The new planting proposals should be covered in a detailed soft landscaping scheme. Again landscaping (and indeed layout) is not for consideration at this outline stage and there is scope to alter the masterplan (which is illustrative at this stage) to accommodate the points raised above.

However, at this outline stage the proposal would not have an unacceptable impact on trees. Access is a consideration at this stage and while protection measures are suggested and can be secured via condition no harm has been recognised, with broad accordance with policy D3 of the East Devon Local Plan. Whilst some trees would be lost to improve the access these are not of quality or character to justify their retention and as such the proposal would not result in harm.

Impact on Ecology

The ecological surveys to support the proposal follow best practice guidelines and therefore considered suitable to support the application. The EcIA is of high quality with good recommendations for proposed ecological mitigation and enhancement measures, with the provision of a Biodiversity Net Gain (BNG) assessment.

Bat roosts

The report identified a number of bat roosts, primarily associated with the farmhouse and two outbuildings. These include non-breeding day roosts of common pipistrelle and brown long-eared bats, and lesser horseshoe bat day and night-roosts.

The survey notes that greater horseshoe bats were observed foraging within Building 7, which provides a covered area over a free-flight access area to Building 8 (a confirmed bat roost). Greater horseshoe bats were recorded each month at each static bat detector location during the static bat activity survey and greater horseshoe bats were also observed around the buildings on the site during the manual activity survey. Building 10, an open-fronted building was also a confirmed lesser horseshoe bat night roost (identified by droppings).

Given that greater horseshoe bats have been recorded over the site, including potentially exploring Building 7/8, the number of open-fronted buildings on the site, proximity to a train tunnel, and number of potentially suitable buildings that could be used by night roosting greater horseshoe (and other) bats, it is recommended that any further survey to inform a licence application include the deployment of a static bat detector within Building 8 and 10, to determine whether these buildings are also used by greater horseshoe bats. Internal inspections should also be made following any updated emergence surveys.

The proposed replacement bat roost is located in the north part of the north of the site within an area of Public Open Space (POS), with the illustrative masterplan indicating play areas in this location therefore could be subject to disturbance and vandalism. The proposed replacement roost is stated to follow recommendations and would be approximately 6 m long x 4 m wide and 2.5 m in height which is acceptable, assuming the 2.5 m height is the void height, i.e., loft floor to apex height and is an uncluttered roof design, i.e., not trussed rafters.

Section 4.1.22 states the roost structure could be used a summer house or other structure if an alternative location above a garage was identified. This use of a residential garage is not recommended for a replacement bat roost given the potential conflict with ongoing monitoring and maintenance as well as the increased risk of disturbance from residence.

The provision of 20 integrated bat tubes within dwellings and 30 bat boxes on trees is considered suitable.

Bat activity survey

The manual and static activity survey has identified the use of the site by at least 10 species of bat, including Annex II greater horseshoe, lesser horseshoe, and barbastelle bats. Common pipistrelle bat accounted for the highest percentage of bat calls. The second most frequently recorded species during the static bat activity surveys was *Myotis* sp.

Given the assemblage of bat species over found over the site a value of at least District/County importance is attributed.

The EclA indicates that the broadleaved woodland, hedgerow network along Tunnel Lane and hedgerow network along the watercourse in the east would be retained and provide a functional flight corridor for bats.

The issues of lighting is discussed and references ILP 2018 guidance for onsite lighting. However, the lighting design should also follow Devon County Council (2022) guidance - Maintaining dark corridors through the landscape for bats. In particular, major development proposals with potential impacts on light adverse bat species should include a network of dark corridors, with a minimum 10 m width open grassy corridor maintained next to natural linear features. The dark corridors should be no more than 0.5 lux and be managed to maximise insect prey. The use of vegetation should also be incorporated to provide a buffer from the built development.

Dormice

Dormice are confirmed as nesting on site and clearance of woody vegetation prior to development will require a European protected species licence from Natural England.

To decide if the proposal qualifies for a derogation, you must apply the 3 legal tests in the following order:

1. There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
2. The proposal needs to be carried out for imperative reasons of overriding public interest.
3. The necessary compensatory measures can be secured.

Mitigation is proposed to replace habitat at a minimum ratio of 2:1 for habitat loss (90 m of hedge proposed for removal) and 20 dormouse nest boxes. The BNG metric indicates 980 m of new hedge planting which is likely to be suitable in mitigation, depending on implementation of planting, appropriate management etc. However, there is likely to be increased pressure of onsite habitats from hedge management and cats.

An LPA should only refuse permission if the development is *unlikely* to be licensed pursuant to the derogation powers *and* if Article 12 of the Habitats Directive was likely to be infringed.

In terms of public interest this proposal as a matter of principle accords with the national level of significantly boosting housing supply from which some economic and social benefits could accrue. Alternative scenarios are not easily discernible however improving the biodiversity of the site has been referenced in the accompanying statement. Further, it is generally accepted that Greenfield sites would have to be developed to provide for housing within the district.

It can also be seen from the ecological survey that mitigation measures are to be put in place in order to prevent an adverse effect. As a consequence there is no reason to suggest that, from the LPA's perspective, the proposal would be likely to offend article 12 of the Habitat Directive or that a licence would be withheld by Natural

England as a matter of principle. A suitably worded condition shall ensure that the appropriate licenses are obtained prior to development, in accordance with Circular 05/2006.

Reptiles

The site supports three species of reptiles and is considered to be a 'Key Reptile Site' (Froglife, 1999). The proposals recommend a reptile translocation but no receptor site has been identified. Any receptor site should be provided in accordance with current guidance to provide the same functionality and area of the habitat loss, ensure the receptor site is safeguarded from future development, with any translocated reptiles are not producing a burden on existing reptile populations.

Nesting birds and invertebrates

The site supports a wide assemblage of nesting birds and recommendations are made for nest boxes to be provided at a ratio of one per two units. In accordance with BS42021:2022 Integral nest boxes should be provided at a ratio of one per unit. It is agreed the site is unlikely to be of high value to invertebrates but is recommended the % of invertebrate bricks could be increased from 20%.

There are opportunities with the proposed biodiversity net gain (BNG) off-site provision to increase habitat for brown hairstreak, e.g., sucking blackthorn, and habitat for barn owls, e.g., rough grassland.

Biodiversity Net Gain

The submitted biodiversity metric includes both on-site and off-site provision. There is a watercourse within the redline boundary of the site but not watercourse assessment has been undertaken.

Some of the proposed created grassland habitat onsite and the retained hedgerows are assessed as being in 'Good' condition. There are considerations whether 'good' condition of these habitats is realistic as they are within public realm, e.g., could be subject to management, trampling etc. It is unsure whether a restrictive covenant on householders affecting hedges is achievable/would be enforceable.

The off-site proposals involve the creation of a purposely allocated area for Biodiversity Net Gain (BNG). This would seek enhancement of an area of modified grassland into good condition other neutral grassland. Whilst the enhancement of habitat within proximity to the site is welcomed, it is considered there are further opportunities to enhance the south-west boundary connecting with the existing line of trees with the hedge to the south. There is an existing field boundary that could be enhanced through management and increase landscape connectivity.

At least 10% net gain should be delivered through separate activities which are not required to mitigate or compensate for protected species impacts. This would be

considered if the proposed offsite BNG area is recommended as a reptile receptor area.

The submitted ecological survey information, general ecological avoidance, mitigation, enhancement measures (subject to the above comments and conditions below), and indicative biodiversity net gain calculations are considered acceptable and proportionate. Therefore ecological matters do not weigh against the proposal.

Therefore, taking into account the above there is compliance with policies EN5, guidance within the NPPF as well as forthcoming legislative requirements.

Archaeology

The interim report summarising the results of the archaeological field evaluation has now been submitted as a result of trial trenches and preliminary investigative works. In the light of the results as set out in this report, and assurances to the Historic Environment Team that a full final report will be produced by the applicant's archaeological contractor, the Historic Environment Team is able to withdraw its previous objection and does not consider that any further archaeological mitigation is required.

As such, the Historic Environment Team has no comments to make on this planning application. This investigative process has led to a slight delay in the processing of this application, but was a necessity based on the preliminary comments of the County Archaeologist. However, it is now apparent that the proposal complies with policy EN7 of the Local Plan.

Other matters

Network Rail

According to the Environmental Health department the proposed properties closest to the railway will require the provision of noise mitigation, as detailed within the applicant's noise assessment to achieve suitable internal ambient noise levels. It is a suggested condition that no development shall take place until details of proposed acoustic mitigation to be installed/provided have been submitted to and approved by the Local Planning Authority.

The other element concerning Network Rail is asset protection including matters that arose from the Flood Risk Assessment. However, a letter from Network Rail submitted by the applicant states that they were satisfied with the drainage explanations provided and therefore had no objection to the proposal at this stage.

Open Space

Strategy 43 of the local plan requires on-site provision of certain types of open space, including children/youth space and amenity open space. The final requirements will depend on the type and number of houses proposed at reserved matters stage but the

indicative plan shows that there is sufficient space to accommodate the anticipated open space facilities.

Health Care

A request for a financial contribution towards healthcare services provided by the Royal Devon and Exeter NHS Foundation Trust has been made.

However, the amount requested is yet to be qualified with the complexities in the funding gap unclear. Recent court judgements have to be taken into account and this, like other ongoing request from the NHS have to be scrutinised in detail. Therefore a resolution to approve with such a contribution to be confirmed this would be subject to finalising this final amount.

S106 legal matters

In order to mitigate the impact of this development a legal agreement would need to secure the following;

- Provision of on site affordable housing (25% of the total number of houses)
- Provision of Open space and maintenance of.
- Arrangement of maintenance for any grassland/parkland/communal areas.
- Agreement to secure alterations to the public highway to accommodate the access works
- Contribution to NHS (final amount TBC)
- Off site Biodiversity Net Gain

At the time of writing a S106 legal agreement securing the above requirements has not been secured. Accordingly, the recommendation to Members is that of a resolution to approve, subject to the completion of the S106 with the requirements listed.

Planning Balance

The Framework indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites the policies in the development plan are to be considered out of date. In such cases planning permission should be approved without delay unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme.

Applications for planning permission ultimately must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act (2004). The Framework is only one such material consideration and even where paragraph 11 applies, it remains necessary to reach a final conclusion against section 38(6).

It can be seen that this proposal would provide towards meeting the housing need within the district. This can be achieved in a relatively suitable location with transport links to an appropriate level of services and facilities which are within one the districts main settlements.

The outcome of the Framework paragraph 11 d) process indicates that this decision should be taken otherwise than in accordance with the development plan. The proposal would therefore be likely to constitute sustainable development when assessed against the Framework, taken as a whole. This is a material consideration which would outweigh the identified limited landscape conflict related to the principal of the development outside the built up area boundary.

RECOMMENDATION

Resolution to APPROVE subject to the following conditions and completion of a s106:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).
2. Approval of the details of the layout, scale and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved.)
3. No development shall take place until a revised Construction and Environment Management Plan (CEMP) (to include schemes for the suppression of dust and air quality measuring and mitigation has been submitted to and agreed in writing with the Local Planning Authority. The development shall not proceed otherwise than in strict accordance with the CEMP as may be agreed unless otherwise agreed in writing with the Local Planning Authority.
(Reason – This is required as a pre-commencement condition to ameliorate and mitigate against the impact of the development on the local community from the outset of development in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
4. 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.
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
5. Prior to their installation, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for

the external walls, roofs, windows, doors, rainwater goods, fascias, bargeboards and ground surface materials of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. (Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

6. The landscaping scheme approved at the reserved matters stage shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan)

7. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority.

The development shall be carried out in accordance with the approved details. The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS.

The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason – This is required as a pre-commencement condition 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 from the outset of development in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2016.)

8. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed plan showing layout of any existing,

replacement or new above and below ground services, foul and surface water drainage and other infrastructure - insofar as they may affect existing trees- shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals or compliance which may be required under any other Legislation e.g. NJUG Vol. 4 Guidelines). Such layout and design and implementation shall provide for the long term retention of the trees and hedgerows. 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 / approved service / drainage/infrastructure layout.

(Reason - To ensure retention and protection of trees on the site during and after construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2016. This is required as a pre-commencement condition as the works specified are likely to occur early in the development and could have adverse impacts if not controlled)

9. Prior to commencement of development the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.

- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Development shall take place in accordance with the approved CMP.

(Reason - To ameliorate and mitigate against the impact of the development on the local community and to ensure that any impact on the highway network is kept to a minimum in accordance with policies TC7 - Adequacy of Road Network and Site Access and EN15 (Control of Pollution) of the East Devon Local Plan. This needs to be a pre-commencement condition to mitigate impacts of the development from the outset.)

10. The development shall not proceed other than in strict accordance with the Flood Risk Assessment dated May 2023, conducted by Phoenix Design Partnership Ltd.

(Reason -To ensure the development complies with the guidance as set out in the National Planning Policy Framework) and policy EN21 (River and Coastal Flooding of the East Devon Local Plan).

11. The development shall not proceed other than in strict accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Impact Assessment dated March 2023 conducted by EAD Ecology.

(Reason -To ensure protected species are managed in an appropriate way in accordance with Policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan.)

12. Prior to the commencement of development a soil resources plan shall be prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- A) a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- B) methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- C) location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- D) schedules of volumes for each material.
- E) expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.
- F) identification of person responsible for supervising soil management.

and shall have been submitted to and approved in writing by the Local planning Authority.

Development shall take place in accordance with the approved soil resources plan.

(Reason – To ensure that the re distribution of soils does not harm the surrounding landscape, in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan, and guidance contained within the National Planning Policy Framework. This needs to be a pre-commencement condition as soil movement is likely to take place very early in the development process).

13. The site access shall be constructed, laid out and maintained for that purpose, where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.

(REASON: To provide a satisfactory access to the site and to provide adequate visibility from and of emerging vehicles, in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan, and guidance contained within the National Planning Policy Framework).

14. The reserved matters application(s) for layout and external appearance shall include details of secure cycle/scooter storage facilities. The development shall be implemented in accordance with the approved details and no dwelling shall be occupied until the cycle/scooter storage facility that the relates to the dwelling has been provided. The facility shall be retained for such a purpose for the lifetime of the development

(REASON: To promote sustainable travel methods in accordance with policy TC9 (Parking Provision in New Developments) of the East Devon Local Plan).

15. There should be no development and no raising of ground levels, whether temporary or permanent, within the areas of the site designated as Flood Zone 3 (high probability of flooding).

Reason: To safeguard the function of the floodplain thus ensuring an increase in flood risk does not occur, in accordance with Strategy 47 (Nature Conservation and Geology) and policy EN21 (River and Coastal Flooding) of the East Devon Local Plan, and guidance contained within the National Planning Policy Guidance).

16. No works shall that could impact on dormice or bats shall commence unless the Local Planning Authority has been provided with a copy of the dormouse and bat mitigation licences issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead. Any mitigation and compensation measures should be in accordance within an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.

(Reason – To ensure that the proposal does not result in harm to protected species, in accordance with Circular 06/2005 Biodiversity and Geological

Conservation, Strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan, and guidance contained within the National Planning Policy Framework).

17. The development shall deliver at least a 10% biodiversity net gain (BNG). Any subsequent reserved matters application and detailed site design should be supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0), a biodiversity gain plan, and habitat maintenance and management plan following best practice principle, including BS 8683, and following current or subsequently updated BNG guidelines.

Reason – To clarify the terms of the consent, ensure that BNG is brought forward in an appropriate manner, in accordance with Strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan, and guidance contained within the National Planning Policy Framework).

18. Prior to the commencement of development the following information shall have been submitted to and approved in writing by the Local Planning Authority;

- A Landscape and Ecological Management Plan (LEMP),
- Construction and Ecological Management Plan (CECoMP); and
- A lighting design for bats following Devon County Council (2022) guidance, including provision of lux contours and dark corridors.

The submitted documents shall include details of how protected species including dormice, bats, reptiles, nesting birds, otter, and badgers will be protected during the development and following construction, and include details of working practices, compensatory habitat, receptor site, monitoring, compliance, and remedial measures.

It should include a detailed design of the bat house, including materials, access, location, and measures to ensure it remains protected from disturbance. The location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, permeable fencing and other features should clearly be shown on submitted plans.

The LEMP should also be fully in accordance with the recommended condition provided by the landscape architect.

(Reason: To ensure that the development has no adverse effect on protected and notable species, and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.

19. The reserved matters application(s) for layout shall include:

- (a) A detailed drainage design based upon the approved Land off Northcote Road, Honiton Flood Risk Assessment and Drainage Strategy (Report Ref. 570, Rev. B, dated 30th May 2023).
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site.
- (e) Evidence there is agreement in principle from the landowner/DCC highways/Network Rail for any water diversion or modification.
- (f) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

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

(Reason: The above condition is 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).

- 20. The development shall proceed in accordance with the submitted ecological impact assessment (EAD Ecology, 2023),

Reason: To ensure that the development has no adverse effect on protected and notable species, and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031

Plans relating to this application:

BM-M-01 rev H	Location Plan	31.03.23
SK10	Other Plans	13.04.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

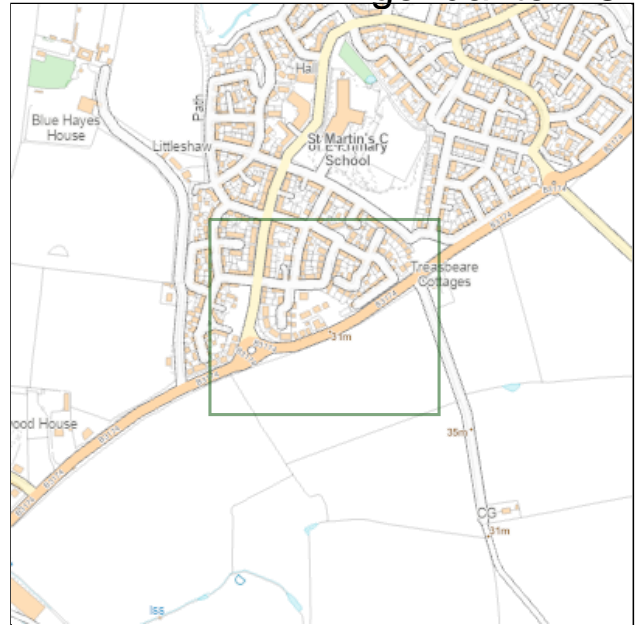
Ward Cranbrook

Reference 20/1663/VAR

Applicant D S Developments (Exeter) Ltd

Location South Whimble Farm Clyst Honiton Exeter EX5 2DY

Proposal Removal of condition 16 of 16/1826/MFUL (decentralised energy network connection) to remove requirement for connection to the Cranbrook district heating network



RECOMMENDATION: Approval subject to conditions and S106 deed of variation (to be delegated to officers)



		Committee Date: 26.09.2023
Cranbrook (Cranbrook)	20/1663/VAR	Target Date: 30.09.2020
Applicant:	D S Developments (Exeter) Ltd	
Location:	South Whimble Farm Clyst Honiton	
Proposal:	Removal of condition 16 of 16/1826/MFUL (decentralised energy network connection) to remove requirement for connection to the Cranbrook district heating network	

RECOMMENDATION: Approval subject to conditions and S106 deed of variation (to be delegated to officers)

EXECUTIVE SUMMARY

This application is before members as the recommendation to approve is contrary to views expressed by Cranbrook Town Council, Cllr Hawkins, Cllr Blakey and Cllr Bloxham.

The application seeks to remove condition 16 (decentralised energy network connection) of application 16/1826/MFUL which granted planning permission for the demolition of agricultural buildings and erection of 19 dwellings. The removal of condition 16 would remove the requirement for the development to connect to the existing district heating network serving Cranbrook with alternative provision provided mostly via Air Source Heat Pumps (ASHP). It should be noted that the development is largely complete and at the time of writing, with 14 of the 19 dwellings occupied. The original application was also CIL Liable whereas the original Cranbrook application and subsequent expansion areas application are not CIL Liable.

Following the adoption of the Cranbrook Plan DPD in October 2022, Policy CB12 (Delivering Zero Carbon) superseded Strategy 38 in part and Strategy 40 in full of the East Devon Local Plan (EDLP) in full at Cranbrook. Policy CB12 seeks to maximise the proportion of energy from renewable or low carbon sources through ensuring connection to the District Heating Network subject to viability.

A previously submitted S73 application (ref. 19/2591/VAR) to remove condition 16 was appealed on non-determination grounds and dismissed due to a technically relating to affordable housing requirements. However, the Inspector stated that the insistence of a District Heat Network connection would be an unviable imposition in this case and without the connection, the proposal would still conform to Policies 38 and 40 of the EDLP.

In light of the aforementioned appeal decision, negotiations around this application sought to secure an alternative low carbon heat and hot water source. The details put forward to support this planning application include air source heat pumps (ASHP) to be installed on all dwellings apart from Plot's 5 and 6 which would be served by electric boilers for both heating and hot water as they are flats and it was asserted that ASHP's weren't feasible. Plots 5 and 6 achieve a Standard Assessment Procedure (SAP) rating of 84/100 and those dwellings with ASHPs achieve 86/100. The proposals are considered to be a reasonable low carbon alternative to powering the scheme which is viable for the applicant. Overall, the proposal is considered to meet the overall requirements of Policy CB12 and would deliver a reduction in carbon emissions.

Officers acknowledge concerns from Cranbrook Town Council and ward members however given the circumstances and appeal decision, it would be unreasonable to refuse the application. Therefore, the application is recommended for approval subject to conditions and S106 deed of variation to carry across all S106 provisions.

CONSULTATIONS

Local Consultations

Cranbrook - Cllr Kim Bloxham – 5 Sept 2021

I object to this application that requires removal to the connection to the decentralised energy network. This is not only contrary to Strategy 38 and 40 of the local plan but goes against the whole ethos of the development of the town of Cranbrook. Irrespective of the desire to achieve low carbon emissions removal of this condition would set this small development apart from the remainder of the town. Should this application go to Committee I reserve the right to review my comments until the final information is known.

Cranbrook - Cllr Kim Bloxham – 8 August 2023

Having looked at the amended application, I can no reason to change my view therefore I maintain my original objection.

Cranbrook - Cllr Sam Hawkins – 9 August 2023

I object to this application that requires removal to the connection to the decentralised energy network. This is not only contrary to Strategy 38 and 40 of the local plan but goes against the whole ethos of the development of the town of Cranbrook. Irrespective of the desire to achieve low carbon emissions removal of this condition would set this small development apart from the remainder of the town.

I am very concerned that the properties have been occupied despite the properties not complying with the permission granted.

Cranbrook - Cllr Kevin Blakey – 9 August 2023

I object to this application. The proposal to remove the requirement to connect to the decentralised energy network is a key requirement for all developers in Cranbrook, and the applicant has been well aware of this for several years but has made no apparent effort to install the network infrastructure. This application appears to be an attempt to override and avoid the obligation to connect the homes to the heating network.

It is also a matter of concern that many of the properties within this development have already been sold and are occupied, despite the fact that the dwellings have been constructed other than in compliance with the planning consent.

Development Delivery Project Manager - Andy Champion – 9 Oct 2020

Firstly, the removal of this condition is contrary to Strategy 40 of the local plan.

Secondly, it appears they are saying the scheme is not viable due to the increased costs associated with the connection to EON, which now renders the scheme unviable. If this is correct then they need to prove this to us. As such we would require a new 'full open book' Development Viability Assessment. If as they have said, they are looking at LPG connectivity and this mitigates the increased cost that has arisen as a result of EON's revised quote. Then we will need to see EON's quote plus details of the costings involved with the installation costs of LPG gas. Until we get that information and cannot comment further.

Development Delivery Project Manager - Andy Champion – 21 August 2023

I object to this application that requires removal to the connection to the Cranbrook district heating network. This is contrary to Strategy 40 of the East Devon Local Plan 2013 - 2031.

Clerk To Cranbrook Town Council – 30 Sept 2020

The Committee considered

(b) Planning Application 20/1663/VAR for the removal of condition 16 of 16/1826/MFUL (decentralised energy network connection) to remove the requirement for a connection to the Cranbrook district heating network.

The Committee discussed the removal of social housing and how allowing this amendment may set a precedent for future developments.

The Committee commented that the original planning permission was granted under the premise of being joined to the heating system as well as including the social housing provision and were uncomfortable with the change in direction of the developers.

It was proposed by Cllr Barry Rogers, seconded by Cllr Colin Buchan and resolved to

(d)not support Planning Application 20/1663/VAR for the removal of condition 16 of 16/1826/MFUL to remove the requirement for a connection to the Cranbrook district heating network.

Clerk To Cranbrook Town Council – 20 July 2021

Cranbrook Town Council Planning Committee discussed planning application 20/1663/VAR on the 19 July 2021, minute ref P/21/55, and resolved to to object to this application and would like to comment that:

' the developer had removed some two metres of mature hedgerow and crossed a verge, both owned by the Town Council, without consent in order to make other utility connections and the Town Council would like the East Devon District Council Planning Enforcement Department to ensure this was reinstated.

'the original application included a safe path connection with the town to remove the need for children walking and cycling to school to pass alongside the B3174 and to create a safer connection direct to the town, the Town Council would like East Devon District Council Planning Department to work with the developer to ensure this path was put into place.

Parish/Town Council – 29 June 2022

The Committee considered the application for removal of condition 16 of 16/1826/MFUL (decentralised energy network connection) to remove requirement for connection to the Cranbrook district heating network having noted its previous consideration on 19 July 2021. The Chairman suggested that the application be reviewed in conjunction with application 20/2028/VAR below.

The Chairman reminded councillors that planning consent had been granted for the demolition of agricultural buildings and the erection of 19 dwellings on 20 November 2018 under application 16/1826/MFUL with conditions regarding the connection to district heating and the provision of five affordable homes. Both aspects had been subject to applications for removal for some time. Members considered that the homes should be connected to district heating and the costs should be part of the costs of the dwellings which were for sale. Alternative green heat sources were equally if not more costly and the Committee considered other solutions as unacceptable.

The Committee agreed that South Whimble Farm formed part of Cranbrook and was located within the first phase of the town. One of the key considerations was that the development of 19 homes would be properly integrated within the town and part of this integration would be facilitated by the connection to the district heating network. The town sought a net zero carbon solution for heat and in order to achieve that, the residents of Cranbrook were tied into a district heating contract with E.ON. The Committee considered that it would be grossly unfair for developers to be allowed to divert to other heat sources as their purchasers would be treated and be subject to differing contracts and costs, resulting in a potential "us and them" scenario.

The developer cited viability as the reason for the application and suggested that 17 of the homes would have heat source pumps with two social housing units connected to electric heating. With E.ON connection charges of approximately £8,000 per unit, the Committee considered the question of heat source pumps meeting viability tests as problematic and questionable - the concern being that if £8,000 was considered unviable, heat source pump systems would be too and the next stage could be a move towards reversion to conventional boilers.

The development at South Whimble Farm had been ongoing for many years and there had been no visible attempt to instal the groundwork infrastructure for district heating. Subsequently, there was a concern that there had never been any intention to do so.

In summary, if Cranbrook was to achieve net zero and South Whimble Farm was to become integrated into the town, the homes should be connected to district heating and the costs should be included in the costs of the dwellings which were for sale. Alternative green heat sources were equally if not more costly and other solutions were considered unacceptable by the Committee.

It was proposed by Cllr Barry Rogers, seconded by Cllr Colin Buchan and resolved to continue to object to the application to remove condition 16 to connect to the district heating network on the basis of promoting a development which would be integrated with the remainder of the development at Cranbrook and not set apart, the aim of net zero and supporting the development of the waste-to-energy project.

Parish/Town Council – 14 August 2023

There is nothing in this recent re-submission of the application to remove condition 16 (and the requirement to connect to the decentralised energy network) which changes the previous view of the Town Council and the Committee therefore re-states its previous objection.

Technical Consultations

Environmental Health – 23 July 2021

I have no objections to the removal of condition 16.

Environmental Health – 10 August 2023

I have reviewed the technical data on the ASHP's and I have no Environmental Health concerns.

Housing Enabling Officer – 31 August 2023

Having now understood the precise nature of this application, I withdraw my objection.

Other Representations

No comments have been received by neighbouring properties.

POLICIES

Adopted Cranbrook Plan DPD

CB12 (Delivering Zero Carbon)

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 38 (Sustainable Design and Construction)

Strategy 40 (Decentralised Energy Networks)

EN14 (Control of Pollution)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

OFFICER REPORT

Site Location and Description

South Whimble Farm was a brownfield site, adjacent to phase one of Cranbrook. The site is accessed from the B3174 to the south and a brick farm house sits in the centre of the site (excluded from the red line boundary).

At this time, the site is in construction with 14 dwellings occupied. The connection to Cranbrook Phase 1 within the development site has been completed.

Relevant Planning History

16/1826/MFUL

In 2018 the above site received planning approval for a total number of 19 dwellings, with the existing farmhouse being retained. Of the 19 dwellings, 26% (equating to a total number of 5) were to be affordable homes.

The location of the site outside of Cranbrook at the time, resulted in a need for 50% on-site affordable housing provision in accordance with Strategy 3 and a higher CIL rate of £125/m². The application underwent a viability appraisal, which concluded that 26% affordable homes could be achieved across the site.

This permission was subject to the following planning condition:

16. Connection to Energy Network

The development hereby approved shall be connected to the Decentralised Energy Network in the locality. The buildings shall be constructed so that the internal systems for space and water heating are connected to the

decentralised energy network prior to their first occupation for their permitted use.

(Reason: In the interests of sustainable development in accordance with Strategy 38 (Sustainable Design and Construction) and Strategy 40 (Decentralised Energy Network) of the adopted East Devon Local Plan 2013-2031).

19/2591/VAR (Appeal Ref. APP/U1105/W/20/3254780)

An appeal was submitted due to the non-determination of this section 73 planning application submitted by PCL Planning on land at South Whimble Farm. The application was submitted in November 2019 and was found to be invalid and was later appealed due to the failure to validate it.

The submitted s73 application had sought to remove condition 16 of 16/1826/MFUL relating to a requirement to connect to the district heating network in the locality. In addition to this, the applicant's appeal documentation (and not their s73 application form) sought a change to the affordable housing percentage, taking it from 26% to 0%.

In determining the appeal, the Inspector concluded that the matter of amending the affordable housing percentage fell beyond the scope of the section 73 application and such changes should be sought through the variation of the s106 agreement and a separate determination process.

The appeal then considered the removal of condition 16 which required the applicants to connect to the EON district heating network that served the rest of Cranbrook. The Inspector made reference to Strategy 40 of the East Devon Local Plan which requires schemes of 10 or more dwellings to connect to an existing or proposed district energy network (DEN), where it is viable to do so.

In this instance, evidence was submitted to demonstrate a quoted connection charge to the DEN of £8,193/dwelling, which was considerably above what was envisaged prior to the determination of the original application. This, in addition to the high CIL rate was considered by the Inspector, that a connection to the DEN would be an unviable imposition. Nevertheless, due to the inability of the Inspector to consider the amendment of the affordable housing requirement the appeal was dismissed on the 17th March 2021.

The application subject of this report is a duplicate of the appealed section 73 application but seeks only to remove the condition 16 and a separate request to amend the affordable housing provision and carry over existing S106 requirements has been made (ref. 20/2028/V106). At the time of writing this report, the V106 application is yet to be determined but is now in a position to be taken forward as the developer has identified a Registered Provider to take on the affordable units and so appropriate amendments to the s106 regarding the tenure split can be made to facilitate this.

It is acknowledged that this application has been with the LPA for a considerable period of time. The reasons for this are multiple and in the first instance, a delay ensued whilst the aforementioned appeal was determined. When the application subject of this report was submitted it did not include the provision of alternative low carbon technologies for heating and hot water. Negotiations resulted in the ASHP's being proposed in mid-2021, after the appeal had been dismissed. However, at that time the tandem V106 application was seeking to entirely remove the requirement for affordable housing provision, largely due to the developer not having secured a Registered Provider willing to take on the 5 units in accordance with the S106 provisions. The total removal of the affordable housing provisions was not acceptable to the Council and therefore the applicants were asked to explore alternative affordable housing mixes with RP's with support from our housing team. The positive determination of this S73 application would require an S106 deed of variation to ensure that the S106 provisions continue to apply; it would therefore make most sense to determine both applications at similar times and have one overarching S106 deed of variation. Application 20/2028/V106 shall be determined under delegated powers.

ANALYSIS

The proposal seeks planning consent for the removal of Condition 16 of planning consent 16/1826/MFUL (connection to DEN) which requires a connection to be made to the existing Cranbrook DEN system.

This condition reads:

16. Connection to Energy Network

The development hereby approved shall be connected to the Decentralised Energy Network in the locality. The buildings shall be constructed so that the internal systems for space and water heating are connected to the decentralised energy network prior to their first occupation for their permitted use.

(Reason: In the interests of sustainable development in accordance with Strategy 38 (Sustainable Design and Construction) and Strategy 40 (Decentralised Energy Network) of the adopted East Devon Local Plan 2013-2031).

Development of the previously consented scheme has begun with a number of the properties being occupied (14 at the time of writing). No changes are proposed under this application to the overall layout, car parking, landscaping, design and access of the scheme.

Viability

Strategy 40 of the East Devon Local Plan requires schemes of ten houses or more to connect to existing or proposed DENs in the locality to bring forward low and zero carbon energy supply and distribution. However, this is only where it is viable to do

so, which is an approach consistent with Paragraph 157 of the National Planning Policy Framework (the Framework). It is noted that this policy is no longer relevant at the application site as it was superseded within the Cranbrook Plan Area with the adoption of the Cranbrook Plan in October 2022.

In respect of Cranbrook, Strategy 40 was replaced with Policy CB12 (Delivering Zero Carbon) that states that all development at Cranbrook will be designed, constructed and perform to the highest practicable and viable whole life sustainability standards possible. As with Strategy 40, ensuring a connection to the District Heating network is subject to viability.

In line with Strategy 40, all of Cranbrook to date is served by a district heating system supplied by an energy centre immediately to the west of the town, on a concession operated by E.ON. During the course of the original planning application (16/1826/MFUL), it was understood that conversations were being had between the applicant and E.ON and it was further conditioned that prior to commencement, details of below ground infrastructure (including any connection to EON) should be provided to the LPA.

On the 5th April 2019, Condition 5 (below ground Infrastructure) was discharged, where details were provided to show the connection point for the scheme and this included DEN connection.

Since then further conversations with E.ON established a higher connection cost than first expected, and in line with Strategy 40 as was applicable at the time (now CB12), the applicants were advised that this should be demonstrated through an open book viability exercise if amendments to the scheme were to be sought.

The Planning Practice Guidance is very clear on that fact that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and as such we would require a new 'full open book' Development Viability Assessment.

As noted above, the location of the site outside of Cranbrook at the time, resulted in a higher CIL rate of £125/m². The original Cranbrook application was not CIL Liabe and the additional cost of CIL alongside the DEN connection was factored into the viability of the scheme. Following the adoption of the Cranbrook Plan in 2022, the entire plan area is not CIL liable meaning the specific circumstances of this application are unlikely to be present elsewhere in Cranbrook and within the District.

Evidence has been submitted that demonstrates the connection cost per plot increased from £2,500 to £8,193 per dwelling which was reflected within the viability assessment and correspondence from E.ON that the applicant submitted to support the appeal (referenced above).

The Planning Inspector noted the following within the appeal decision (p. 12):

“It is evident that due to changes in funding, each dwelling within the Original Permission would have a connection charge of £8,193 to the DEN at Cranbrook, which is markedly above that originally envisaged. This combines

with the CIL rate that the Original Permission faces, which is significantly higher than the new £nil rate at Cranbrook, which also now applies at South Whimble Farm outwith the Original Permission. Together, these matters indicate that the insistence of a DEN connection would be an unviable imposition in this case, particularly given the marginal viability of the Original Permission, a matter accepted by the Council at the time...”

The conclusion reached by the inspector was that due to the circumstances of this application, Condition 16 was unnecessary, and therefore with regard to this planning application and in the absence of any information to demonstrate that the viability of the scheme has improved, and having regard to the current economic climate making such upward changes in viability unlikely, it would be unreasonable to reach an alternative conclusion in relation to a requirement to connect to the DEN. The objections and concerns raised by consultees and members of the public have been taken into account but in this instance, the findings of the appointed Planning Inspector acting on behalf of the Secretary of State, are considered to carry greater weight and it would be unreasonable to refuse permission.

Alternative Proposal

Policy CB12 (Delivering Zero Carbon) of the Cranbrook Plan states that all development at Cranbrook will be designed, constructed and perform to the highest practicable and viable whole life sustainability standards possible.

The consented scheme has been implemented and therefore changes to the design, layout and use of additional fabric first methods are not possible.

There is a zero carbon objective for the rest of Cranbrook in line with Policy CB12 and therefore it was considered appropriate for this scheme to look at low carbon alternatives as it is not viable to connect to the DEN.

The documentation initially submitted proposed LPG, but did not demonstrate that any other alternatives were explored. The proposal of LPG was considered by the council as unacceptable as it is a fossil fuel where two thirds of it is extracted from the earth in the same way as natural gas and the rest derived indirectly from crude oil (petroleum). The Future Homes Standard consultation documents stated that heat networks are envisaged, along with heat pumps, to be the prime ways of low carbon heating being achieved going forward. There is no suggestion in that document that the use of a fossil fuel derived LPG would be low carbon.

Amended details were then submitted to support this planning application which included Air Source Heat Pumps (ASHP) to be installed on all dwellings apart from Plots 5 and 6 which would be served by electric boilers. The air source heat pump locations are shown on drawing number 1997/16/010 REV V: Proposed Site Plan (submitted 02 Sep 2022) and have been indicated by a red cross. The technical details of the heat pumps have also been submitted.

The sound power level of the ASHP's being used is 58 dB which means the sound pressure level is 47dB(A). With regard to their locations, the majority of them are situated either next to the garage or on the side of the properties which is not facing

any bedroom windows. Taking this into consideration along with the separation distances, it is not considered that these locations would be problematic with regard to noise or disturbance in accordance with Policy EN14 (Control of Pollution).

It is also understood that the installer has advised that 1.6m is needed between the house and boundary to ensure they work correctly, which can be achieved and this has been confirmed on site.

Plots 5 and 6 are proposed to be served by electric boilers and will be a combination type, providing heat via a radiator system (the same as a gas boiler) and hot water. Officers have raised concerns with electric boilers as they can be more expensive to run and are not classed as renewable energy. Officers have discussed this with both the Housing Enabling Officer and the Registered Provider of which no objections were raised to electric boilers. Plots 5 and 6 achieve a SAP rating of 84/100 and those dwellings with ASHPs achieve 86/100 meaning the overall SAP ratings are similar. Furthermore, an electric system could allow the resident to use a 100% renewable tariff and the registered provider (as these units are the affordable flats) may choose retrofit PVs in the future. The applicant has spoken with their energy assessor, who have advised that the electric boilers proposed are 99% efficient. Therefore, whilst concerns are raised with electric boilers, on balance, they are acceptable having regard to the viability issues that have been demonstrated.

A separate application has been submitted which seeks approval for the variation of the Section 106 in respect of the alteration of the tenure of the affordable housing units and to carry obligations to S73 applications.

Officers note Cranbrook Town Council's objection to the planning application, however it raises some issues which are not pertinent to the removal of condition 16, which this application relates to. The pedestrian link has been completed within the site and the comments made regarding the unlawful removal of part of the hedgerow has been passed onto the Planning Enforcement Officer to deal with accordingly.

CONCLUSION

In conclusion, the removal of condition 16 is considered to be acceptable in this instance. Due to the circumstances of this application, a connection to the district heat network is not viable and the applicant has provided suitable alternatives which accord with Policy CB12. This application should not be seen as setting a precedent for the expansion of the town where Policy CB12 applies or wider development in the West End and the default expectation is for the continued roll-out of district heating.

The application is therefore recommended for approval subject to conditions and S106 deed for variation.

The S106 agreement for 16/1826/MFUL does not allow for the S106 to be carried over to any S73 applications meaning a deed of variation is required. This may be dealt with as a single DOV alongside the determination of application 20/2028/V106.

The previous approval included a number of conditions and approved plans. Some of these plans were amended with an approved non-material amendment application

and other conditions have been discharged. The list of recommended conditions below reflects these changes and the fact that development has begun, in order to ensure they remain relevant, in accordance with the Planning Practice Guidance.

RECOMMENDATION

APPROVE subject to an s106 deed of variation to carry over the provisions of the s106 agreement for 16/1826/MFUL and the following conditions:

1. The development hereby permitted shall be taken to have been begun on 5 August 2020, when this application was registered by the Local Planning Authority.

(Reason - In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:

Submitted as part of 20/1663/VAR:

1997/16/010: rev V Proposed Site Plan 02.09.22; and

Approved as part of Application 16/1826/MFUL:

1997/16/001 A Location Plan 22.12.17

DSSWF 013317b Landscaping 23.03.18

1997/16/011revD Proposed Combined Plans 19.12.19

1997/16/015revF Proposed Combined Plans 19.12.19

1997/16/012revD Proposed Combined Plans 19.12.19

1997/16/013revE Proposed Combined Plans 19.12.19

1997/16/014revE Proposed Combined Plans 19.12.19

1997/16/016revE Proposed Combined Plans 19.12.19

1997/16/017revB Proposed Combined Plans 01.03.18

(Reason - For the avoidance of doubt.)

3. Materials

Development shall be carried out in strict accordance with the material schedule details as discharged on the 31 January 2019 in relation to condition 3 of planning permission 16/1826/MFUL.

(Reason: To ensure that the materials are sympathetic to the character and appearance of the area in accordance with policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031).

4. CEMP

Development shall be carried out for its duration in strict accordance with The Construction, Environmental Management Plan received by the Local Planning Authority on 14 December 2018 and discharged on 21 December 2018 in relation to the discharge of condition 4 of planning permission 16/1826/MFUL.

(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policy EN14 (Control of Pollution) and EN18 (Maintenance of Water Quality and Quantity) of the adopted East Devon Local Plan 2013-2031).

5. Bird boxes

The 8 number Schwegler swift nesting boxes as shown on drawing number 1997/16/010 Rev V Proposed site plan received by the Local Planning Authority on 8 January 2019 as part of the discharge of condition 6 of planning permission 16/1826/MFUL shall be installed prior to the first occupation of each of the respective host plots.

(Reason - To secure adequate protection and mitigation measures to safeguard the bio-diversity resource of the site, in accordance with Policies D1 (Design and Local Distinctiveness) and EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031 and the National Planning Policy Framework 2018).

6. Bat Boxes

The 7 number Schweglar 1FR bat tubes as shown on drawing number 1997/16/010 Rev V Proposed site plan received by the Local Planning Authority on 8 January 2019 as part of the discharge of condition 7 of planning permission 16/1826/MFUL shall be installed prior to the first occupation of each of the respective host plots.

The temporary bat boxes as also shown on the same drawing number and further detailed in the illustrations received 11 January 2019 and discharged as part of condition 7 of planning permission 16/1826/MFUL shall be installed prior to the first demolition of buildings on the site and retained in place for the full duration of the construction period.

(Reason - To secure adequate protection and mitigation measures to safeguard the biodiversity resource of the site, in accordance with Policies, D1 (Design

and Local Distinctiveness) and EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031 and the National Planning Policy Framework 2018).

7. Drainage

Development shall be carried out in strict accordance with the details as shown on drawing number 0500 Proposed Drainage Layout Rev P3 dated June 2018 and received by EDDC on the 14th December 2018 and discharged as part of condition 8 of planning permission 16/1826/MFUL on 5 April 2019.

(Reason - To ensure that suitable means of surface water drainage are provided for the development and in the interests of amenity and to preserve and enhance the character and appearance of the area to avoid conflict with proposed landscape planting in accordance with Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) and EN22 (Surface Runoff Implications of New Development) of the adopted East Devon Local Plan).

8. Landscaping

Development shall be carried out in strict accordance with the details as shown on drawing number DSSWF 013317B received by EDDC on the 23rd March 2018 and as discharged on 5 April 2019 in relation to condition 9 of planning permission 16/1826/MFUL.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan and with the guidance contained within the National Planning Policy Framework 2018).

9. Architectural features

Development shall be carried out in strict accordance with the details as shown on the following drawing numbers discharged on 5 April 2019 in relation to condition 10 of planning permission 16/1826/MFUL

- o 1997/19/600 Window Detail received on the 5th March 2019;
- o 1997/19/601 UPVC Double Door Detail received on the 5th March 2019;
- o 1997/19/602 Single Door Detail received on the 5th March 2019;
- o 1997/19/603 UPVC Door with Glazed Panel Detail received on the 5th March 2019;
- o 1997/19/604 Detail Showing Junctions between Materials received on the 5th March 2019;
- o 1997/19/605 Detail Showing Boundary Walls and Retaining Walls Rev C received on the 21st March 2019;
- o 1997/19/606 Detail Showing Fencing and Supporting Structure received on the 5th March 2019;
- o 1997/19/607 Detail Showing Gate and Supporting Structure received on the 5th March 2019;

o Marley Rainwater goods brochure received on the 5th March 2019;

For the avoidance of doubt, the wall and curb detail shown on drawing number 1997/19/605 rev C and which includes the pier details, relates to the boundary walls shown for plots 12,13 and 14. The boundary walls adjacent to and to the front of plots 7, 8, 9, 10, 11, 16, 17, 18 and 19 shall be constructed with the same bond pattern and capping detail as that shown for plots 12 -14 inclusive, but without the brick piers.

(Reason - To secure an acceptable standard of detailing for the buildings to produce a high quality development in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and the guidance set out in the National Planning Policy Framework 2018.)

10. Garages

No dwelling shall be occupied until the garage(s) and/or parking spaces agreed to serve that dwelling have been provided in accordance with the approved details. Such garages and parking spaces shall thereafter be retained and be available for the parking of vehicles.

Reason - To ensure required parking facilities are provided and available for use upon occupation of the dwellings and thereafter in accordance with Policy TC9 (Parking Provisions) of the adopted East Devon Local Plan 2013-2031).

11. Northern Footpath Link

No more than 10 number dwellings shall be occupied until the northern footpath link has been delivered to the boundary of the site in accordance with the approved plans. For the avoidance of doubt this includes its complete construction and final surfacing.

(Reason - To allow for an improved future connection to the wider town in the interests of sustainability in accordance with Policy TC4 (Footpaths, Bridleways and Cyleways) of the adopted East Devon Local Plan 2013-2031).

12. Lighting Scheme

Within two calendar months of the date of this decision, details of a lighting scheme shall have been provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused.

(Reason: For the avoidance of light pollution and to minimise disturbance/impact on ecology in accordance with Policy EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031).

13. Road and Servicing

No dwelling shall be occupied until the following works have been carried out: The spine road including the vehicle turning head has been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed.

(Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site and to satisfy Policies TC4 (Footpaths, Bridleways and Cycleways) and TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan 2013 - 2031 and with the guidance contained within the National Planning Policy Framework 2018).

14. Temporary Sales Office

No dwelling or garage building hereby permitted shall be used as a temporary sales office, and no land shall be used as temporary parking for prospective purchasers/tenants, unless and until a plan identifying the buildings and land to be so used, and details of any temporary surfacing of land for parking purposes, has been submitted to and approved in writing by the Local Planning Authority. This temporary use shall operate only as agreed under this condition, and shall cease to be so used for each sub-phase on or before the date of the sale or rental of the last dwelling on the site, and the relevant building shall thereafter revert to its function for which reserved matters approval is hereby granted i.e. as a dwelling house or as an ancillary curtilage structure to a dwelling house.

(Reason: To clarify the scope and terms of any temporary uses of buildings and land within the site and to ensure that such activities are designed and laid out in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031).

15. Air Source Heat Pumps

The Air Source Heat Pumps where proposed shall be installed prior to the first occupation of each respective dwelling and thereafter such heat pump technology shall be retained for the lifetime of the development, with the exception of where a dwelling proposes to connect to the district heating network in the locality.

Reason: To ensure that the development contributes to mitigating and adapting to climate change and to meeting targets to reduce carbon dioxide emissions, and in the interests of residential amenity, in accordance with policy CB12 of the Cranbrook Plan DPD and strategy 38 of the East Devon Local Plan 2013-2031.

16. Permitted development rights removal

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modifications) no development shall be carried out on the street frontage on the identified plots

that would otherwise be permitted by the following Parts and Classes of Schedule 2 of the above Order Part 1 (Development within the curtilage of a dwellinghouse) Class F; Part 2 (Minor operations) Class A for the following plots: 1,2,3,4,12,13,14

(Reason -To retain an appropriate, high quality appearance for the development in accordance with policies D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and in accordance with the guidance set out in the National Planning Policy Framework 2018).

17. Visibility Splays

Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram C where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 90.0 metres in both directions in so far as the application site is affected.

(Reason: To provide adequate visibility from and of emerging vehicles in accordance with Policy TC7 9adequacy of Road network and site Access) of the adopted East Devon Local Plan 2013-2031).

18. SAP Ratings

All dwellings approved with an Air Source Heat Pump (Plots 1-4 and 7-19) must comply with the Predicted Energy Assessments prepared by AES showing a SAP score of 86 out of 100.

All dwellings approved with an Electric Boiler (Plots 5 and 6) must comply with the Predicted Energy Assessments prepared by AES showing a SAP score of 84 out of 100.

Evidence of this, relevant to each plot, shall be provided to the Local Planning Authority and agreed in writing prior to occupation of each dwelling

Reason: To ensure the development is sustainable in accordance with Policy CB12.

NOTE FOR APPLICANT

Informative:

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

The approved plans and details under application 16/1826/MFUL and referenced in the conditions included with this planning permission can be viewed on the East Devon Council Website: <https://planning.eastdevon.gov.uk/online-applications/search.do?action=simple&searchType=Application>

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

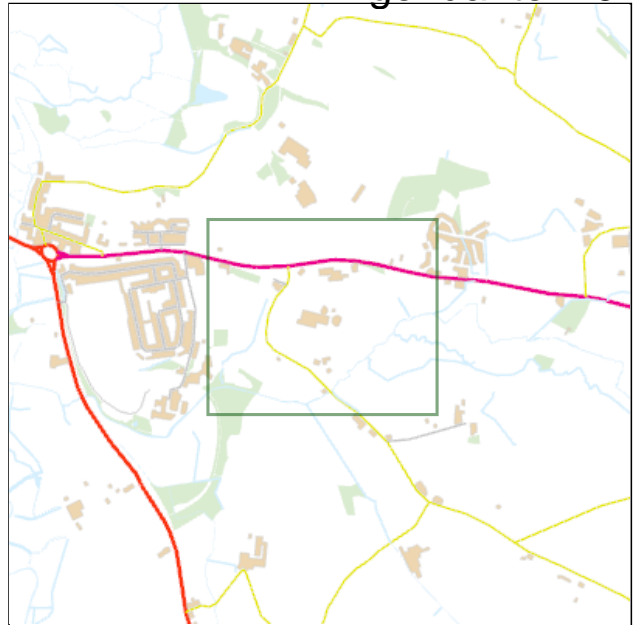
Ward Clyst Valley

Reference 23/0867/FUL

Applicant David Manley

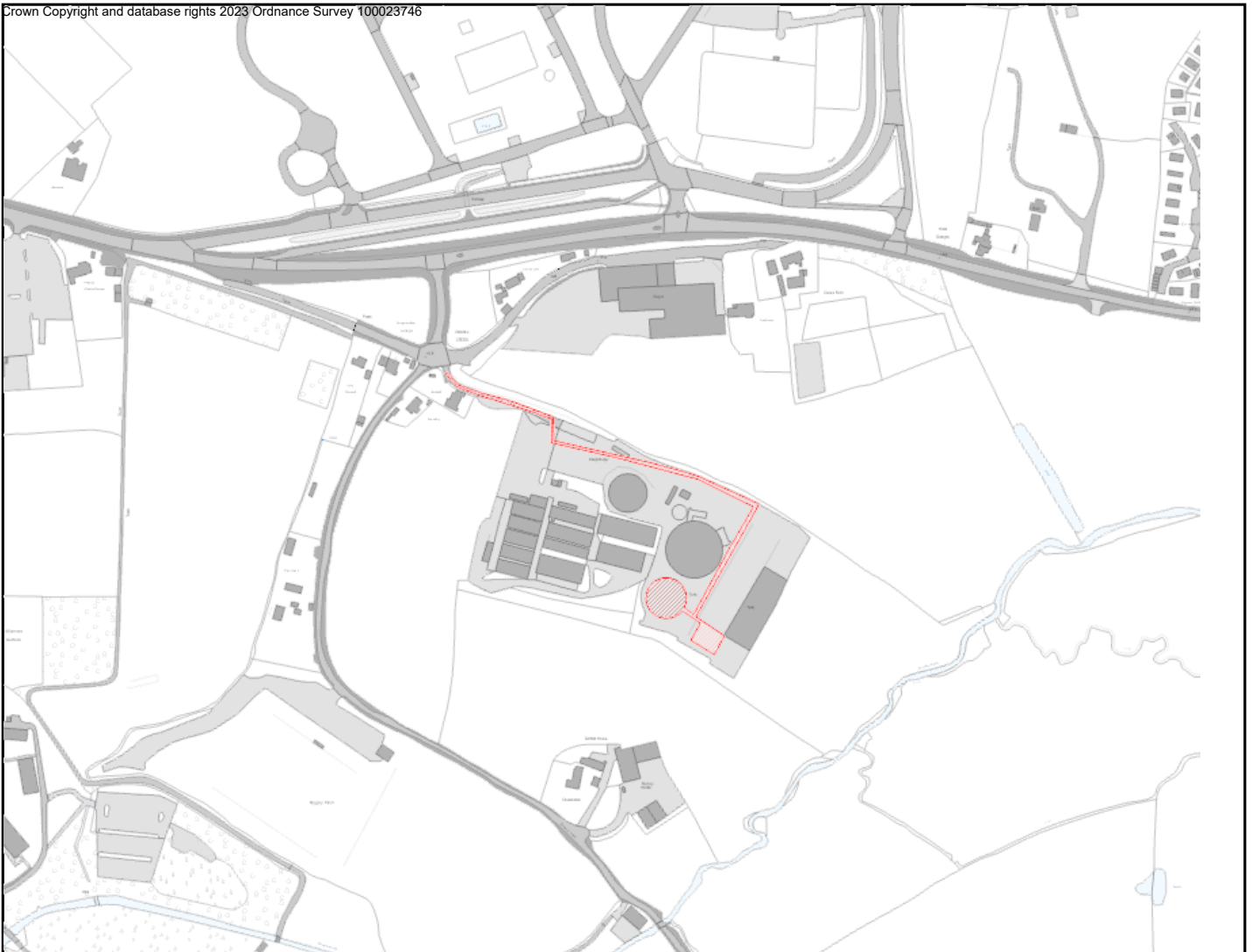
Location Enfield Oil Mill Lane Clyst St Mary Devon EX5 1AF

Proposal Installation of a roof and roller-door to a section of the existing storage clamp to provide improved environmental control and installation of a dome to collect residual gas from the digestate storage tank.



RECOMMENDATION: Approval with conditions

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		Committee Date: 26.09.2023
Clyst Valley (Bishop Clyst Clyst St Mary)	23/0867/FUL	Target Date: 28.06.2023
Applicant:	David Manley	
Location:	Enfield Oil Mill Lane	
Proposal:	Installation of a roof and roller-door to a section of the existing storage clamp to provide improved environmental control and installation of a dome to collect residual gas from the digestate storage tank.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Development Management Committee as the Officer recommendation is contrary to the views of the Ward Member.

Planning permission is sought for the installation of a roof and roller-door to a section of the existing feedstock storage clamp and a dome over the digestate storage tank. This application is essentially the same proposal, but on a smaller site and not including a further digester processing unit, as that previously approved, but time expired, under reference 18/2437/MFUL.

The dome is designed to prevent the odour emittance from the tank which stores the final digestate which has been identified as a source of odour, and would but also contain any residual gas that is still contained within the liquid. The proposed roof and roller shutter door to the feeding storage clamp is also designed to improve environmental (odour) management.

Given the environmental improvements offered by the proposed development and in the absence of any unacceptable impact on the character and appearance of the area, residential amenity, highway safety and surface water drainage the proposal is considered to be acceptable.

CONSULTATIONS

Local Consultations

Clyst Valley - Cllr Mike Howe

Object to the application - I find myself between a rock and a hard place with this application, as if this is granted and the development done then there should be an improvement for the living conditions for local residents. But the applicant has tried to link this application with 22/1104/VAR and 22/1106/VAR and I don't support that link, as such this development that has been granted before and not developed even though it would have improved the situation gives little faith to the local community that this will happen. As such if this application is approved it has to be a standalone application and with a very small time frame for the development to be completed, a 3 months to start and no decision on the other applications until this development is completed and proven to improve the current smells and noise coming from this site, So I need reassurance that this will actually happen.

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

Clerk To Bishops Clyst/Sowton (Clyst St Mary) Parish Council

Bishops Clyst Parish Council would comment on Planning Application 23/0867/FUL Enfield AD Plant, as follows:

For many years the residents of Clyst St. Mary have had to endure putrid odours, excessive noise and a huge increase in tractor and trailer traffic associated with this site. There have been numerous complaints made to the Environment Agency, EDDC and the Parish Council.

There was a sense of relief from the village community when planning application 18/2437/ FUL was approved for the installation of a roof and roller shutter doors to the existing storage clamp and the installation of a dome to collect gas as well as the installation of a digestate processor unit. This planning approval was not implemented and has now expired. This has resulted in residents continuing to complain bitterly about noise and putrid aromas. The current application seeks to resurrect the 2018 permission and in view of the potential for the reduction of noise and odour from the site that the implementation of the current proposals would have, it is difficult for the Parish Council to object. However, during the period since 2018 concerns have been expressed by residents of the risks of a serious explosion on the site and we need to be satisfied that a Health and Safety assessment has taken place and the site is safe.

Furthermore, we are concerned that if permission were granted it would have an effect on outstanding applications 22/1104 and 1106/VAR to which we remain strongly opposed.

The Parish Council would support this application if we were assured of the Health and Safety issues; if it is conditioned to commence within a short timescale; and provided applications 22/1104 and 1106/VAR are not determined until the development is completed.

The proposals within this application are required now to contain the present situation, not what may happen in the future or be linked in any way with 22/1104 and 1106/VAR.

Technical Consultations

Environment Agency

Environment Agency position

We have no objection to this proposal. However, the applicant will need to ensure that any existing environmental permits are varied where necessary.

Reason - We note that this application is very similar to that approved under ref.: 18/2437/MFUL. However, this application does not include the siting of a small scale digestate processor unit and the site area is reduced. As such, our position is unchanged from the previous application and we have no objection to the installation of a roof and roller-door and dome at the site.

Advice - You will be aware that we have a separate environmental permitting remit which relates to the operation of the site. As with any development at a permitted site, should the applicant, at any time, be seeking to exceed the conditions of the existing permit, e.g. input/output volumes or monitoring, they will need to first apply to vary the environmental permit.

Please contact us again if you require any further advice.

Harriet Fuller
Planning Advisor

Environmental Health

Environmental Health fully supports the introduction of the roller door and tank cover. The introduction of these items do not raise any environmental health concerns

Other Representations

Two representations have been received neither objecting to nor supporting the application, but raising the following issues (summarised)

- The open tank smells
- Support is given to any measures that stop the odour
- The lid should have been installed before under the previous consent
- Assurance is required that the proposed measures to alleviate odours will be implemented immediately
- Site gives rise to noise and disturbance
- Another gas storage will produce more noise and more burning of gas from the flare
- Problems of the site in terms of nuisance are on-going
- Approval of this application should not permit the additional throughput proposed by other applications

PLANNING HISTORY

Reference	Description	Decision	Date
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22/1106/VAR	Variation of conditions 5 (odour management), 7 (feedstock and feedstock delivery) and 10 (plant noise) of planning permission 17/0650/VAR (relating to the construction of an anaerobic digester)	Pending consideration	
22/1104/VAR	Variation of conditions 3 (odour management), 5 (feedstock and digestate) and 8 (plant noise) of planning permission 15/1512/FUL (relating to the extension of an anaerobic digester)	Pending consideration	
21/2375/VAR	Variations of conditions 2 (odour management) and 5 (feedstock and digestate) of application 15/1512/FUL	Withdrawn	10.11.2021
21/2374/VAR	Variation of conditions number 5 (odour management plan) and 7 (anaerobic digester specifications) of application 17/0650/VAR	Withdrawn	10.11.2021
20/2911/FUL	Erection of agricultural feed store and plant room.	Approved	25.03.2023
18/2437/MFUL	Installation of a roof and roller shutter door to existing storage clamp; installation of dome to collect residual gas and installation of digestate processor unit	Approved	19.06.2019
18/2173/VAR	Variation of conditions 2,5,7 and 10 of planning permission 17/0650/VAR to allow increase annual tonnage of crop input from 26,537 to 66,000 tonnes and increase annual tonnage of digestate exported from the site from 21,354 to 56,000 tonnes and vary wording of Odour Management Plan	Refused Appeal dismissed	26.11.2020
17/2889/MFUL	Works to ground levels and provision of landscaped area	Withdrawn	01.08.2018

17/0650/VAR	Variation of condition 7 (ii) of planning permission 15/1473/VAR to allow alternative site for feedstock source and variation of condition 7 (iii) to alternative destinations for digestate, and variation of condition 2 (plans condition) to replace approved transport statement	Approval with conditions	01.11.2017
15/1512/FUL	Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds	Refusal Appeal Allowed	19.06.2017
15/1473/VAR	Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant	Approval with conditions	23.08.2016
14/0858/MFUL	Construction of agricultural anaerobic digester plant for production of renewable energy	Approval with conditions	24.07.2014

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D7 (Agricultural Buildings and Development)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN22 (Surface Run-off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Bishops Clyst Neighbourhood Plan

No relevant policies.

Site Location and Description

The anaerobic digester (AD) is located at Enfield Farm, around 500m to the east of the village of Clyst St Mary. It occupies an elevated position on land to the south of the A3052 Sidmouth Road and to the east of Oil Mill Lane. The site houses a dedicated AD and accompanying infrastructure to create renewable energy (gas) from farm waste, including pig slurry from the adjacent pig farm. The industrial buildings (including dome) and farm buildings are visible from some vantage points, however they are also read in the context of a small number of dwellings and other business operations in the vicinity.

The access into the site is currently a narrow track which joins the main road network close to Oil Mill Cross. The track also serves a property known as Enfield, which is located adjacent to the access. The area is fairly busy with traffic movements owing to the proximity of the A3052 and the Langdons Business and coach park located to the north of the entrance.

Proposed Development

Planning permission is sought for the installation of a roof and roller shutter door to part of the existing storage clamp and the installation of a dome over the circular tank to collect residual gas from the digestate storage tank.

This application is almost identical to a previous approval granted in 2019, but for a reduced site area and not seeking consent for a further digestate processor unit.

CONSIDERATION AND ASSESSMENT

The main issues to be considered in the determination of this application are the policy context and principle of the proposed development and any impact on the character and appearance of the area; on residential amenity; highway safety; or flood risk.

Background

As stated above this application is essentially a re-submission of a previous approval for the installation of a roof and shutter door over part of the existing storage clamp, and dome over the digestate storage tank, granted under reference 18/2437/MFUL. It

differs from that approval by not seeking consent for an additional digester processor unit and consequently is for a smaller site area. The previous permission was not implemented and is now time expired.

It should be noted that there are two further outstanding planning applications relating to this site, reference numbers 22/1104/VAR and 22/1106/VAR which are seeking consent to vary conditions attached to previous permissions to increase the throughput of the site.

Principle of the Development

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

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

In principle, therefore, the proposed development is considered to be acceptable, subject to its impact on surroundings.

Character and Appearance of the Area

The main impact on the surrounding landscape would be the introduction of a second dome on site to cover the final digestate tank before it is exported from the site to be spread on surrounding farm land. The dome (12 metres in height) would be no higher than the existing dome (13.5 metres from ground level) on site and would be viewed in the context of the existing dome together with other infrastructure on site and the adjacent farm buildings.

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

Accordingly, whilst the structures would be visible in the wider landscape they would be read in the context of the existing site and its infrastructure. The landscape is not protected and it is considered that the proposal would be acceptable visually in accordance with Strategy 46 and Policy D1 of the EDDC Local Plan.

Residential Amenity

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

The uncovered circular tank which stores the final digestate before being removed from the site to be spread on the fields, has been identified as a source of odour especially when the crust on top of the liquid is broken when tankers are filled with the digestate. The dome and the roofing over the feedstock storage clamp are designed to improve the current odour problems being experienced and to prevent odour emittance, and also retain any residual gas that is still contained within the liquid.

Whilst there may be some disturbance and an increase in activity during the construction period, when completed it is not anticipated that the physical works proposed by this application will result in loss of amenity for nearby residents.

The Councils Environmental Health Officer has been consulted and supports the introduction of the roller door and tank cover.

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

Highway Safety

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

Flood Risk

The application form states that surface water on site would be dealt with through a sustainable drainage system although no details have been provided. Whilst it is considered that the existing system could potentially accommodate the additional run off from the roof over the silage clamp and the dome over the final digestate tank details of the proposed arrangements. It is considered that the surface water drainage details could reasonably be secured through a suitably worded planning condition.

Other Issues

Concern has been raised that granting permission for this application may have an impact on the determination of applications 22/1104/VAR and 22/1106/VAR in that it could increase pressure to grant the tandem applications. However, this application must be treated on its own merits, and in this respect the proposed dome and roof are not considered to have a detrimental impact on the surroundings or residential amenity and are considered to be acceptable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Prior to installation of the dome over the final digestate tank and the roof over the silage clamp hereby approved details of the surface water drainage to accommodate the flows from these features shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved drainage details which shall have been completed before the development is brought into use.

Reason : To ensure that the surface water from the dome and roof are dealt with in an appropriate manner to prevent run off onto third party land in accordance with Policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

Plans relating to this application:

18/0019/EIA SCREENING OPINION	Other Plans	20.04.23
17/0650/VAR DECISION NOTICE	Other Plans	20.04.23
IXO01_EN2_SP_ 003A	Proposed Site Plan	20.04.23
IXO01 EN2 SP 003A	Proposed Site Plan	03.05.23

3001 REV P02	Proposed Elevation	03.05.23
3000 REV P03	Proposed Elevation	03.05.23
	Location Plan	03.05.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

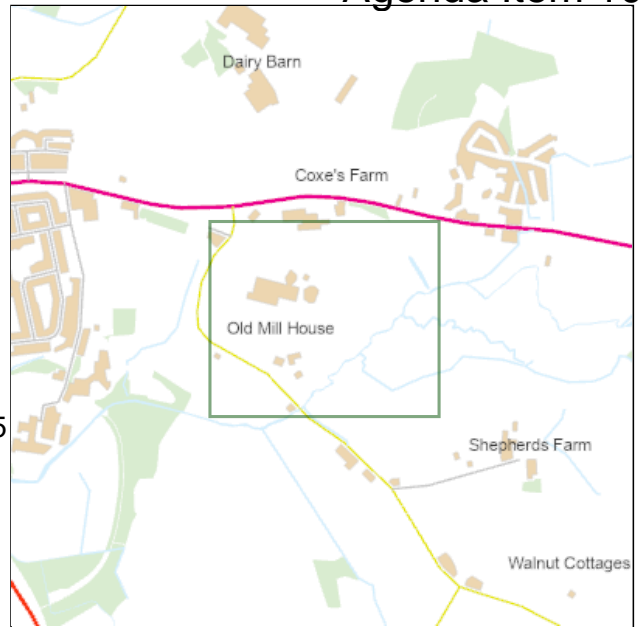
Ward Clyst Valley

Reference 22/1104/VAR

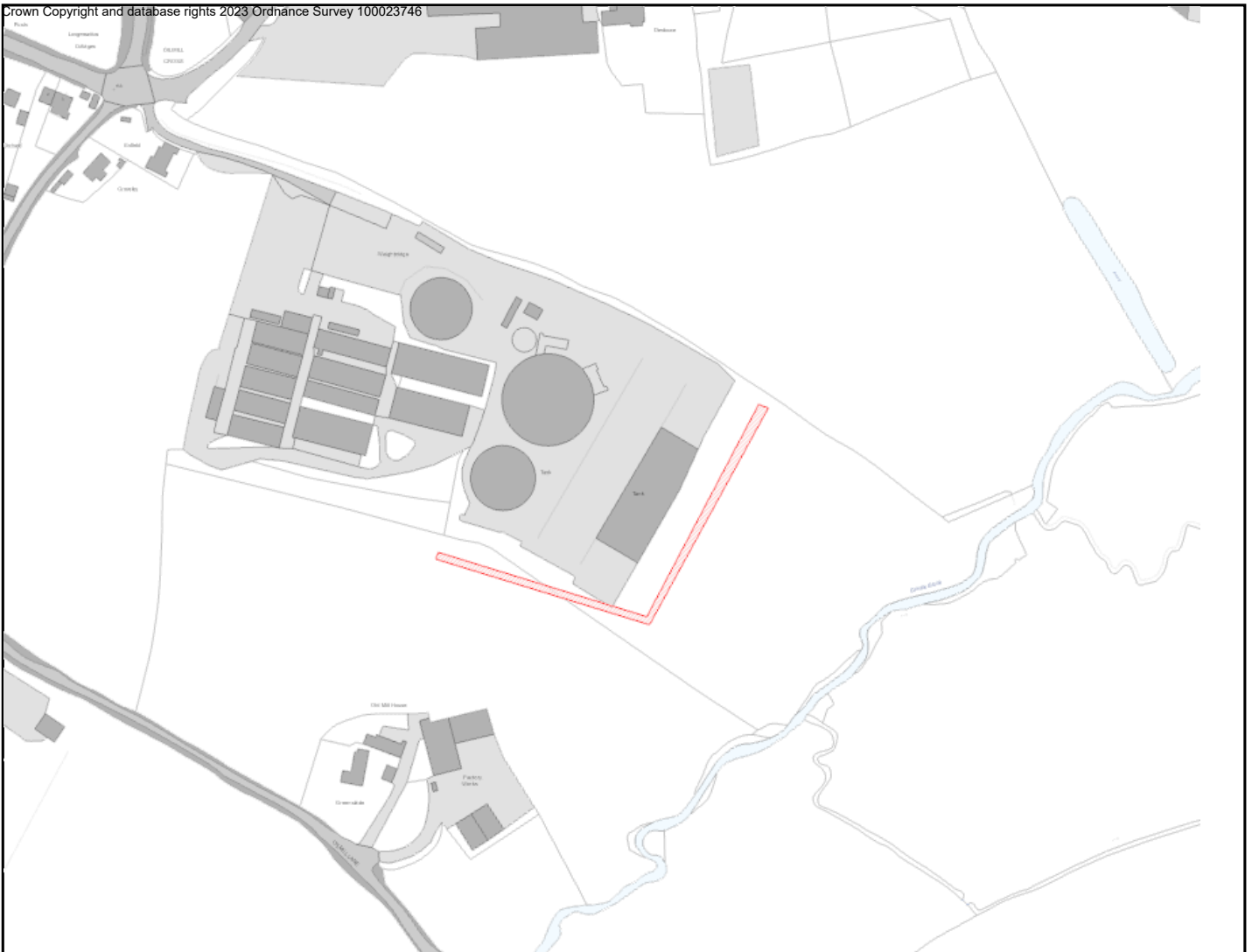
Applicant Mr David Manley (Gorst Energy)

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

Proposal Variation of conditions 3 (odour management), 5 (feedstock and digestate) and 8 (plant noise) of planning permission 15/1512/FUL (relating to the extension of an anaerobic digester)



RECOMMENDATION: Approve subject to a legal agreement and conditions



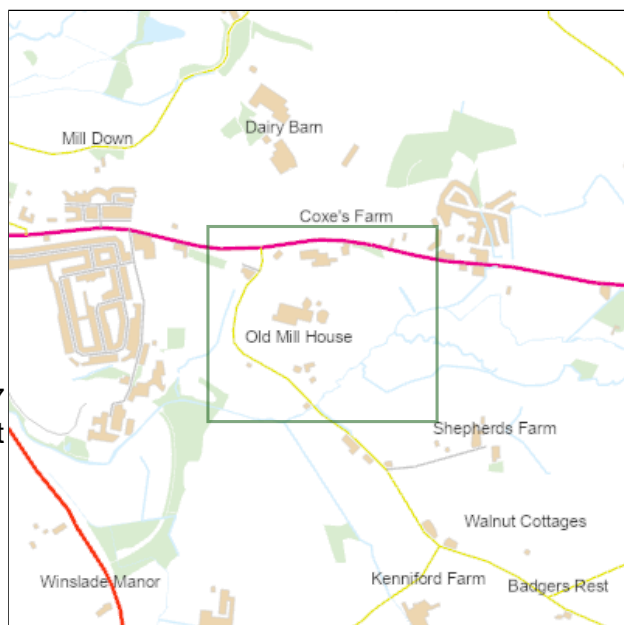
Ward Clyst Valley

Reference 22/1106/VAR

Applicant Mr David Manley (Gorst Energy)

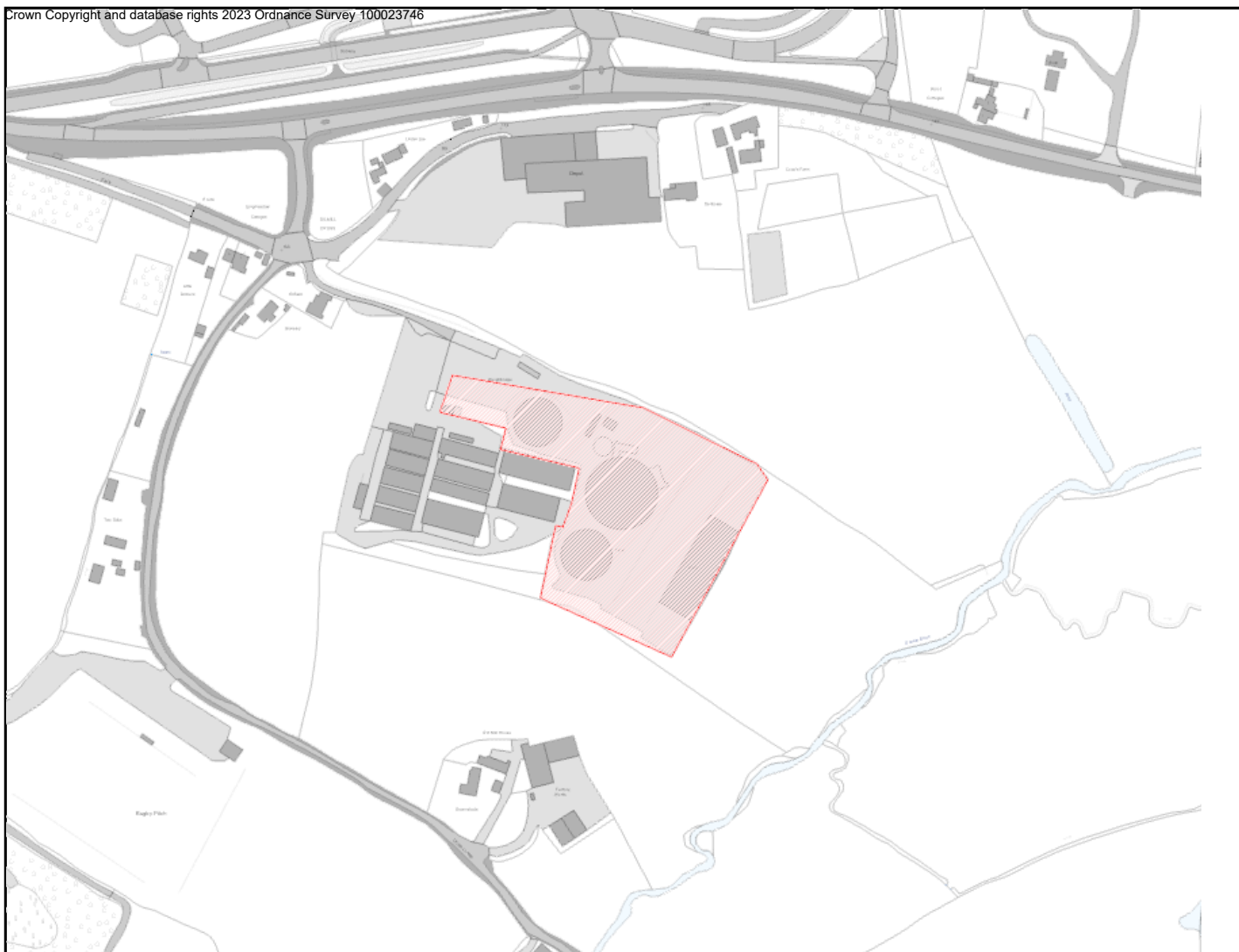
Location Enfield Farm Biodigester Oil Mill Lane Clyst St Mary EX5 1AF

Proposal Variation of conditions 5 (odour management), 7 (feedstock and feedstock delivery) and 10 (plant noise) of planning permission 17/0650/VAR (relating to the construction of an anaerobic digester)



RECOMMENDATION: Approval with conditions

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		Committee Date: 26.09.2023
Clyst Valley (Bishop Clyst Clyst St Mary)	22/1104/VAR	Target Date: 10.08.2022
Applicant:	Mr David Manley (Gorst Energy)	
Location:	Enfield Farm Biodigester Oil Mill Lane	
Proposal:	Variation of conditions 3 (odour management), 5 (feedstock and digestate) and 8 (plant noise) of planning permission 15/1512/FUL (relating to the extension of an anaerobic digester)	

RECOMMENDATION: Approve subject to a legal agreement and conditions

		Committee Date: 26 April 2023
Clyst Valley (Bishop Clyst Clyst St Mary)	22/1106/VAR	Target Date: 10.08.2022
Applicant:	Mr David Manley (Gorst Energy)	
Location:	Enfield Farm Biodigester Oil Mill Lane	
Proposal:	Variation of conditions 5 (odour management), 7 (feedstock and feedstock delivery) and 10 (plant noise) of planning permission 17/0650/VAR (relating to the construction of an anaerobic digester)	

RECOMMENDATION: Approve subject to a legal agreement and conditions

EXECUTIVE SUMMARY

These applications are being brought to DM Committee because the Officer recommendation is contrary to that of the Ward Member

These applications relate to the operation of an anaerobic digester (AD) at Enfield Farm, Clyst St Mary. The site lies in the open countryside approximately 500m to the east of the village of Clyst St Mary.

Permission is sought to alter conditions relating to the volumes of feedstock and digestate; odour management, and noise at the plant. Two applications have been submitted in order that the whole of the operations on the site can be consolidated and united by a consistent approach, with conditions which are consistent and provide certainty as to the use and operation of the plant.

The site is already operating as an anaerobic digester creating energy to enter the national gas grid with the proposal intended to increase efficiency at the site and create more low carbon energy by allowing an increase in annual tonnage of crop input from 26,537 to 66,000 tonnes and increase the annual tonnage of digestate exported from the site from 21,354 to 56,000 tonnes.

Strategy 39 supports the principle of renewable and low carbon energy projects subject to any adverse impacts on features of environmental and heritage sensitivity being satisfactorily addressed and take appropriate steps for firstly avoiding harm, or reducing and mitigating any unavoidable harm to ensure an acceptable balance between harm and benefit.

The application site and the adjacent farm have been the source of a number of noise and odour complaints which the installation of the approved dome and cover of the storage tanks seek to address. Whilst these have not yet been installed, they are considered to be essential to facilitate any increase in the capacity and throughput of the AD.

The increase in volumes of feedstock being brought onto the site and digestate being removed will result in additional traffic using the site and on the wider highway network. This increase has been considered by the County Highway Authority and National Highways who raise no objections to the proposal.

An application submitted in 2018 previously considered the same increase in throughput of the AD. This was refused planning permission and dismissed on appeal, partly on procedural grounds, but also on the basis of the impact of additional noise leading to a loss of residential amenity for the occupiers of the bungalow situated adjacent to the entrance of the site. This dwelling is now within the control of the applicant and it is proposed to use the property as a staff welfare facility. As it lies outside of the application site, a legal agreement would be required to ensure that whilst the AD is in operation, the bungalow is not occupied as a residential dwelling.

The Inspector also found, in considering other impacts of the increase in feedstock that which it would result in a significant increase in the scale of the permitted operation, he was satisfied that the planning and pollution control regimes would be capable of imposing and enforcing conditions on the AD plant to limit odour and noise emissions from the site to acceptable levels.

Overall it is considered that the current application has overcome the previous reasons for refusal and will have an acceptable impact on residential and other amenity such that the proposal will have an acceptable balance between harm and benefit, with the increase in scale generating more renewable energy. As such the proposal is considered to comply with the provisions of Strategy 7

(Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031 and is recommended for approval.

CONSULTATIONS

Local Consultations

Clyst Valley - Cllr Mike Howe

Simply put this site has had a refusal that was upheld at appeal, and still to this day causes undue issues to local residents, I can see no way the Appeal inspectors concerns have been over come let alone the other issues of noise and smell that blight the area from this and the adjoining Farm.

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

Parish/Town Council

OBJECTION to applications 22/1104/VAR and 22/1106/VAR Enfield Farm Biodigester.

Bishops Clyst Parish Council strongly opposes these applications on the grounds that they are a virtual mirror image of applications 21/2374/VAR and 21/2275/VAR which were withdrawn, and 18/2173/VAR which was refused. A subsequent appeal was dismissed by the Planning Inspectorate on 26 Nov 2020 for the same huge increase in feedstock entering the site and similar large increase in digestate leaving the site. It appears that the only difference is the production of a further noise report which suggests that additional HGV movements would have a minimal noise impact on neighbouring properties. Expert evidence commissioned by the Parish Council found numerous inconsistencies in the noise report submitted in support of applications 21/2374/VAR and 21/2375/VAR. The Parish Council still has concerns about the conclusions of the revised noise report submitted in support of these applications and has commissioned an independent expert view which will be submitted as an addendum to this objection. It should also be pointed out that the offending noise is not just related to traffic movements and deliveries but constant noise throughout the day and night-time.

The applicants state the impact on the road networks would be minimal as all the feedstock and digestate would already be on the road being transported. However, this does not account for all the additional journeys by HGV's and Tractor/trailers being concentrated on the already overburdened A3052, the Clyst St Mary Roundabout and junction 30 of the M5 at Sandygate.

The harm that the Enfield Farm Biodigester is already inflicting on our community is substantial and unacceptable and the Parish Council is not prepared to accept any increase in throughput.

Despite tabletop analysis and algorithms that predict such things as noise levels, impact on the road network and unacceptable odour levels, the truth is quite simple. For years residents of the village have had to put up with excess noise and unacceptable smells, and any increase in material arriving on the site or digestate leaving the site WILL have a massive adverse impact on neighbouring properties and the community as a whole.

The applications are considered contrary to Policy BiC13 of the Bishops Clyst Neighbourhood Plan 2014-2031.

The Enfield Farm Biodigester is an unwelcome part of our community creating huge problems of periodic spells of awful smells that affect the whole village, unwelcome noise for neighbours and generating considerable additional HGV and large tractor traffic on an already overburdened road system which is struggling to cope. It is about time that the Local Planning Authority made it clear to Gorst Energy Ltd. that it is not prepared to countenance any further increase in capacity or further buildings.

Please note that the Parish Council is very concerned that such an application can be accepted following previous refusals by the Planning Committee and Planning Inspectorate for virtually the same proposals, causing considerable distress to the community and expense to the Parish Council.

The Parish Council has carefully considered the objections to these applications made by Mrs Linda Trim, Mr Gaeron Kayley and the Devon CPRE and fully support and agree with their comments.

Adjoining Parish

14/03/23 - OBJECTIONS BY FARRINGDON PARISH COUNCIL

Objection dated 14TH March 2023 to Planning Applications 22/1104/VAR & 22/1106/VAR submitted to East Devon District Council by Gorst Energy Ltd relating to the Anaerobic Digester operations at Enfield Farm (Enfield/Gorst AD), Clyst St Mary, Exeter.

Farringdon Parish Council strongly objects to permission being granted regarding Planning Applications 22/1104/VAR and 22/1106/VAR which relate to the proposed increase in permitted throughput of Feedstocks and resulting increase in production of Digestate, mainly liquid. We are concerned that the Anaerobic Digester is having an immediate impact in the Farringdon Parish.

We and others have asked EDDC to refuse the above Applications. The further updated information from EDDC and Gorst Energy Ltd, add to our concerns for the parish and the call for this to be refused.

We are concerned that Gorst Energy Ltd has been developing use of the Denbow Lagoon to receive most of the Digestate produced by then being some 20,000 Tonnes of the total of 29,766 Tonnes in the year to 31 December 2022, prior to distribution throughout East Devon. Previously it was understood that had mainly been delivered directly from the Gorst Site to destinations.

Similarly we understand that Gorst Energy Ltd has been using the neighbouring Wood Farm as a hub to receive and store Feedstocks from suppliers to be held until delivered to Gorst Energy Ltd.

Stuart & Partner Ltd's Planning Permission obtained at Appeal only permits unloading of Digestate from the Denbow lagoon by umbilical pipe to nearby land but we believe from reports by parishioners that this has been ignored this last year which has meant to extensive use of highways and transfer of many times more Tonnes of digestate to the lagoon than was indicated in the Application.

We are concerned that vehicles of both tractor and trailer but also articulated lorries have been using Parsonage and Spain Lane to carry in digestate which are not suitable for such use. Spain Lane was only repaired last September and already it is deteriorating making it dangerous for all village road users, This can only arise from the use of heavy vehicles.

The significant increase in the movement of digestate has been noticed in the last 4-5 months. The odour is horrendous and has been reported by a number of parishioners. In using Denbow Farm vehicles would have to cross and travel on the busy A3052 twice for each delivery of Digestate to the lagoon, and return empty, and then twice more for removal of much of the Digestate from the lagoon for spreading.

The use of Denbow Farm Lagoon and Wood Farm as distribution hubs is therefore creating significant problems for those who live in the parish and is evidently contrary to the permission granted.

Gorst Energy Ltd's records disclose that the use of intermediate storage facilities has been developed contrary to the assurances given since the current Permission was granted, the most significant change being that some 68% of its digestate has been taken to Denbow Farm, Farringdon prior to distribution. In the absence of disclosure of any records in the year to 31 December 2022 to establish the movements of Feedstocks taken into the several off-site stores, or the Digestate removed from the storage lagoons that were used in the year, the way that Gorst's business has been conducted throughout East Devon and beyond cannot be assessed.

Farringdon Parish Council object that Gorst Energy Ltd has significantly changed its operations since it was granted its extant Planning Permission and has done so without applying for any change in its permission and has not disclosed details of the changes, including the vehicle movements and carbon "costs" resulting, in its current Planning Applications.

Farringdon Parish Council object that the Section 6.4 of the Transport Statement (Digestate Storage) does not properly explain Gorst Energy Ltd's intentions with regard to the extent of use of Off-site storage of Digestate facilities. The proposals include an increase of 34,646 Tonnes of Digestate per annum being produced; the only indications about how this will be managed is that it will store approx. 5,000 Tonnes per annum destined for "Exmouth". In correspondence Gorst Energy Ltd describes the Exmouth site as being small and used by others. The third alternative mentioned, Upton Pyne, has permission to hold 7,000 Tonnes but construction has not yet started. The way in which Gorst Energy Ltd intends to manage the additional

Tonnes of Digestate that it intends to produce is not explained, which we anticipate indicates increased use of Denbow Farm as a distribution hub for refilling at intervals prior to distribution elsewhere.

Farringdon Parish Council understands that the owner of Denbow Farm lagoon obtained Planning Permission at Appeal for its construction and use, conditioned to unloading the Digestate brought to it only by pipe to nearby land. The permission has a condition setting out the highway route between the lagoon and Enfield Farm and the lagoon for Digestate to be brought to the lagoon but no permission was given for use of highways to unload the lagoon.

Farringdon Parish Council object that Gorst Energy Ltd has been using, and proposes to continue to use, the Denbow lagoon contrary to the Planning Permission granted to the owner as decided at Appeal, with consequent damage by use of Highways and otherwise.

Other Parish Council

Clerk To Brampford Speke Parish Council

01.08.22 The attention of the Brampford Speke Parish Council (BSPC) has been drawn to the above planning applications.

Having reviewed and considered the proposals, the Council wishes to express some concerns. These are specifically around:

- The increased scale of the activities proposed.
- The subsequent impacts that the proposed operations will bring in terms of increased road traffic and safety around the local lanes and roads.
- The consequences for villagers living not just in Brampford Speke, but other local neighbouring villages, notably Upton Pyne, Langford and Thorverton.

BSPC requests that in considering the applications, EDDC Planning undertake further rigorous assessment and local consultations regarding the traffic and safety issues which have been highlighted, and which are seen as significant potential impacts on the way of life for many villagers in and around the area.

Can you please confirm that you have received this mail and BSPC's concerns have been noted.

This matter has also been raised with Jamie Kemp.

Technical Consultations

National Highways (22/1104/VAR)

Referring to the outline application dated 8 September 2021 regarding the variations of conditions 2 (odour management) and 5 (feedstock and digestate) of application 15/1512/FUL, Enfield Farm Biodigester Oil Mill Lane Clyst St Mary EX5 1AF, notice is hereby given that Highways England's formal recommendation is that we:

a) offer no objection;

Highways Act Section 175B is not relevant to this application.¹

(1) Where relevant, further information will be provided within Annex A.

Annex A Highways England recommended No Objection

HIGHWAYS ENGLAND ("we") has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to Application Ref - 21/2375/VAR and has been prepared by the Planning Manager for Devon. We have undertaken a review of the relevant documents supporting the planning application to ensure compliance with the current policy of the Secretary of State as set out in DfT Circular 02/2013 "The Strategic Road Network and the Delivery of Sustainable Development" and the DCLG National Planning Policy Framework (NPPF).

Statement of Reasons This planning application is seeking consent for the variations of conditions 2 (odour management) and 5 (feedstock and digestate) of application 15/1512/FUL at Enfield Farm Biodigester Oil Mill Lane Clyst St Mary EX5 1AF.

We are satisfied that the issues in relation to the potential traffic impact of the development on the SRN, in this instance Junction 30 of the M5, were addressed at the outline stage and that this variation of condition application for which consent is now being sought will not impact on that prior assessment.

Summary

As such, we have no objection to the application.

National Highways (22/1106/VAR)

21/06/22 -

We understand that the application is a resubmission of previous application 21/2374/VAR which was withdrawn in November 2021 to enable matters relating to noise to be addressed.

National Highways offered no objections to application 21/2374/VAR as set out in our attached response dated 16 September 2021. On the basis that all other aspects of application 22/1106/VAR are in general accordance with those previously assessed by us under withdrawn application 21/2374/VAR, we continue to offer no objections to resubmission application 22/1106/VAR.

Environment Agency

Environment Agency position

We have no objections to the variations, providing that the proposal is in accordance with the environmental permit which was approved in October 2020.

Advice - Environmental Permit requirements

Paragraph 188 of the National Planning Policy framework states that "the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities".

With this in mind please note that the environmental permit includes conditions requiring the operator to implement improvements to prevent and or minimise noise particularly at night. Improvements have been made and the results of a recent Noise Monitoring Exercise (Report Ref R10047E) have been provided to the Environment Agency. The noise assessment report is still under review.

As identified in the Planning Application Statement Section 6.1 we agree the appropriate guidance to apply to is in British Standard (BS) 4142:2014 A1:2019 Methods for rating industrial and commercial sound.

Environmental Health (further comments) 09.11.22

Thanks for your email. Sorry for the delay in getting back to you but I've been playing catch up since taking some time off at the end of October. I do understand the sensitive nature of these two applications together with the large number of objections which the applications have drawn in.

The comments and recommendations made by EH back in July are still very valid even after reviewing the information which you sent through. The applications are acceptable from an environmental health perspective, subject to the conditions that have already been recommended. I have highlighted the specific wording for the conditions below.

Environmental Health share some of the concerns raised by local residents by the continued expansion of the Enfield AD site particularly regarding the acoustic design and noise mitigation for the development. Environmental Health aims to reassure, through the conditioning of the site, the avoidance of any significant adverse impacts and the reduction of any adverse impacts on the health and quality of life of local residents. This will be achieved by ensuring that the required noise mitigation measures are in place (and verified) prior to any increase of feedstock throughput. Conditions will recommend that any works required for the reduction of odour emissions from the site will be completed (and verified) prior to any increase in feedstock throughput and increase in digestate production (this will include the covering of the open digestate tank).

The wording of the conditions will be aligned in accordance the Environmental Permit which controls emissions from the site. This will provide a more coherent, proportionate and enforceable approach that will fully consider the protection of local residents and the wider community.

Taking these points into consideration I recommend approval with the following conditions:

- The development hereby permitted shall be carried out in full accordance with the sites operational Odour Management Plan (OMP). The OMP should be periodically updated in order to maintain consistency with the sites Environmental Permit.
- The sites OMP should be fully reviewed within three months of the chicken litter storage building being brought into use.
- Prior to any increase in feedstock throughput and digestate, the covering of the open digestate tank should be completed. Written confirmation of the installation of the cover should be submitted to and approved in writing by the local planning authority.
- A noise mitigation scheme shall be designed and implemented in full throughout the operational lifetime of the site. The noise mitigation scheme shall be sufficient to ensure that the Rating Level of any noise generated on the site shall not exceed:

Location	Day-time (07:00 until 23:00)	Night-time (23:00 until 07:00)
A (Denbowe)	48 dB (LA_{eq} 1hr)	37 dB (LA_{eq} 15min)
B	47 dB (LA_{eq} 1hr)	36 dB (LA_{eq} 15min)
(Longmeadow Cott & Grovely)		
C (Two Oaks)	42 dB (LA_{eq} 1hr)	34 dB (LA_{eq} 15min)
D (1 Poplars Walk)	48 dB (LA_{eq} 1hr)	37 dB (LA_{eq} 15min)

when measured or determined at the at the boundary of the identified noise sensitive properties (other than the property known as 'The Bungalow' on the site access road which shall not exceed 10dB(A) above the pre-existing night-time and daytime background noise levels for as long as it is in use by staff working at the AD site). Should the AD site relinquish their connection with 'The bungalow' the noise levels stipulated at location B will apply.

Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

- Prior to any increase in feedstock, a validating Noise Impact Assessment shall be submitted to and approved in writing by the local planning authority. The validation assessment is required to confirm that the applicants' noise control measures are indeed suitable acoustic measures designed and installed to meet with the rating levels detailed within the applicants' noise mitigation scheme.

The applicants' noise assessment did not cover the impact from the movements of vehicles on public roads. The A3052 is a heavily-trafficked highway with substantial

heavy goods vehicles (HGV) movements. Many of the HGV's on this road travel to a number of closely situated business parks, industrial sites and other locations within East Devon. In terms of HGV's going directly to the AD plant they were not deemed to be prominent in the context of the surrounding acoustic environment. The main impact of vehicle noise was on the approach road feeding the site and the main affected residential premises was 'The Bungalow'. Taking this point into consideration it was considered that a BS4142 assessment would be the appropriate standard to use. British Standard BS4142 describes the methods for rating and assessing sound of an industrial and/or commercial nature, that includes sound from vehicles (within the sites boundary) therefore, this was considered to be appropriate for the Enfield AD site. It has since become apparent that Enfield AD site is now connected to the use of the Bungalow and therefore, the Bungalow no longer considered to be a sensitive residential property.

The other residential properties in the area of Oil Mill Cross are at an increased distance from the HGV movements and their amenity areas are orientated behind buildings which will provide a degree of acoustic protection. Therefore, it's not felt that the additional HGV movements would result in an adverse impact. However, if it's considered that further information is required a noise assessment could be requested from the applicant using the 'Calculation of Road Traffic Noise'. This could be used on the section of road leading from the junction of the A3052 to the sites entrance off of Oil Mill Cross.

Environmental Health 11.07.22

Environmental Health share some of the concerns raised by local residents by the continued expansion of the Enfield AD site particularly regarding the acoustic design and noise mitigation for the development. Environmental Health aims to reassure, through the conditioning of the site, the avoidance of any significant adverse impacts and the reduction of any adverse impacts on the health and quality of life of local residents. This will be achieved by ensuring that the required noise mitigation measures are in place (and verified) prior to any increase of feedstock throughput. Conditions will recommend that any works required for the reduction of odour emissions from the site will be completed (and verified) prior to any increase in feedstock throughput and increase in digestate production (this will include the covering of the open digestate tank).

The wording of the conditions will be aligned in accordance the Environmental Permit which controls emissions from the site. This will provide a more coherent, proportionate and enforceable approach that will fully consider the protection of local residents and the wider community.

Taking these points into consideration I recommend approval with the following conditions:

- o The development hereby permitted shall be carried out in full accordance with the sites operational Odour Management Plan (OMP). The OMP should be periodically updated in order to maintain consistency with the sites Environmental Permit.

o The sites OMP should be fully reviewed within three months of the chicken litter storage building being brought into use.

o Prior to any increase in feedstock throughput and digestate, the covering of the open digestate tank should be completed. Written confirmation of the installation of the cover should be submitted to and approved in writing by the local planning authority.

o A noise mitigation scheme shall be designed and implemented in full throughout the operational lifetime of the site. The noise mitigation scheme shall be sufficient to ensure that the Rating Level of any noise generated on the site shall not exceed:

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D (1 Poplars Walk)	48 dB (LAeq 1hr)	37 dB (LAeq 15min)

when measured or determined at the at the boundary of the identified noise sensitive properties (other than the property known as 'The Bungalow' on the site access road which shall not exceed 10dB(A) above the pre-existing night-time and daytime background noise levels for as long as it is in use by staff working at the AD site). Should the AD site relinquish their connection with 'The bungalow' the noise levels stipulated at location B will apply.

Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

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The applicants' noise assessment did not cover the impact from the movements of vehicles on public roads. The A3052 is a heavily-trafficked highway with substantial heavy goods vehicles (HGV) movements. Many of the HGV's on this road travel to a number of closely situated business parks, industrial sites and other locations within East Devon. In terms of HGV's going directly to the AD plant they were not deemed to be prominent in the context of the surrounding acoustic environment. The main impact of vehicle noise was on the approach road feeding the site and the main affected residential premises was 'The Bungalow'. Taking this point into consideration it was considered that a BS4142 assessment would be the appropriate standard to use. British Standard BS4142 describes the methods for rating and assessing sound of an industrial and/or commercial nature, that includes sound from vehicles (within the sites boundary) therefore, this was considered to be appropriate for the Enfield AD site. It has since become apparent that Enfield AD site is now connected to the use of the Bungalow and therefore, the Bungalow no longer considered to be a sensitive residential property.

The other residential properties in the area of Oil Mill Cross are at an increased distance from the HGV movements and their amenity areas are orientated behind

buildings which will provide a degree of acoustic protection. Therefore, it's not felt that the additional HGV movements would result in an adverse impact. However, if it's considered that further information is required a noise assessment could be requested from the applicant using the Calculation of Road Traffic Noise'. This could be used on the section of road leading from the junction of the A3052 to the sites entrance off of Oil Mill Cross.

Devon County Highway Authority

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

Observations:

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

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

The trip generation harvesting peaks will be less substantial, however this is compromised by greater movements throughout the entirety of the year. The mode of transport making up the trip generation should predominantly remain as tractor and trailers, due to planning conditions from the feeder farms. Additionally, the visibility upon the access meets our current best practice national guidance for a 60mph road, (Manual for Streets 1 and 2), though vehicle speeds are likely to have an 85th percentile speed proportionately slower than 60mph due to the proximity of the junction of the A3052.

The County Highway Authoritys (CHA) rolling recorded collision data (currently 2017 to 2021) also shows no recorded collisions upon this junction or in direct relation to the digester site.

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

Recommendation:

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

Other Representations

Thirty one representations have been received in respect of these applications, all raising objections. These are summarised below:

- Significant noise nuisance from plant

- Residual noise levels unacceptable
- Not operating in accordance with noise management plan
- Odour nuisance increasing
- No cover has been installed to open digester
- Greenhouse gas emissions from storage and spreading of digestate are significant
- Increase in traffic
- Increased traffic noise
- No commitment to limit where all feedstock will be sourced and digestate will be spread, with transport routes and tonnages.

PLANNING HISTORY

Reference	Description	Decision	Date
21/2375/VAR	Variations of conditions 2 (odour management) and 5 (feedstock and digestate) of application 15/1512/FUL	Withdrawn	10.11.2021
21/2374/VAR	Variation of conditions number 5 (odour management plan) and 7 (anaerobic digester specifications) of application 17/0650/VAR	Withdrawn	10.11.2021
18/2437/MFUL	Installation of a roof and roller shutter door to existing storage clamp; installation of dome to collect residual gas and installation of digestate processer unit	Approved	19.06.2019
18/2173/VAR	Variation of conditions 2,5,7 and 10 of planning permission 17/0650/VAR to allow increase annual tonnage of crop input from 26,537 to 66,000 tonnes and increase annual tonnage of digestate exported from the site from 21,354 to 56,000 tonnes and vary wording of Odour Management Plan	Refused	Dismissed on Appeal 26.10.2020

17/0650/VAR	Variation of condition 7 (ii) of planning permission 15/1473/VAR to allow alternative site for feedstock source and variation of condition 7 (iii) to alternative destinations for digestate, and variation of condition 2 (plans condition) to replace approved transport statement	Approved	01.11.2017
15/1512/FUL	Extension to anaerobic digester plant to provide new site entrance, weighbridge, gas upgrade plant, propane tanks, digestate storage lagoon and underground leachate tank, turning circles, surge wall, drainage channels and chambers with associated landscaping and earth bunds	Refused	Allowed on appeal 19.06.2017
15/1473/VAR	Variation of condition 2 (plans condition) of planning permission 14/0858/MFUL to alter infrastructure and layout of an Anaerobic Digester Plant	Approved	23.08.2016
14/0858/MFUL	Construction of agricultural anaerobic digester plant for production of renewable energy	Approved	24/07/2014

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 39 (Renewable and Low Carbon Energy Projects)

D1 (Design and Local Distinctiveness)

D7 (Agricultural Buildings and Development)

EN14 (Control of Pollution)

TC7 (Adequacy of Road Network and Site Access)

Bishops Clyst Neighbourhood Plan (Made)

BiC12 Farm Diversification

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

Site Location and Description

The anaerobic digester (AD) is located at Enfield Farm, around 500m to the east of the village of Clyst St Mary. It occupies an elevated position on land to the south of the A3052 Sidmouth Road and to the east of Oil Mill Lane. The site houses a dedicated AD and accompanying infrastructure to create renewable energy (gas) from farm waste, including pig slurry from the adjacent pig farm. The industrial buildings (including dome) and farm buildings are visible from some vantage points, however they are also read in the context of a small number of dwellings and other business operations in the vicinity.

The access into the site is currently a narrow track which joins the main road network close to Oil Mill Cross. The track also serves a property known as Enfield, which is located adjacent to the access. The area is fairly busy with traffic movements owing to the proximity of the A3052 and the Langdons Business and coach park located to the north of the entrance.

Proposed Development

These applications seek to create a consistency in terms of conditions relating to the overall operation of Enfield Farm AD site. The need for two applications is because of inconsistencies in the application site boundaries between the original permissions.

The site boundary edged red for 14/0858/MFUL applies to permissions 15/1473/VAR and 17/0650/VAR, and the site dismissed on appeal under reference 18/2173/VAR.

The site boundary edged red under application 15/1512/FUL includes other land that did not form part of that approved (as varied) under 14/0858/MFUL.

Application 22/1104/VAR Variation of conditions 3 (odour management), 5 (feedstock and digestate) and 8 (plant noise) of planning permission 15/1512/FUL (relating to the extension of an anaerobic digester)

The conditions pertaining to 15/1512/FUL state:

Condition 3

The development hereby permitted shall be carried out in full accordance with the Odour Management Plan (Version 3) dated October 2015 and shall be complied with in perpetuity

Condition 5

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

For the avoidance of doubt the proportions per annum are:

- (i) Pig slurry- 6000 tonnes*
- (ii) Farmyard manure- 1000 tonnes*
- (iii) Maize silage – 16,537 tonnes*
- (iv) Wheat- 3000 tonnes*

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

- a) The anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;*
- b) Generation of electricity and heat and other ancillary operations associated with the above activities.”*

Condition 8

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

Application 22/1106/VAR Variation of conditions 5 (odour management), 7 (feedstock and feedstock delivery) and 10 (plant noise) of planning permission 17/0650/VAR (relating to the construction of an anaerobic digester)

The conditions pertaining to 17/0650/VAR are worded as follows

Condition 5

“The development hereby permitted shall be carried out in full accordance with the Odour Management Plan (Version 3) dated October 2015 and shall be complied with in perpetuity.

(Reason - To comply with the requirements of Policy EN14 (Control of Pollution) to protect the amenity of local residents in terms of the control and management of odour, noise, traffic management and construction management and Policy D1 (Design and Local Distinctiveness of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)”

Condition 7

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

- o Pig slurry - minimum of 6000 tonnes (or all of their slurry if less than 6000 tonnes) per year produced on Enfield Farm*
- o Farmyard manure- 1000 tonnes*
- o Maize silage- 16,537 tonnes*
- o Wheat- 3000 tonnes*

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

- o The anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;*
- o Generation of electricity and heat and other ancillary operations associated with the above activities.*

ii) The feedstock for the anaerobic digester shall sourced from the sites named in Table 5.2 of the Transport Statement prepared by Hydrock dated May 2014 named as: Shepherds 41.8 ha, Enfield 21.7 ha, Burrowton 28.03 ha, Crealy Barton 68.09 ha, Burrowton 1 15.14 ha, Lions 72.75 ha, Hayes 82.43 ha, Collyhead 63.82 ha and as shown on the plan/aerial photos drawing no's 13546/T03A, 13546/T04B, 13546/T05A, 13546/T06A, 13546/T07A and 13546/T08A as set out within Appendix F of the Transport Statement dated May 2014 and on pages 8 and 9 of the SLR Transport Statement March 2017 named as: Upton Pine, Poltimore, Wood Farm, Sidbury, East Hill Strips, Exton, Peamore Farm, Higher Bagmores, Yellowford, Matford, Ide, Combe, Gulliford, venmoor, Houndbeare and Atlantis.

iii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in Table 5.3 of the Transport Statement prepared by Hydrock dated May 2014 named as Shepherds 41.8 ha, Enfield 21.7 ha, Burrowton 28.03 ha, Crealy Barton 68.09 ha, Burrowton 1 15.14 ha, Lions 72.75 ha and as shown on the plan/ aerial photos drawing no's 13546/T04B, 13546/T05A, 13546/T07A, 13546/T08A as set out within Appendix F of the Transport Statement dated May 2014 and on pages 8 and 9 of the SLR Transport Statement March 2017 named as: Upton Pine, Poltimore, Wood Farm, Sidbury, East Hill Strips, Exton, Peamore Farm, Higher Bagmores, Yellowford, Matford, Ide, Combe, Gulliford, venmoor, Houndbeare and Atlantis.

iv) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The log book shall record the name of the farm, plot, supplier, number and gross and net weight of vehicles along with the date and time of feedstock delivery/ digestate distribution.

v) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

vi) *Records of feedstock input into the digester by weight from the hopper shall be kept and submitted to the Local Planning Authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.*

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

Condition 10

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

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

Proposed Variation

The same amended wording is suggested for both applications:

For Odour Management conditions 3 and 5

"The development hereby permitted shall be carried out in full accordance with the current Odour Management Plan approved by the Environment Agency from time to time"

The Feedstock and Digestate conditions 5 and 7

"The feedstock and feedstock delivery for the anaerobic digester shall be set out in the supporting information submitted with application number XXXX and shall comprise slurry, farmyard manure, maize silage and wheat in the proportions below. For the avoidance of doubt the proportions per calendar year are:

- *Pig slurry – 12,000 tonnes (provided by the adjacent pig farm).*

- Farm manure – 18,822 tonnes
- Crops – 32,064 tonnes, and
- Various agricultural and dairy industry by-products (e.g. lactose, whey) 3,285 tonnes:

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

- a) The anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;*
- b) Generation of electricity and heat and other ancillary operations associated with the above activities”*

Noise conditions 8 and 10

“A noise mitigation scheme shall be designed and implemented in full throughout the operational lifetime of the site. The noise mitigation scheme shall be sufficient to ensure that the Rating Level of any noise generated on the site shall not exceed:

<i>Location</i>	<i>Day-time (07:00 until 23:00)</i>	<i>Night-time (23:00 until 07:00)</i>
<i>A</i>	<i>48</i>	<i>37</i>
<i>B</i>	<i>47</i>	<i>36</i>
<i>C</i>	<i>42</i>	<i>34</i>
<i>D</i>	<i>48</i>	<i>37</i>

When measured or determined at the boundary of any noise sensitive property (other than the Bungalow on the site access road which shall not exceed 10dB(A) above the pre-existing night-time and day-time background noise levels for as long as it is in use by staff working at the AD site). Any measurements and calculations shall be carried out in accordance with ‘BS4142=2014 Methods for Rating and Assessing Industrial and Commercial Sound”

Background

A similar proposal was considered by an application submitted under reference 18/2173/VAR which sought to increase the throughput of the digester, increasing the annual tonnage of crop input from 26,537 to 66,000 tonnes, and increase the annual tonnage of digestate exported from the site from 21,354 to 56,000 tonnes.

This application was refused and dismissed on appeal (2018 Appeal) with the Inspector considering that there were two main issues to be considered, with the second issue relating to procedural difficulties with the proposal resulting in different permissions subject to different conditions for overlapping sites. In this respect the Inspector concluded that granting a permission as submitted could create procedural difficulties, uncertainty, and that the enforcement of planning conditions would be problematic. This issue weighed heavily against granting planning permission.

However, the Inspector then considered the impact of the likely effects of the AD plant without compliance with conditions 5, 7 and 10 of 17/0650/VAR as the first main issue. These conditions (as applied to be varied under the current application 22/1106/VAR) related to feedstock and digestate, odour management and noise, as do conditions 3, 5 and 8 of 22/1104/VAR.

In this respect the Inspector found that whilst an increase in feedstock to approximately 66,000 tonnes per annum would represent a significant increase in the scale of permitted operation, he nevertheless concluded, (paragraph 23) that “I am satisfied that the planning and pollution control regimes would be capable of imposing and enforcing conditions on the AD plant to limit odour and noise emissions from the Appeal Site to acceptable levels.”

However, in considering the access road to the site, the Inspector found that the additional traffic using the access would have the potential to impact adversely upon the living conditions of the residents of Enfield Bungalow. Whilst the proposal would result in a slight reduction in the noise levels at Enfield Bungalow during the 30 day harvest period, extending the harm throughout most of the rest of the year would have an enduring and adverse effect on the residential amenity of the occupiers of Enfield bungalow and that the net effect over the year would be significant and harmful. This harm was considered to outweigh any benefits arising from the development.

In considering the removal of the condition relating to impact on odour emissions, the Inspector found that, notwithstanding the provisions of the Environmental Permit, development may have effects which are not severe enough to amount to pollution, but which are nevertheless material in planning terms. The Inspector found it necessary for the planning regime to retain control over odour emissions to safeguard the well-being and living conditions of nearby residents.

The Inspector also considered it necessary, notwithstanding the provisions of the Environmental Permit, in the interests of the use and development of land, for the planning regime to retain control over noise emissions, and that conditions are necessary to protect the well-being and living conditions of the occupiers of nearby residential properties from unacceptable noise levels.

Consideration and Assessment

The main considerations in the determination of this application therefore relate not to the general principle of the development, given that there is an approved AD plant and associated development on the site, but whether the variation of the condition to increase the feedstock and digestate is acceptable subject to amended conditions relating to odour management and plant noise.

Principle of the Development

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

In principle, therefore, the proposed development is considered to be acceptable, subject to its impact on surroundings.

Character of the Area

The site lies in open countryside in planning terms although there is neighbouring development, including a number of residential properties which have the potential to be impacted by further development of the site.

This application does not include any further physical development of the site, and there will therefore be no change in the character of the area or any visible impact on the surroundings of the site.

Residential Amenity

There are a number of residential properties within reasonably close proximity of the site, which could be impacted by the additional throughput of feedstock to approximately 66,000 tonnes.

Planning permission granted under reference 18/2437/MFUL approved the installation of various measures to reduce odour emissions from the site, with a view to improving the existing situation and being able to accommodate the additional throughput proposed in application 18/2173/VAR. The works included the installation of a dome over the final digestate tank; to provide a roof over part of the existing silage clamp; and the installation of digestate processor unit. Whilst not all of the development approved has been implemented to date, these measures are considered to be fundamental to the acceptability of the proposed increase in throughput. Without these additional odour management measures being put into place it is not considered that the additional throughput can be accommodated without having an unacceptable impact on the amenities of local residents.

ANALYSIS

The current variation applications seek the same quantum of throughput as that considered in the 2018 appeal which the Inspector found to be capable of being accommodated in principle, subject to appropriate conditions, despite having concerns regarding the amenity of the occupiers of The Bungalow.

Odour Management

The control of odour on the site has been an ongoing issue, which the approval of application under 18/2437/MFUL sought to address, with the installation of the dome and covering of the tank which stores the final digestate. To date these works have not been undertaken, but are considered to be essential to facilitate the additional throughput proposed. It is considered that this issue can be controlled by a suitably worded condition requiring the works to be undertaken prior to any increase in throughput.

The former conditions relating to odour management required the AD to be operated in accordance with the Odour Management Plan (OMP) dated 2015. The restrictive nature of the wording of this condition does not allow the Plan to be updated or revised to reflect current legislation or amendments to the Environmental Permit (EP). The potential consequence of not allowing the updating of the OMP in accordance with

changes to the Permit, is that legislation changes controlling emissions will not be reflected in the Plan, potentially resulting in the increased nuisance to nearby residents which cannot be enforced against due to the outdated OMP.

The proposal to vary the condition to allow the OMP to be revised to reflect the requirements of the EP is therefore considered to be reasonable to ensure that the condition is enforceable and effective. This has been considered by the Councils Environmental Health Officer who suggests a slightly different wording to that suggested by applicant, but which is considered to be more robust in terms of being able to be enforced.

It is considered that subject to appropriately worded conditions to ensure that an OMP, in accordance with the requirements of the EP is approved and the AD operated in accordance with the approved plan, there will be no material loss of residential amenity in terms of odour nuisance for the occupiers of nearby properties.

Feedstock and Digestate

The increase in throughput relating to this application is the same as that considered in the previous appeal, where the Inspector found that subject to appropriate conditions the additional feedstock import and digestate output proposed could be accommodated without causing nuisance or detriment to highway safety, or to the residential amenity, with the exception of Enfield Bungalow, of the occupiers of nearby dwellings.

It is, however, important to note that the acceptability of the increase in throughput is dependent on the completion of the works that were originally approved under the planning permission granted under reference 18/2437/MFUL. This planning permission has now lapsed, and the proposed installation of a dome over the final digestate tank, and roof and roller-door to the existing storage clamp has been resubmitted under reference 23/0867/FUL. This application is due to be considered by the Development Management Committee at the same meeting as the two S73 applications.

The proposed development would improve environmental (odour) management through the provision of a roof and roller door to the existing feedstock storage clamp and a residual gas collection dome to enclose the final digestate storage tank which would maximise gas collection and minimise the risk of odour.

The installation of the dome and cover of the existing storage tank, are considered to be essential, not only to improve the current situation and on-going environmental concerns, but also if the additional throughput is to be accommodated.

It is further considered that in permitting the additional throughput, both the sources of the feedstock and the destination of the digestate need to be identified to ensure that the site continues to be a sustainable development. In assessing the increased number of source locations as part of the consent granted under 17/0650/VAR it was found that the majority of the additional locations were farms within the same ownership of those previously consented, and that in reality many of the journeys were already being made, albeit not dropping off at the AD plant.

The additional movements associated with the increase in throughput were further considered as part of the refused application under 18/2317/VAR where the Highway Authority found that the nature of the traffic, generally tractors and trailers and/or trailer tankers, with some HGV's would not essentially change. Whilst there would be an increase in movements, this would be averaged over the whole year rather than concentrated during the harvesting, and the consequent impact on the wider highway network found to be acceptable. This view has again been confirmed by the Highway Authority consultation response to the current application.

Whilst the Inspector in the 2018 appeal found that the noise arising from the increased vehicle movements on the site road was unacceptable in terms of residential amenity for the occupiers of Enfield Bungalow, no concerns were sustained in terms of the volumes of traffic on the wider highway network or on highway safety.

Overall the increase in source feedstock and digestate output proposed is considered to be acceptable, however it is also considered to be appropriate to continue to specify source and destination locations in order to be able to provide certainty and to ensure that the AD plant maintains its sustainability credentials.

Noise

It is acknowledged that the proposed increase in throughput will result in additional noise, and it is therefore proposed to introduce suitable mitigation measures to achieve the new noise levels, i.e. no increase above baseline for all nearby properties, other than Enfield Bungalow on the access road. The baseline figure was identified following a background noise survey undertaken in December 2021 at a time when operations at the AD plant were shut down. This has updated the previous background records which were undertaken in 2015.

The Councils Environmental Health Officer is recommending the submission and implementation of a noise mitigation scheme requiring that any noise generated by the site should not exceed the pre-existing background noise levels, identified as 38dB(A) at night time, and 42dB(A) during the day when measured or determinate at the boundary or any sensitive property, with the exception of Enfield Bungalow on the sited access road, where the noise levels should not exceed 10dB(A) above the pre-existing background noise levels. The higher levels which are considered to be acceptable are dependent on Enfield Bungalow being occupied by staff working on the AD site.

The bungalow is currently occupied as a welfare facility for staff employed on the AD site, with the occupation of the building subject to a long term lease between the applicant and owner, which is considered to be acceptable in terms of noise impact. However it is also considered to be important that this arrangement remains in place and that the property is not occupied independently from the AD due to the high levels of noise experienced on the site, which would otherwise fail to provide a reasonable standard of amenity.

As Enfield Bungalow lies outside of the application sites, it will be necessary to secure a legal agreement tying its occupation to the operation of the AD site.

It is also recommended that prior to any increase in feedstock, a validating Noise Impact Assessment shall be submitted to and approved in writing by the local planning authority. The validation assessment is required to confirm that the applicants' noise control measures are indeed suitable acoustic measures designed and installed to meet with the rating levels detailed within the applicants' noise mitigation scheme. The submission of the impact assessment will need to be conditioned.

CONCLUSION

The increase in the scale of the operation of the AD, and the consequent generation of renewable energy is considered to have support under Strategy 39 of the Local Plan and the provisions of the National Planning Policy Framework, provided that these are not outweighed by any detrimental impact on amenity. No objections are raised in terms of visual amenity or highway safety, and the unacceptable impact on residential amenity for occupiers of Enfield Bungalow have been addressed.

The specific conditions suggested by Environmental Health and the compliance with an up to date Odour Management Plan, together with the completion of the mitigation works approved under application reference 23/0867/FUL, and the completion of a legal agreement tying the occupation of Enfield Bungalow to the operation of the AD plant, are considered to be essential to the recommendation to approve these applications.

RECOMMENDATION

22/1104/VAR

APPROVE Subject to a legal agreement to restrict the occupation of Enfield Bungalow to a non-residential use for the duration of the operation and use of the Anaerobic Digester plant

And the following conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 1. WIN01_EN2_SL NEW_005 dated 25.05.16
 2. WIN01_EN2_SP ALL_007 dated 25.05.16
 3. WIN01_EN2_SP NEW_007 dated 25.05.16
 4. WIN01_EN2_ELNEW_W_00 5 dated 17.5.16
 5. WIN01_EN2_EL NEW_E_00 4 dated 17.5.16
 6. WIN01_EN2_EL NEW_S_00 4 dated 17.5.16
 7. WIN01_EN2_EL NEW_N_00 4 dated 17.5.16
 8. WIN01_EN2_CS_004 dated 25.6.15
 9. WIN01_EN2_PS NEW_015 dated 06.07.16

2. Prior to the increase in the importation of any increase in feedstock onto the site, the works approved under planning permission granted under reference 23/0867/FUL, namely "*Installation of a roof and roller door to a section of the existing storage clamp to provide improved environmental control and installation of a dome to collect residual gas from the digestate storage tank*" shall have been completed in accordance with the approved details. The works shall thereafter be retained and maintained for the lifetime of the development.
(Reason – A pre-commencement condition is necessary to avoid pollution of the environment and to protect adjoining occupiers from noise, disturbance and odour, in accordance with Policies EN14 (Control of Pollution) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.
3. A noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority prior to any increase in feedstock being undertaken. The noise mitigation scheme should be shall be sufficient to ensure that the Rating Level of any noise generated on the site shall not exceed:

Location	Day-time (07:00 until 23:00)	Night-time (23:00 until 07:00)
A (Denbowe)	48 dB (LAeq 1hr)	37 dB (LAeq 15min)
B (Longmeadow Cott & Grovely)	47 dB (LAeq 1hr)	36 dB (LAeq 15min)
C (Two Oaks)	42 dB (LAeq 1hr)	34 dB (LAeq 15min)
D (1 Poplars Walk)	48 dB (LAeq 1hr)	37 dB (LAeq 15min)

when measured or determined at the at the boundary of the identified noise sensitive properties (other than the property known as 'The Bungalow' on the site access road which shall not exceed 10dB(A) above the pre-existing night-time and daytime background noise levels for as long as it is in use by staff working at the AD site). Should the AD site relinquish their connection with 'The bungalow' the noise levels stipulated at location B will apply. The scheme shall be implemented in full throughout the operational lifetime of the site.

Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

The approved noise mitigations measures shall be put in place prior to the increase in feedstock being undertaken and shall be retained and maintained for the lifetime of the development.

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

4. Prior to any increase in feedstock, a validating Noise Impact Assessment shall be submitted to and approved in writing by the local planning authority. The validation assessment is required to confirm that the applicants' noise control

measures are indeed suitable acoustic measures designed and installed to meet with the rating levels detailed within the approved noise mitigation scheme.

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

5. The development hereby permitted shall be carried out in full accordance with the sites operational Odour Management Plan (OMP). The OMP should be periodically updated in order to maintain consistency with the sites Environmental Permit. In any event the OMP should be fully reviewed within three months of the chicken litter storage building being brought into first use and submitted to and approved in writing by the Local Planning Authority.

(Reason - To comply with the requirements of Policy EN14 (Control of Pollution) to protect the amenity of local residents in terms of the control and management of odour, noise, traffic management and construction management and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)

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

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

7. i) The feedstock and feedstock delivery for the anaerobic digester shall be as set out in the supporting information submitted with the application submitted under reference 22/1104/VAR and shall comprise slurry, farmyard manure, maize silage and wheat in the proportions listed below. For the avoidance of doubt the proportions per annum are:

- o Pig slurry – 12,000 tonnes (or all of their slurry if less than 12,000 tonnes) per year produced on Enfield Farm
- o Farmyard manure- 18,822 tonnes
- o Maize silage and wheat- 32,064 tonnes
- o Agricultural and dairy industry by products – 3,285

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

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

ii) The feedstock for the anaerobic digester shall be sourced from the sites named in Table 5.2 of the Transport Statement prepared by Hydrock dated May 2014 named as: Shepherds 41.8 ha, Enfield 21.7 ha, Burrowton 28.03 ha, Crealy Barton 68.09 ha, Burrowton 1 15.14 ha, Lions 72.75 ha, Hayes 82.43 ha, Collyhead 63.82 ha and as shown on the plan/aerial photos drawing no's 13546/T03A, 13546/T04B, 13546/T05A, 13546/T06A, 13546/T07A and 13546/T08A as set out within Appendix F of the Transport Statement dated May 2014 and on pages 8 and 9 of the SLR Transport Statement March 2017 named as: Upton Pine, Poltimore, Wood Farm, Sidbury, East Hill Strips, Exton, Peamore Farm, Higher Bagmores, Yellowford, Matford, Ide, Combe, Gulliford, venmoor, Houndbeare and Atlantis.

iii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in Table 5.3 of the Transport Statement prepared by Hydrock dated May 2014 named as Shepherds 41.8 ha, Enfield 21.7 ha, Burrowton 28.03 ha, Crealy Barton 68.09 ha, Burrowton 1 15.14 ha, Lions 72.75 ha and as shown on the plan/ aerial photos drawing no's 13546/T04B, 13546/T05A, 13546/T07A, 13546/T08A as set out within Appendix F of the Transport Statement dated May 2014 and on pages 8 and 9 of the SLR Transport Statement March 2017 named as: Upton Pine, Poltimore, Wood Farm, Sidbury, East Hill Strips, Exton, Peamore Farm, Higher Bagmores, Yellowford, Matford, Ide, Combe, Gulliford, venmoor, Houndbeare and Atlantis.

iv) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The log book shall record the name of the farm, plot, supplier, number and gross and net weight of vehicles along with the date and time of feedstock delivery/ digestate distribution.

v) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

vi) Records of feedstock input into the digester by weight from the hopper shall be kept and submitted to the Local Planning Authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

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

8. Prior to any increase in feedstock, noise attenuation measures detailed in the report prepared by Industrial Noise and Vibration Centre Limited, Report No. 10047C-1, dated 22 November 2021 shall be completed and maintained throughout the operation of the plant.

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

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

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

10. Surface water drainage shall be undertaken in accordance with the Conditions Discharge Notice (Reference Number 15/1512/FUL) dated 11 January 2019, as detailed on drawing number 151109/100 Rev P1 received on 7 December 2018 and the Drainage Maintenance Schedule for Enfield V1 received on 5 December 2018.

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

11. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings and any wastes within a period of six months from the date of cessation. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted and approved in writing by the LPA no later than three months following the cessation of power production.

(Reason - To ensure the achievement of satisfactory site restoration in the interests of the landscape character of the area in accordance with Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).

22/1106/VAR

APPROVE subject to a legal agreement to restrict the occupation of Enfield Bungalow to a non-residential use for the duration of the operation and use of the Anaerobic Digester plant

And the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

002	Other Plans	11.04.17
003	Other Plans	11.04.17
004	Other Plans	11.04.17
005	Other Plans	11.04.17

SLR	Transport Statement	16.03.17
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WIN01_EN2_SLS73_001	Location Plan	23.05.16
WIN01_EN2_SPS73_006	Proposed Site Plan	23.05.16
WIN01_EN2_ELS73_W_005	Proposed Elevation	23.05.16
WIN01_EN2_ELS73_N_005	Proposed Elevation	23.05.16
WIN01_EN2_ELS73_E_005	Proposed Elevation	23.05.16
WIN01_EN2_ELS73_S_005	Proposed Elevation	23.05.16
WIN01_EN2_SPA_001	Other Plans	15.09.15
WIN01_EN2_PSNEW_015	Landscaping	06.07.16
FIGURE 5		
WIN01_EN2_PSNEW_015	Landscaping	06.07.16
FIGURE 5B		
MANAGEMENT PLAN	Landscaping	06.07.16
VERSION 6		

2. Prior to the increase in the importation of any increase in feedstock onto the site, the works approved under planning permission granted under reference 23/0867/FUL, namely "*Installation of a roof and roller door to a section of the existing storage clamp to provide improved environmental control and installation of a dome to collect residual gas from the digestate storage tank*" shall have been completed in accordance with the approved details. The works shall thereafter be retained and maintained for the lifetime of the development.

(Reason – A pre-commencement condition is necessary to avoid pollution of the environment and to protect adjoining occupiers from noise, disturbance and odour, in accordance with Policies EN14 (Control of Pollution) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.

3. A noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority prior to any increase in feedstock being undertaken. The noise mitigation scheme should be sufficient to ensure that the Rating Level of any noise generated on the site shall not exceed:

Location	Day-time (07:00 until 23:00)	Night-time (23:00 until 07:00)
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A (Denbowe)	48 dB (LAeq 1hr)	37 dB (LAeq 15min)
B (Longmeadow Cott & Grovely)	47 dB (LAeq 1hr)	36 dB (LAeq 15min)
C (Two Oaks)	42 dB (LAeq 1hr)	34 dB (LAeq 15min)
D (1 Poplars Walk)	48 dB (LAeq 1hr)	37 dB (LAeq 15min)

when measured or determined at the at the boundary of the identified noise sensitive properties (other than the property known as 'The Bungalow' on the site access road which shall not exceed 10dB(A) above the pre-existing night-time and daytime background noise levels for as long as it is in use by staff working at the AD site). Should the AD site relinquish their connection with 'The bungalow' the noise levels stipulated at location B will apply. The scheme shall be implemented in full throughout the operational lifetime of the site.

Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

The approved noise mitigations measures shall be put in place prior to the increase in feedstock being undertaken and shall be retained and maintained for the lifetime of the development.

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

4. Prior to any increase in feedstock, a validating Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The validation assessment is required to confirm that the applicants' noise control measures are indeed suitable acoustic measures designed and installed to meet with the rating levels detailed within the applicants' noise mitigation scheme.

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

5. The development hereby permitted shall be carried out in full accordance with the sites operational Odour Management Plan (OMP). The OMP should be periodically updated in order to maintain consistency with the sites Environmental Permit. In any event the OMP should be fully reviewed within three months of the chicken litter storage building being brought into first use and submitted to and approved in writing by the Local Planning Authority.

(Reason - To comply with the requirements of Policy EN14 (Control of Pollution) to protect the amenity of local residents in terms of the control and management of odour, noise, traffic management and construction management and Policy D1 (Design and Local Distinctiveness of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.)

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

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

7. i) The feedstock and feedstock delivery for the anaerobic digester shall be as set out in the supporting information submitted with the application submitted under reference 22/1106/VAR and shall comprise slurry, farmyard manure, maize silage and wheat in the proportions listed below. For the avoidance of doubt the proportions per annum are:
- o Pig slurry – 12,000 tonnes (or all of their slurry if less than 12,000 tonnes) per year produced on Enfield Farm
 - o Farmyard manure- 18,822 tonnes
 - o Maize silage and wheat- 32,064 tonnes
 - o Agricultural and dairy industry by products – 3,285

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

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

ii) The feedstock for the anaerobic digester shall be sourced from the sites named in Table 5.2 of the Transport Statement prepared by Hydrock dated May 2014 named as: Shepherds 41.8 ha, Enfield 21.7 ha, Burrowton 28.03 ha, Crealy Barton 68.09 ha, Burrowton 1 15.14 ha, Lions 72.75 ha, Hayes 82.43 ha, Collyhead 63.82 ha and as shown on the plan/aerial photos drawing no's 13546/T03A, 13546/T04B, 13546/T05A, 13546/T06A, 13546/T07A and 13546/T08A as set out within Appendix F of the Transport Statement dated May 2014 and on pages 8 and 9 of the SLR Transport Statement March 2017 named as: Upton Pine, Poltimore, Wood Farm, Sidbury, East Hill Strips, Exton, Peamore Farm, Higher Bagmores, Yellowford, Matford, Ide, Combe, Gulliford, venmoor, Houndbeare and Atlantis.

iii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in Table 5.3 of the Transport Statement prepared by Hydrock dated May 2014 named as Shepherds 41.8 ha, Enfield 21.7 ha, Burrowton 28.03 ha, Crealy Barton 68.09 ha, Burrowton 1 15.14 ha, Lions 72.75 ha and as shown on the plan/ aerial photos drawing no's 13546/T04B, 13546/T05A, 13546/T07A, 13546/T08A as set out within Appendix F of the Transport Statement dated May 2014 and on pages 8 and 9 of the SLR Transport Statement March 2017 named as: Upton Pine, Poltimore, Wood Farm,

Sidbury, East Hill Strips, Exton, Peamore Farm, Higher Bagmores, Yellowford, Matford, Ide, Combe, Gulliford, venmoor, Houndbeare and Atlantis.

iv) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The log book shall record the name of the farm, plot, supplier, number and gross and net weight of vehicles along with the date and time of feedstock delivery/ digestate distribution.

v) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

vi) Records of feedstock input into the digester by weight from the hopper shall be kept and submitted to the Local Planning Authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

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

8. Prior to any increase in feedstock noise attenuation measures detailed in the report prepared by Industrial Noise and Vibration Centre Limited, Report No. 10047C-1, dated 22 November 2021 shall be completed and maintained throughout the operation of the plant.

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

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

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

10. There shall be no external lighting associated with the development hereby permitted unless in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

(Reason - To safeguard the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).

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

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

13. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings and any wastes within a period of six months from the date of cessation. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted and approved in writing by the LPA no later than three months following the cessation of power production.

(Reason - To ensure the achievement of satisfactory site restoration in the interests of the landscape character of the area in accordance with Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Policy D1 (Design and Local Distinctiveness) of the 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.

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.

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

Ward Newbridges

Reference 22/2633/FUL

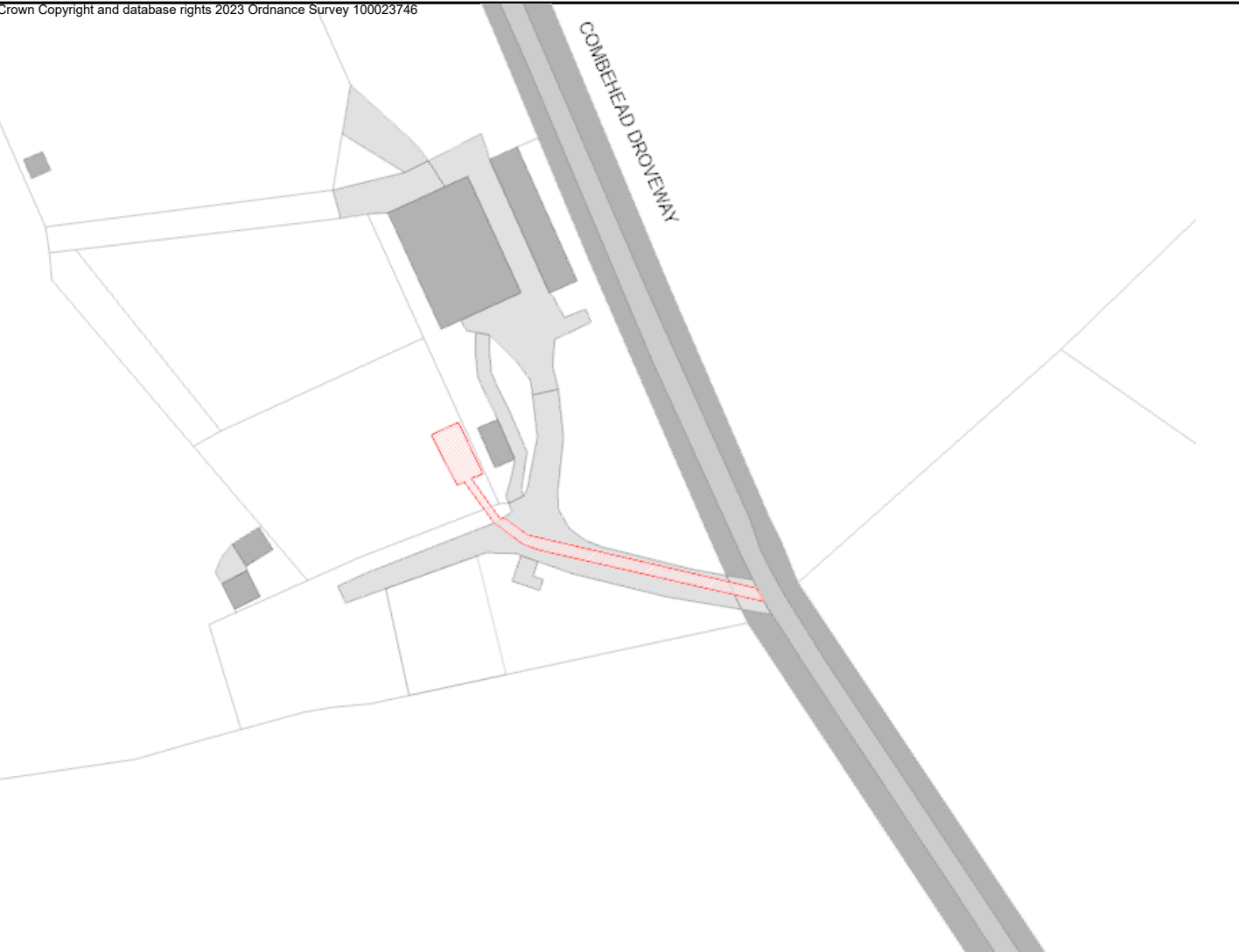
Applicant Mr & Miss C & R Meecham & Hunter

Location Ashdale Farm Dalwood EX13 7HS

Proposal Temporary agricultural workers dwelling.



RECOMMENDATION: Approval with conditions



		Committee Date: 26.09.2023
Newbridges (Dalwood)	22/2633/FUL	Target Date: 26.01.2023
Applicant:	Mr & Miss C & R Meecham & Hunter	
Location:	Ashdale Farm Dalwood	
Proposal:	Temporary agricultural workers dwelling	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the committee as the officer recommendation differs from that of the ward member.

A temporary three year permission is sought for the siting of a static caravan to serve as residential accommodation for an onsite worker to manage a proposed calf rearing enterprise. The proposal is to house the young stock and calves from a nearby dairy business (based at Culverhayes Farm, Awliscombe) and to manage these at the site, under contract, until such time as they can be introduced back into the main herd.

Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan permits such dwellings subject to meeting all of the relevant criteria set out in the policy.

The key issue for consideration is whether the application demonstrates that there is an essential functional requirement for an on-site worker. It is also necessary to be able to demonstrate future operational viability of the business.

The submitted information sets out the functional requirement for the proposed enterprise in terms of Standard Man Days (SMDs), with 275 SMDs equating to a full-time worker. Taking into account the projected livestock numbers and other agricultural work outlined a need for a full-time worker at the site is demonstrated and where the young nature of the livestock requires close supervision. In financial terms, the enterprise would be run as a separate enterprise albeit in conjunction with the main farm. Budget forecasts set out how the business would be expanded and where at the end of the three year period a trading profit capable of supporting a full time agricultural worker is projected.

The concerns expressed by the Ward Member regarding the isolated location of the site and impact of the proposal on the surrounding AONB are noted. However

these matters have previously been considered in relation to a previous agricultural venture at the site – for a different enterprise and by a different applicant – where an appeal Inspector consider the siting of a temporary mobile home not to cause harm.

In all other respects including means of access and impact on the character and appearance of the area and the wider designated landscape and amenity impact, the proposal is found to be acceptable. The proposed means of foul drainage is also considered to fall below the threshold whereby it would give rise to any likely significant effect on the River Axe Special Area of Conservation.

As such, it is recommended that temporary permission is granted for the siting of the static caravan as a rural worker's dwelling.

CONSULTATIONS

Local Consultations

Newbridges - Cllr Iain Chubb

Dear Planning East Team

I have now read the planning statement with the agricultural appraisal and my comments are:

Although this field is called "Ashdale Farm", this was named by previous owners who tried to farm Alpacas in the field, although this was an unsuccessful venture; seven acres is not viable as a livestock farm it is just a field.

I therefore think this application should be refused due to its isolated location and visual intrusion in the Blackdown Hills AONB. This application also does not fit within Dalwood's neighbourhood plan. This is a temporary application but the caravan that has been sited does nothing to enhance the setting it has been placed in. I do not think the agricultural need outweighs the AONB status.

An AONB is protected by law and should only have building that enhances, preserves or conserves its natural beauty due to the significant value of the landscape and should be safeguarded for future generations.

Regards

Cllr Iain Chubb

Technical Consultations

Natural England

Our ref: 421093

Your ref: 22/2633/FUL

Dear Planning East Team,

Thank you for your email. Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of the River Axe SAC. Having considered the assessment, and noting that no mitigation measures were proposed, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Other Representations

None received.

PLANNING HISTORY

Reference	Description	Decision	Date
05/2472/FUL	Site temporary mobile home for agriculture and construction of two timber buildings with field shelters	Withdrawn	24.01.2006
08/1307/FUL	Siting of temporary agricultural workers dwelling	Refusal - Allowed at appeal	05.11.2008
08/1308/FUL	General purpose agricultural building	Refusal- Allowed at appeal	03.11.2008
12/1589/FUL	Retention of temporary agricultural workers dwelling for a further period of 2 years.	Temporary Approval	02.11.2012

Note: The 2008 applications for the siting of a temporary agricultural worker's dwelling and general purpose agricultural building were allowed at appeal.

POLICIES

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

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

H4 (Dwellings for Persons Employed in Rural Businesses)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

EN5 (Wildlife Habitats and Features)

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

Dalwood Neighbourhood Plan 2018-2031 (Made)

NE1: Conserving and Enhancing the Natural Beauty of the Parish

EE2: Farming (New Development Proposals)

Government Planning Documents

National Planning Practice Guidance

NPPF (National Planning Policy Framework 2021)

Site Location and Description

The application site lies in open countryside within the designated Blackdown Hills Area of Outstanding Natural Beauty. It occupies an elevated site on the edge of an inland plateau approximately midway between the villages of Wilmington and Dalwood and to the north of the A35. The site is located in the southwest corner of a large agricultural field which extends to 2.8 ha is laid to a pasture and surround by native hedgerow. There is a static caravan already sited on the land, an existing agricultural storage barn just to the northwest and two smaller timber buildings to the east. Access to the site is via an existing access in the southwest corner of the field from Combehead Drove. The entrance to the site is set back from the junction with the lane and is enclosed by high level close boarded timber gates, similar fencing lines this existing section of access drive.

Proposed development

The application seeks a temporary permission for siting of a static caravan to house an agricultural worker. Whilst there is a static caravan already located on the site it is understood that this is currently not being used for residential purposes.

Background

The site has previously had consent, granted at appeal, for a temporary agricultural worker's dwelling in respect of an alpaca enterprise (08/1307/FUL). At the same time

permission was granted for the agricultural storage barn on site. A subsequent permission (12/1589/FUL) granted a temporary consent for a further period of 2 years for the retention of the temporary agricultural workers dwelling.

The previous agricultural enterprise ceased some time ago and the current applicants purchased the land in July of 2022.

The application is accompanied by an agricultural appraisal which sets out the background of development at the site, brief details of the applicant's employment background and details the agricultural operations it is intended to undertake on the land.

The intended agricultural enterprise is the rearing of dairy replacements, this involves bringing in young/new-born dairy calves and rearing them to the age of 3 months prior to them being returned back to the dairy farm for growing on and breeding.

The enterprise is intended to be run as a separate agricultural unit but it is intended that it would be supplied with baby calves from an existing farm business (Culverhayes Farm, Awliscombe) to which the animals will be returned at the end of the 3 month rearing period. It is understood that for bio-security reasons all animal would be from this same farm. Rather than the applicants purchasing in the baby calves and selling them back at a higher rate they would instead be contracted to manage the animals at a day rate per animal.

The appraisal goes on to confirm that the supplying dairy farm operates all year round calving and as such there will be calves supplied throughout the year. It is stated that the existing buildings on site would be sufficient to house the animal in winter with older calves able to graze outside in the summer months.

The appraisal recognises the small size of the holding and provides figures derived from industry standard sources (John Nix Pocketbook, 52nd Edition and The Agricultural Budgeting and Costing Book, 94th Edition) to determine the stocking rate of the land and SMDs (Standard Man Days) required for rearing. The figures indicate that based on the young age of the calves, their diet (mainly milk, concentrates and hay) and the limited time on the holding per calf that the land can accommodate the intended 70 calf's maximum capacity.

ANALYSIS

The main considerations in the determination of the application relate to:

- The principle of development and assessment of agricultural need
- Impact on character and appearance of the area
- Impact on the River Axe Special Area of Conservation (SAC)
- Other considerations

The principle of development and assessment of agricultural need

The development plan for the area currently consists of the adopted East Devon Local Plan 2013-2031 (EDLP) There is currently no neighbourhood plan in place covering the area.

Strategy 7 of the EDLP defines the countryside as all those parts of the plan area that are outside of site specific allocations or built-up area boundaries as defined by the Proposals Map. On this basis the site lies in open countryside and therefore falls to be considered under this policy.

Strategy 7 is quite specific by stating,

'Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development'

And goes on to say,

'and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located'.

Policy TC2 of the EDLP (Accessibility of New Development) is also relevant, it states 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'

As the site lies outside a defined built-up area boundary there is a general presumption against residential development under Strategy 7 of the Local Plan, unless this is explicitly permitted by another policy of the Local or Neighbourhood Plan.

Whilst the presumption in favour of sustainable development, set out at para. 11 of the NPPF, is considered to apply (as the Council is currently unable to demonstrate an up-to date 5 year supply of housing land), in this case the location of the site at a distance from services and facilities required to serve it and the lack of options to access it by sustainable modes of transport are such that its location for unrestricted residential occupation would outweigh any benefits that might otherwise be delivered.

Policy H4, following guidance at para. 80 in the National Planning Policy Framework (NPPF), sets out a criteria based approach by which to assess applications for dwellings to support rural businesses to establish whether an 'essential need' for such a dwelling has been demonstrated.

Policy H4 sets out the following criteria to be satisfied:

1. There is a proven and essential agricultural or forestry or rural business need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons and the size of the proposed dwelling is commensurate with the scale of the established functional need. Where this need is unproven or a new business is being established a temporary dwelling (such as a

mobile home) may be permitted to allow time to establish that there is a genuine functional and financial need for a permanent dwelling. A temporary dwelling will normally be permitted for a period of three years, subject to meeting relevant criteria detailed below.

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

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

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

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

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

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

1. The proposal relates to a new enterprise where the policy states that a temporary dwelling may be allowed where 'need is unproven or a new business is being established' in order to, 'allow time to establish that there is a genuine functional and financial need for a permanent dwelling.'

The submitted appraisal calculates the calf rearing enterprise would generate a functional requirement for 241.5 SMDs (Standard Man Days) added to this grassland management and general management, maintenance and repairs of the holding gives a figure of 287 SMDs, this is above the recognised 275 SMDs relating to one full time worker.

There is no reason to dispute the labour requirement figures put forward by the applicant, however, it is necessary to determine whether this labour requirement relates to an essential need for a rural worker to be permanently housed on the unit or in the specific rural location. The appraisal goes on to assess this essential need, which can be summarised as follows:

- to meet the husbandry needs of the calves which require regular feeding/checking and where they are more prone to disease requiring urgent attention/close monitoring;
- responding to unpredicted incidents which could result in losses

In this case whilst the stocking numbers are relatively low, it is recognised that the calves would be more sensitive to change and require close monitoring throughout the day and night which could only be satisfactorily achieved through an on-site presence.

2. Not applicable in this instance.

3. The submitted appraisal includes projected profit forecast for the next three years based purely on the calf rearing enterprise. It is intended to run the enterprise at 75% capacity in the first year followed by full capacity in the next two years. The projection indicates that a profit capable of sustaining a full time worker would be achieved in the second and third years, however it is unclear if there is potential to grow the business further after this. Whilst such figures can of course not be guaranteed and could be affected by a number of variables they demonstrate the business has been planned on a sound financial basis.

4. The dwelling is proposed to serve the applicant and based on the standard man days calculation it would appear that this criteria could be met.

5. There are no other dwellings on the holding that would serve any demonstrated essential need. Furthermore, there are no buildings suitable for conversion and no evidence of any dwellings having been sold off. Given the stated need for on-site/close by care of youngstock and the relatively remote location of the site it is not considered that an off-site presence could meet this need.

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

It is considered that the proposal meets the policy requirements of policy H4 of the EDLP.

In terms of national planning policy and guidance para. 80 of the NPPF includes at sub paragraph a) the essential need for a rural worker...to live permanently at or near their place of work in the countryside, as one of the exceptions to the construction of isolated dwellings in the countryside.

Planning Practice Guidance (Paragraph: 010 Reference ID: 67-010-20190722) sets out considerations that it may be relevant to take into account when considering applications for rural workers these include:

- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);
- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

In the current case it is considered that there is evidence, in terms of the age of the livestock and close supervision required, of need on animal welfare grounds and for emergency care. The business plan indicates potential future viability and therefore it is considered to be reasonable to grant a temporary permission for a dwelling to allow the applicant the opportunity to demonstrate that a viable business can be established.

Impact on character and appearance of the area

Strategy 7 and 46 of the EDLP both seek to protect the countryside from development unless specifically justified and to protect (and in the case of Strategy 46) conserve and enhance the landscape character of the area. Similarly policy NE1 of the Dalwood Neighbourhood Plan (DNP) seeks to protect and enhance the natural environment and requires appropriate landscaping to mitigate impacts of development where required.

The colour and form of caravan already on site is somewhat incongruous to its setting and the concerns of the ward member councillor are noted in relation to the need to conserve and enhance the AONB landscape. However, the caravan on site has been located in the southeast corner of the field close to the existing buildings and access and on the lowest part of the field. In this location public views of the unit would be limited to glimpsed views through the boundary hedgerow from the lane on approach from the southeast.

It should be noted that this application is for the siting of a caravan/mobile home and it is not clear if the existing mobile home will be reused or a different structure brought onto the site. The detail of the appearance of the caravan/static home can be agreed through a planning condition.

It is also recognised that permission has previously been granted for a temporary dwelling on this site. Whilst the earlier permission has expired and was in relation to a different enterprise, in relation to the visual and landscape impact it was for a very similar form of development in a very similar location, the appeal inspector in considering such impact at the time made the following comments:

“Despite some objections about how the caravan and the barn would be seen on this relatively high ground, from further away the appeal site and the existing caravan are very difficult to see due to intervening vegetation and the contours of the land. I therefore consider that, despite less leaf cover during certain times, the new dwelling and the proposed barn would not be unduly prominent. Furthermore, seeing what is

proposed would not necessarily be harmful in a wider landscape that is already dotted with numerous other development including dwelling and farm buildings.”
(para. 7 of appeal reference APP/U1105/A/08/2093012)

It is not considered that the circumstances have changed significantly since this previous decision such that refusal on these ground would be warranted.

The applicants have stated their intention to paint the static home brown and plant trees to reduce its visibility. Whilst such measures may provide some benefit it is not considered reasonable to condition additional landscape planting in relation to a temporary permission and the caravan itself is transitory in character which reduces its harm.

Impact on the River Axe Special Area of Conservation (SAC)

The application site lies within the catchment area for the River Axe where Natural England have issued guidance in relation to the current conservation status of the river which is designated as a Special Area of Conservation (SAC) and which is considered to be in an 'unfavourable condition'. The advice is that the condition status is affected by increased phosphate levels in the river. Excessive levels of such nutrients can lead to rapid growth of certain plants through the process of eutrophication, leading to a loss of biodiversity and the decline in the condition of designated sites. In order to achieve improvements in water quality it is advised that substantial reductions in nutrients are needed and that mitigation solutions will be needed to enable new development to proceed without causing further harm.

The Council as the Competent Authority should only grant permission if they are certain at the time of Appropriate Assessment that a plan or project (in this case the proposed development) will not adversely affect the integrity of a habitats site i.e. where no reasonable scientific doubt remains as to the absence of effects. In this regard, new residential development will, without appropriate mitigation, lead to increased phosphate loading (from greywater discharge) and as such should not be permitted. On this basis an Appropriate Assessment was previously carried out which concluded that Likely Significant Effect could not be ruled out. As required, Natural England were consulted on the conclusion of the Appropriate Assessment and supported this at the time – their comments in this regard are provided above.

However, Natural England has since confirmed that the exception to the usual requirements, set out in its guidance issued to affected local authorities (March 2022), can be applied to the River Axe SAC. The guidance applies where the nutrient impact is due to increased phosphates and where non-mains drainage is proposed. This exception is referred to as 'Thresholds for Insignificant Effects' (The Thresholds) and is contained within Annex F of the aforementioned guidance. Essentially the guidance states that proposals draining to private drainage systems and that discharge to ground, *“...should pose little threat to the environment, because much of the P discharged is removed from the effluent as it percolates through the soil in the drainage field.”* This though is reliant on a number of factors including location, design and management of the system. Where 'The thresholds' can be demonstrated to be met Natural England's guidance states that,

“Where best available evidence indicates that these conditions are met, Natural England advice is a conclusion of no LSE alone or in combination for phosphorus can be reached in these circumstances.”

The application is supported by a ‘Nutrient Neutrality Assessment and Mitigation Strategy’, prepared by Halpin Robbins and dated 1st August 2023.

The site is located where mains drainage is not available and therefore a non-mains system is required. The report has assessed the proposal against the 9 criteria set out in the ‘The Thresholds’ and indicates in each case how the proposal meets these.

On this basis, it is concluded that the project would not have a likely significant effect, when considered either alone or in combination, upon the qualifying features of the River Axe SAC and that the need for an Appropriate Assessment can be screened out. As there is no requirement to carry out an Appropriate Assessment there is no requirement to consult Natural England in this instance.

Other considerations

The proposal would utilise the existing site access which is considered to be capable of safely accommodating the traffic associated with the site and which has previously provided access in relation to a previous temporary residential permission.

There are no nearby residential properties that would be adversely impacted by the proposal.

Conclusion

The proposal seeks to provide a temporary agricultural workers dwelling to support the proposed calf rearing business which would operate from the site. The caravan would be located in close proximity to existing buildings and would be well related in to these in terms of landscape and visual impact. There is considered to be a reasonable case for an on-site presence and the temporary nature of the proposal allows the applicant time to further establish the business and at the end of which the ongoing need can be reassessed. In other regards the non-mains drainage system proposed is considered to be appropriate and to meet the ‘Thresholds for Insignificant Effect’. The proposal is therefore considered to represent sustainable development and is recommended for approval subject to conditions as 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. The permission hereby granted shall be for a limited period only beginning on the date of the permission hereby granted and expiring, on or before 3 years after this date, at which point the land shall revert to an agricultural use and the caravan/mobile home shall have been removed and the site restored to its previous condition, unless the prior consent of the Local Planning Authority has been obtained in writing for a further period of such use.
(Reason - The permission is only justified for a limited period to allow the applicant to demonstrate the agricultural businesses viability and the continued functional need for the on-site accommodation of an agricultural worker and to control development in the open countryside in accordance with policy H4 (Dwellings for Persons Employed in Rural Businesses) and Strategy 7 (Development in the Countryside) of the adopted East Devon Local Plan 2013-2031).

4. The occupation of the caravan/mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990) or forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
(Reason - The dwelling is justified only by agricultural need and should remain available for this purpose in accordance with Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan 2013-2031.)

5. The means of foul drainage to serve the residential occupation of the caravan/mobile home shall accord with the details set out in the submitted Nutrient Neutrality report prepared by HalpinRobbins Ltd. and dated 1st August 2023 and shall thereafter be maintained and retained for the period of the permission hereby granted.
(Reason - To ensure an appropriate means of foul drainage is installed to serve the site and which does not give rise to an adverse impact on the integrity of the River Axe Special Area of Conservation in accordance with Strategies 3 (Sustainable Development), 5 (Environment), 47 (Nature Conservation and Geology) and Policies EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031 and Guidance in the National Planning Policy Framework and the National Planning Practice Guidance.)

6. Prior to the commencement of the use hereby permitted details of the finished external appearance of the caravan/mobile home (including finished paint colour) shall have been submitted to the Local Planning Authority for their written approval. The caravan/mobile home to be used for the purpose hereby permitted shall accord with the approved detail prior to occupation and shall be retained as such.
(Reason – To ensure the appearance of the unit is appropriate in relation to the site's rural context and the character and appearance of the surrounding area in accordance with Stgy. 46 (Landscape Conservation and Enhancement and

AONBs) and policy D1 (Design and Local Distinctiveness) of the 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.

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:

SM1	Location Plan	28.11.22
2052/01	Combined Plans	28.11.22

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

Appropriate Assessment and HRA Screening Report The Conservation of Habitats and Species Regulations 2017, Section (63)	
Application Reference	22/2633/FUL
Brief description of proposal	Temporary agricultural workers dwelling
Location	Ashdale Farm, Dalwood, EX13 7HS
Site is:	<p>Within the nutrients Catchment Area for the River Axe SAC as defined by Natural England.</p> <p>See Appendix 1 for list of interest features of the SPA/SAC.</p>
Step 1 Screening for Likely Significant Effect on the River Axe SAC	
Risk Assessment	
<p>Could the Qualifying Features of the European site be affected by the proposal?</p> <p>Consider both construction and operational stages.</p>	<p>No –the proposal includes residential development within the catchment of the River Axe SAC and therefore is covered by the Natural England guidance issued on 16th March 2022.</p> <p>A previous screening opinion carried out in February of this year concluded that Likely Significant Effect (LSE) could not be ruled out on the basis that appropriate mitigation to offset the impact of increased phosphates in wastewater discharge has not been demonstrated.</p> <p>Subsequently discussions with Natural England have confirmed that the ‘Thresholds for Insignificant Effects’ (The Thresholds) contained within Annex F of the aforementioned guidance are applicable to East Devon where the nutrient impact relates to phosphates.</p> <p>Whilst the proposal falls within the catchment and the wastewater associated with the development would result in increased phosphate discharge, submitted evidence indicates that the development would fall below the aforementioned ‘Thresholds’. Where this is the case, the guidance indicates that Likely Significant Effect (LSE) can be ruled out.</p> <p>The application is supported by a ‘Nutrient Neutrality Assessment and Mitigation Strategy’, prepared by Halpin Robbins and dated 1st August 2023.</p> <p>The site is located where mains drainage is not available and therefore a non-mains system is required. The report has assessed the proposal against the 9 criteria set out in the ‘The Thresholds’ and indicates in each case how the proposal meets each one.</p> <p>In such circumstances the advice set out in Annexe F to Natural England’s guidance (16.3.22) is that,</p> <p><i>“Where best available evidence indicates that these conditions are met, Natural England advice is a conclusion of no LSE alone or in combination for phosphorus can be reached in these circumstances.”</i></p>

Conclusion of Screening		
Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?	<p>In accordance with Natural England guidance, East Devon District Council concludes that the proposal would not have a likely significant effect, when considered either alone or in combination, upon the qualifying features of the River Axe SAC.</p> <p>An Appropriate Assessment of the plan or proposal is therefore not necessary.</p>	
Local Authority Officer	Charlie McCullough	Date: 04.08.23

Appendix 1. List of interest features:

River Axe SAC – Component SSSI

H3260 Water courses of plain to montane levels with *R. fluitantis*

S1095 Sea lamprey, *Petromyzon marinus*

S1096 Brook lamprey, *Lampetra planeri*

S1163 Bullhead, *Cottus gobio*

Site Description

Site description: The mixed catchment geology of sandstones and limestones gives rise to calcareous waters where stream water-crowfoot *Ranunculus penicillatus* ssp. *pseudofluitans* dominates, giving way to river water-crowfoot *R. fluitans* further downstream. Short-leaved water-starwort *Callitriche truncata* is an unusual addition to the water-crowfoot community. The diverse flora results from a number of contributing factors. Firstly, the lower reaches of the Axe have high bed stability. Secondly, the river has few trees along its banks, allowing much light to reach the riverbed. Finally, the active geomorphology of the river has generated a range of natural features (including long riffles, deep pools, islands and meanders), which provide a variety of ecological niches. This variety of river channel habitats also supports an important fish community, including Atlantic salmon *Salmo salar*, sea lamprey *Petromyzon marinus*, brook lamprey *Lampetra planeri* and bullhead *Cottus gobio*.

Qualifying habitats

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche Batrachion* vegetation. (Rivers with floating vegetation often dominated by water crowfoot)

SAC Conservation Objectives

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Ward Woodbury And Lympstone

Reference 23/0847/FUL

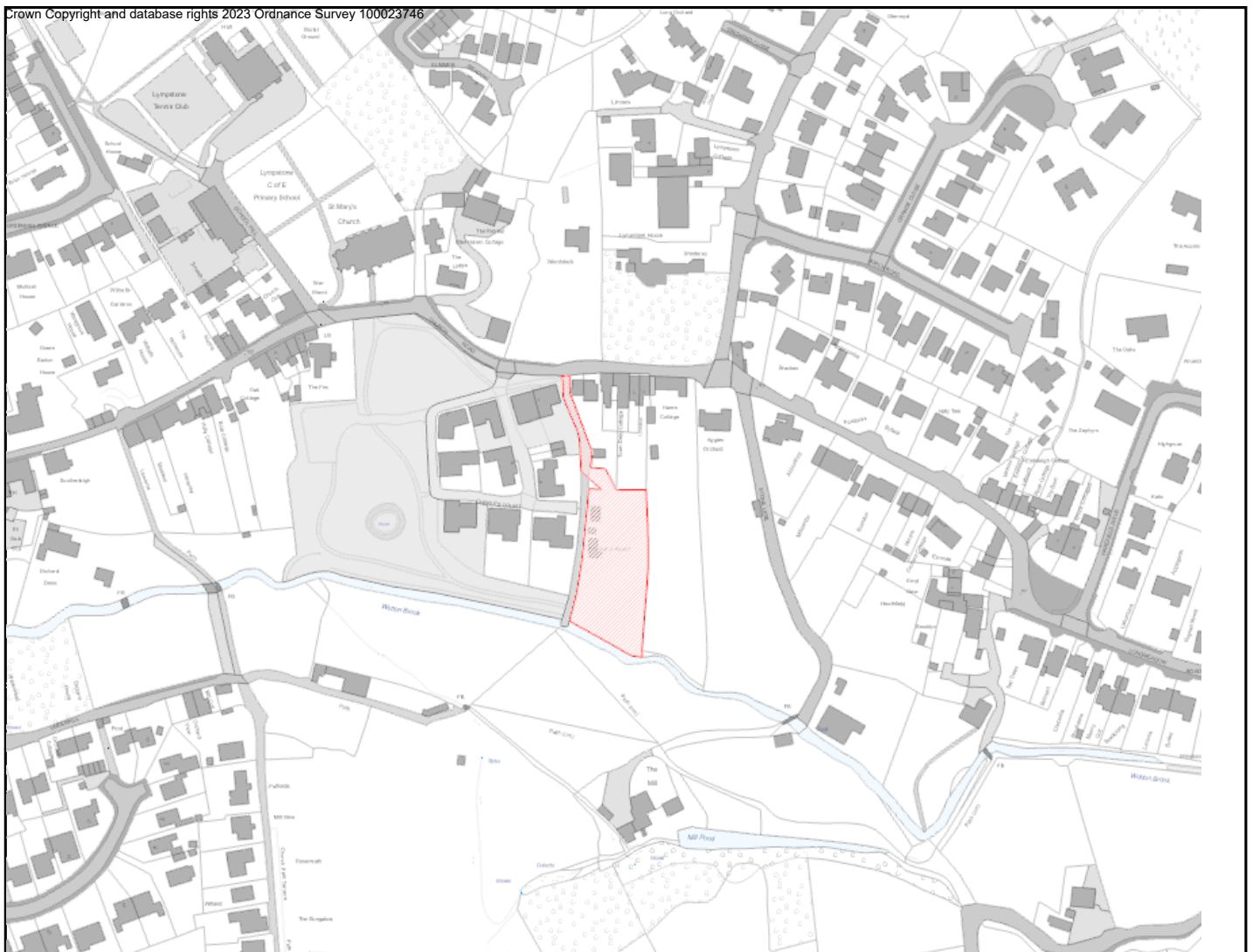
Applicant Mr Morris

Location Meadowgate Church Road Lympstone Devon
EX8 5JU

Proposal Proposed dwelling and off road parking and
double garage within the garden.



RECOMMENDATION: APPROVE subject a Grampian style condition to ensure the improvements to the surfacing of the public footpath are undertaken, and conditions



		Committee Date: 26.09.2023
Woodbury And Lympstone (Lympstone)	23/0847/FUL	Target Date: 07.07.2023
Applicant:	Mr Morris	
Location:	Meadowgate Church Road	
Proposal:	Proposed dwelling and off road parking and double garage within the garden.	

RECOMMENDATION: APPROVE subject a Grampian style condition to ensure the improvements to the surfacing of the public footpath are undertaken, and conditions

EXECUTIVE SUMMARY

This application is before the Development Management Committee as the proposal is a departure from the Local Plan and the Officer recommendation is at odds with that of the Ward Member.

Planning permission is sought for the construction of a detached dwelling and garage/store within land the curtilage of a property known as Meadowgate, Church Road, Lympstone.

The site lies outside, but adjacent to, the Built-up Area Boundary of Lympstone and within an area identified as Green Wedge in the Local Plan. It also lies within the Lympstone Conservation Area.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7 and the tilted balance in favour of sustainable development must be applied. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development, and the ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. .

The proposal is considered to result in a less than substantial harm to heritage assets and that the public benefit arising from improvements to the neighbouring public footpath are considered to result in a positive contribution to the conservation area within which the site is located.

On balance it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, and the up to date policies of the Development Plan. Accordingly, and subject to an appropriate legal agreement to ensure that the improvements to the public footpath are undertaken, it is recommended that the application is approved.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung
23/0847/FUL

I have viewed the further documents for the planning application for 23/0847/FUL for a proposed dwelling and off-road parking and double garage within the garden of Meadowgate Church Road Lympstone.

The application site is complicated being partly within the protected area known as the Green Wedge, partly is in the Lympstone Conservation Area and the proposal straddles the designated Lympstone Built Up Area Boundary.

The lower section of the site beyond the proposed building leads down to the Wotton Brook but the location of the proposed buildings is not within the Flood Zone 3.

My opinion remains that I cannot support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung
23/0847/FUL

I have viewed the planning application for 23/0847/FUL a proposed dwelling and off-road parking and double garage within the garden of Meadowgate Church Road Lympstone.

The application site is complicated being partly within the protected area known as the Green Wedge, partly is in the Lympstone Conservation Area and the proposal straddles the designated Lympstone Built Up Area Boundary.

The lower section of the site beyond the proposed building leads down to the Wotton Brook but the location of the proposed buildings is not within the Flood Zone 3.

A previous application for 2 dwellings was proposed which I did not support, and I note a previous application in 2018 (18/2932/FUL) was recommended for refusal.

I therefore cannot support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Parish/Town Council

Recommendation: Object

Lympstone Parish Council strongly object to this planning application due to the following reasons:

' Serious issues with the access to the site.

- ' Visibility and safety issues of the public footpath being increasingly used as a driveway to enter and exit the Highway.
- ' The safety of the pedestrians using the footpath and their right of way to vehicles also using the footpath.
- ' In the conservation area.
- ' The site is not included in the BUAB.
- ' The scale of the proposed garage/workshop is over development and shades neighbouring property.
- ' Would set a precedent for adjacent landowners to develop their back gardens along the valley.
- ' The design is out of keeping for the area.

Technical Consultations

County Highway Authority

15/08/23 - The County Highway Authority has (CHA) has visited the site in question and reviewed the planning documents.

The Design and Access statement, together with the Highways Technical Note highlights that the private drive has already been in use for neighbouring properties and this planning application, will formalise this parking arrangement, which is accepted by the CHA as a net safety gain and that this application will be very similar trip generation to what is existing and in material less than the previously submitted application, 22/1583/FUL.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel in accordance with the East Devon Local Plan 2013-2031.

Conservation

14/9/2023

ADDRESS: Meadowgate, Church Road, Lymptone

GRADE: Adj II **APPLICATION NO:** 23/0847/FUL

Amended plans received 7th September 2023:

The reduction in the height/size of the garage is an improvement, reducing the size of what was originally shown as a very large and prominent structure within the site. The garage has also been re-located further away from the boundary.

This has reduced the prominence of the garage/workshop structure adjacent to the proposed new dwelling, making it more subservient and altering the overall visual impact, particularly from the west and east and also lessening the impact on the rear of the listed buildings. Against the backdrop of the immediate surroundings including the development of the Nursery site, the changes to the context of the site is noted.

It is considered that the less than substantial harm has been minimised further. However, any harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposals.

If approved, any solar panels (PV slates or inline panels or attached panel) should be conditioned, along with materials etc.

Previous Conservation comment:

CONSULTATION REPLY TO PLANNING WEST TEAM
PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION
AREA

ADDRESS: Meadowgate, Church Road, Lympstone

GRADE: Adj II APPLICATION NO: 23/0847/FUL

CONSERVATION AREA: Lympstone

PROPOSAL: Proposed dwelling and off road parking and double garage
within the garden.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The site lies within the conservation area and to the rear of a terrace of five listed properties. The site is open and views across from Church Road to the wooded areas around Wotton Brook are now screened by the new development on the Nursery site. The remaining openness of the land to the south of the church contributes to the significance of the conservation area. In historic terms Lympstone has evolved as a ribbon village with buildings tight along Church Road and eventually Longmeadow Road to the East.

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

An application for five dwellings under 13/0047/FUL was submitted and subsequently withdrawn in 2013 following concerns over the principle, form and design. A further application 13/2660/FUL for the construction of 1no. dwelling was also then submitted and withdrawn. Both applications were submitted by the same applicants as the current application. A further application for the construction of a single storey detached house with a mezzanine to the southern part of the dwelling under 18/2932/FUL was refused (See previous reason for refusal). A further application under 22/1583/FUL for the construction of two new dwellings has not yet been determined.

Since that time it is noted that some change to the immediate surroundings and context of the site has occurred, most importantly the development of the Nursey site. However, the site is still important to the setting and therefore the significance of the surrounding heritage assets. It is still considered that any development no matter what form and design would have some impact upon the significance of heritage assets.

This current application is now for 1no. contemporary dwelling constructed in a mix of timber and stone cladding, slate roof and metal windows. The proposal also includes a large 2 storey garage/workshop to the north of the site, closest to the group of listed buildings on Church Road. This large structure will be prominent within the site and consideration should be given to minimising its size and impact. It is appreciated that the context of the site has altered since the original applications submitted on this site. However, the proposed dwelling will still have an impact on the setting of the listed buildings and the wider Lympstone Conservation Area (the remaining access to the open landscape, between the parish church and Wotton Brook and to the north of the Mill) resulting in some harm. This less than substantial harm should therefore be weighed against the public benefits of the scheme.

DATE: 21/06/23

INITIALS: KBH

Devon County Archaeologist

Application No. 23/0847/FUL

Meadowgate Church Road, Lympstone Devon, EX8 5JU - proposed dwelling and off road parking and double garage within the garden: Historic Environment

My ref: ARCH/DM/ED/38743a

I refer to the above application and your recent consultation. Archaeological investigations on the proposed development site to the west has demonstrated the presence of previously unrecorded medieval archaeological deposits as well as artefactual evidence for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. 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 205 of the National Planning Policy Framework (2021) 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 as 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 205 of the National Planning Policy Framework (2021), 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.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

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/>.

DC Footpath Officer

Dear Sir,

This application for development has a direct effect on a Public Right of Way. Public Footpath Lypstone No. 1. The footpath is the whole width and length of the lane, and the public must have access to the route 24 hours a day.

If works are being carried out on the public footpath, a temporary closure must be obtained from DCC before the works commence, and after the path must be reinstated to the approved DCC standard. We will need to know what material/ process for the reinstatement.

Attached a link to the application for a temporary closure.

Apply for a temporary closure - Public Rights of Way (devon.gov.uk)
Please keep us informed of this application.

Other Representations

6 representations have been received, 5 raising objections and 1 neutral, summarised below:

- Access is along a public footpath
- Dangerous access onto Church Road
- Intensification in the use of the public footpath by vehicles
- Conflict between pedestrians and vehicles
- Impact on listed buildings
- Impact on the Lypstone Conservation Area
- Outside of the Built-up Area Boundary
- Application site is in the Green Wedge
- Design of the dwelling out of character
- Proposed garage/workshop too large
- Increased flood risk
- Will set a precedent for other building in the Green Wedge

Neutral

- No flood risk assessment submitted

PLANNING HISTORY

Reference	Description	Decision	Date
22/1583/ FUL	Construction of two new dwellings and off road parking	Withdrawn	
18/2932/FUL	Construction of detached dwelling	Refuse	22.12.2018

13/2660/FUL	Construction of detached dwelling	Withdrawn	22.01.2014
13/0047/FUL	Construction of 5 no. dwellings and associated provision of 14 no. parking spaces, demolition of existing garage and construction of new garage for Meadowgate to facilitate creation of vehicular access from Church Road and provision of village amenity area.	Withdrawn	09.04.2013

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

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

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

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

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN21 (River and Coastal Flooding)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Lympstone Neighbourhood Plan

Policy 2 – New Isolated Homes in the Countryside

Policy 3 – Development in Green Wedge or Coastal Preservation Area

Policy 4 – Range of Housing

Policy 5 – Density of Housing

Policy 6 – Quality of Design

Policy 8 – Energy Efficient Development

Policy 11 – Parking

Policy 14 – Flood Risk

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The application site comprises part of the extended garden area of a property known as Meadowgate. It is currently laid to grass and housing outbuildings and a free standing solar array. It is located outside of, but adjacent on two sides to the built-up area boundary of the village of Lympstone as defined in the Local Plan and Lympstone Neighbourhood Plan. It is also located within the Lympstone Conservation Area, and within the Green Wedge in the Local Plan.

To the north are properties fronting Church Road, a number of which are Grade II listed cottages, the eastern boundary is formed by a substantial hedge and tree boundary and the large garden of the neighbouring property, Hares Cottage, whilst to the south is Wooten Brook. Adjacent to the western boundary is a public footpath and right of way which also provides access to the site, beyond which, on the former nursery site, a new housing development of 'executive' dwellings have been built.

Proposed Development

Planning permission is sought for the construction of a 3 bedroom detached dwelling with garage and store, together with parking and amenity areas.

The dwelling is arranged as two linked blocks, with the main living accommodation in the single storey building, and linked to the two storey block comprising a home office and snug on the ground floor with three bedrooms and bathrooms above.

The design of the building, whilst quite contemporary is intended to reflect a more vernacular form with the single storey element constructed in stone under a slate roof, and the two storey element having vertical timber cladding under a pitched slate roof.

The originally proposed two storey building housing a garage and store at ground floor level, with workshop on the first floor, has been reduced in scale, with the first floor workshop omitted. This building, sited in the north eastern corner of the site, is now single storey.

Issues and Assessment

The main issues to be considered in the determination of this application relate to:

- Policy context and principle of the development
- Design, scale and siting
- Green Wedge
- Character and appearance of the Lympstone Conservation Area and Heritage Impact
- Highway safety and parking
- Relationship with neighbouring properties and residential amenity
- Arboricultural impact
- Archaeology
- Wildlife impact and habitat mitigation

- Flooding and drainage

Policy Context and Principle of the Development

Policy Context

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined and carry full weight. The Lympstone Neighbourhood Plan (NP) has been 'made' and also carries full weight.

Principle

Planning law requires that applications for planning permission must be determined in accordance with the development plan (foot note 2 states this includes local and neighbourhood plans that have been brought into force) unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the presumption in favour of development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up to date development plan where there are material considerations in a particular case which indicate that the plan should not be followed

The site lies outside the built up area boundary of Lympstone and is not in an area allocated for development in any neighbourhood plan. Whilst adjacent to the built up area boundary, the site lies, in policy terms, in the open countryside. As such the proposed development falls to be considered under Strategy 7 of the EDDC Local Plan which seeks to protect the character and appearance of the surroundings from development that would have a detrimental impact, though it does not represent a bar on all development as it supports the principle of development if in accordance with other policies contained in the development plan.

There are no policies within the Local Plan which support applications for residential development in the countryside unless there is a proven agricultural, forestry or rural worker need and therefore this application is considered to be a departure from the Local Plan and has been advertised as such.

Strategy 8 (Development in Green Wedges) of the Local Plan states that development will not be permitted if it would add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

The Lympstone Neighbourhood Plan (LNP) is 'made' and therefore its policies are a material consideration and should be afforded full weight. The site lies outside of the identified built-up area boundary of the village.

Policy 2 of the LNP states that isolated homes in the countryside will generally be resisted, with the supporting text referring to new housing being as close to facilities and services as possible. In this respect the application site is adjacent to existing built development adjacent to a public footpath with access to both Church Road to the north, and wider footpath network to the south. It is not considered that in terms the Neighbourhood plan it could be described as isolated in the countryside.

Policy 3 relates to development in the Green Wedge or Coastal Preservation Areas. This states that:

Development will not normally be permitted in the Green Wedge or Coastal Preservation areas unless it can be demonstrated that no harm to the character or purpose of these areas will occur and development is:

- *Justified on agricultural, horticultural or forestry grounds; or*
- *Within a residential or employment site curtilage; or*
- *Justified on sustainability grounds; or*
- *Will provide a community facility or recreation route.*

The impact of the development on the character and purpose of the Green Wedge is further considered below, however the application site lies within a residential curtilage, and is considered to be sustainably located within the village, opposite the church and within an easy walking distance of the main services and facilities which the village has to offer, including the school, shops, railway station and pubs. In this respect, and subject to an assessment of other issues, there is considered to be some support found within this policy for the principle of the development in this location.

Tilted Balance

Despite the lack of specific policy support from the development plan, the council cannot demonstrate a five year land supply. This means that the policies for the delivery of residential dwellings across the district are out of date. Although this does not mean that the policies of the Local Plan are irrelevant, it means that the tilted balance needs to be applied as per paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states that:

Plans and decisions should apply a presumption in favour of sustainable development.

*For **decision-taking** this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The consequences of not having a 5 year housing land supply, means that the policies which are most important for determining the application are out of date and d) applies such that planning permission should be granted, unless the provisions of *i. or ii.* apply. With respect to *i.* the site is located within a locally designated 'Green Wedge' although is not located in a protected area which would provide a clear reason for refusing permission, therefore *ii.* is engaged and the harm of the proposal must demonstrably outweigh the benefits of the proposal.

It is important to note that the fact that the site is located in the countryside and outside of a BUAB as defined by the East Devon Local Plan cannot on its own be a reason to refuse planning permission and that policies within the Local Plan which relate to spatial strategy and the distribution of housing in the District and built-up area boundaries, in the absence of a 5 year housing land supply, carry limited weight. The main test in determining this application relates to whether this proposal is a sustainable form of development and whether the adverse impacts of granting planning permission for residential development of the site would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Design, Scale and Siting

The design of the building, whilst having contemporary elements, is intended to be reflective of a more vernacular form of development, with the single storey element having a simple linear form with a natural stone finish. The two storey part of the dwelling is clad in timber, again intended to be more akin to a rural building.

The dwelling occupies a central area of the site, in line with the rear of the newly built housing to the west, with the patio and garden area extending to the south beyond this.

The garage and storage building proposed in the north eastern corner of the site has been reduced in scale and is now a single storey building clad in timber with a slate pitched roof. It has also been moved off the northern boundary of the site. The amended building and materials scale and form of this is now considered to be appropriate within this context, and is considered to comply with Policy D1 (Design and Local Distinctiveness) of the Local Plan, and Policy 7 of the Lympstone Neighbourhood Plan.

Green Wedge

The site is part of the Green Wedge which separates Lympstone from Exmouth. The explanatory text in the Local and Neighbourhood Plan state that one of the potential results of 'creeping development could be the coalescence of adjacent or neighbouring settlements, villages or towns, and that it is important to retain open land between them to help retain their separate identities, their landscape settings and to avoid the creation of unrelieved development.

The policy does not permit development where it would add to sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

The application site has existing residential development to the north and west, and a further residential garden to the east. In this respect, and whilst outside of the built up area, it is not considered that the siting of a dwelling could be regarded as either sporadic or isolated development.

Whilst located outside of the identified boundary of the village it would not extend beyond the built form to the west. It would be visible from the public footpath forming the western boundary, but would be largely screened from the public footpaths to the south of the site, beyond Wotton Brook. In this respect the design and positioning of the proposed dwelling would have less presence than the substantial new dwellings to the west of the site. Whilst there would inevitably be some alteration to the current situation, whereby the site forms part of a domestic garden, it is not considered that the development could reasonably be seen to be damaging to the individual identity of the settlement.

As stated above the proposal would comply with 2 of the identified criteria of Policy 2 for the LNP as it is sustainably located, being accessible by both the main road, and public footpaths to the village, and forming part of a residential curtilage.

Character and Appearance of the Lympstone Conservation Area and Heritage Impact

The site lies within the Lympstone Conservation area and to the rear of a terrace of listed properties.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Local Planning Authority is also required to give considerable weight and importance to the duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a Conservation Area and to the special attention to be paid to the desirability of preserving or enhancing the character and appearance of that area. This is reflected in the National Planning Policy Framework and within the Council's Local Plan policies in relation to development affecting the setting of Conservation Areas and buildings of special architectural and historic interest (Policies EN9 Development Affecting a Designated Heritage Asset and EN10 Conservation Areas).

The immediate setting of the application site, and this part of the conservation area has been changed in recent years, and particularly since the previous application on the site was considered, with the construction of the new development and houses at Charles Court to the west of the site. The previously open aspect across the site from Church Road over the former nursery towards Wotton Brook has been removed. Views from the footpath have also been considerably altered with the development of the housing creating a continuous built form to this aspect.

The development of the site in the form proposed whilst increasing the built form on the site, would not extend the built form beyond that which exists to the west and it is considered that whilst there would be some localised impact on the conservation area due to the change in character arising from this, the scale, form and layout of the proposed dwelling is more sympathetic, both in design and materials to that previously found to be unacceptable on this site.

In terms of setting of the heritage assets, the listed buildings fronting onto Church Road, the main impact is considered to be in respect of the siting and scale of the proposed garage and store. This building has been significantly reduced in height and bulk, with the first floor workshop having been removed and is now a single storey building.

The proposed dwelling will still have an impact on the setting of the listed buildings and the wider Lympstone Conservation Area (the remaining access to the open landscape, between the parish church and Wotton Brook and to the north of the Mill) resulting in some harm. This less than substantial harm, reduced further due to the reduced scale of the garage building, should therefore be weighed against the public benefits of the scheme.

Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefit of the proposal including, where appropriate, securing its optimum viable use. In this case public benefit would arise from improvements to the adjacent public footpath which is within the ownership of the applicant and which is well used by local residents, providing a link between Church Road and the church to the footpaths and other development to the south adjacent to, and beyond, Wotton Brook. The southern half of the footpath is narrow and often muddy and difficult to negotiate. It is considered that improvements to the surfacing would be of wider public benefit and would weigh in favour of the proposal. The details of the proposed means of surfacing, proposed works programme and any diversions during the course of such works would have to be agreed with DCC Public Rights of Way Officer, but it is considered that this will result in a positive benefit to users of the footpath, and make it a more attractive route for pedestrians.

The whole of the footpath is within the ownership of the applicant, although it does not form part of the application site. As such and in order to ensure that the improvements to the surfacing are realised it will be necessary to appropriately condition the works to secure the wider public benefits that weigh in favour of the proposal. As the footpath is within the ownership of the applicants, this can be achieved through the imposition of a 'Grampian' condition requiring the works to be undertaken and completed prior to the occupation of the dwelling.

There would also be some modest public benefits arising from the provision of an additional dwelling in the village and construction jobs during the course of the build.

Highway Safety and Parking

There is an existing access to the site from the public footpath which currently serves Meadowgate which also has a further parking space adjacent to Church Road.

Parking for two vehicles plus a garage capable of accommodating a further 2 vehicles is proposed within the site, together with an area for turning. This is considered to be acceptable for a three bedroom dwelling. The siting of an additional dwelling is not considered to result in a material increase in traffic using the site as it is already used by the occupiers of the frontage property.

Some concern has been raised regarding the visibility of the access junction with Church Road, which is narrow, with no footpaths, little parking and limited opportunities for passing other vehicles, however details of the available visibility has been provided to the satisfaction of the Highway Authority and no highway safety concerns have been raised.

Further due to the restricted single width of the carriageway and lack of footpaths, vehicle speeds are very low in this location, and motorists expect pedestrians to be in the road. An additional dwelling will not significantly alter either the nature or intensity of vehicle movements in this location.

Further concern has been raised regarding the potential conflict between pedestrians using the footpath and the occupiers of the proposed dwelling, however given that there is already a vehicular right of way, and the site is currently in use for parking, there is not considered to be any material change in the nature of the traffic or very low volumes of vehicle movements such as to make the proposal unacceptable.

The proposal is considered to comply with Policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031.

Relationship with Neighbouring Properties and Residential Amenity

The site is considered to be of a sufficient size to be able to accommodate a single dwelling without having a detrimental impact on the amenity of the occupiers of neighbouring properties. The single storey element has been sited on the eastern side of the site to maintain the outlook from the garden of the neighbouring property.

The property has been designed such that the main aspect from the dwelling will be to the south to take advantage of views over the garden and ensuring that the closest residential properties would not be overlooked.

The reduction in the height of the garage building, and moving it away from the norther boundary of the site is considered to have overcome concerns raised regarding the position and visual impact of a very tall structure adjacent to the boundary of the neighbouring property. In this respect the proposal will not result in any loss of residential amenity and is considered to comply with Policy D1 (Design and Local Distinctiveness) of the Local Plan

Arboricultural Impact

The application is submitted with a tree survey originally undertaken in respect of an application for two dwellings on the site, and updated to reflect the current application.

The eastern boundary of the site comprises a number of mature and semi mature Sycamore trees, together with Scotts Pine, Field Maple and Willow trees. These are to be retained and protected during any construction works. In addition there are a number of modest fruit trees within the northern part of the site, three of which are indicated for removal.

A further Sycamore, identified as a poor quality ornamental specimen is located more centrally within the site and which would be removed.

The siting and design of the dwelling is such it is considered that level of built form arising from a single dwelling could be accommodated without detriment to the health and long term growth of the existing trees on the site, such that the proposal will comply with Policy D3 of the Local Plan

Further hedge planting is proposed on the western boundary of the site, with the intention of removing the existing fence boundary when this has become established providing a more natural boundary to the public footpath, and the

Archaeology

The County Council's Archaeologist has advised that recent archaeological investigations on the proposed development site to the west has demonstrated the presence of previously unrecorded medieval archaeological deposits as well as artefactual evidence for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed new dwelling have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. 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 and archaeological interest. The Historic Environment Team has advised that if a Written Scheme of Investigation is not submitted prior to determination that a condition should be imposed securing the implementation of a programme of archaeological works in accordance with a written scheme of investigation in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan.

Wildlife Impact and Habitat Mitigation

Policy EN5- Wildlife Habitats and Features of the Local Plan states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link

between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

A preliminary ecological appraisal and an extended phase 1 habitat survey have been undertaken by Richard Green Ecology Ltd which concludes that the site is of limited ecological value. The removal of the existing buildings on the site would have no impact on bats. It is likely that bats forage and commute along the brook to the south of the site and the east and western boundaries of the site, with a new dwelling having the potential to have an adverse impact on foraging and commuting bats due to an increase in lighting, which should be appropriately controlled.

A number of mitigation and enhancement measures are proposed including the native planting of gaps in the western hedgerow; sensitive lighting design; integrated bat tubes or bat boxes; bird boxes be installed.

Without mitigation, the proposed development could affect commuting and foraging bats, nesting birds, common reptiles, common amphibians, and commuting hedgehogs if present. However by providing appropriate mitigation and enhancement measures as recommended by the ecology report it is considered that the impacts on habitats and protected species can be appropriately managed and mitigated and a positive biodiversity impact can be achieved. The application is therefore considered to comply with the provisions of policy EN5 (Wildlife Habitats and Features) of the Local Plan.

Habitat Regulations Assessment:

The site is located in close proximity to the Exe Estuary and the East Devon Pebble bed Heaths Special Protection Areas (SPA's) which provide an important recreational resource for the local community. However, these are sensitive environments which are important to nature conservation and are subject to European wildlife site designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47 (Nature Conservation and Geology) of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per dwelling which has been secured as part of this application.

Flooding and drainage

Land to the south of the site is designated as flood zone 2 and 3 although the proposed dwelling would be located in flood zone 1. The application is submitted with a site specific flood risk assessment which demonstrates that an appropriate drainage strategy will be put in place such that the proposed development can be

accommodated on the site, without any increased risk of flooding. Surface water runoff will be attenuated with storage provided by an attenuation basin offering treatment to the water before discharge to Wotton Brook to the south of the site.

Foul sewage is proposed to be disposed of through the existing mains drainage system to which there is no objection.

From a development and flood risk perspective no objections have been raised to the proposal.

Planning Balance and Conclusions

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

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development which is located outside of a Built Up Area Boundary, the site is considered to be in a sustainable location within the core of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7 and the tilted balance in favour of sustainable development must be applied. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development, and the ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. .

The proposal is considered to result in a less than substantial harm to heritage assets and that the public benefit arising from improvements to the neighbouring public footpath are considered to result in a positive contribution to the conservation area within which the site is located.

On balance it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, and the up to date policies of the Development Plan. Accordingly, it is recommended that the application is approved.

RECOMMENDATION

APPROVE subject to an appropriate Grampian condition to ensure the improvements to the surfacing of the public footpath are undertaken, and the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
3. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Development shall take place in accordance with the approved CMP

(Reason - To ameliorate and mitigate against the impact of the development on the local community and to ensure that any impact on the highway network is kept to a minimum in accordance with policies TC7 - Adequacy of Road Network and Site Access and EN15 (Control of Pollution) of the East Devon Local Plan. This needs to be a pre-commencement condition to mitigate impacts of the development from the outset.)

4. 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 as 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 205 of the National Planning Policy Framework (2021), 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.

5. Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the Arboricultural Report, submitted by Advanced Arboriculture on 18 April 2023, as amended by further report dated 18 May 2023 and the Tree Protection Plan ref. TH/B293/0422Rev.1.0 and Arboricultural Method Statement Plan ref. TH/B293/0422Rev 1.0 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 – A pre-commencement condition is required 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).

6. No development above foundation level shall take place until a schedule of materials, and where so required, samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

7. No development above foundation level shall take place until details of any proposed solar installation on the roofs of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

8. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless 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.)

9. No other development shall commence until works to improve the surfacing of the adjacent public footpath (Lympstone Footpath 1) have been undertaken in accordance with details and a schedule of works previously submitted to and approved in writing by the Local Planning Authority.

(Reason – In the interests of amenity of all users of the public footpath in accordance with Policies D1 (Design and Local Distinctiveness) and TC4 (Footpaths, Bridleways and Cycleways) of the East Devon Local Plan 2013-2031.

10. The development hereby approved shall be undertaken in accordance with the approved mitigation and ecological enhancement measures detailed within the Preliminary Ecological Appraisal prepared by Richard Green Ecology dated March 2022.

(Reason - In the interests of ecology and biodiversity in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031.)

11. The development shall not be occupied until the post investigation assessment of archaeology has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.

(Reason - To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.)

12. The development hereby approved shall be undertaken in accordance with the Flood Risk Assessment (Report Ref: 1966w0001_P3 and surface water drainage details indicated on drawing no. 0500 Rev. P5 (Drainage Layout) prepared by JRC Consulting Engineers, and dated 9 June 2023.

(Reason – To ensure that surface water from the development is discharged as high up the drainage hierarchy and managed in accordance with the principles of sustainable drainage systems in accordance with Policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031, and the guidance contained within the National Planning Policy Framework.

13. 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, B, C, D 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 landscape management scheme]

(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 and in the interest of flood risk management in accordance with policy EN22 of the Local Plan.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

REV A PP_SP	Proposed Site Plan	18.04.23
REV A PP_RP	Proposed roof plans	18.04.23
REV A PP_21	Sections	18.04.23
REV A PP_20	Sections	18.04.23
REV A PP_11	Proposed Elevation	18.04.23
REV A PP_10	Proposed Elevation	18.04.23
REV A PP_00	Proposed Combined Plans	18.04.23
REV A PP_00	Proposed Floor Plans	18.04.23
PE_SLP REV B	Location Plan	04.05.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and

Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

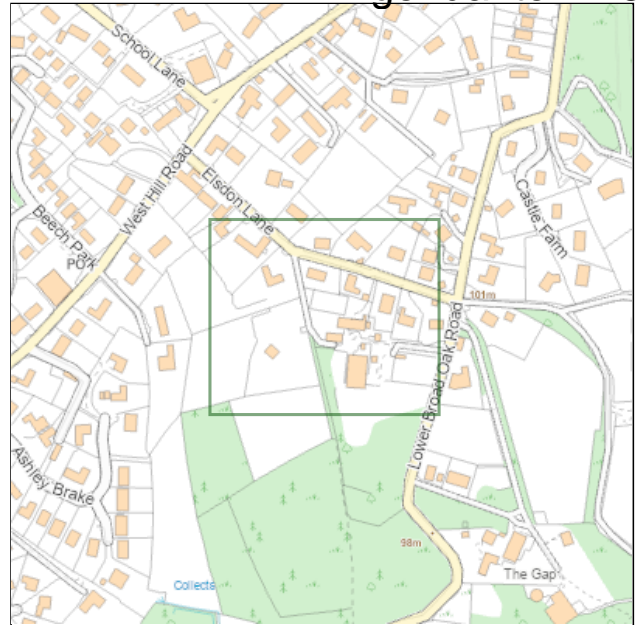
Ward West Hill And Aylesbeare

Reference 23/1113/FUL

Applicant Mr Will Gater

Location Elsdon House Land At Orchard Cottage Elsdon Lane West Hill Ottery St Mary

Proposal Proposed new detached dwelling with integral garage, new site entrance and parking



RECOMMENDATION: Approval with conditions



		Committee Date: 26.09.2023
West Hill And Aylesbeare (West Hill)	23/1113/FUL	Target Date: 20.07.2023
Applicant:	Mr Will Gater	
Location:	Elsdon House Land At Orchard Cottage	
Proposal:	Proposed new detached dwelling with integral garage, new site entrance and parking	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members as the officer recommendation differs from the views of a Local Ward Member.

The application site relates to an area of land that currently forms part of the curtilage associated with Orchard Cottage, West Hill. The application site was formerly occupied by a private tennis court.

The application seeks consent for the construction of a chalet style bungalow, integral garage and new access onto Elsdon Lane. The dwelling would have an 'L' shaped footprint with the exterior finished in facing brick at ground floor, timber clad gable ends and dormers, and a slate roof.

Planning history available to the Local Planning Authority show that a former attempt to secure planning permission for a dwelling on part of the site was refused June 2021 (21/0561/FUL) before outline consent was secured later in the year (21/1565/OUT).

Given that the site is within the Built-up Area where the principle of residential development is supported, the main issues to consider in the determination of this application are whether the development would be compatible with the character and appearance of the area; and whether development would preserve the amenity enjoyed of existing neighbours and future occupants.

Concerns have been raised by the Parish Council and a Local Ward Member with regards to the development's potential impact on the character and appearance of the area. Both parties have stated that they believe the proposals would fail to meet Policy NP26 (West Hill Design) of the Neighbourhood Plan.

Policy NP26 seeks to ensure that new development reflects the established

character, density and layout of its surroundings and preserves the key features of the village, including its trees, hedgebanks, spacious gardens and individuality between properties.

Although the effect of plot subdivision on the character and appearance of the area has always been a consideration, the Neighbourhood Plan attributes great weight to the preservation of the characteristics which sets West Hill apart from traditional East Devon villages. Even though density varies between the modern estate developments and the more spacious and verdant surroundings which characterise the bulk of West Hill, the village as a whole maintains a low density informal layout.

In this case, whilst the development would subdivide the curtilage of Orchard Cottage, aerial imagery shows that the subsequent footprint to plot ratio would be similar to existing development that fronts Elsdon Lane. Whilst a couple of properties to the west of the adjacent public right of way tend to be larger dwellings with generous gardens, these are an exception to the prevailing character of the immediate area. The submitted Site Plan demonstrates that there shall be sufficient relief between the exterior walls and the site's boundaries without appearing cramped and whilst providing an acceptable level of outlook and outdoor amenity space.

Further concerns of the Parish Council, the Local Ward Member and a third party relate to the development's impact on neighbouring amenity. However, it is the position of officers that the separation distances between the proposed dwelling and Birchleigh is satisfactory as not to be overly dominant or cause any direct overlooking. Additionally, the presence of the timber boarded fence and substantial laurel hedge that lines the application site's northern boundary provides further screening to mitigate the physical impact of the build and prevent direct overlooking of windows.

As detailed within the main body of the report, in the absence of any identified conflict with planning policy or any significant and demonstrable harm and the minor benefit of an additional open market unit to the district's housing stock, it is the position of officers that the application should be approved subject to conditions listed below.

CONSULTATIONS

Local Consultations

Parish/Town Council

West Hill Parish Council

Consultee Comments 16th August 2023

23/1113/FUL Elsdon House Land At Orchard Cottage Elsdon Lane

Proposed new detached dwelling with integral garage, new site entrance and parking

This amended application was considered by West Hill Parish Council under Delegated Powers. Councillors added the following to their previous comments:

1. Councillors welcome the fact that the proposed design incorporates environmentally-friendly technology such as PV panels and low energy fittings to reduce energy consumption and minimise the environmental impact.
2. However, the plot is a residential garden infill development, therefore Neighbourhood Plan policy NP3 applies, along with NP26 West Hill Design. The outline permission granted under 21/1565/OUT conditioned that the dwelling should be single storey in order to protect the amenity of neighbouring properties, but the proposed design is for a 2-storey dwelling. The addition of a close-boarded fence on the eastern boundary is not in accord with NP26 which specifies boundary treatments consisting of hedges and Devon banks to preserve the woodland character of the village and facilitate the movement of wildlife.

West Hill And Aylesbeare - Cllr Jess Bailey

This application does concern me. I don't agree with cutting a new entrance on to Elsdon Lane. The proposed dwelling is far larger (including taller) than that which was approved previously and I am concerned about the impact on adjoining properties. I live on Elsdon Lane but am not impacted by any changes to this property.

Parish/Town Council

This application was considered at the West Hill Parish Council meeting on 6th June 2023.

Councillors noted the previous planning history:

1. 21/0561/FUL - refused - by virtue of the small size of the plot and its narrow width, the proposal would create a cramped form of development which would be out of character with the spacious, low density character of its surroundings. As such the scheme would be contrary to Strategy 6 - Development Within Built-up Area Boundaries and Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031 and Policies NP3 - Infill, Backland and Residential Garden Development and NP26 - West Hill Design of the Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill 2017-2031.

2. 21/1565/OUT - Approved with conditions - including, "the development shall take the form of a single storey dwelling (and for the avoidance of doubt a chalet type bungalow is not regarded as a single storey dwelling). (Reason - To reflect what has been applied for, to protect the amenity of neighbouring properties and in the interest of the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan 2013-2031 and Policy NP3 - Infill, Backland and Residential Garden Development of the Ottery St Mary and West Hill Neighbourhood Plan.)"

Councillors then considered the current application and did not support it for the following reasons:

- a. The two storey building it does not protect the amenity of neighbouring properties and is contrary to the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the adopted East

Devon Local Plan 2013-2031 and Policy NP3 - Infill, Backland and Residential Garden Development of the Ottery St Mary and West Hill Neighbourhood Plan.

b. Access would require the removal of a section of Devon Bank.

Technical Consultations

EDDC Trees

The submitted arboricultural information demonstrates the proposed development can be carried out without significant impact on the retained trees. It should be noted that even with T2 being reduced, there is likely to be significant shading of the garden from T1 and T2 for parts of the day particularly from midday into late afternoon. However, the garden will be relatively free of any shading during the morning. Concern is also raised over the installation of PV panels on the western aspect of the garage roof and potential for shading from T3 onto the panels and the pressure this could result in for works to T1. However, it is noted that the tree has been previously reduced in the past.

I therefore raise no objection to the works with the following condition:

Prior to commencement of any works on site (including demolition), tree protection measures shall be carried out as detailed within the Tree Protection Plan and Arboricultural Method Statement Plan submitted by Advanced Arboriculture (22/05/2023) 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).

Other Representations

One third party comment objecting over the following issues;

- Impact on neighbouring amenity through overlooking and overbearing effect.
- Impact on character and appearance of the area.
- Does not conform with the Neighbourhood Plan.

PLANNING HISTORY

21/0561/FUL - Construction of a detached bungalow with integral garage. REFUSED

21/1565/OUT - Outline planning permission for a proposed single storey detached dwelling (all matters reserved). APPROVED

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

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

Strategy 43 (Open Space Standards)

Strategy 47 (Nature Conservation and Geology)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Ottery St Mary and West Hill Neighbourhood (Made)

NP3 (Infill, Backland and Residential Garden Development)

NP26 (West Hill Design)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Site Location and Description

The application site relates to an area of land that currently forms part of the curtilage associated with Orchard Cottage, West Hill. The site is situated within the Built up Area Boundary for West Hill amongst other residential properties.

Proposed Development

The application seeks consent for the construction of a chalet style bungalow, integral garage and new access onto Elsdon Lane. The dwelling would have an 'L' shaped footprint with the exterior finished in facing brick at ground floor, timber clad gable ends and dormers, and a slate roof.

Principle of Development

The application site is located within the development boundary as defined by the adopted Villages Plan. The spatial strategy for development is focused around the seven main towns and larger villages with a built up area boundary, as described by Strategy 27, will form focal points for development. Strategy 6 of the Local Plan sets out criteria against which development within built up area boundaries can be assessed. Therefore the principle of residential development, whilst acceptable in principle, is subject to detailed considerations.

Due to an extant outline consent for a single dwelling at the site (ref: 21/1565/OUT) and given that the site is within the Built-up Area where the principle of residential development is supported, the main issues to consider in the determination of this application are whether the development would be compatible with the character and appearance of the area; and whether development would preserve the amenity enjoyed by existing neighbours and future occupants.

Impact on Character and Appearance of the Area

The Neighbourhood Plan (NP) contains policy that sets various criteria that proposals for infill and residential garden development shall need to meet through

the provisions of NP3 (Infill, Backland and Residential Garden Development). The requirements of NP3 are general design principles that seek to ensure development is sympathetic to the character and appearance of the area whilst ensuring an acceptable level of amenity is provided for prospective occupiers and neighbours. However, for proposals within West Hill specifically, development shall also need to meet the provisions of NP 26 (West Hill Design).

The Neighbourhood Plans says (NP) of West Hill:

"The special character of the village owes much to the extensive planting of trees and shrubs both within and on the boundaries of plots; and

The density of development is low with houses set within spacious plots;"

Whilst development density varies from area to area, it is fair to say that the character of Elsdon House and its immediate surroundings are well captured by that description. The NP goes on to describe further characteristics of the village, all of which apply to the site and its surroundings.

Policy NP26 seeks to ensure that new development reflects the established character, density and layout of its surroundings and preserves the key features of the village, including its trees, hedgebanks, spacious gardens and individuality between properties.

The Parish Council and a Local Ward Member have expressed concerns regarding the impact of the development on the character and appearance of the area and more explicitly the height of the proposal. Both parties consider there to be conflict with the provisions of Policy NP3 and NP26. The outline planning permission previously granted included a condition stating that the dwelling should not be more than one storey in height. This is a new application that is not bound by the previous conditions but clearly the impact of the added height needs to be considered

Although the effect of plot subdivision on the character and appearance of the area has always been a consideration, the Neighbourhood Plan attributes great weight to the preservation of the characteristics which sets West Hill apart from traditional East Devon villages. Even though density varies between the modern estate developments and the more spacious and verdant surroundings which characterise the bulk of West Hill, the village as a whole maintains a low density informal layout.

In this case, whilst the development would subdivide the curtilage of Orchard Cottage, aerial imagery shows that the subsequent footprint to plot ratio would be similar to existing development that fronts Elsdon Lane. Whilst a couple of properties to the west of the adjacent public right of way tend to be larger dwellings with generous gardens, these are an exception to the prevailing character of the immediate area. The submitted Site Plan demonstrates that there shall be sufficient relief between the exterior walls and the site's boundaries without appearing cramped and whilst providing an acceptable level of outlook and outdoor amenity space.

The former outline consent (ref:21/1565/OUT) sought to restrict the height of any dwelling to a bungalow, the reasons given for the condition were to ensure that

development was sympathetic to the character and appearance of the area and to protect neighbouring amenity. However the former application was submitted with matters reserved, including layout, scale and design. At the time the LPA was not convinced that a two storey dwelling could be provided on the site that would not appear cramped whilst preserving the amenity enjoyed at Orchard Cottage.

However, the submitted drawings communicate a bungalow-style chalet that, owing to surrounding development that is two storey in height, would not appear as an incongruous addition to the street scene of Elsdon Lane. Therefore, notwithstanding the wording of Condition 6 on the former outline consent, the current application is assessed on its own merits. In this case, despite concerns from the Parish and Ward Member, the submitted drawings demonstrate that a chalet style bungalow can be implemented on site that would accord with the principles of NP3 and NP26 of the Neighbourhood Plan.

Concerns have been raised regarding the provision of a timber fence along the eastern boundary between the application site and Orchard Cottage, and that such a treatment is not sympathetic to the wooded character of the area. However, this particular element of the proposal would not be readily visible from public views and where views into the site are available at the site's access the fence would be largely obscured by the proposed dwelling. Also visible from the site's proposed access would be an existing close boarded fence that runs along the northern boundary of the site to the south of Birchleigh would also be visible. As such, it is not considered that the provision of the timber fence would cause any visual harm.

The proposals include the creation of a new access in the north-western corner of the plot. In order to facilitate its construction, part of the existing Devon bank that encloses the site would be removed and the existing access would be closed through planting of a native species hedging. Concerns expressed by the Local Ward Member are acknowledged regarding the visual impact of losing part of the Devon bank. However, the extent of Devon bank to be removed is small, and the existing access is proposed to be filled in with native hedging. As a result, the subsequent visual harm is considered minor and only attributed limited weight in the overall planning balance.

In terms of the proposed design of the build, West Hill exhibits a mix of architectural types. Whilst a number of older properties tend to exhibit the use of red brick and tiles, and this is evident at Elsdon House, more recent development, such as the construction of Birchleigh, is more contemporary in form and is finished in render. The applicant's design approach to construct a chalet bungalow finished in brick and timber cladding would not appear out of keeping with the area and its modest scale ensures it would sit comfortably in the site.

In light of the above, the proposals are considered to meet the objectives of Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and policies NP3 and NP26 of the Neighbourhood Plan.

Impact on Neighbouring Amenity

The dwelling's eastern elevation runs approximately 18 metres parallel to the boundary with Orchard Cottage. The build measures approximately 2.8 metres to eaves and 6.3 metres to ridge. The development would be visible from and have a degree of physical impact on the rear garden of Orchard Cottage. Despite this, provision of the timber fence and orientation of the dwelling ensure that the build is largely screened whilst providing sufficient relief as not to be unduly harmful on the amenity of Orchard Cottage.

A third party comment has raised concerns over the development's impact on the amenity of Birchleigh through overbearing impact and overlooking. The building northern elevation has a projecting gable end that sits 4 metres away from the northern boundary which is characterised by a closed board timber fence and a tall laurel hedge. The dwelling would be visible from first floor windows that serve Birchleigh and the upper part of the projecting gable end maybe visible from their garden, however, this would not alone provide reasonable grounds upon which to refuse the application.

Furthermore, the northern facing dormer that serves bedroom 1 and an ensuite is located 12.5 metres from the north-eastern boundary where outlook would be largely obscured by the laurel hedge. Whilst there is likely to be a level of mutual overlooking between the dormer and the first floor windows of Birchleigh, the separation distances involved are in excess of 22 metre. The two first floor windows serve a bathroom and the other is a secondary bedroom window. As such these windows can be obscure glazed to protect the neighbour's amenity whilst still offering a good level of amenity to future occupiers of the development. This can be secured by planning condition

It is also appreciated that a former outline consent granted at the site (21/1565/OUT) limited the scale of the dwelling to single through the requirements of Condition 6. However, this was at a stage where matters relating to scale and layout were reserved for consideration at a later date. At outline stage it was the position of officers that a two storey dwelling would fail to preserve the amenity enjoyed at Orchard Cottage. Notwithstanding this, the submitted drawings demonstrate that a chalet bungalow, without any dormers on the eastern roof pitch, can be achieved without causing undue harm.

As such the development is considered to protect the amenity enjoyed at adjacent properties and therefore meet the provisions of Policy D1 (Design and Local Distinctiveness) of the Local Plan.

Impact on Trees

There is only one individual tree within the plot, a Beech tree, annotated as T1 on the submitted Tree Survey. The remainder of the vegetation that characterises the site comprises of four separate sections of hedge that consist of a mix of privet, honeysuckle, beech and holly all of which are deemed Category C features.

There are also two trees within third party ownership on the opposite side of the lane. These comprise of a Beech (T2) and an Oak (T3). Whilst the Beech is considered category C, the oak is a substantial specimen and has high amenity value. However, owing to the proximity of the road, it is not thought that the RPA of this tree extends into the site and therefore the provision of the dwelling and access track would not cause any harm to the health of the oak.

The Local Authority's Tree Officer has reviewed the submitted arboricultural information and is considered that the proposed development can be carried out without significant impact on the retained trees. It should be noted that even with T2 being reduced, there is likely to be significant shading of the garden from T1 and T2 for parts of the day particularly from midday into late afternoon. However, the garden will be relatively free of any shading during the morning.

Overall the application is considered acceptable subject to conditions securing provision of Tree Protective Fencing prior to the construction phase. The development therefore meets the provisions of Policy D3 (Trees and Development Sites) of the Local Plan.

Ecological Impact

A preliminary Ecological Assessment has been undertaken by Devon and Cornwall Ecology to support the application. The development shall result in the loss of short perennial habitat and grassland both of which are considered to have low ecological value. Partial removal of the hedgerow to facilitate access could provide habitat for nesting birds and that prior to removal of any of the hedgerow the potential presence of nesting birds should be reviewed.

The existing small brick building in the southern corner of the site due to crevice features has the potential to support a bat roost. However it is unlikely to support a roost of high conservation status. Notwithstanding this, the development is not considered to jeopardise the building's habitat potential for bats and recommendations set out at Section 5 to ensure that the building is preserved and secured during the construction phase.

Concerns have been expressed by consultees regarding the provision of the timber fence and its potential to reduce permeability of the site for wildlife, particularly hedgehogs. In response to this, the latest Site Plan submitted that demonstrate the fence shall include openings for hedgehog routes. Whilst the proposal would result in the loss of some hedging, a replacement native species hedge shall be planted on the southern boundary.

Any permission shall be conditioned that the development is to be carried out in accordance with the submitted Ecological Appraisal and that the existing outbuilding in the southern corner shall be retained in perpetuity. Subject to these conditions the application would meet the provisions of EN5 (Wildlife Habitats and Features) of the Local Plan.

Habitats Regulation Assessment and Appropriate Assessment

The nature of this application and its location close to the Exe Estuary and Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. 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.

Drainage

Surface water shall be attenuated via a soakaway, there is considered ample space within the site in order to provide one. With regards to foul sewage, the development shall be connected to the existing main sewer. Both methods are considered to be in accordance with Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and EN22 (Surface Run-Off Implications of New Development).

Highways/Access

A new access shall be created in the north-western corner onto the adjacent lane and footpath. The access shall be enclosed by a pair of side hung timber gates attached to a pair of brick pillars. The development provides two parking spaces and turning.

Whilst the lane is single carriageway in width, it's linear in character therefore providing good visibility in either direction for vehicles existing the site.

The development provides an acceptable level of parking and, in the absence of any objections from the County Highway Authority, is not considered detrimental to the local highway network. As such, the development is considered to meet the provisions of policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan.

Conclusion

Concerns expressed by the Parish Council and Local Ward Member with regards to the development's impact on the character and appearance of the area are noted

and it is acknowledged that residential development within West Hill should conserve key characteristics that are unique to West Hill. In particular, the preservation of features that contribute to the verdant setting of the village, such as notable trees and hedgerows are a requirement of Policy NP3 of the Neighbourhood Plan. However the minor loss of Devon bank is not thought amount to significant visual harm to warrant refusal of the application. Additionally the loss of the hedge shall be mitigated through replanting at the existing access to the south and this planting shall be secured via condition.

As already highlighted within the main body of the report, the proposed subdivision of Orchard Cottage's garden is considered to broadly reflect the established pattern of development within the immediate area. As a result, it is the position of officers that the proposals would meet the provisions of NP3.

Also a material consideration is the Local Authority's position with regards to housing supply as a five year housing land supply cannot currently be demonstrated

Under government policy if an authority cannot demonstrate a 5 year housing land supply then the presumption in favour of sustainable development will apply as set out in paragraph 11d of the National Planning policy Framework. This states:

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

In the absence of any identified conflict with planning policy or any significant and demonstrable harm and the minor benefit of an additional open market unit to the district's housing stock, it is the position of officers that the application should be approved subject to conditions listed below.

RECOMMENDATION

1. Adopt the Appropriate Assessment
2. 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. Notwithstanding the approved plans, prior to occupation of the dwelling hereby approved a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas of hardstanding.

The scheme shall also give details of any proposed walls, fences and other boundary treatment and details of the replacement Devon hedgebank.

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 and in the interests of biodiversity)

4. 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 (enlargement, improvement or other alteration of a dwellinghouse) and B (additions etc to the roof of a dwellinghouse).

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

5. Prior to commencement of any works on site (including demolition), tree protection measures shall be carried out as detailed within the Tree Protection Plan and Arboricultural Method Statement Plan submitted by Advanced Arboriculture (22/05/2023) 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 – A pre-commencement condition is necessary in this instance to ensure retention and protection of trees on the site prior to and during the construction phase 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).

6. Development shall be carried out in accordance with the recommendations and mitigation measures in the Ecological Survey prepared by Devon and Cornwall Ecology dated October 2022.

(Reason - In the interests of wildlife protection in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.).

7. Prior to their installation, details of materials to be used externally shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be built in the materials approved.

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

8. In accordance with the submitted application details surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 45% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning

Authority prior to installation. The development hereby approved shall not be occupied or brought into use until the agreed drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.

(Reason - In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy EN22 of the East Devon Local Plan and the guidance contained in the NPPF.)

9. Prior to first occupation of the dwelling hereby approved, details of any external lighting required shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason - To avoid adverse ecological impacts in accordance with Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan).

10. Prior to occupation of the dwelling hereby approved, details of the solar panels, including location, manufacture details and number shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the solar panels shall be installed prior to occupation of the dwellings.

(Reason - To minimise the use of non-renewable energy resources in accordance with Strategy 38 - Sustainable Design and Construction of the East Devon Local Plan).

11. The existing outbuilding, as shown at Photograph 3 on Page 15 of the submitted Ecological Appraisal prepared by Devon and Cornwall Ecology, dated October 2022, shall be retained in perpetuity.

(Reason - In the interests of wildlife protection in accordance with Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan.).

12. Notwithstanding the approved drawings, the two first floor windows that serve the north-eastern facing dormer for Bedroom 1, as annotated on Floor Plans 8558-04 M, shall be obscured prior to occupation of the dwelling and remain so in perpetuity.

(To protect the amenity of adjacent neighbours in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan. 2013-2031).

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

8558-LP B	Location Plan	25.05.23
8558-03 P	Proposed Site Plan	03.08.23
8558-04 M : floor/roof	Proposed Combined Plans	03.08.23
8558-05 M	Proposed Elevation	03.08.23
8558-06 M : site	Proposed Elevation	03.08.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

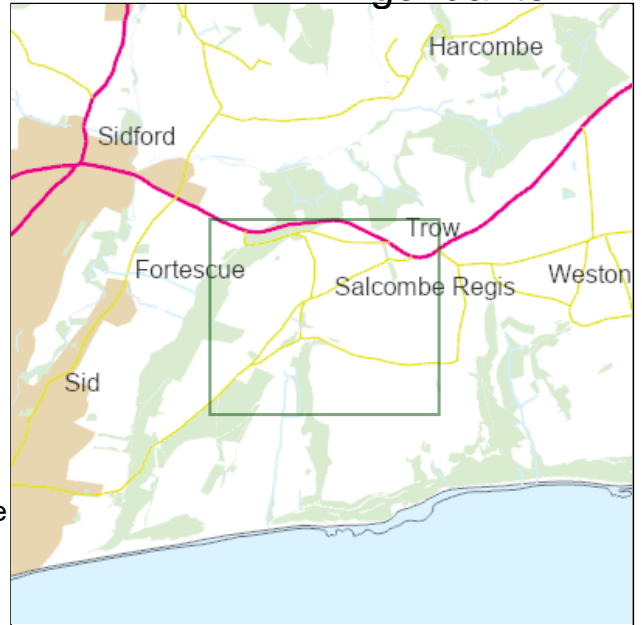
Ward Sidmouth Rural

Reference 23/0615/VAR

Applicant Mr Gary Burns (Serenity Leisure Parks Ltd)

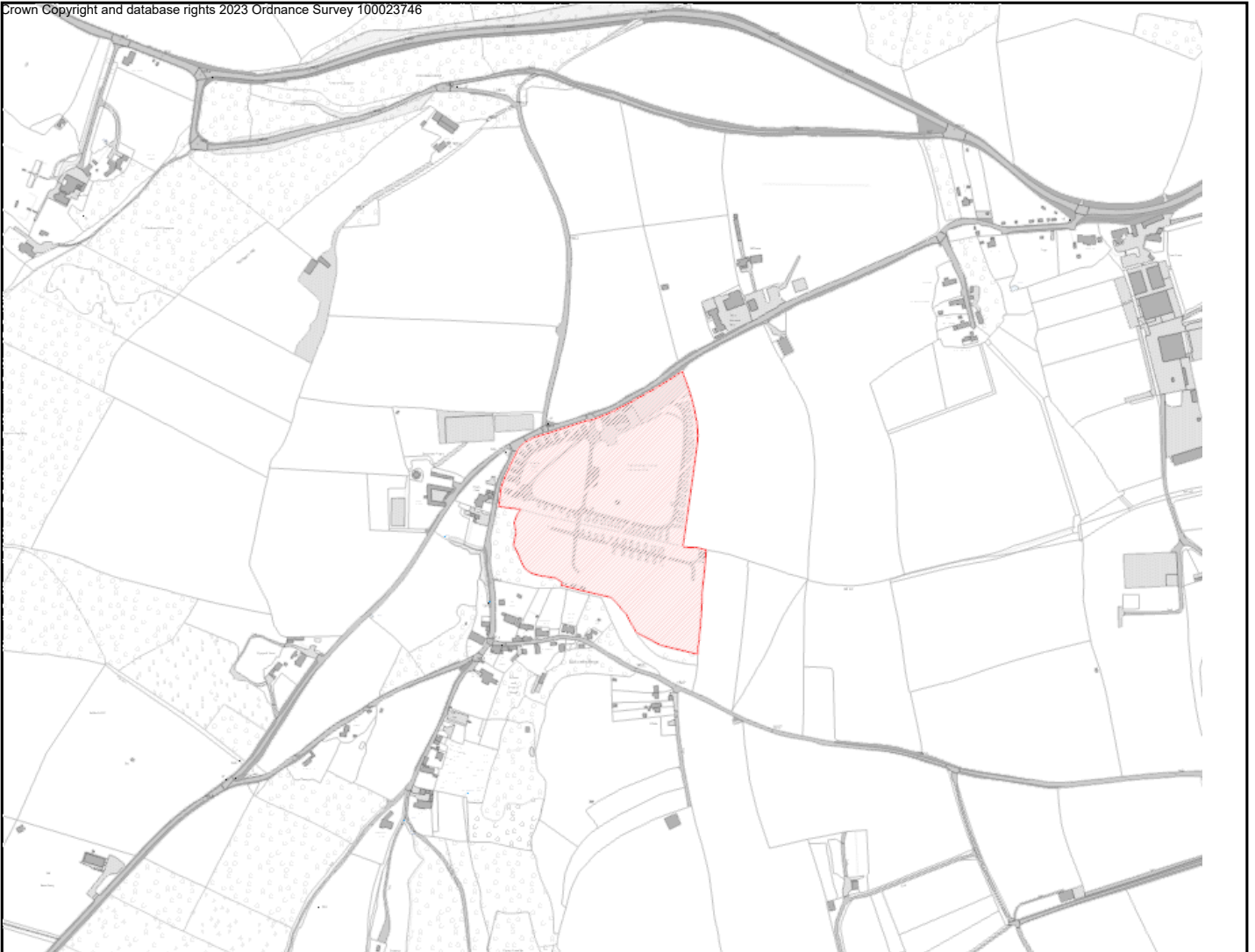
Location Salcombe Regis Camping And Caravan Park
Salcombe Regis Sidmouth EX10 0JH

Proposal Variation of condition no. 3 (Shop with residential accommodation to replace existing) of application 87/P0699 ; the building should be used solely for the permitted purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.



RECOMMENDATION: Approval with conditions

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		Committee Date: 26.09.2023
Sidmouth Rural (Sidmouth)	23/0615/VAR	Target Date: 17.05.2023
Applicant:	Mr Gary Burns (Serenity Leisure Parks Ltd)	
Location:	Salcombe Regis Camping And Caravan Park Salcombe Regis	
Proposal:	Variation of condition no. 3 (Shop with residential accommodation to replace existing) of application 87/P0699 ; the building should be used solely for the permitted purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members as the officer recommendation differs from the views of a Local Ward Member. The application originally sought to remove condition 3 which would have enabled the building to be used for retail purposes unrelated to the caravan park. As there is no policy support for such a use within a countryside location, the application's description was amended to vary condition 3.

Application 87/P0699 granted the construction of a two storey building to be used as a residential dwelling, site office and shop. Details submitted with the application state that, up until recently, the building was occupied by the former owners and operated as a laundrette for patrons of the caravan site. Condition 3 restricted the use of the building in conjunction with and solely for the permitted use of the caravan site. The full wording of the condition is given below;

'The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.'

(Reason – The site is in an area where permanent residential dwellings will not normally be accepted).'

Justification for the application stems from the way in which the new owners, Serenity Parks, operate their holiday parks which has resulted in the existing building being considered redundant. The application has prompted a number of third party objections and opposition from statutory consultees with concerns

primarily relating, but not exclusive to, the need for the condition to be removed and the impact of unrestricted residential use.

Notwithstanding this, owing to the challenges that the recent pandemic created for businesses, many have had to adapt and fundamentally alter the way in which they offer services and engage consumers. As such, it is not considered appropriate for the LPA to question the way in which Serinity Parks wish to operate the caravan park going forward nor their position with regards to whether the current building is essential to the enterprise or not.

The primary issues for consideration regarding the current application is; a) what does condition 3 control? And; b) what are the material impacts in approving the application and varying the condition to enable independent residential use of the building? With regards to point a), it is the position of officers that the building could currently be used as a shop, dwelling or office without any restriction on the extent of that use nor does the condition protect any one of those uses. With regards to residential use of the building the wording of condition 3, regardless of intentions of the LPA at the time, provides flexibility as to the type of occupation and length of tenure, however any residential use does need to be in conjunction with and solely for the permitted use of the caravan site.

Whilst the LPA is led to believe that the building was recently occupied by the site's former owners, the wording of condition 3 would enable other members of staff or even holiday makers to occupy the building. The condition does not restrict the length of an individual's stay or require occupants to be directly employed by the caravan park. Consequently, if the building were to be occupied for residential purposes separate from the operation of the caravan site, it is anticipated that the subsequent environmental impact caused by a dependency on private modes of transport would not be dissimilar to how the dwelling has been historically occupied, or, how it could be occupied within the parameters of the existing condition. Although it is anticipated that some additional movements may be incurred in order for prospective occupants to access employment opportunities elsewhere, the movements of private vehicles to and from the site and the subsequent environmental impact is anticipated to be low. In the absence of any evidence to suggest otherwise, and in having been unable to identify any demonstrable harm, it is the position of officers that the application should be approved.

In light of the above, the application is recommended for approval subject to condition 3 being reworded as follows;

“The building hereby permitted shall only be used as a shop and site office ancillary to the operation Salcombe Regis Camping and Caravan Park or as a residential dwelling.

(Reason: To protect the viability of town centres and to ensure that the Local Planning Authority retains control over the use of the building as an unrestricted retail use may give rise to additional planning issues and to comply with Strategy 7 - Development in the Countryside, Policy E5 - Small Scale Economic Development and E15 - Retail Development in Rural Areas outside Built-up Area

Boundaries of the East Devon Local Plan 2013-2031.).”

The wording ensures that if the building is to be used for commercial purposes, this is tied to the operation of the camping and caravan park. An additional condition is recommended that approves a schedule of updated elevations and floor plans, to reflect what the current scale, form and appearance of the building and a Site Plan to show dedicated parking and amenity areas.

CONSULTATIONS

Local Consultations

Parish/Town Council

UNABLE TO SUPPORT

' Members considered that this would be tantamount to creating a new dwelling within the ANOB. If it is not required for the original use, it should be demolished.

' The building was only originally allowed to support tourism in an AONB area.

' Members were concerned that not maintaining a permanent residential presence on the operating site would contravene the requirements of the Health and Safety at Work Act, 1974.

Sidmouth Rural - Cllr John Loudoun

This application is for a variation of the original determination that "The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site. Reason: The site is in an area where permanent residential dwellings will not normally be permitted."

The building in question fulfils a range of functions, as set out in the determination, that are associated with the caravan and camping site it is located within. This building has allowed onsite support and assistance to be provided to those using it for their health, safety and welfare.

The applicants state that they are able to provide support and assistance by means of "regular visits and checks on site are undertaken by a mobile management team who cover a number of parks in a locality ensure that the quality of the park is maintained at a high level and that rules and regulations are followed. These teams are always available to customers to ensure that any emergencies or problems can be dealt with or resolved quickly and efficiently".

I do not believe that this alternative provision of support and assistance to be in keeping with the applicants' requirements to abide by the Health & Safety at Work Act 1974, which I believe is required under their site licence.

If, as the applicants contend, this property is no longer required to support the effectiveness and efficiency of this site and it is permitted to be decoupled it from the main site, then given that residential development, which this would become, is not

permitted within the AONB within which it sits, I would argue that the property would need to be demolished and its site returned to natural land.

I do not support this application whilst the site remains as a camping and caravan site.

John Loudoun
Ward Member
Sidmouth Rural

Other Representations

Third Party Objections

23 third party comments have been received, 22 have objected and 1 representation has been made.

Objection comments have raised concerns over the following;

- Lack of robust evidence to demonstrate the building is no longer needed for the running of the holiday park.
- Failure to comply with Policy H5 of the Local Plan.
- Section 73 application would alter the original description of development.
- Approval of the dwelling would permit the entire caravan site as its curtilage.
- The conditions on the original consent should be enforced.
- If the building is no longer required then it should be demolished.
- Loss of residential amenity
- Unacceptable impact on the AONB.
- Approval would lead to an increase in traffic.
- Proposal would result in residential sprawl.
- Website indicates that there is a site manager presence onsite.
- Application indicates that the newly constructed games room would be used as an office. However the building does not have permission to be used as such.
- Lack of sufficient information to make an informed decision

PLANNING HISTORY

92/P1383 – Winter Storage of Touring Caravans. APPROVED 10.12.92

93/P0035 – Use of the site for maximum of 30 touring dormobiles in lieu of tents. APPROVED 26.04.93

93/1711 – Extension to existing showers/WC building to provide additional showers. APPROVED 12.11.93.

96/P0664 – Amendment of conditions to allow 100 pitches for either tents, caravans or motor caravans. APPROVED 17.06.96

11/0123/COU – Change of use of land from amenity area to the siting of 12 static caravans for holiday use and associated access and landscape work. APPROVED 16.03.11.

16/0634/FUL – Construction of a new games room, sanitary block and toilet block and additional parking. APPROVED 11.07.16

POLICIES

Site Location and Description

Salcombe Regis Camping and Caravan Park is an established holiday park within the East Devon Area of Outstanding Natural Beauty and Coastal Preservation Area. Planning history available to the Local Planning Authority indicates that the park was created shortly before 1955. However, planning records prior to 1974 are not available as this predates the formation of East Devon District Council as a Local Authority. The site primarily offers pitches for motor homes, touring caravans and tents for holiday makers although there are a handful of static caravans within the north western corner. The land is subdivided into two distinct elements the upper northern field and a southern field.

Proposed Development

The application is submitted under Section 73 of the 1990 Act originally applied to remove condition 3 of 87/P0699 which was approved 28.05.87. However removal of the condition would enable the building to be used for unrestricted retail purposes unrelated to the caravan park. Such a proposal lacks policy support within a countryside location. As a result, the application's description was amended to vary condition 3 to enable independent residential use of the building whilst ensuring any commercial or office use would remain tied to the caravan park.

The building in question is located just east of the main entrance into the site off of the road past Sunylands.

The former consent permitted the construction of a building to be used as a shop with residential accommodation and condition 3 restricted the use of the building in conjunction with and solely for the permitted use of the caravan site. The full wording of the condition is given below;

'The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.'

(Reason – The site is in an area where permanent residential dwellings will not normally be accepted).'

Since its construction, planning approval has also been granted to extend the building. Reference 15/2183/FUL secured approval for a two storey side extension and to increase the ridge height. The approved drawings communicate an increase in the extent of the living accommodation within the building at first floor and second

floor to provide four bedrooms, boot room, laundry room and living space. The current application now seeks to vary condition 3 of the original 97' consent in order to sever the residential use of the building from the existing caravan and camping site.

Justification for Application

The application is accompanied by a statement from Serenity Leisure Parks who have recently acquired Salcombe Regis Caravan & Camping Park. The statement explains that since the Covid pandemic the way in which they run their holiday parks has changed and as a result the application building, formerly the owner's property, no longer serves a purpose to the caravan park. Modern booking systems means that customers now pay and check in to their accommodation online in advanced of arriving. Serenity Parks also state that the site also has a management office building which includes a reception, shop, staff facilities and office space approved under 16/0634/FUL.

The operations statement states that since the pandemic Serenity Parks have adapted to how parks are operated to promote social distancing and reduce risks associated with customer contact. Whilst parks are now managed remotely, it is stated that a small team of wardens, cleaners and technicians would continue to operate between sites. Access and security is controlled by CCTV and electronic fobs for entry.

Analysis

Procedural Matters

Case law has determined, as in the case of *Finny v Welsh Ministers [2019]*, a material consideration is that a Variation (S73) application cannot be used to change the original description of development. In this case removal of condition 3, which sought to tie use of the building to the camping and caravan site, would not alter the original description of 87/P0699 which permitted '*Shop with residential accommodation to replace existing*'. As such, despite third party comments to suggest otherwise, the proposals can be dealt with by means of a Section 73 application.

What Does Condition 3 Control?

Condition 3 of 87/P0699 restricts use of the building as a residential dwelling, site office and shop in conjunction with the operation of the caravan and camping site. The reason given for applying the condition was '*The site is in an area where permanent residential dwellings will not normally be accepted*'. The approved floor plans dated March 1987 (Drwg No. F/1987/243) communicate living accommodation within the two storey part of the build and a shop within the smaller, single storey element. Whilst the accommodation has been extended since, condition 3 does not control the ratio or extent of living accommodation to the shop and office space.

Whilst condition 3 ties the use of the building to the permitted use of the caravan site, it does not seek to control the type or duration of residential occupation. It is therefore anticipated that if the dwelling were to be occupied by patrons of the site,

owners of the business or staff this would not be in breach of the condition. Furthermore, if the building were to be occupied all-year round for residential purposes by either staff or holiday makers, this again would not be in breach of planning control. A number of third party comments have expressed concerns over the loss of staff accommodation for the site, one comment even requesting that the application be assessed against the provision of Policy H5 (Occupancy Conditions of Rural Workers Dwellings). However, owing to the lack of precision within the wording of condition 3, the dwelling is not restricted solely to the occupation of staff or a rural worker. As the condition does not explicitly restrict occupancy to that of a rural worker, it is not reasonable or appropriate to assess the application against Policy H5 of the East Devon Local Plan which would require the applicant to demonstrate that there is no longer a long term functional need for building to support the business, usually through marketing the premises.

Overall, despite the condition restricting the use of the building as a dwelling, office or shop, it does not restrict the extent of each use nor does it prescribe a certain floor space or make reference to a specific floor plan. As a result, the entire building or part of it could be used for any of the uses permitted.

As a result, it is considered pertinent in the assessment of the current application to consider that, if all of the building could be occupied for residential purposes for either members of staff, the owners or patrons of the caravan site all-year round, what material harm would arise if the condition were to varied effectively severing the residential use of the building from the caravan and camping site?

Material Planning Impact of Removing Condition 3

Varying condition 3 would not result in any physical alterations to the building or its associated curtilage, therefore the application would not cause harm to the landscape value of the East Devon Area of Outstanding Natural Beauty (Strategy 46 of the LP) or the Coastal Preservation Area (Strategy 44 of the LP). Variation of the condition would enable residential occupation and use of the building independent from the caravan site and release a unit of residential accommodation into the open market. Subsequently the policy implications and material planning issues of this shall need to be considered. The application site is located in open countryside where development that requires planning permission is usually subject to restrictive rural policies.

However, the Council cannot currently demonstrate a 5 year housing land supply. Under government policy if an authority cannot demonstrate a 5 year housing land supply then the presumption in favour of sustainable development will apply as set out in paragraph 11d of the National Planning Policy Framework. This states:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*

or

- (ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

As a result, development constraint policies, such as Strategy 7 (Development in the Countryside) that applied built-up area boundaries to settlements, no longer carry significant weight. Proposals for residential development that are outside of these areas that are not compliant with the spatial strategy of the Local Plan should be approved unless points (i) and (ii) above apply. In the case of (i) the protected areas referred to includes AONB's, SSSI's, designated heritage assets and areas at risk of flooding among others.

Whilst the application site is located within the East Devon Area of Outstanding Natural Beauty, the proposals concern the use of an existing building. Approval of the application would not impact the landscape value of the AONB and therefore development should be approved unless the impacts are significant and demonstrably outweigh the benefits.

In this case it is anticipated that varying condition 3 would enable the building to be used as an unrestricted independent dwelling. Whilst the LPA is led to believe that the building was recently occupied by the site's former owners, the wording of condition 3 would enable other members of staff or even holiday makers to occupy the building. The condition does not restrict the length of an individual's stay or require occupants to be directly employed by the caravan park.

Consequently, if the building were to be occupied for residential purposes separate from the operation of the caravan site, it is anticipated that the subsequent environmental impacts with regards to daily movements to and from the site would be similar to how the dwelling has been occupied historically and how it could be occupied within the parameters of the existing condition. Whilst it is anticipated that some additional movements may be incurred in order for prospective occupants to access employment opportunities elsewhere, the movements of private vehicles to and from the site and the environmental impact of such movements removing the would be low.

When assessing this harm against the benefits of an additional open market dwelling to the district's housing stock within the tilted balance as required by paragraph 11d) of the NPPF, the LPA is not convinced that the environmental harm would be demonstrably significant enough to warrant refusal.

Amenity for Prospective Occupants

The residential dwelling of the existing building already has dedicated outdoor amenity areas with the southern garden enclosed by a low brick wall and timber fence. Three parking spaces are also allocated immediately forward of the shop which and located opposite a number of visitor spaces.

Access to the caravan park's storage area in the north-eastern corner runs past the boundary of the southern garden area. Whilst prospective occupants of the dwelling are likely to be impacted during periods where tourers are driven past the southern boundary when being relocated into storage, the frequency, duration and seasonality of the movements leads the LPA to consider this impact to be low.

The existing building provides ample outdoor amenity space and dedicated parking for prospective occupants. Furthermore, it is considered that independent residential use of the building can operate alongside the existing camping and caravan business without causing undue harm to the residential amenity of the dwelling. As such, the proposals are considered to meet the objectives of Policy D1 (Design and Local Distinctiveness) of the Local Plan.

Conclusion

The applicant states that the way in which the caravan park operates has changed, particularly with regards to how individuals check in at the site, making the current use of the building, which includes a reception, redundant. Despite this, a number of third party comments question whether the need for the building has genuinely ceased. However, owing to the challenges that the recent pandemic created for many businesses, many have had to adapt and fundamentally alter the way in which they offer services and engage consumers. As such, it is not considered appropriate for the LPA to question the way in which Serenity Parks wish to operate the caravan park going forward nor their position with regards to whether the current building is essential to the enterprise or not.

Notwithstanding this, the Operations Statement indicates that the building approved under 16/0634/FUL is currently used as a site reception, shop, staff facilities and office space, however, the wording of condition 4 of that consent restricts use of the building to the following;

“The use of the buildings hereby permitted shall be used only as a games room, tourist information pavilion and sanitary facility, and a toilet, chemical waste and recycling facility for campsite residents and in conjunction with and ancillary to the use of Salcombe Regis Camping and Caravan Park. The buildings shall not be operated independently of the camping and caravan site and shall not be made available or advertised for non patrons of those facilities.

(Reason - The buildings are only justified by the need on site for facilities in conjunction with its use as a camping and caravan site and protect the amenity of adjoining occupiers in accordance with Strategy 7 - Development in the Countryside and Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)”

The stated current use of the building appears to be in breach of this condition and shall need to be addressed by an application for planning permission.

Nevertheless, the primary issues for consideration regarding the current application is; a) what does condition 3 control? and; b) what are the material impacts in approving the application and thereby varying the condition? With regards to point

a), it is the position of officers that the building could be used as a shop, dwelling or office without any restriction on the extent of that use nor does the condition protect any one of those uses. With regards to residential use of the building the wording of condition 3, regardless of intentions of the LPA at the time, provides flexibility as to the type of occupation and length of tenure.

Varying the condition in line with what the applicant has requested would enable residential use of the building separate from the operation of the caravan park. Notwithstanding this, having reviewed what condition 3 can and cannot control and weighing this against the impact of severing the residential use of the building from the park, the LPA is only able to attribute some very minor environmental impact through possible increased traffic movements. However, when engaging the tilted balance as per the requirements of paragraph 11d), in order for the LPA to justify refusal of the application it shall need to be confident that use of the building as an open market dwelling would result in 'significant or demonstrable harm'.

Having balanced what the building could currently be used for against the uses and level of those uses that varying condition 3 would allow, and the lack of harm identified, the LPA cannot reasonably resist the application. The application is therefore recommended for approval.

Comments made from a number of third parties and statutory consultees have called for the building to be demolished if it is no longer needed. However, such a requirement was not a condition on the original consent and in any case would be deemed an unreasonable requirement which would fail the tests of the Planning Practice Guidance for planning conditions. The original plans condition has also been varied to include updated drawings to accurately reflect the current appearance of the building. The demolition of a structurally sound dwelling house that causes no material harm would also be unsustainable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
2. The building hereby permitted shall only be used as a shop and office ancillary to the operation Salcombe Regis Camping and Caravan Park or as a residential dwelling.
(Reason: To protect the viability of town centres and to ensure that the Local Planning Authority retains control over the use of the building as an unrestricted retail use may give rise to additional planning issues and to comply with Strategy 7 - Development in the Countryside, Policy E5 - Small Scale Economic Development and E15 - Retail Development in Rural Areas outside Built-up Area Boundaries of the East Devon Local Plan 2013-2031.)'

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

12712-0001-01	Location Plan	22.03.23
12712-0005-02	Elevations	04.08.23
12712-0004-02	Floor Plans	04.08.23
12712-0006-01	Site Plan	18.08.23

List of Background Papers

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

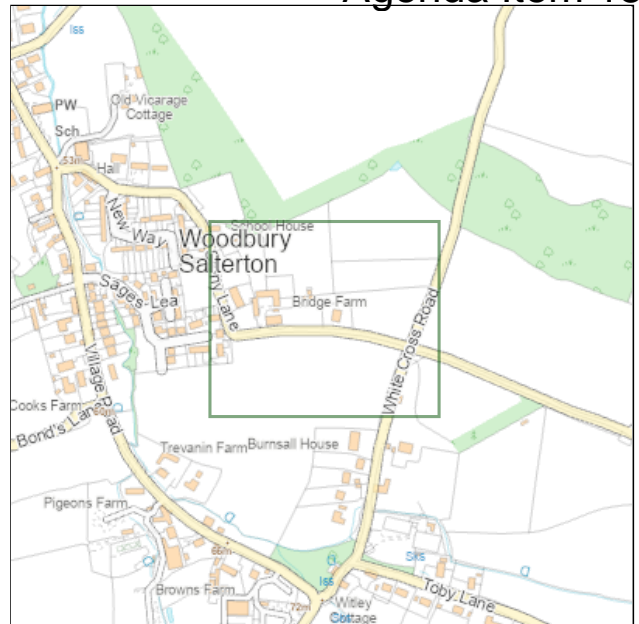
Ward Woodbury And Lymptstone

Reference 23/1131/VAR

Applicant Mr Tom Buxton-Smith

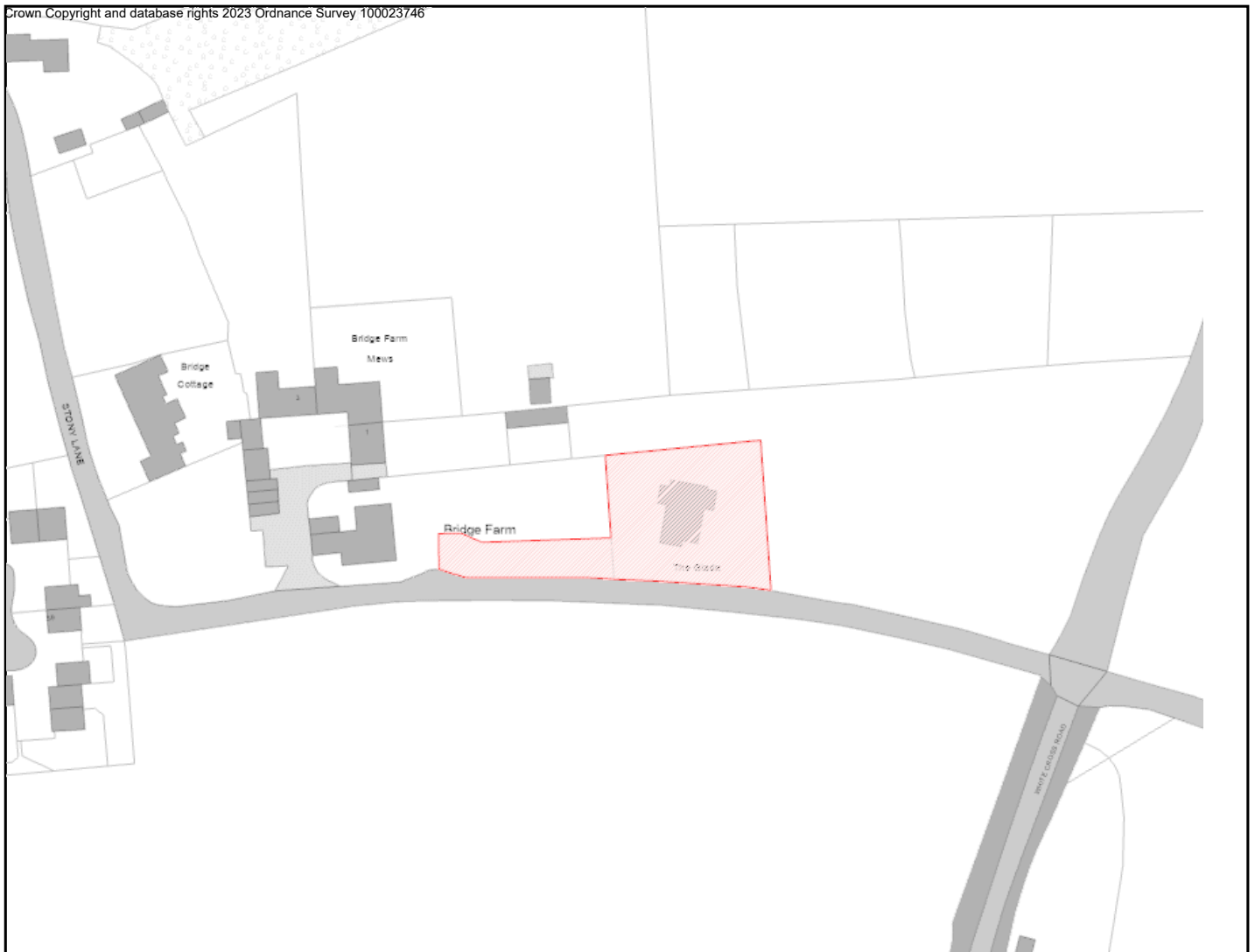
Location The Glade Stony Lane Woodbury Salterton
Devon EX5 1PP

Proposal Variation of condition 2 (approved plans) of application (21/0908/VAR) to allow for revision of plans for the proposed garage that include changes to the external materials, garage and access door positions and internal layout



RECOMMENDATION: Approval with conditions

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		Committee Date: 26.09.2023
Woodbury And Lympstone (Woodbury)	23/1131/VAR	Target Date: 21.07.2023
Applicant:	Mr Tom Buxton-Smith	
Location:	The Glade Stony Lane	
Proposal:	Variation of condition 2 (approved plans) of application (21/0908/VAR) to allow for revision of plans for the proposed garage that include changes to the external materials, garage and access door positions and internal layout	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members because the applicant is a member of staff of East Devon District Council.

Planning permission is sought to vary condition 2 (approved plans) of approval granted under reference 21/0908/VAR to allow revisions to the external appearance and layout of the approved garage.

The alterations proposed will not affect the size or footprint of the garage, and are not considered to have a material impact on the appearance of the property or any wider visual impact.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung
23/1131/VAR

I have viewed the variation planning application for 23/1131/VAR for a variation of condition 2 (approved plans) of application (21/0908/VAR) to allow for revision of plans for the proposed garage that include changes to the external materials, garage and access door positions and internal layout at the Glade Stony Lane Woodbury Salterton.

I support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Parish/Town Council

Woodbury Parish Council supports this application.

Other Representations

None received

PLANNING HISTORY

Reference	Description	Decision	Date
21/0908/VAR	Variation of condition 2 (approved plans) and removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane	Approval with conditions	05.07.2021
20/0568/VAR	Variation of condition 2 (approved plans) of 19/0868/VAR to allow revisions to the layout/elevations, external materials and landscaping	Approved	24.07.2020
19/0868/VAR	Variation of Condition 2 (Approved Plans) on 17/0990/RES (reserved matters application for the construction of a dwelling pursuant to outline approval 14/2969/OUT) to allow internal layout changes, elevational and fenestration changes and changes to external finishes, and variation of conditions 3, 4, 5, 6, 8, 9, 10, 11 and 12 of application 17/0990/RES following the submission of information to discharge these conditions.	Approved	24.06.2019

17/0990/RES	Approval of reserved matters (access, appearance, landscaping, layout and scale) for the construction of a dwelling pursuant of outline approval 14/2969/OUT	Approved	25.08.2017
15/1492/FUL	Retention of vehicular access	Refused	24.11.2015
15/0774/FUL	Construction of detached two storey dwelling with integral garage and creation of new vehicular access	Refused	14.07.2015
14/2969/OUT	Proposed new dwelling (outline application with all matters reserved)	Approved	25.02.2015
14/1161/OUT	Proposed new dwelling (Outline with all matters reserved)	Refused Appeal dismissed	31.07.2014 10.12.2014

POLICIES

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

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

Government Planning Documents

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

Site Location and Description

The Glade is a newly constructed dwelling located on the eastern edge of the village of Woodbury Salterton.

Proposed Development

Planning permission is sought to vary the approved plans to allow internal and external alterations to the approved garage. Whilst the main dwelling has been constructed, work has yet to begin on the approved garage. It is proposed to move the position of

the garage door on the front elevation, remove a door opening from the east elevation and to introduce a new door opening in the north elevation. Alterations to the materials include timber cladding to the front and east elevation, and to render the north, all to match the existing property. It is also proposed to remove the internal partitions within the garage.

ANALYSIS

The main issue in the determination of this application relates to any visual impact arising from the alterations.

It is considered that the relocation of the garage doors to a central position will provide symmetry when viewing the property from Stony Lane, the main public vantage point from which the property can be seen. The amendments to the materials are considered to improve the appearance, providing a more recessive look to the garage building and breaking up the expanse of render. Wider views of the property from the east, in White Cross Road, would also be improved by the use of timber cladding which would have a more rustic appearance and again break up the render finish on this elevation.

The revised position of external doors and removal of internal partitions are not considered to have any material impact on the appearance of the property and would provide a more efficient internal use of the space.

Subject to conditions, the proposal is considered to be acceptable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
2. The access shall be constructed in accordance with the details indicated on Drawing No: 2093 37.2 E (Proposed Site Plan Sheet 2 of 2) and the passing place shall be maintained free of obstruction in perpetuity.
(Reason - In the interests of highway safety, and in accordance with Policy TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)
3. All works on site shall be undertaken in accordance with Construction Stage Method Statement/Procedure details, Ref. 2093-CMP dated 17 April 2019 and received by EDDC on 24 April 2019 in respect of the approval granted under reference 19/0868/VAR.
(Reason – To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031).

4. 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 Part 1 Class E for the provision within the curtilage of the dwellinghouse hereby permitted of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such; or Part 2 Class B – means of access to a highway shall be undertaken.
(Reason – To protect the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031).
5. Landscaping shall be undertaken in accordance with drawing nos. 2093 37.1E :sheet 1 of 2 Proposed Site Plan and 2093 37.2E : sheet 2 of 2 Proposed Site Plan received 13 May 2021 and the Soft Landscaping Specification Ref. 2093-softld dated 17 April 2019, and received by EDDC on 24 April 2019. The scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority.
(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. Refuse storage facilities shall be provided in the position indicated on drawing no. 2093 37.2E sheet 2 of 2 Proposed Site Plan received 13 May 2021 prior to the occupation of the dwelling hereby approved and shall be maintained thereafter.
(Reason - To ensure that consideration is given to the provision of appropriate refuse provision for the residents is in the interest of health and hygiene in accordance with Policies D1- Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)
7. The construction of all hardsurfacing within the vicinity of trees shall be undertaken in accordance with the principles embodied in BS 5837:2012 and AAIS Arboricultural Practice Note 1 (1996), and the details indicated on drawing nos. 2093 37.1E :sheet 1 of 2 Proposed Site Plan and 2093 37.2E : sheet 2 of 2 Proposed Site Plan received 13 May 2021 and document no. 2093-softld dated 17 April 2019 and submitted to EDDC 24 April 2019.
(Reason - To ensure retention and protection of trees on the site during and after construction. The condition is required in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the flat roofs hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.

(Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013 - 2031.)

NOTE FOR APPLICANT

Informative: Confirmation - CIL Liable

This Informative confirms that this development is liable to a CIL charge.

Any queries regarding CIL please email 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 works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

	Location Plan	26.05.23
013.PL101	: Proposed Floor Plans	24.05.23
ground		
013.PL102	: Proposed Elevation	24.05.23
south		
013.PL103 : east	Proposed Elevation	24.05.23
013.PL104 : north	Proposed Elevation	24.05.23

The historic planning application is referenced under 21/0908/VAR for which the approved plans were as follows:-

2093 37.2 E : Sheet 2 of 2	Proposed Site Plan	13.05.21
2093 37.2 E : Sheet 2 of 2	Proposed Site Plan	13.05.21

The historic planning application is referenced under 20/0568/VAR for which the approved plans were as follows:-

R.2061-West rev	Tree Protection Plan	02.04.20
o : sheet 1 of 2		
R.2061-West rev	Tree Protection Plan	02.04.20
o : sheet 2 of 2		

2093 30 D : ground	Proposed Floor Plans	02.04.20
2093 31 D : first	Proposed Floor Plans	02.04.20
2093 36 D	Proposed roof plans	02.04.20
2093 37.1D : sheet 1 of 2	Proposed Site Plan	02.04.20
2093 37.2D : sheet 2 of 2	Proposed Site Plan	02.04.20
2093 38 D : AA	Sections	02.04.20
2093 39.1 D : south	Proposed Elevation	02.04.20
2093 39.2 D : east	Proposed Elevation	02.04.20
2093 39.3D : north	Proposed Elevation	02.04.20
2093 39.4D : west	Proposed Elevation	02.04.20

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

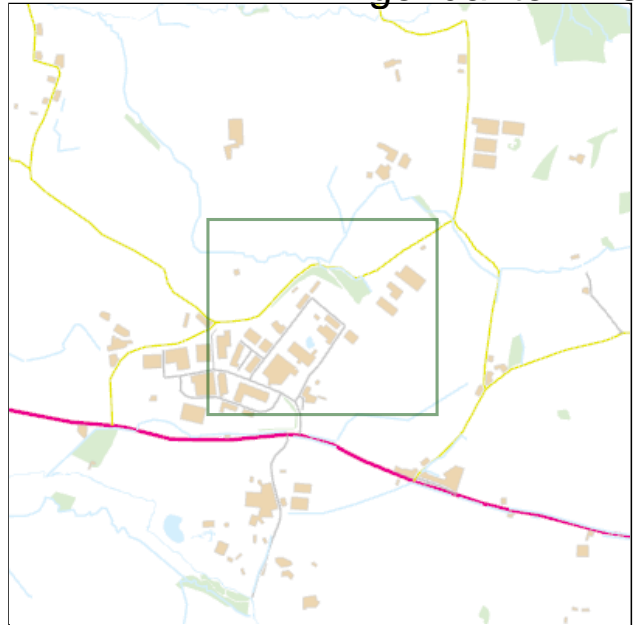
Ward Broadclyst

Reference 23/1478/FUL

Applicant Ms Naomi Harnett

Location Land To The North Of Stuart Way Clyst St Mary

Proposal Proposal for a new building to house an Energy Substation with associated vehicle access, boundary fencing, external works, and infrastructure



RECOMMENDATION: Approval with conditions

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		Committee Date: 26.09.2023
Broadclyst (Farringdon)	23/1478/FUL	Target Date: 08.09.2023
Applicant:	Ms Naomi Harnett (EDDC)	
Location:	Land To The North Of Stuart Way, Clyst St Mary	
Proposal:	Proposal for a new building to house an Energy Substation with associated vehicle access, boundary fencing, external works, and infrastructure	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members as the applicant is East Devon District Council.

This application seeks full planning permission for the erection of a building measuring 20.9m long by 16.9m wide with a maximum eaves height of 6m with a total floor area of 353 square metres to house a substation mechanical and electrical equipment to be used in conjunction with the district heating network powered by the combined heat and power plant at Hill Barton.

The site lies on Hill Barton Business Park which is one of the most successful employment areas in the district where vacant sites for development are at a premium. Support is given by Policy E2 (Employment Generating Development in Built-Up Areas) for new businesses or expansion of existing businesses will be permitted provided the proposed development, whether through re-use of existing buildings or new build (subject to a number of criteria). The proposal is not a 'traditional employment generating use', though it would be an industrial installation, as the direct employment that would be on site permanently is virtually nil given the building would house a piece of infrastructure rather than employment space, however, there would be indirect employment which would come as a result of the building and it would enable the district to improve its green credentials and would, in part, address the declared climate change emergency.

There a varied mix of building styles and heights that are evident on Hill Barton Business Park, though the predominant character is of large industrial buildings with pitched roofs using corrugated materials on their elevations extending to heights of up to 12 metres, the application site sits adjacent to a number of other buildings designed for their use with overall ridge heights of approximately 8-10

metres. The design of the building is relatively simple with two low level pitched roofs and central valley constructed of profiled metal sheeting, being set amongst other industrial buildings away from the periphery of the site, the building would not be readily visible in its surroundings such that it is considered that it will assimilate well into its surroundings.

The impacts on highway safety, residential amenity and flooding have been considered in the report and been found to be acceptable such that approval is recommended subject to conditions.

CONSULTATIONS

Local Consultations

Parish Council - no comment received

Technical Consultations

Environmental Health

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

Other Representations

No representations have been received as a result of this application.

PLANNING HISTORY

There are numerous applications for industrial uses surrounding the site, but none that are directly relevant to the determination of this application. The following application is referred to in the report:

23/1102/LDO - Revised boundary for the Adopted Local Development Order (LDO) for District Heating Networks under application number 20/0530/LDO – Approved.

POLICIES

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

E2 (Employment Generating Development in Built-Up Areas)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

TC7 (Adequacy of Road Network and Site Access)

Strategy 40 (Decentralised Energy Networks)

Government Planning Documents NPPF (National Planning Policy Framework 2021)

Site Location and Description

The site lies on the established Hill Barton Business Park which is made up of a number of businesses predominantly falling within use classes B2 and B8 performing industrial processes and storage functions. It is currently a vacant site with no buildings upon it, though there are buildings to the north and to the west. It is served by two roads, Stuart Way and Mushroom Road. The industrial estate is accessed by a dedicated spayed access onto the main A3052 highway. There are no residential properties in close proximity to the site.

Proposed Development

This application seeks full planning permission for the erection of a building measuring 20.9m long by 16.9m wide with a maximum eaves height of 6m with a total floor area of 353 square metres to house a substation mechanical and electrical equipment to be used in conjunction with the district heating network powered by the combined heat and power plant at Hill Barton.

East Devon District Council (EDDC) currently has two district heating networks. The development of district heating networks is part of EDDC's strategy to deliver large scale zero carbon development. The system is operated by energy substations, currently connected to the national gas main. It was always expected that the district heating systems would support decarbonisation. Initially the system was anticipated to be served by a biomass boiler, however it became evident that technology had not matured sufficiently to provide a reliable and commercially deliverable solution. A project is now being undertaken to heat the networks using heat recovery from a forthcoming Energy from Waste plant, situated in the Hill Barton Industrial estate. The connection of the district heat networks to the Energy from Waste plant will result in decarbonisation of the networks.

Main considerations

Background

Members will be aware that an item recently considered by them at the 22nd August Committee recommended approval for the expansion of the area under a Local Development Order (LDO) to give permitted development rights for underground pipes and cables and some minor above ground works from the area south of the A30 towards the A3052, the expansion of the area was agreed to at the meeting.

The District Heating Local Development Order gives permitted development rights for the installation for high pressure hot water pipes and ancillary equipment as listed in the Order, subject to the limitations and conditions set out in the Order. The LDO provides certainty to developers, reduces the regulatory process and facilitates faster

development. The heat network is a system of heat distribution which takes heat from energy centres and supplies it to individual buildings. The district heating (DH) networks are an essential part of East Devon's plan to facilitate more sustainable forms of energy consumption. The benefits of the DH networks grow as the networks increase in size and they provide a unique opportunity for large scale distribution of energy from renewable and recovered heat sources.

Currently the heat networks are connected via the energy centres to mains gas. The aim is for the two energy centres to be supplied by a more sustainable heat source by using heat recovery from the waste incineration at Hill Barton Industrial Estate. The proposed revised boundary of the LDO will grant permitted development for pipes and ancillary equipment to be installed, connecting the energy centres to an Energy from Waste plant at Hill Barton. The plant currently under construction has been granted consent by Devon County Council, as Minerals and Waste Planning Authority.

The main considerations in the determination of this application are considered to be:

- The principle of the proposed development;
- The impact of the building on its surroundings;
- The impact on residential amenity through noise/lighting disturbance;
- The impact on highway safety; and
- Flood risk.

Principle

The site lies on Hill Barton Business Park which is one of the most successful employment areas in the district where vacant sites for development are at a premium. Support is given by Policy E2 (Employment Generating Development in Built-Up Areas) for new businesses or expansion of existing businesses will be permitted provided the proposed development, whether through re-use of existing buildings or new build (subject to a number of criteria). The proposal is not a 'traditional employment generating use', though it would be an industrial installation, as the direct employment that would be on site permanently is virtually nil given the building would house a piece of infrastructure rather than employment space, however, there would be indirect employment which would come as a result of the building and it would enable the district to improve its green credentials and would, in part, address the declared climate change emergency.

Paragraph 155 of the National Planning Policy Framework states the following:

To help increase the use and supply of renewable and low carbon energy and heat, plans should:

- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);
- b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for colocating potential heat customers and suppliers.

This is picked up at a local level by Strategy 40 (Decentralised Energy Networks) of the EDDC Local Plan.

Through the granting of permission to extend the LDO area for installing underground pipes that will link the district heating network together being powered by the application site building in conjunction with the energy from waste building close to the application site, it has created an 'area of search' for a vacant site to accommodate a substation building. There are very few available sites on Hill Barton Business Park close to the energy from waste building, other available sites would be greenfield such this it is considered that the proposed site for the building being a brownfield site not currently in use would be acceptable in principle and provide a valuable missing piece of the jigsaw to realise the sustainability aim of the Council.

Accordingly, it is considered that the proposed development would accord with Policy E2 of the EDDC Local Plan together with the guidance contained in Paragraph 155 of the NPPF.

Impact on surroundings

There are a varied mix of building styles and heights that are evident on Hill Barton Business Park, though the predominant character is of large industrial buildings with pitched roofs using corrugated materials on their elevations extending to heights of up to 12 metres, the application site sits adjacent to a number of other buildings designed for their use with overall ridge heights of approximately 8-10 metres. The design of the building is relatively simple with two low level pitched roofs and central valley constructed of profiled metal sheeting, being set amongst other industrial buildings away from the periphery of the site, the building would not be readily visible in its surroundings such that it is considered that it will assimilate well into its surroundings.

The proposal is therefore considered to be acceptable in relation to Policy D1 - Design and Local Distinctiveness of the EDDC Local Plan.

Impact on residential amenity

The building would be set amongst other industrial buildings away from the periphery of the site where there are very few residential properties, however, as the site has the potential to create noise and other disturbance through light spillage, it is incumbent on the Local Planning Authority to assess the impacts that these may have on the living conditions of nearby residents.

The Council's Environmental Health Officer has been consulted and raises no objections to the proposed development. Whilst the Design and Access Statement suggests that there will be no lighting impacts associated with it, it is considered necessary through condition to seek details of any extremal lighting prior to their instillation should there be a future need on site.

As with most development the knock on effects of granting permission for a substation and the associated LDO will result in some short-term disturbance whilst pipes are installed. The majority of pipes will be installed away from residential properties and are not expected to cause significant disruption during installation. Once installed there will be no adverse impacts to nearby properties. The ground surface will be returned to its previous condition and they will not affect the future agricultural use of the land. Once completed the development permitted under the LDO will not result in an increase in noise, smell, dust.

Accordingly, it is considered that the proposed development is acceptable in accordance with Policies EN14 - Control of Pollution and Policy D1 - Design and Local Distinctiveness of the EDDC Local Plan.

Impact on highway safety

The existing business park is served by a dedicated splayed access onto the A3052 Exeter to Sidmouth highway that witnesses a reasonable level of traffic on a daily basis and is used frequently by heavy goods vehicles, the application site would generate a very low level of traffic given that it would only be visited from maintenance vehicles once construction has finished, such that it is considered that there would not be a notable impact on highway safety as a result of this proposal. An external area is set aside for maintenance vehicles within the compound including the substation building

The proposal is therefore considered to be acceptable in relation to Policy TC7 of the EDDC Local Plan and advice contained within Paragraph 111 of the NPPF.

Flood risk

The access road to the east of the site (Stuart Way) is identified on the Environment Agency's mapping system as falling within flood zone 2, it is very narrow designation that only covers the roadway and none of the proposal site. Access can be gained to the site, via the red line boundary for the application from the west along Mushroom Road instead of having to transverse Stuart Way in times of flood.

The proposal being outside flood zone 2 and being wholly within flood zone 1 is considered acceptable in accordance with Policy EN21 of the EDDC Local Plan.

RECOMMENDATION

APPROVE subject to the following conditions:

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

(Reason - For the avoidance of doubt.)

3. No external lighting shall be constructed or provided unless and until details of the lighting have been submitted to and approved in writing by the Local Planning Authority. Thereafter, any lighting shall be carried out and maintain in accordance with the approved details.

(Reason: To protect the character and appearance of the countryside surroundings in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan and to protect nearby occupiers in accordance with the requirements of Policy EN14 - Control of Pollution of the East Devon Local Plan)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

220905 L 01 01D	Location Plan	14.07.23
220905 HB 01 01	Proposed Floor Plans	07.07.23
220905 HB 01 02	Other Plans	07.07.23
220905 HB 01 02	Proposed roof plans	07.07.23
220905 HB 02 01	Proposed Elevation	07.07.23
220905 HB 02 02	Proposed Elevation	07.07.23
220905 L 02 01	Block Plan	07.07.23
220905 SE 03 01	Sections	07.07.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights

and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation