

**Agenda for Planning Committee
Tuesday, 24th October, 2023, 10.00 am**



Members of Planning Committee

Councillors B Bailey, I Barlow, C Brown, J 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)

East Devon District Council
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Venue: Council Chamber, Blackdown House, Honiton

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(or group number 01395 517546)

Issued: Friday, 13 October 2023

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 for the applications**

Speakers' list removed.

2 **Minutes of the previous meeting** (Pages 5 - 11)

Minutes of the Planning Committee meeting held on 26 September 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)**

To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

7 **Planning appeal statistics** (Pages 12 - 22)

Update from the Development Manager

8 **Housing Monitoring Update to year ending 31 March 2023** (Pages 23 - 79)

Applications for Determination

9 **22/1973/MOUT (Major) OTTERY ST MARY** (Pages 80 - 144)

Land East of Sidmouth Road, Ottery St Mary.

10 **23/0727/MOUT (Major) WEST HILL AND AYLESBEARE** (Pages 145 - 183)

Land North Of Eastfield, West Hill.

11 **22/2669/MFUL (Major) EXMOUTH HALSDON** (Pages 184 - 197)

Warren View Sports Ground, Halsdon Avenue, Exmouth, EX8 3DH.

- 12 **23/0851/FUL (Minor) BUDLEIGH AND RALEIGH** (Pages 198 - 211)

Model Airfield Car Park, Bicton Common, Yettington.

- 13 **23/0852/FUL (Minor) BUDLEIGH AND RALEIGH** (Pages 212 - 223)

Uphams Car Park, Yettington.

- 14 **23/0868/FUL (Minor) BUDLEIGH AND RALEIGH** (Pages 224 - 238)

Wheathill Plantation Car Park, East Budleigh.

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

- 15 **22/2838/MOUT (Major) WOODBURY AND LYMPSTONE** (Pages 239 - 279)

Land To South Broadway, Woodbury.

- 16 **23/1250/MOUT (Major) WHIMPLE AND ROCKBEARE** (Pages 280 - 322)

Land East Of Antiques Complex/Harriers Court Industrial Estate, Long Lane, Rockbeare.

- 17 **23/0630/FUL (Minor) SIDMOUTH TOWN (APPLICATION WITHDRAWN)**
(Pages 323 - 360)

22 Fore Street, Sidmouth, EX10 8AL.

(This planning application has been withdrawn and will not be considered at the meeting)

- 18 **23/1147/FUL (Minor) WHIMPLE AND ROCKBEARE** (Pages 361 - 388)

Land North Of Railway, Whimple.

- 19 **23/1442/VAR (Other) SEATON** (Pages 389 - 398)

Fosse Way Court, Seaton, EX12 2LP.

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](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 26 September 2023****Attendance list at end of document**

The meeting started at 10.01 am and ended at 5.00 pm. The Chair adjourned the meeting for lunch at 1.30 pm and reconvened at 2.05 pm. Brief adjournments also took place at 11.20 am to 11.30 am and 4.05 pm to 4.20 pm.

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

56 Minutes of the previous meeting

The minutes of the Planning Committee held on 22 August 2023 were confirmed as a true record.

57 Declarations of interest

Minute 60. 23/0331/MOUT (Major) HONITON ST PAULS

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 the Committee Members advised lobbying in respect of this application.

Minute 63. 22/1104/VAR & 22/1106/VAR (Other) CLYST VALLEY.

Councillor Mike Howe, Other Registerable Interest, Clyst St Mary Parish Councillor and advised as he was predetermined, he would not take part in discussions or vote for these applications.

Minute 63. 22/1104/VAR & 22/1106/VAR (Other) CLYST VALLEY.

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 the Committee Members advised lobbying in respect of this application.

Non-Committee Member

Minute 60. 23/0331/MOUT (Major) HONITON ST PAULS

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillor Roy Collins advised lobbying in respect of this application.

58 Matters of urgency

There were none.

59 Confidential/exempt item(s)

There was one confidential item recorded at minute 71.

60 23/0331/MOUT (Major) HONITON ST PAULS

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 Tunnell Lane and associated highways improvements and infrastructure.

RESOLVED:

Approved subject to a Section 106 Agreement with conditions as per officer's recommendation subject to the following amendments to the following conditions and with the addition of a new condition:

Condition 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 0.6m above the adjacent carriageway of the public highway (identified as X) shall be 2.4m and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25m in both directions.

Condition 16

No works 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 Regulation 2017 authorising the development to go ahead. Any mitigation and compensation measure should be in accordance with the agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.

Condition 19

As part of the reserved matters concerning 'layout' the following details shall be submitted to and approved in writing by the Local Planning Authority:

- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted and a timetable for implementation.
- (b) 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 scope of which shall first be agreed in writing with the Local Planning Authority in consultation with the Lead Flood Authority. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.
- (c) Development shall take place in accordance with the approved details.
- (d) No on-site development shall commence until all off-site drainage works approved pursuant to this planning condition have been implemented in full.
- (e) All permanent on-site drainage shall be provided prior to occupation or use of the development to which they relate. Construction phase drainage shall be provided in accordance with the approval timetable.

New Condition 21

The pedestrian and cycle footpath which runs parallel to Tunnel Lane shall be constructed and laid out in accordance with plan SK10 hereby approved prior to any

occupation of the dwellings hereby approved. This path shall be maintained and kept free of obstruction for the lifetime of the development.

(Reason – To ensure that suitable provision for pedestrian and cyclist are included in the interest of highway safety, in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan).
the East Devon Local Plan).

61 **20/1663/VAR (Other) CRANBROOK**

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.

RESOLVED:

Approved subject to a Deed of Variation to carry over the provisions of the Section 106 Agreement for 16/1826/MFUL (to be delegated to Officers) and subject to conditions as per officer's recommendation.

62 **23/0867/FUL (Minor) CLYST VALLEY**

Applicant:

David Manley.

Location:

Enfield Oil Mill Lane, Clyst St Mary, 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.

RESOLVED:

Approved subject to conditions as per officer's recommendation.

63 **22/1104/VAR & 22/1106/VAR (Other) CLYST VALLEY**

(22/1104/VAR)

Applicant:

David Manley.

Location:

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

RESOLVED:

Approved 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 plan and the conditions as per officer's recommendation subject to:

- (i) an amendment to wording in Condition 7(i) to read crops, silage and grains;
- (ii) an additional condition that "Notwithstanding the provision of Condition 7 (feedstock and feedstock delivery) the details of any off-site intermediary storage facilities for the digestate generated by the anaerobic digestive plant shall be submitted to and approved in writing by the Local Planning Authority including the details of any necessary statutory permissions, and,
- (iii) subject to all of the proposed conditions being reviewed in consultation with the Chair, Vice Chair and Ward Member.

(22/1106/VAR)

Applicant:

David Manley

Location:

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

RESOLVED:

Approved 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 conditions as per officer's recommendation subject to:

- (i) an amendment to wording in Condition 7(i) to read crops, silage and grains;
- (ii) an additional condition: notwithstanding the provision of Condition 7 (feedstock and feedstock delivery) details of any off-site intermediary storage facilities for the digestate generated by the anaerobic digestive plant shall be submitted to and approved in writing by the Local Planning Authority including details of any necessary statutory permissions, and,
- (iii) subject to all the proposed conditions being reviewed in consultation with the Chair, Vice Chair and Ward Member.

64 **22/2633/FUL (Minor) NEWBRIDGES**

Applicant:

Mr & Mrs C & R Meecham & Hunter.

Location:

Ashdale Farm, Dalwood, EX13 7HS.

Proposal:

Temporary agricultural workers dwelling.

RESOLVED:

1. The appropriate assessment be adopted.
2. Approved subject to conditions as per officer's recommendation.

65 **23/0847/FUL (Minor) WOODBURY & LYMPSTONE**

Applicant:

Mr Morris.

Location:

Meadowgate, Church Road, Lympstone, EX8 5JU.

Proposal:

Proposed dwelling and off-road parking and double garage within the garden.

RESOLVED:

Approved subject to conditions as per officer's recommendation including an additional condition to tie the garage as ancillary use to the main dwelling house.

66 **23/1113/FUL (Minor) WEST HILL & AYLESBEARE**

Applicant:

Mr Will Gater.

Location:

Elsdon House, land at Orchard Cottage, Elsdon Lane, West Hill.

Proposal:

Proposed new detached dwelling with integral garage, new site entrance and parking.

RESOLVED:

1. The appropriate assessment be adopted.
2. Approved subject to conditions as per officer's recommendation with an amendment to condition 3 to have either a hornbeam or beech hedge in place for the majority of the eastern boundary of the site.
3. A decision will not be issued until the end of the revised consultation period and subject to no new material planning considerations being raised as a consequence of that process.

67 **23/0615/VAR (Other) SIDMOUTH RURAL**

Applicant:

Mr Gary Burns (Serenity Leisure Parks Ltd.)

Location:

Salcombe Regis Camping and Caravan Park, Salcombe Regis.

Proposal:

Variation of Condition 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.

RESOLVED:

1. Refused contrary to officer recommendation for the following reason:-
Members considered that the removal of the condition was not justified as it had not been robustly demonstrated that the building was not required for the operational purposes of the camping and caravan site and that the loss would not undermine the current and/or future viability of the camping and caravan site and result in an unsustainably located open market dwelling in the countryside contrary to Strategy 7 of the East Devon Local Plan

2. Delegation to the Chair, Vice Chair and Ward Member to agree whether it is appropriate to refer to any further national or local plan policies in the reason for refusal.

68 **23/1131/VAR (Other) WOODBURY & LYMPSTONE**

Applicant:

Mr Tom Buxton-Smith.

Location:

The Glade, Stony Lane, Woodbury Salterton, 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.

RESOLVED:

Approved subject to conditions as per officer's recommendation.

69 **23/1478/FUL (Minor) BROADCLYST**

Applicant:

Ms Naomi Harnett.

Location:

Land to the north of Stuart Way, Clyst St Mary.

Proposal:

New building to house an energy substation with associated vehicle access, boundary fencing, external works and infrastructure.

RESOLVED:

Approved subject to conditions as per officer's recommendation.

70 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

that under Section 100(A)(4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt and private information (as set out against the Part B agenda item), is likely to be disclosed and on balance the public interest is in discussing the items in private session (Part B).

71 **Verbal update regarding Planning Appeal to Members**

The Planning Solicitor provided Members with legal advice in respect to the Jewson's Ltd, Fore Street, Exmouth planning appeal.

Attendance List

Councillors present (for some of all the meeting)

I Barlow
S Gazzard
A Hall
J Heath
M Howe
Y Levine
H Riddell
S Smith
D Wilson
E Wragg (Chair)

Councillors also present (for some or all the meeting)

P Arnott
J Bailey
K Bloxham
R Collins
P Faithfull
G Jung
J Loudoun

Officers in attendance (for some or all the meeting)

Wendy Ormsby, Development Manager
Ed Freeman, Assistant Director Planning Strategy and Development Management
Damian Hunter, Planning Solicitor
Wendy Harris, Democratic Services Officer
Liam Fisher, Senior Planning Officer
Lynne Shwenn, Senior Development Control Officer

Councillor apologies:

B Bailey
C Brown
A Bruce
S Chamberlain
E Rylance

Chairman

Date:

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

Ref: 23/0064/FUL **Date Received** 14.08.2023
Appellant: Mrs Joanna Uffendell
Appeal Site: The Bungalow Shorebottom Stockland Devon EX14 9DQ
Proposal: Two storey side extension
Planning
Inspectorate Ref:

Ref: 22/1516/FUL **Date Received** 14.08.2023
Appellant: Gill Parry
Appeal Site: 1A Jarvis Close Exmouth Devon EX8 2PX
Proposal: Construction of additional two storey dwelling with associated car parking and amenity space
Planning APP/U1105/W/23/3327760
Inspectorate Ref:

Ref: 23/0809/LBC **Date Received** 15.09.2023
Appellant: Mrs Jill Bayliss
Appeal Site: Flat Above Flix Hair Design Market Place Colyton EX24 6JR
Proposal: Retention of 2no. first floor windows on front elevation
Planning APP/U1105/Y/23/3329576
Inspectorate Ref:

Ref: 23/0180/FUL **Date Received** 26.09.2023
Appellant: Mr Harry Carter
Appeal Site: Little Knowle Court 32 Little Knowle Budleigh Salterton EX9 6QS
Proposal: Construction of new two bedroom dwelling with garden room/store
Planning APP/U1105/W/23/3330231
Inspectorate Ref:

Ref: 23/0027/CPL **Date Received** 27.09.2023
Appellant: Mr Gary Burns
Appeal Site: Salcombe Regis Camping And Caravan Park Salcombe Regis Devon EX10 0JH
Proposal: Proposed lawful development for the use of land for the siting of static caravans.
Planning APP/U1105/X/23/3330294
Inspectorate Ref:

Ref: 23/0532/CPE **Date Received** 02.10.2023
Appellant: Richard Holman
Appeal Site: Land Adjacent To Main Yard Lodge Trading Estate
Broadclyst Devon EX5 3BS
Proposal: Certificate of lawfulness for the continued use of
storage/distribution (class B8)
Planning APP/U1105/X/23/3330560
Inspectorate Ref:

Ref: 23/0298/FUL **Date Received** 03.10.2023
Appellant: F W S Carter & Son
Appeal Site: Greendale Farm Shop NHS Drive Through Vaccination
Centre Sidmouth Road Farringdon Devon
Proposal: Retention of NHS Vaccination Centre and associated car park
Planning APP/U1105/W/23/3330631
Inspectorate Ref:

Ref: 22/0975/MFUL **Date Received** 04.10.2023
Appellant: Eagle One MMLIII Limited
Appeal Site: 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
Planning APP/U1105/W/23/3330735
Inspectorate Ref:

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

Ref: 22/0261/FUL **Appeal Ref:** 23/00008/REF
Appellant: Mark Howarth
Appeal Site: Heatherdale Cooks Lane Axminster EX13 5SQ
Proposal: Change of use of building for annexe and holiday accommodation purposes.
Decision: **Appeal Dismissed** **Date:** 15.09.2023
Procedure: Written representations
Remarks: Delegated refusal, accessibility reasons upheld (EDLP Policies D8, E16, TC2 and Strategies 5B & 7).
BVPI 204: **Yes**
Planning APP/U1105/W/23/3318815
Inspectorate Ref:

Ref: 22/1600/FUL **Appeal Ref:** 23/00001/REF
Appellant: Mr G Braddick
Appeal Site: Land Adjacent To Hamlet House Nags Head Road Gittisham
Proposal: Extension of an existing commercial building on the land north of Hamlet House
Decision: **Appeal Dismissed** **Date:** 21.09.2023
Procedure: Written representations
Remarks: Delegated refusal, countryside protection and employment reasons upheld (EDLP Policy E5 and Strategy 7). Application for a full award of costs against the Council refused.
BVPI 204: **Yes**
Planning APP/U1105/W/23/3314033
Inspectorate Ref:

East Devon District Council List of Appeals in Progress

App.No: 22/0120/FUL
Appeal Ref: APP/U1105/W/22/3305821
Appellant: Mr & Mrs Charles Isaac
Address: 3 Trefusis Place Exmouth EX8 2AR
Proposal; Loft conversion to a habitable use, Changes to external elevation finishes with alteration to fenestration, Replacement of existing conservatory with a garden room and alterations to Garden Annex with front extension and relocation of front door.
Start Date: 28 February 2023
Procedure:
Written reps.
Questionnaire Due Date: 7 March 2023
Statement Due Date: 4 April 2023

App.No: 22/0058/FUL
Appeal Ref: APP/U1105/W/22/3305830
Appellant: Sophie, Harriet and Oliver Persey
Address: Pitmans Farm Dulford Cullompton EX15 2ED
Proposal; Proposed demolition of existing buildings; construction of residential dwelling and detached garage; installation of solar photovoltaic array; landscaping; and associated works.
Start Date: 28 February 2023
Procedure:
Written reps.
Questionnaire Due Date: 7 March 2023
Statement Due Date: 4 April 2023

App.No: 21/3275/FUL
Appeal Ref: APP/U1105/W/22/3306620
Appellant: Mr & Mrs Jenny & Richard Wiggins
Address: 5 Fairfield Road Exmouth EX8 2BL
Proposal; First floor extension to an existing dwelling as well as altering the external appearance to form a modern dwelling and a new detached single storey garage of matching materials, and conversion of existing garage and a rear extension with alteration to fenestration.
Start Date: 1 March 2023
Procedure:
Written reps.
Questionnaire Due Date: 8 March 2023
Statement Due Date: 5 April 2023

App.No: 22/0912/FUL
Appeal Ref: APP/U1105/D/22/3307801
Appellant: Mr John Lomax
Address: The Workshop Longmeadow Road Lympstone EX8 5LF
Proposal; Addition of first floor with alteration to fenestration.
Start Date: 20 April 2023
Procedure:
Householder
Questionnaire Due Date: 27 April 2023

App.No: 22/2216/MFUL
Appeal Ref: APP/U1105/W/23/3319803
Appellant: Enso Green Holdings B Limited
Address: 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.
Start Date: 9 May 2023
Procedure:
Inquiry
Questionnaire Due Date: 16 May 2023
Statement Due Date: 13 June 2023
Inquiry Date: 5 September 2023

App.No: 23/F0056
Appeal Ref: APP/U1105/C/23/3320164
Appellant: Donovan George Galling
Address: The Workshops Deer Park Farm Buckerell Honiton
Proposal; Appeal against an enforcement notice served in respect of
the change of use from workshop to gymnasium, without
planning permission.
Start Date: 10 May 2023
Procedure:
Written Reps.
Questionnaire Due Date: 24 May 2023
Statement Due Date: 21 June 2023

App.No: 22/0990/MFUL
Appeal Ref: APP/U1105/W/23/3320714
Appellant: Mr Phil Cookson (Low Carbon Alliance)
Address: Land At Marsh Green Farm Marsh Green EX5 2EU
Proposal; Construction and operation of a ground mounted solar farm and associated landscaping and ecological habitat, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment and associated development; temporary change of use of land for construction compound (off site)
Start Date: 17 May 2023
Procedure:
Inquiry
Questionnaire Due Date: 24 May 2023
Statement Due Date: 21 June 2023
Inquiry Date: 12 September 2023

App.No: 22/1836/FUL
Appeal Ref: APP/U1105/D/23/3319877
Appellant: Mr Joe Priday
Address: Hux Shard Church Hill Exeter Devon EX4 9JJ
Proposal; Erection of annexe
Start Date: 14 June 2023
Procedure:
Householder
Questionnaire Due Date: 21 June 2023

App.No: 22/2126/FUL
Appeal Ref: APP/U1105/W/23/3318928
Appellant: Mr Josh Baker
Address: Annexe At Huxham View (Church Hill Cottage) Pinhoe Exeter EX4 9JJ
Proposal; Change of use from redundant annexe to C3 dwelling house.
Start Date: 19 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 26 June 2023
Statement Due Date: 24 July 2023

App.No: 22/2031/RES
Appeal Ref: APP/U1105/W/23/3316374
Appellant: Mr and Mrs Thomas
Address: 29 Winters Lane Ottery St Mary EX11 1AR
Proposal; Application for approval of reserved matters (layout, scale and appearance) for the erection of a new dwelling following approval of outline application ref. 21/1692/OUT.
Start Date: 20 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 27 June 2023
Statement Due Date: 25 July 2023

App.No: 22/2389/PIP
Appeal Ref: APP/U1105/W/23/3315470
Appellant: Mr Luke Drakes
Address: 1 Colliton Cross Broadhembury Honiton EX14 3LQ
Proposal; Permission in principle for a two storey 4-bed dwelling and garage on amenity land
Start Date: 21 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 28 June 2023
Statement Due Date: 26 July 2023

App.No: 21/F0248
Appeal Ref: APP/U1105/C/23/3322437
Appellant: Helen Dawn Cutler, Mr Tom Horridge & Mrs Amy Horridge
Address: Land north east of Clyst William Cross , Plymtree, EX15 2LG
Proposal; Appeal against an enforcement notice served in respect of -

- i) Operational development consisting of the siting of a shipping container for use as an agricultural machinery store together with a storage shed and the creation of an entrance onto the highway and hardstanding, without planning permission, and;
- ii) Change of use of part of the land to residential use by the stationing of a touring caravan for residential occupation together with a solar array and other domestic paraphernalia associated with the residential use of the land, without planning permission.

Start Date: 21 June 2023
Procedure: Written Reps.
Questionnaire Due Date: 05 July 2023
Statement Due Date: 02 August 2023

App.No: 22/0173/FUL
Appeal Ref: APP/U1105/W/23/3315663
Appellant: Ms Susan Wakley-Stoyle
Address: Brake View Rockbeare Hill Rockbeare EX5 2EZ
Proposal; Erection of a replacement two storey 4-bed detached dwelling.
Start Date: 26 June 2023
Procedure: Written Reps.
Questionnaire Due Date: 3 July 2023
Statement Due Date: 31 July 2023

App.No: 22/0767/FUL
Appeal Ref: APP/U1105/D/23/3324450
Appellant: Mr Anthony Whale
Address: 5 Meadow View Longmeadow Road Lymptstone EX8 5LH
Proposal; Demolition of the front garden wall and construction of a paved hard standing driveway (retrospective)
Start Date: 21 July 2023
Procedure: Householder
Questionnaire Due Date: 28 July 2023

App.No: 22/2120/MFUL
Appeal Ref: APP/U1105/W/23/3324701
Appellant: Churchill Retirement Living
Address: Jewson Ltd Fore Street Exmouth EX8 1HX
Proposal; Redevelopment for 54 retirement living apartments and 6 retirement living cottages, including communal facilities, access, car parking and landscaping and 178sqm of commercial use (Class E)
Start Date: 25 July 2023
Procedure:
Inquiry
Questionnaire Due Date: 1 August 2023
Statement Due Date: 29 August 2023
Inquiry Date: 14 November 2023

App.No: 22/1622/FUL
Appeal Ref: APP/U1105/W/23/3319921
Appellant: Mr Mark And Mrs Lisa Clouter
Address: Kings Arms Farm Nags Head Road Gittisham Devon EX14 3AP
Proposal; Construction of a two storey 18-unit residential home for vulnerable people.
Start Date: 2 August 2023
Procedure:
Written Reps.
Questionnaire Due Date: 9 August 2023
Statement Due Date: 6 September 2023

App.No: 23/0665/FUL
Appeal Ref: APP/U1105/D/23/3325341
Appellant: Mr Tim Prince
Address: 42 Springfield Road Exmouth Devon EX8 3JY
Proposal; Conversion of roof space to habitable use to include front flat roof dormer and single storey rear extension with roof terrace.
Start Date: 10 August 2023
Procedure:
Householder
Questionnaire Due Date: 17 August 2023

App.No: 23/0325/PIP
Appeal Ref: APP/U1105/W/23/3320367
Appellant: Mr Dan Nicholls
Address: Land At Toadpit Lane West Hill Ottery St Mary EX11 1LQ
Proposal; Permission in principle for 2 no. new dwellings
Start Date: 26 September 2023
Procedure:
Written Reps.

Questionnaire Due Date: 3 October 2023
Statement Due Date: 31 October 2023

App.No: 22/2196/AGR
Appeal Ref: APP/U1105/W/23/3321823
Appellant: Chadstone Farm Estate
Address: Chadstone Farm Rousdon Lyme Regis DT7 3XP
Proposal; Purpose built agricultural barn for the storage of tractors and machinery
Start Date: 26 September 2023
Procedure:
Written Reps.

Questionnaire Due Date: 3 October 2023
Statement Due Date: 31 October 2023

App.No: 22/2030/FUL
Appeal Ref: APP/U1105/W/23/3323724
Appellant: Alice Johnson (Queen's Drive CIC)
Address: Exmouth Beach Queens Drive Exmouth Devon EX8 2GD
Proposal; Construction of a single storey flexible office/community hub building, single storey side extension to existing bin store to provide 5 WCs and installation of 23 x photovoltaic panels
Start Date: 27 September 2023
Procedure:
Written Reps.

Questionnaire Due Date: 4 October 2023
Statement Due Date: 1 November 2023

App.No: 23/0532/CPE
Appeal Ref: APP/U1105/X/23/3330560
Appellant: Richard Holman
Address: Land Adjacent To Main Yard Lodge Trading Estate
Broadclyst Devon EX5 3BS
Proposal; Certificate of lawfulness for the continued use of
storage/distribution (class B8)
Start Date: 6 October 2023
Procedure:
Inquiry
Questionnaire Due Date: 20 October 2023
Statement Due Date: 17 November 2023
Inquiry Date: 30 January 2024

Report to: Planning Committee

Date of Meeting 24 October 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Housing Monitoring Update to year ending 31 March 2023

Report summary:

This report provides a summary of house building monitoring information to the year ending 31 March 2023 and updates Members on the current five-year housing land supply position. This report was presented to Strategic Planning Committee at their meeting of the 3 October 2023 with the Committee resolving that it should be brought to the attention of Planning Committee to inform their decisions on applications where new homes are proposed.

The annual requirement based on local housing need has reduced from 946 homes per year down to 910 homes per year as a result of changes to the affordability ratio used in the Government's standard method. There was a modest reduction in completions in 2022/23, down to 998, compared to the previous year. Forecast supply over the next five years has decreased compared to the 2022 monitoring point in part because of the challenges of the current housing market and economic conditions and because of planning practice guidance, in particular the need to be mindful of Inspectors' application of PPG in recent planning appeals. The evidence in the Housing Monitoring Update to year ending 31 March 2023 (HMU 2023) confirms that, looking forward, the five-year housing land supply position is 4.28 years as at the 31 March 2023 monitoring point, indicating a forecast shortfall of 685 dwellings. Had the council not approved or resolved to grant planning approvals subject to S106 agreement in the 2022/23 monitoring year and since then, the supply position would be lower by more than a year. The report advises Members of the implications of this, of what actions have been taken to date, and invites Members to consider whether further action should be taken to address this position.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Planning Committee:

1. Note that the district five-year housing land supply position shows a significant shortfall resulting in an on-going need to apply the tilted balance and give significant weight to bolstering the housing land supply position when taking decisions.

Reason for recommendation:

To keep members informed of housing completions, forecasts, and projections.

Officer: Ed Freeman – Service Lead - Planning Strategy and Development Management (Tel: 01395 517519; e-mail: efreeman@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

Equalities impact Low impact;

Climate change Low Impact;

Risk: Low Risk;

Links to background information <https://eastdevon.gov.uk/planning/planning-policy/monitoring>

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

1. Introduction

- 1.1 Through the Planning Policy team, the East Devon District Council (EDDC) produces an annual Housing Monitoring Update (HMU), the latest version of which is attached. This report to Committee forms the monitoring report for the year ending 31 March 2023, and is part of the Council's Authority Monitoring Report. This document largely focuses on whether the Council can demonstrate a five-year housing land supply for the purposes of NPPF paragraph 74, detailed below. It also reports on the key monitoring indicator from the adopted East Devon Local Plan 2013 to 2031 (number of new homes built annually).
- 1.2 This report does not consider housing delivery in the context of the emerging local plan, which will supersede the adopted plan. The issues of supply sources, forecast housing delivery, the 'rolling' five-year housing land supply assessment, and future monitoring indicators are matters that will be reported to Committee in the future as part of the plan-making process and the evidence to justify policies in the emerging plan.

2. Housing Need and Supply in East Devon

- 2.1 The adopted East Devon Local Plan, specifically in respect of housing supply and monitoring purposes, covers the 18 years from 01 April 2013 to 31 March 2031. For this 18-year period the plan establishes an objectively assessed need for 17,100 new homes to be created in East Devon. This averages out at 950 homes per year. However, as the current plan was now adopted more than five years ago, we now need to use the latest Government guidance to calculate our baseline figure using the Standard Method to calculate our local housing need, which is 910 homes per year.
- 2.2 The table below breaks down the net completions recorded in the ten years running from 2013 to 2023.

Table 1 - Net Total Completions 2013 to 2023

	Apr 13 to Mar 14	Apr 14 to Mar 15	Apr 15 to Mar 16	Apr 16 to Mar 17	Apr 17 to Mar 18	Apr 18 to Mar 19	Apr 19 to Mar 20	Apr 20 to Mar 21	Apr 21 to Mar 22	Apr 22 to Mar 23
Annual TOTAL	830	1,029	1,027	724	866	929	1,065	872 Revised to 867 by the DLUHC after taking the net loss of 9 care home bedrooms into account	1,047 Expected to be revised to 1,039 by the DLUHC* after taking the net loss of 15 care home bedrooms into account*	961 Expected to be revised to 998 by the DLUHC after taking the net gain of 67 care home bedrooms into account

* The Housing Delivery Test measurement results published by Government is the source for confirming the revised figures, The 2021 HDT measurement was published in January 2022. However, the 2022 HDT measurement is still awaited at the time of preparing this document. [Further explanation below in section 4. Housing delivery test.](#)

2.3 Based on Table 1, there were **9,374** net total dwelling completions in East Devon (including dwelling equivalents from care home accommodation) 1 April 2013 to 31 March 2023. 998 were in the 2022/23 monitoring year.

2.4 Including the 2022/23 figures, the average level of completions over the last five years is now 980, which is above the annualised adopted local plan requirement of 950.

2.5 However, the annual average since the start of the plan period is 937 dwelling completions which is below the annualised requirement. The increased delivery rate in the last five years has not yet mitigated the slower delivery rate in the first five years. It has not been sufficient to result in a surplus (“oversupply”) at the 2023 Monitoring Point against policy requirement.

3. Five Year Housing Land Supply Assessment

3.1 The Council is required to examine its five-year housing land supply annually. This is an assessment of whether the projected levels of future house building, taking into account what has been built in the past, is sufficient to meet the levels of housing required based on local housing need calculated using the Government’s standard method, for the next five years. The adopted local plan for the next five years is more than five years old and, in line with PPG, the plan’s 950 per year housing requirement can no longer be used to calculate East Devon’s five year housing land supply position.

3.2 The HMU report provides details about how the five-year supply is calculated, where it:

- a) Justifies the use of local housing need (910) for the requirement figure in the calculations.
- b) Explains that PPG makes clear that using the East Devon local housing need for the housing requirement means there is no shortfall to have to take into account in the five-year housing land supply position calculations

- c) Explains why there is no supply surplus to include in the calculations.
- d) Explains why the five-year housing land supply calculations apply a 5% buffer; and
- e) Justifies the forecast East Devon housing supply that is identified as 'deliverable', which can be used in the five-year housing land supply calculation.

3.3 The equations below, with associated explanation, establish the calculated housing land supply position in East Devon at a base position of 1 April 2023.

Table 2 - Five Year Housing Land Supply Assessment values and formulas

Ref	Stage of Work	Numbers	Commentary (with formulas used in calculation)
A	Annual Requirement	910	This is the annual number of dwellings Government indicates should be built in East Devon based on local housing need (Standard Method) (Discussed in paragraph 5.9, HMU Table 14)
B	Five Year Requirement	4,550	This is the number of houses that should be built over the next five-year period (1 April 2023 to 31 March 2028) based on use of the local housing need figure calculated by the standard method (Number = A x 5)
C	5 Year Target (including 5% buffer, explanation detailed below in section 4. Housing delivery test)	4,778	Government guidance requires that the Council not only use the five-year requirement figure but that they also add a 5% buffer to this (Number = B + 5% of B)
D	Annualised 5-year target (including 5% buffer, explanation detailed below in section 4. Housing delivery test)	956	The five-year target including buffer required each year (Number = C/ 5)
E	Total Deliverable Supply from 1 April 2023 to 31 March 2028	4,093	To understand if we are forecast to meet the five-year requirement we look to the forecast/projected supply of housing over the period from 1 April 2023 to 31 March 2028 (HMU Table 12)
F	Shortfall	685	By knowing the projected five-year supply and comparing this against the five year requirement we can calculate if there is a shortfall or a surplus (Number = C - E)
G	Years of Land Supply With a 5% Buffer	4.28	The final calculation records the five-year housing land supply position result which shows how many years of deliverable supply there is based on the five-year requirement plus buffer (Number = E/ D)

- 3.4 The above assessment shows that at this time the Council cannot demonstrate that there is a five-year housing supply in East Devon. The evidence demonstrates 4.28 years of deliverable supply in the district at the 2023 Monitoring Point.

Why is the five-year housing land supply position lower than last year?

- 3.5 The HMU 2023 provides the evidence for why the 5-year supply position is lower than the 4.68 years reported in the previous Housing Monitoring Update up to 31 March 2022, despite the local housing need figure having fallen from 946 per year down to 910 per year. The main reasons for the forecast five-year supply position being lower are as follows:
- a) Primarily it is a consequence of PPG housing supply and delivery. In identifying 'deliverable' supply, Officers have taken into account recent planning appeals where Inspectors more strictly apply the concept of "clear evidence" of deliverability as required by that PPG, to manage the risk of uncertainty. In particular, by excluding sites with outline planning permission where detailed applications have not yet been approved and where there is insufficient evidence to demonstrate that objections to the applications, notably, from Council consultees, have been overcome and/or sufficient to reach a planning judgement for recommendation for decision making.
 - b) The forecasts take into account that when scrutinising housing land supply evidence submitted to outline planning application appeals, Inspectors can consider whether there is "compelling evidence" before them to show that objections to those applications, will be overcome or that the application is likely to be approved.
 - c) The Council is not required to guarantee housing delivery but through the HMU/AMR and its audit trail evidence, the Council has to be able to demonstrate there are "realistic prospects" that sites in the base date five-year supply are 'deliverable'. This means that some sites' forecast completions therefore cannot be included in the HMU five-year housing land supply at this time, although we would still expect those sites to be developed. In those circumstances their completions are forecast to occur from year 6 onwards (i.e., 2028/29+) and are counted as "developable", in line with the NPPF definition (unless there is evidence that the sites are not likely to be developed, when their supply forecast is nil).
 - d) The slow-down in build rates/sales on several East Devon sites (and some sites stalling) is due to the current, challenging, economic and housing market conditions, particularly as interest rates and the cost of mortgages have risen. Most developers are realistic in the forecasts they provided. They are more cautious about build rates, particularly for the next two to three years, but still expect delivery to continue.
 - e) Loss of some developers/builders on East Devon sites e.g., through companies going into insolvency/ administration. This includes sites where part of the site has been built, or where development has not commenced. It is uncertain what will happen to those sites. Due to the uncertainty, completions have not been forecast for these sites in the five-year period for this HMU even if they have detailed planning approval. They may still be completed at some time in the future from year 6 onwards.
 - f) As dwellings are completed, they cease to be part of future supply for the five-year housing supply calculation, because of the use of the 'local housing need'.
 - g) Planning applications have been approved in the last monitoring period, but some previous applications have expired and are no longer counted at the 2023 monitoring point.
 - h) The projected supply of future windfalls used in the five-year housing land supply, based on past delivery, have fallen by 20 per year (from 158 down to 138 per year)

resulting in a 100 fewer windfalls forecast in the five-year period for 2023, compared to the 2022 monitoring point.

Why continuing to grant planning approvals is necessary.

- 3.6 The Council has approved planning applications for housing development in the 2022/23 monitoring year or in the case of the Cranbrook DPD allocations resolved to grant approval subject to completing legal agreements since then. Some of their dwellings are included in the five-year housing land supply. Had the Council not approved or resolved to grant approval subject to S106 agreement, we would not have evidence demonstrating that objections to planning applications had been resolved and/or taken into account in the planning judgement. As a result, the five-year housing land supply position in the HMU would have been much lower. For example, without the following decisions and resolutions the 5-year supply position would have been lower by a year of supply:
- a) On the allocated Cranbrook Expansion Areas (this plan was adopted before the 2023 monitoring point) there are three outline planning applications now with 'resolution to grant', where 620 dwellings are included in the five-year supply. (They equate to 0.65 years supply)
 - b) Detailed applications have been approved: for 69 dwellings on land north of Moonhill Copse, West Clyst; for 135 dwellings at Mosshayne; and for 132 dwellings at Pinn Court Farm (together these 336 dwellings forecast to be completed in the five years equate to 0.35 years supply).
- 3.7 This clearly demonstrates the vital importance of development management decision making in maintaining the 'deliverable' housing supply, and the essential role of 'clear evidence' in demonstrating that supply.

Consequences of the 5-year housing land supply position

- 3.8 Looking at the outcome of planning appeals elsewhere, whilst Inspectors have given varying weight to the scale of shortfalls, their conclusions are helpful in understanding the likely weight of the current East Devon shortfall, whereby:
- The 4.28-year housing land supply evidenced in the HMU falls within a range of housing supply positions that appeal inspectors have concluded amount to a "significant shortfall"
 - The Mecklesham Road, Holt, Wiltshire appeal decision states that 4.59 years "*could not be termed a moderate shortfall*" ... *it constitutes an appreciable deficiency when compared to what the supply should be*"...
 - The Land to East of Station Road, Oakley appeal decision reports that *4.11 years (a shortfall of 816 homes) is significant rather than severe while a figure of 4.83 years (a shortfall of 154) homes is moderate.*
 - Land south of Post Office Lane, Kempsey, Worcestershire "*With a supply of around 3.7 years, the shortfall is significant*".
 - The 4.28 year housing land supply evidenced in the East Devon HMU 2023 does not fall within a range of housing supply positions that appeal inspectors have concluded amount to a "severe shortfall" or a "very substantial and acute shortfall" (such as the 1.58 years supply reported in the appeal decision for land rear of 52 Harris Lane, Shenley in Hertsmere).
- 3.9 Members will be aware that where policies which are most important for determining an application are out-of-date because the council cannot demonstrate a five-year supply of

deliverable sites at 31 March 2023, the presumption in favour of sustainable development as set out in NPPF paragraph 11d applies for development management purposes.

“... 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 The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

Footnote 8 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”

Why not add in new supply identified after the end March 2023 base date?

- 3.10 The Council's evidence for NPPF paragraph 74 purposes when dealing with applications and appeals is the HMU 5-year housing land supply position because the HMU is part of the Authority Monitoring Report. This is in line with PPG Housing Supply and Delivery paragraph 004. Paragraph 74 states that the LPA should “*identify and update **annually** a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing.....*” (Our emphasis)
- 3.11 Housing supply is like a conveyor belt, with sites being added through approvals/allocations and sites being removed through completions or expiring or becoming undeliverable. The picture changes every day. The HMU 2023 provides the data for the base date, so does not add in new supply identified after the base date.
- 3.12 The only way for the Council to add supply 'retrospectively' between the annual monitoring points would be to completely 'rebase' the picture. It would mean removing completions and expired approvals to a later fixed point, and having up to date delivery forecasts. The latter would mean engaging with builders/developers again, with the risk of consultation fatigue and poorer responses. It would be particularly onerous in terms of Council resources.

Can the delivery forecasts be challenged?

- 3.13 Officers dedicated significant resource to ensure the 2023 base date five-year housing land supply position is the most robust position possible, including at appeal, but the certainty around such evidence is often under significant scrutiny by appellants. The latter may contest one or more of the sites' delivery trajectories, in trying to reduce the five-year housing land supply position figure.
- 3.14 Members are advised that PPG Housing Supply and Delivery paragraph 007 states that:

- *“In order to demonstrate five years’ worth of deliverable housing sites, robust, **up to date evidence** needs to be available to support the preparation of strategic policies and planning decisions” (our emphasis)*

3.15 During appeals, it is not unusual for updated information on delivery to be sought on contested sites. Section 78 appeal Inspectors and the Secretary-of-State have concluded that additional evidence that has arisen or otherwise come to the parties attention after the base date of the five-year period can be taken into account to inform judgements on deliverability but the original decision to include the site in the five-year housing land supply position at the base date of the five-year period, has to be sound and ‘robustly’ evidenced.

3.16 The Council has to make robust judgements about ‘deliverability’ at the base date for sites with forecast completions in the five-year period. This means that there would be problems if the Council only partially updated the delivery forecast data for use in decision making, including appeals. We cannot simply include a site in the 5-year housing land supply, with no evidence to support the decisions to do so, and then retrospectively obtain evidence to justify its inclusion. Nor can we just add in new sites approved after the base date of the five-year period.

3.17 The planning approvals and completions data in the HMU use the fixed date of the 2023 monitoring point (31 March 2023). However, we can use information from after the monitoring point, to make judgements about the realistic prospects of sites’ delivery and to identify what completions to include in the five-year supply, when we produce the council’s base date assessment in the HMU. Members should note that it takes time to identify deliverable sites. The process of capturing and analysing relevant data (including time for ‘engagement’ and time to consider responses received) is lengthy. For practical reasons there has to be a cut-off point for data gathering so that we can complete the HMU and five-year housing land supply assessment for the 2023 monitoring point base date.

4. **Housing Delivery Test**

4.1 Since November 2018, Councils have also had to pass the Housing Delivery Test (HDT), otherwise they are required to take actions, depending on how far delivery has fallen below the HDT requirement. Rather than simply looking at what *can* be achieved over the following five years, the HDT checks what *has* been achieved over the previous three. The HDT informs the buffer used in the five-year housing land supply calculation for the next Monitoring period. Paragraph 74 of the NPPF states that:

“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

(a) 5% to ensure choice and competition in the market for land; or

(b) 10% where the local planning authority wishes to demonstrate a five-year supply of deliverable sites through an annual position statement or recently adopted plan 40, to account for any fluctuations in the market during that year; or

(c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply .”

4.2 The HDT compares the delivery of housing over the past three years against the required amount, with delivery of the full amount resulting in a score of 100%, as follows:

$$\text{Housing Delivery Test (\%)} = \frac{\text{Total net homes delivered over three year period}}{\text{Total number of homes required over three year period}}$$

4.3 The number of net homes delivered is the national statistic for net additional dwellings over a rolling three-year period, with adjustments for net student / other communal accommodation.

Net homes delivered in a year

= Net Additional Dwellings National Statistic

PLUS

net increase in bedrooms in student communal accommodation in local authority
average number of students in student only households in England

PLUS

net increase in bedrooms in other communal accommodation in local authority
average number of adults in households in England

4.4 The HDT comprises three elements:

- i) If delivery has been less than 95%, the Council should prepare an Action Plan to address the reason for the shortfall;
- ii) If delivery has been less than 85%, the Council should also include a 20% buffer in calculating its five-year land supply (rather than 5% or 10%);
- iii) If delivery has been less than 75%, the presumption in favour of sustainable development would then apply.

4.5 The results of the fourth HDT (covering 2018/19 to 2020/21) were released in January 2022. East Devon District Council passed the test with a score of 123%, meaning no action is required.

4.6 Previous Housing Delivery Test measurement results for East Devon were as follows:

First HDT (2015/16 to 2017/18)	149%
Second HDT (2016/17 to 2018/19)	121%
Third HDT (2017/18 to 2019/20)	122%
Fourth HDT (2018/19 to 2020/21)	123%

4.7 The results of the fifth HDT (covering 2019/20 to 2021/22) were expected to be published around December 2022 / January 2023 but still are yet to be issued. Upon asking when might the Council expect these results, the following DLUHC (Department of Levelling-Up, Housing and Communities) response was received on 15 June 2023:

In December 2022 the Government published for consultation ‘Levelling-up and Regeneration Bill: reforms to national planning policy’. This contained proposed changes to the Housing Delivery Test and asked about the publication of the 2022 HDT measurement. The responses to the consultation are still being analysed, and this is why the 2022 measurement has not yet been published. However, it remains the Government’s intention to publish the 2022 Housing Delivery Test results.

The Government will take a decision on the approach to the Housing Delivery Test and the implementation of any the proposed changes in due course, once consultation responses have been fully analysed.

- 4.8 In the absence of the fifth HDT measurement being published by Government, the Council continues to use the previously published fourth Housing Delivery Test result. This is consistent with NPPF paragraph 22 which states that “*Until new Housing Delivery Test results are published, the previously published result should be used.*”
- 4.9 East Devon passed the fourth Housing Delivery Test with a score of 123%. This means that a 5% buffer is used in the five-year housing land supply calculation for the 2023 Monitoring Point in this document.

5. Five-year housing land supply by sub-area.

- 5.1 A further local plan monitoring requirement is identified in the paragraph 20.4 in the adopted local plan regarding five-year land supply is as follows:

“In East Devon we will work to two sub-areas for five-year land provision:

*1. **The West End** - to include Cranbrook and other big strategic housing sites on the Western side of the District. On current assessment (under Devon Structure Plan housing 'requirements') we have less than five years' land supply in this area.*

*2. **The Rest of East Devon** - that is, everywhere else within our District. On current assessment (under Devon Structure Plan housing 'requirements') we have considerably more than five years' land supply.”*

- 5.2 For the avoidance of doubt, it should be noted that the sub-area five-year housing land supply assessments are not used for the purposes of NPPF paragraph 74. The assessments are undertaken for monitoring the adopted East Devon Local Plan, and its spatial strategy, and for use as part of an overall planning judgement when determining planning applications, where appropriate and relevant.
- 5.3 The table below breaks down the net completions recorded in the ten years running from 2013 to 2023 in both the West End and the Rest of East Devon.

Table 3 - Net Total Completions 2013 to 2023

	Apr 13 to Mar 14	Apr 14 to Mar 15	Apr 15 to Mar 16	Apr 16 to Mar 17	Apr 17 to Mar 18	Apr 18 to Mar 19	Apr 19 to Mar 20	Apr 20 to Mar 21	Apr 21 to Mar 22	Apr 22 to Mar 23
West End	486	531	403	335	326	392	560	455	568	518
Rest of East Devon	344	498	624	389	540	537	505	417	479	443

- 5.4 Applying the five-year housing land supply calculations in Table 2 with data from Table 3, the two sub areas results in the following five-year housing land supply positions:
- West End 3.73 years supply
 - Rest of East Devon 5.17 years supply
- 5.5 The calculation shows the impact of the West End sites on supply. They are the principal reason for the council being unable to demonstrate a district five-year housing land supply position for NPPF paragraph 74 purposes. However, action to rectify the sub area position has occurred, namely:
- The Cranbrook Plan DPD was adopted in the last monitoring year (2022/23); and
 - In three of the four Expansion Areas, there are recent planning applications where Planning Committee resolved to grant planning approval, subject to S106 agreements, since the 2023 Monitoring Point.

This does not mean that action to rectify the position should be centred on the West End sites. The housing land supply position is calculated across the district as a whole and previous attempts to argue that the position should be disaggregated in some way to reflect the position outside of the West End have not been accepted by Inspectors and there is nothing in government guidance to support this approach.

6. Conclusion and risks

- 6.1 The onus is on the Council to produce the five-year housing land supply assessment. The requirements of NPPF and PPG in evidencing deliverable housing supply are particularly onerous. Officers have undertaken significant work this year to gather and appraise information on the progress of planning applications and the delivery of housing. This was necessary in light of the strengthening focus of appeal inspectors on the NPPF/PPG concept of 'clear evidence' of deliverability. The result is a significant upgrade to the Council's housing monitoring processes, including:
- Engaging with individual builders/developers/agents/landowners using individually tailored and targeted questionnaires to gather information about site development progress and in developing the sites' trajectories.
 - Considering engagement responses received, individually and in combination, before producing the Council's large site trajectories to inform the five-year housing land supply.
 - Producing a comprehensive audit trail document with detailed justification of the housing trajectories for the individual large sites (to be published in due course).
- 6.2 Consequently, Officers consider that the HMU 2023 evidence, which is to be part of the AMR, is robust and well-aligned with NPPF and PPG requirements for demonstrating 'clear evidence' that sites are deliverable, and that this evidence is compelling.
- 6.3 Therefore, at 31 March 2023, East Devon District Council can demonstrate a 4.28-year housing land supply against the Local Housing Need of 910 dwellings plus 5% buffer (956 dwellings), with the total number of dwellings deemed deliverable in the five-year period being 4,093 dwellings. The supply of 4,093 deliverable homes falls short of the five-year housing requirement by 685 dwellings. The current scale of supply shortfall might be considered by Planning Inspectors as "significant" but could not be described as "severe" at this time.
- 6.4 The adopted local plan identifies non-delivery of the five-year housing land supply as a trigger for policy review and action. The Housing Monitoring Update up to 31 March 2023 concludes that supply is less than five years. The Council is already taking action through:

- Granting planning approvals for housing development in the last monitoring year.
 - Granting planning approvals for housing development since then and resolving to grant approval of planning applications subject to completion of S106 agreements, for example, the Council has resolved to grant outline planning approval for 3,520 dwellings on the Cranbrook Expansion Areas which are allocated in the adopted Cranbrook Plan (620 of which are forecast for completion in the five year period and this identified as deliverable in the five-year housing land supply)
 - The work to date and the future work programme for preparing the emerging East Devon Local Plan.
- 6.5 Nevertheless, it is essential that the Council continues to grant planning approvals in order to maintain and improve housing supply in future years. Otherwise, the five-year housing land supply position will deteriorate. The risk is that the supply shortfall could become severe, and the adverse impact be given greater weight in the Council’s planning judgements and in the planning balance in appeal decisions.
- 6.6 The Council will need to give appropriate weight to the lack of a five-year housing land supply as part of the planning judgement made when determining planning applications. This is particularly important when determining full and reserved matters planning applications. Detailed planning approvals and resolution to grant planning approval are currently the most effective way to provide ‘clear evidence’ that sites are deliverable and can be included in the five-year housing land supply.
- 6.7 The HMU evidence shows that the Council cannot demonstrate a five-year housing land supply position at this time, which means that the overall position has not changed since the 2022 HMU, regarding NPPF paragraph 11 for development management purposes.
- 6.8 The risks due to the HMU evidence demonstrating that East Devon does not have a five-year housing land supply include:
- More complex planning judgements due to NPPF paragraph 11d and tilted balance
 - More speculative applications being submitted that are not in accordance with the adopted local plan and/or the NPPF
 - More planning appeals
 - Increased pressure on Council resources
 - Diversion of resources away from plan-making, resulting in delays in delivering the new Local Plan
- 6.9 Committee may therefore wish to consider whether any further action is necessary in order to manage the risks by working to improve the five-year housing land supply position. The fact that the position has moved to being a “significant” or “substantial” shortfall based on the appeal decisions referred to elsewhere in this report would suggest that when applying the “tilted balance” even greater weight should be given to the housing supply position and addressing this issue than has previously been the case.

Financial implications:

There are no specific financial implications on which to comment.

Legal implications:

There is a legal requirement for the Council to monitor housing completions and the impact on the ‘Five Year Land Supply’ of sites for future housing. This report advises Members of the implications of the fact that a ‘five -ear land supply’ cannot be demonstrated and what actions are

and should be taken to address this position. Other than those set out in the report, there are no legal implications requiring comment.

Planning policy

Housing Monitoring Update

Up to 31 March 2023



September 2023

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1 Introduction

- 1.1. This document provides the housing monitoring update for East Devon District Council (EDDC) to a base date of **31 March 2023**. It forms part of the district's Authority Monitoring Report for monitoring development and related key indicators in the adopted East Devon Local Plan 2013 to 2031. Section 113 of the Localism Act (2011) removed the requirement for councils to submit an Annual Monitoring Report (AMR) to the Secretary of State but allowed monitoring reports to be produced covering individual indicators which must be published at least once a year. This housing monitoring update complies with that requirement.
- 1.2. One key indicator in the adopted local plan is the number of new dwellings built annually within the District. This document reports on annual completions since 2013.
- 1.3. The adopted local plan also identifies non-delivery of the five year housing land supply as a trigger for policy review and action. In accordance with the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), this document also provides the evidence presenting the current five year housing land supply position for East Devon district as at 31 March 2023 for use in the operation of NPPF paragraph 74 for development management purposes. That housing supply position covers the five year period from 1 April 2023 to 31 March 2028. It applies from 1 April 2023.
- 1.4. The East Devon Local Plan 2013 to 2031 is not 'recently adopted' and the council does not have a previous Annual Position Statement. For these reasons, and for the avoidance of doubt, the council will not be submitting this Housing Monitoring Update 2023 as an Annual Position Statement to 'confirm' the 5 year housing land supply position for the purposes of NPPF Paragraph 75 (and PPG Housing supply and delivery paragraphs 12 to 18.,
- 1.5. The 2023 National Planning Policy Framework can be found on-line at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182995/NPPF_Sept_23.pdf
- 1.6. This report considers the following:
 - Housing completions since 1 April 2013, and in particular the completions over the last 12 month period (1 April 2022 – 31 March 2023) including:
 - Total net completions district wide;
 - Gross completions districtwide (including by parish, settlement and Built-up Area Boundary);
 - Breakdown of completions on brownfield and greenfield sites, and
 - Affordable housing;

- Forecast future housing completions which provide the housing trajectory from 1 April 2023 to the end of the adopted Local Plan period;
- The East Devon five year housing land supply position as at 31 March 2023 (for the period 1 April 2023 to 31 March 2028) for NPPF paragraph 74 purposes;
- Comparison of past and future forecast housing delivery to the following:
 - The key monitoring indicator (17,100 dwellings in the plan period);
 - The residential development trajectory illustrating the expected rate of housing delivery over the plan period, and related Appendix 2 in the adopted East Devon Local Plan 2013 to 2031.

1.7. The document largely focuses on whether the Council can demonstrate a five year housing land supply for the purposes of NPPF paragraph 74. The latest National Planning Policy Framework, published July 2021, requires local planning authorities to identify 'deliverable' sites sufficient to demonstrate a five year supply of land for housing plus either a 5%, 10% or 20% buffer, moved forward from later in the plan period, which is added to the basic five year requirement. The buffer used depends on such factors as demonstrating supply through an annual position statement or a recently adopted plan, or past performance based on the Housing Delivery Test. Paragraph 74 of the NPPF states that:

“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies³⁸, or against their local housing need where the strategic policies are more than five years old³⁹. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- a) *5% to ensure choice and competition in the market for land; or*
- b) *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan⁴⁰, to account for any fluctuations in the market during that year; or*
- c) *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply⁴¹.”*

(NPPF footnotes omitted)

1.8. In addition to this, paragraph 11 of the revised NPPF states:

“Plans and decisions should apply a presumption in favour of sustainable development.

*For **plan-making** this means that:*

- a) *all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;*
- b) *strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas⁶, unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area⁷; 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.*

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-date⁸, 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 proposed⁷; 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.*

⁸ *This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.*

(other NPPF footnotes omitted)

- 1.9. This report therefore considers the extent to which extant permissions (including sites currently under construction), future additional windfalls, and supply from allocations in adopted Development Plan Documents could contribute towards meeting the five year requirement (See Section 5 of this document).

Housing Delivery Test

1.10. NPPF Paragraph 76 states that:

“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of underdelivery and identify actions to increase delivery in future years”.

1.11. Since November 2018, councils have also had to apply the Housing Delivery Test (HDT). The Government introduced this annual test after the adoption of the East Devon Local Plan 2013 to 2031.

1.12. The Housing Delivery Test is one of a raft of mechanisms used to monitor and manage housing supply delivery. Rather than looking at what can be achieved over the following five years, the HDT checks what has been achieved over the previous three. The HDT assesses the number of homes built in the local authority area over the previous three years and compares these against local housing need. There are planning policy consequences if a local authority does not score 95% or more.

1.13. This Housing Monitoring Update report therefore provides information about the results of the Housing Delivery Test for East Devon.

1.14. The HDT compares the delivery of housing over the past three years against the required amount. Delivery of the full amount would result in a score of 100%. Government has determined the method for calculating the HDT measurement. This is set out in the Housing Delivery Test Rule Book. The method is summarised as follows:

$$\text{Housing Delivery Test (\%)} = \frac{\text{Total net homes delivered over three year period}}{\text{Total number of homes required over three year period}}$$

1.15. The number of net homes delivered is the national statistic for net additional dwellings over a rolling three year period, with adjustments for net student / other communal accommodation. The national statistic is published by DLUHC in the Housing Delivery Test measurement, using completions information supplied annually by the Council for national statistics purposes.

Net homes delivered in a year

= Net Additional Dwellings National Statistic

PLUS

net increase in bedrooms in student communal accommodation in local authority
average number of students in student only households in England

PLUS

net increase in bedrooms in other communal accommodation in local authority
average number of adults in households in England

- 1.16. Where the latest adopted housing requirement figure is less than five years old, or has been reviewed and does not need updating, the figure used will be the lower of either the latest adopted figure or the minimum annual local housing need figure.
- 1.17. Where the latest adopted housing requirement figure is over five years old, unless the strategic policies have been reviewed and found not to require updating, the figure used for areas with a Local Plan will be the minimum annual local housing need figure.
- 1.18. More information on the calculations and the HDT Measurement Rule Book can be found at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728523/HDT_Measurement_Rule_Book.pdf
- 1.19. Previous Housing Delivery Test measurement results for East Devon were as follows:
- | | |
|---------------------------------|------|
| First HDT (2015/16 to 2017/18) | 149% |
| Second HDT (2016/17 to 2018/19) | 121% |
| Third HDT (2017/18 to 2019/20) | 122% |
| Fourth HDT (2018/19 to 2020/21) | 123% |
- 1.20. The fourth HDT measurement results were released online in January 2022.
<https://www.gov.uk/government/publications/housing-delivery-test-2021-measurement>
- 1.21. The result of the fifth HDT (covering 2019/20 to 2021/22) were expected to be published around December 2022 / January 2023 but still are yet to be issued. Upon asking when might the Council expect these results, the following DLUHC (Department of Levelling-Up, Housing and Communities) response was received on June 15th 2023:

In December 2022 the Government published for consultation ‘Levelling-up and Regeneration Bill: reforms to national planning policy’. This contained proposed changes to the Housing Delivery Test and asked about the publication of the 2022 HDT measurement. The responses to the consultation are still being analysed, and this is why the 2022 measurement has not yet been published. However, it remains the Government’s intention to publish the 2022 Housing Delivery Test results.

The Government will take a decision on the approach to the Housing Delivery Test and the implementation of any the proposed changes in due course, once consultation responses have been fully analysed.

1.22. The consequences of the HDT for the council, depend on the HDT measurement result:

- a) if the HDT measurement is 95% or higher – then the only consequence is that a 5% buffer is used in the five year housing land supply calculation. No action is required.
- b) There are three possible consequences if the HDT measurement is less than 95%:
 - i) If delivery has been less than 95%, the council should prepare an Action Plan to address the reason for the shortfall;
 - ii) If delivery has been less than 85%, the council should also include a 20% buffer in calculating its Five Year Land Supply (rather than 5% or 10%);
 - iii) If delivery has been less than 75%, the presumption in favour of sustainable development would then apply.

1.23. In the absence of the fifth HDT measurement being published by Government, the Council continues to use the previously published fourth Housing Delivery Test. This is consistent with NPPF paragraph 22 which states that “*Until new Housing Delivery Test results are published, the previously published result should be used.*”

East Devon Housing Delivering Test – Conclusion

1.24. East Devon passed the fourth Housing Delivery Test with a score of 123%. This means that a 5% buffer is used in the five year housing land supply calculation for the 2023 Monitoring Point in this document (See TABLE 14 and TABLE 15, and no action by the Council is required in response to the this Housing Delivery Test result).

2 Completions delivered 2013 to 2023

- 2.1. The Council monitors housing completions to provide the data for assessing housing development progress. This is used for the key monitoring indicator data so the Council can assess progress against the Local Plan target of 17,100 dwellings in the plan period.
- 2.2. The completions data collected for 1 April 2022 to 31 March 2023 adds to the completions data gathered for 1 March 2013 to 31 March 2022 which has been reported for national statistics purposes. In turn this provides evidence used for the Housing Delivery Test. It can also provide evidence of delivery against an adopted plan's housing requirement figure used to calculate the five year land supply if the plan is less than five years old.

How do we know if a house has been completed?

- 2.3. Housing completions are monitored throughout the year using the Council's Housing Monitoring database (using the Microsoft Access platform), which is linked to the main EDDC Uniform database. This includes new builds, change of uses and conversions.
- 2.4. When the Basic Land and Property Unit (BLPU) state of any given dwelling's Unique Property Reference Number (UPRN) changes (to BLPU State 2 – 'In Use' and a Primary Classification of 'Residential') within Uniform (i.e. a property is Council Tax banded), this will feed through to the appropriate planning record on the Housing Monitoring database. The completions are counted on the basis of the monitoring year, that is, where recorded as being completed between 1 April and 31 March (inclusive) by both data sources.

How is a "dwelling" defined?

- 2.5. For the purposes of housing monitoring, generally, a dwelling is defined as being a separately Council Tax banded property. As an example, this would mean that if a house that had previously been a single Council Tax banded dwelling were to be split into four flats, each being separately Council Tax banded, then there would be an assumed three net new dwellings on the site upon completion.
- 2.6. On rare occasions, a newly CT Banded property does not have planning permission for a residential use (e.g. Use Class C3 dwelling, or prior approval mechanisms e.g. Use Class M, O or Q). To avoid double counting, a subsequent retrospective planning permission for these uses (including Certificate of Lawful Existing Use or Development (CLEUD) on the newly identified CT Banded property is not counted as an additional net dwelling.
- 2.7. Annexes are not counted as a dwelling for monitoring purposes unless they become separately Council Tax banded, have the appropriate planning permission (including CLEUD) and are not tied conditionally to only be used as ancillary to the main dwelling.

- 2.8. The Council reports gains and losses of mobile and temporary dwellings for national statistics through the annual Housing Flow Reconciliation Return. Non-permanent (or 'temporary' dwellings) are included if they are the resident's main residence and council tax is paid on them. Caravans that are recorded as new Council Tax banded properties in the monitoring year are counted for housing monitoring purposes, unless they have had planning approval which restricts their use to holiday accommodation. Again, any subsequent retrospective planning approval for residential use of the caravan would not be counted as an additional net dwelling gain for that property. Gypsy and Traveller pitches are in HFRR statistics, but outside the scope of this report.
- 2.9. A planning permission with a condition to restrict the use of a dwelling to holiday accommodation is not counted as residential for monitoring purposes. Under the planning legislation at this time, unless restricted by a condition, dwellings approved for residential use can be used for permanent, principal residence uses or for short term use (e.g. holiday lets) or for non-principal residence use (e.g. second homes). At this time, for housing monitoring purposes the Council does not monitor how dwellings approved for residential use are actually used or how this changes over time.

Use Class C2 (Residential institutions)

- 2.10. The Council monitors Use Class C2 (residential institutions) for housing monitoring purposes. In East Devon this category of housing development falls into two types¹
1. Self-contained accommodation units – focused on independent living, albeit with varying levels of care support. These may be apartments or other units and may have access to on-site communal facilities. Each unit counts as a dwelling for housing monitoring purposes. Each unit is usually Council Tax Banded. They include:
 - a) "Retirement living"/sheltered housing units;
 - b) "Extra care" units.
 2. Communal accommodation - Bedrooms in care homes and extra care homes. These are not self-contained units, and have a high level of care/support with on-site communal facilities. A care home is Council Tax Banded (as a single property), but the individual bedrooms are not separately Council Tax Banded
- 2.11. The contribution of care home accommodation to housing supply has been counted for housing monitoring purposes for some years, using a conversion factor to convert bedrooms to dwelling equivalents. The 2014 Housing Monitoring Update reported that "The Housing and Economic Land Availability Assessment (HELAA) methodology for the

¹ In East Devon, there is little or no development involving other types of communal housing that could reasonably be considered part of the dwelling stock (such as student accommodation, hostels, school boarding and barracks accommodation)

Exeter Housing Market Area (HMA) April 2021 states that the additional bed spaces created by care and extra-care homes development should contribute towards dwelling numbers despite units not being separately Council Tax banded. The reasoning for this is that as elderly people move into care / extra-care homes they “free up” open market dwellings for others to move into.”

- 2.12. Conversion ratios used in East Devon have varied in the past. For example, in the October 2013 to March 2014 monitoring period monitoring assumed a ratio of 1.4:1 for the new care/nursing home bedrooms to dwellings assumed, whilst 1.67:1 was the assumed ratio from April 2014 to September 2014. The 2017 Exeter HELAA HMA methodology used a ratio of 2:1. The ratios were based on primary research conducted within the HMA whereby existing care homes were contacted to find out numbers of residents, the proportion that were permanent and the proportion that had previously lived alone. This research suggested that on average 50% of residents were permanent and had previously lived alone which suggests that when they permanently moved to the care home they were leaving an empty house.
- 2.13. The Council currently reports the number of completions of Use Class C2 bedrooms and the related Council Tax units in its East Devon Housing Flow Reconciliation Return to Government for national statistics purposes. This is in accordance with the HFRR guidance. Gains and losses in communal accommodation are now reported separately to the main figures on dwellings gains and losses in the HFRR, with an assessment made on the number of bedrooms in question. That information then feeds into the Government’s Housing Delivery Test measurement. The 2022 HDT measurement is still awaited which would confirm the latest conversion factor.
- 2.14. In the absence of a 2022 HDT measurement, the calculations of communal completions and losses in TABLE 1 rely on the revised 2021 HELAA methodology which assumes that 1.8 care home bedrooms created by development equates to one dwelling. The conversion ratio of 1.8 is based on the national average number of adults in all households, derived from the 2011 Census².

Temporary use of permanent residential development

- 2.15. Planning approval for a dwelling where there is a condition restricting it to temporary use over a specified period is counted as a gain, but to avoid double counting any subsequent replacement by approval of an unrestricted dwelling is counted as net nil.

² HELAA Methodology Revised 2021 - paragraph 7.5
[Microsoft Word - HELAA Methodology - latest - April 2017 \(eastdevon.gov.uk\)](#)

Gains and Losses

- 2.16. The adopted local plan housing requirement target of 17,100 dwellings is a net number. Therefore the Council monitors gains and losses. The latter include demolitions, as well as losses of dwellings through changes of use and conversions.

Net total completions

- 2.17. A full schedule of completions and projections with planning permission by site from the start of the Local Plan period can be found in Appendix 2 to this report.
- 2.18. As shown in TABLE 1, net completions have fluctuated in the period 2013 to 2023. Of these, there have been four years, including the last two, delivering above the annualised 950 dwellings per year policy requirement in the adopted local plan.
- 2.19. TABLE 1 breaks down the district net completions figures into two sub areas: West End and the Rest of East Devon. These 2 sub areas are used for monitoring housing delivery. The forecast scale of growth in the West End of 10,563 dwellings is set out in Strategic Policy 2 of the adopted East Devon Local Plan 2013 to 2031. This is a supply-side policy (and does not include future windfalls), rather than being expressed as a minimum “requirement provision” under Strategic Policy H1.

TABLE 1 Net Total Completions 2013 to 2023 – District and sub areas

	Apr 13 to Mar 14	Apr 14 to Mar 15	Apr 15 to Mar 16	Apr 16 to Mar 17	Apr 17 to Mar 18	Apr 18 to Mar 19	Apr 19 to Mar 20	Apr 20 to Mar 21	Apr 21 to Mar 22	Apr 22 to Mar 23
West End	486	531	403	335	326	392	560	455	568	518
Rest of East Devon	344	498	624	389	540	537	505	417	479	443
Annual TOTAL	830	1,029	1,027	724	866	929	1,065	872 Revised to 867 by the DLUHC after taking the net loss of 9 care home bed-rooms into account	1,047 Expected to be revised to 1,039 by the DLUHC* after taking the net loss of 15 care home bedrooms into account*	961 Expected to be revised to 998 by the DLUHC after taking the net gain of 67 care home bedrooms into account

Note * The Housing Delivery Test measurement results published by Government is the source for confirming the revised figures, The 2021 HDT measurement was published in January 2022. However, the 2022 HDT measurement is still awaited at the time of preparing this document.

KEY MONITORING INDICATOR RESULTS

1. Based on Table 1, there were **9,350** net total dwelling completions in East Devon (excluding dwelling equivalents from care home accommodation) 1 April 2013 to 31 March 2023. **961** of these were in the 2022/23 monitoring year.
 2. Based on Table 1, there were **9,374** net total dwelling completions in East (including dwelling equivalents from care home accommodation) 1 April 2013 to 31 March 2023. **998** of these were in the 2022/23 monitoring year. Since the start of the plan period the average annual completions (including care homes) is **937** dwellings/dwelling equivalents per year, which is below the adopted local plan housing requirement. The average annual level of completions (including care home dwelling equivalents) has improved over the last five years and is now **980** per year, which is above the adopted local plan housing requirement of 950 per year. The increased delivery rate in the last five years has not yet mitigated the slower delivery rate in the first five years. It has not been sufficient to result in a surplus (“oversupply”) at the 2023 Monitoring Point
- 2.20. Section 6 of this Housing Monitoring Update report provides further analysis comparing housing development (2013 to 2023) to the adopted Local Plan.

Analysis of completions for the last monitoring year (2022/23)

- 2.21. The rest of Section 2 of this Housing Monitoring Update report focuses on the last year of completions (from 1 April 2022 to 31 March 2023) plus a more detailed analysis of a breakdown of the completions data looking at:
- Net dwelling completions in the district (excluding care home accommodation)
 - Gross completions of dwellings in district (excluding care home accommodation)
 - Gross Completions in sub areas
 - Gross Completions by civil parish
 - Gross Completions by settlement (adopted local plan settlement hierarchy)
 - Gross Completions by Built Up Area Boundary (latest adopted or made Development Plan Document as at 31 March 2023)
 - Gross Completions by Greenfield/Brownfield status
 - Completions of affordable housing
 - Net windfall completions
 - Net completions of communal accommodation (care home bedrooms)
- 2.22. **Net dwelling completions (excluding care homes)** - As shown in TABLE 1, over the 12 month period 1 April 2022 to 31 March 2023, a net total of **961 dwellings** have been completed in East Devon (excluding communal accommodation). This includes 518 at the district’s “West End” (largely land to the east/north east of Exeter including the new town of Cranbrook) and 443 in the Rest of East Devon; 846 of these were on major sites (of ten dwellings or more) and 115 on minor sites (of less than 10 dwellings).

- 2.23. Since the start of the plan period the average annual completions (excluding care homes) is 931 dwellings. The COVID-19 pandemic impacted on 2021/2022 delivery with only 872 dwelling completions, but had less impact in 2021/22 with **1,047** being the second highest number of net new completions in the period covering the current Local Plan so far. The rate was then lower in 2022/23, due to economic conditions. The average annual level of completions (excluding care homes) over the last five years is now **974** per year.
- 2.24. 54% of the dwellings built in 2022/23 were in the West End, compared with 46% in the Rest of East Devon (the same percentages as 2021/22); this is the fourth year in a row that the West End has outperformed the Rest of East Devon in dwelling completions. The rest of the district had outperformed the West End in 4 of the 6 years prior to 2019/2020.
- 2.25. There are no dwelling completions at the Cranbrook expansion areas (adopted Cranbrook Plan DPD allocations) at Bluehayes, Treasbeare, Cobdens and Grange. As these expansion areas see completions over the next few years, and take over from Cranbrook Phase 1, it is anticipated the share of completions from DPD allocations and commitments in the West End compared to the Rest of East Devon will be even greater.
- 2.26. The gross dwelling completions figure is 986. This excludes losses from demolition, conversion or change of use. It also excludes communal accommodation.

Gross Completions by parish

TABLE 2 Gross dwelling completions by parish

Parish	Total	Parish	Total
All Saints	2	Lympstone	6
Axminster	68	Musbury	1
Beer	1	Newton Pop & H'ford	4
Bramford Speke	1	Offwell	1
Branscombe	1	Otterton	1
Broadclyst	288	Ottery St Mary	15
Broadhembury	3	Payhembury	1
Budleigh Salterton	5	Plymtree	1
Clyst Hydon	1	Rockbeare	3
Colaton Raleigh	2	Seaton	20
Colyton	1	Shute	1
Cranbrook	232	Sidmouth	38
Dunkeswell	1	Southleigh	1
Exmouth	148	Sowton	4
Farway	2	Talaton	2
Gittisham	40	Uplyme	3
Hawkchurch	1	West Hill	3
Honiton	74	Whimble	2
Kilminster	1	Woodbury	7

Parish	Total	Parish	Total
			986

2.27. The table above shows gross completions during the 2022/23 monitoring period by parish. Parishes where there were no 2022/23 completions are not listed. Town councils are highlighted in yellow.

Gross completions by settlement

2.28. The table below shows gross completions during the 2022/23 monitoring period by settlement. Settlements where there were no 2022/23 completions are not listed.

TABLE 3 Gross dwelling completions by settlement

Settlement*	Total	Settlement*	Total
Axminster	68	North of Blackhorse	198
Beer	1	Offwell	1
Blackhorse	2	Otterton	1
Budleigh Salterton	5	Ottery St Mary	14
Clyst Honiton	5	<i>rural areas</i>	19
Clyst St Mary	4	Seaton	20
Colyton	1	Sidmouth	38
Cranbrook	232	Smallridge	2
East Budleigh	1	Southleigh	1
Exmouth	148	Talaton	1
Exton	2	Uplyme	2
Honiton	114	West Clyst (Pinhoe)	83
Jack In The Green	2	West Hill	3
Kerswell	1	Weston, Sidmouth	1
Lypstone	6	Whimble	1
Newton Poppleford	4	Woodbury	5
			986

* Settlements as identified in the adopted East Devon local plan settlement hierarchy

Gross completions by Built-up Area Boundary (BuAB)

2.29. Table 4 shows gross completions in the 2022/23 monitoring period by BuAB. The table is based on boundaries shown on the Policies Map from Development Plan Documents that were adopted or made as at 31 March 2023. Those BuABs where there were no 2022/23 completions are not listed.

TABLE 4 Gross dwelling completions by BUAB

BuAB	Total	BuAB	Total
Axminster	68	North of Blackhorse	198
Beer	1	<i>open countryside</i>	94
Budleigh Salterton	5	Ottery St Mary	14
Clyst St Mary	4	Seaton	20
Colyton	1	Sidmouth	38
Cranbrook	219	Uplyme	2
Exmouth	148	West Clyst (Pinhoe)	83
Honiton	74	West Hill	2
Lympstone	6	Whimble	1
Newton Poppleford	3	Woodbury	5
			986

Gross completions by Greenfield / Brownfield split

2.30. The table below shows the breakdown of gross completions between greenfield and brownfield sites during the 2022/23 monitoring period.

TABLE 5 Gross dwelling completions by Greenfield/Brownfield

		Dwgs	%
Greenfield	General	697	70.7%
	Agricultural / Forestry Building Conversion	12	1.2%
	Garden Sites	23	2.3%
	TOTAL	732	74.2%
Brownfield	Redevelopment	197	20.0%
	Conversions / COUs	55	5.6%
	Brownfield unclassified	2	0.2%
	TOTAL	254	25.8%
GRAND TOTAL		986	100%

2.31. Greenfield describes any site on land which has not previously been developed. Brownfield therefore describes sites of previously developed land, the definition of which

can be found within the glossary of the revised NPPF but is reproduced below for ease of reference:

“Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

- 2.32. The table above shows that just under 75% of completions in the district during the 2022/23 monitoring period were on greenfield sites, which is 2% less than during the 2021/22 monitoring period.

Affordable completions

- 2.33. The Housing Needs and Strategy team report a total of 114 affordable units having being delivered during 2022/23, including 27 for social rent, 57 for affordable rent and 30 shared ownership.

Key facts for the year

- EDDC acquired three properties from the open market this year using Right to Buy receipts to add to council stock;
- Eight affordable homes have completed at Cranbrook - Phase Four;
- Twenty-five market units were purchased and converted to affordable with Homes England funding.

Net windfall completions

- 2.34. Windfalls refer to sites built-out which are the result of speculative planning applications. They have not been allocated in the Local Plan.
- 2.35. The table below shows that over the past 12 months 341 of the 961 net completions have been windfalls. This equates to 35.5% of net completions in the last year. However, of these 341 net windfall completions, only 49 were in the West End with the remaining 292 in the Rest of East Devon. This means that of the 443 net completions in the Rest of East Devon, 65.9% were windfalls.

TABLE 6 Net windfall completions

Gross site capacity	1-2 dwellings	3-5 dwellings	6-9 dwellings	10-20 dwellings	21+ dwellings	TOTAL
RoED	65	16	26	19	166	292
West End	0	0	0	13	36	49
TOTAL	65	16	26	32	202	341
Percentage	19.06%	4.69%	7.62%	9.38%	59.24%	100%

2.36. In addition to the headline totals, the above table shows how many windfalls have been delivered on sites of different sizes. The gross site capacity refers to the gross number of dwellings due to be delivered on a site as a whole. As an example, if two windfall dwellings were completed in the last 12 months on a site due to take a total of five gross new dwellings, they would be listed in the 3-5 dwellings column.

2.37. In terms of calculating five year land supply, paragraph 71 of the revised NPPF allows for future windfalls to be counted towards supply where there is compelling evidence that they will provide a reliable source of supply. However, the council is mindful that the windfall allowance should not prejudge policy in the emerging East Devon Local Plan, particularly in light of NPPF paragraph 71 which states:

“Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

2.38. In the absence of evidence at this time to demonstrate that reliance on windfalls on garden land would not have an adverse impact on the character of built up areas, the council avoids this risk by not including past housing development on residential gardens in the windfall supply calculation.

2.39. This being the case, the assessment in the table below shows the number of net windfall completions in the last year on sites other than garden land. Further analysis of windfalls for the purposes of projections, and why the council considers that there is compelling evidence that they will provide a reliable source of supply, and why the allowance is realistic can be found in section 3.

TABLE 7 Net windfall completions

Gross site capacity	1-2 dwellings (excluding garden-greenfield sites)	3-5 dwellings (excluding garden-greenfield sites)	6-9 dwellings (excluding garden-greenfield sites)	10-20 dwellings (excluding garden-greenfield sites)	21+ dwellings (excluding garden-greenfield sites)	TOTAL
RoED	43	17	26	19	166	271

Gross site capacity	1-2 dwellings (excluding garden-greenfield sites)	3-5 dwellings (excluding garden-greenfield sites)	6-9 dwellings (excluding garden-greenfield sites)	10-20 dwellings (excluding garden-greenfield sites)	21+ dwellings (excluding garden-greenfield sites)	TOTAL
West End	0	0	0	13	36	49
TOTAL	43	17	26	32	202	320
Percentage	13.44%	5.31%	8.13%	10.00%	63.13%	100%

Net communal accommodation completions

- 2.40. Gains and losses of Use Class C2 (Residential Institutions) are reported to the Department for Levelling Up, Housing & Communities' (DLUHC) through the annual Housing Flow Reconciliation Return. These figures are separate from the figures reported for gains and losses of dwellings. However, when converted to net dwelling equivalents, the change in communal accommodation is reported via the net supply figures used by Government to calculate housing supply delivery used for the Housing Delivery Test. They are reported in the Government's live tables on dwelling stock.
- 2.41. One new care home has been reported as newly opening in the 2022/23 monitoring year in East Devon district: Alexander House, Pinhoe (67 bedrooms). It is anticipated this will result in a net gain of the equivalent of 37 dwellings once confirmed by DLUHC. It is also a windfall development but is not included in the figures in TABLE 6 of this report.
- 2.42. No loss of care home accommodation occurred in the 2022/23 monitoring year. Therefore the gross and net completions are the same.

3 Forecast/Projected Completions 2023 to 2031

This section is an assessment of forecast and projected completions for the remainder of the plan period from 1 April 2023 to 31 March 2031. The forecasts and projections can be broken down into completions on:

- Sites with extant permissions at the 2023 Monitoring Point –
 - These are sites that already have planning permission (either detailed or outline, and including sites that are already under construction / sleeping) that are expected to be built-out;
- Windfalls –
 - These are the adjusted allowance for completions on windfall sites, with the projection based on historic windfall completions (to avoid double counting, the adjusted allowance discounts small windfall sites with extant planning permission at the 2023 Monitoring Point);
- Cranbrook expansion zones –
 - These are forecast completions on the four Cranbrook expansion areas – Treasbeare, Bluehayes, Cobdens and Grange (allocated in the Cranbrook Plan DPD adopted 19 October 2022, but without planning permission as at 31 March 2023). These include sites with recent Planning Committee resolutions to grant planning approval subject to completion of S106 agreements.

3.1. The planned housing development in the Axminster Masterplan area (including the adopted local plan allocation) is not forecast for delivery in the plan period of the adopted East Devon Local Plan 2013 to 2031. The Council considers that due to the issues of nutrient neutrality, and the lack of funding to deliver the relief road this land is currently not deliverable or developable within the plan period of the adopted Local Plan.

3.2. The National Planning Policy Framework defines a “deliverable” site as follows:

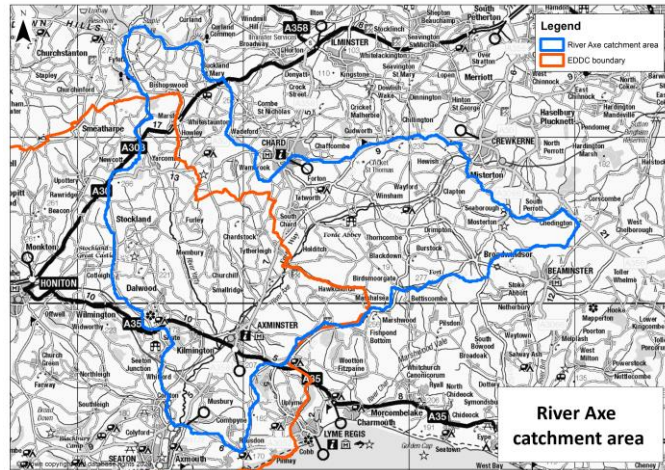
To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Natural England – River Axe phosphate levels

- 3.3. Due to Natural England advising that we should no longer grant planning permission for development that would increase the discharge of phosphates into the River Axe, a number of sites with outline / reserved matters planning permissions have been excluded from the forecast deliverable supply calculations.
- 3.4. The River Axe catchment area is shown below:



- 3.5. Government has signalled the potential for changes to legislation regarding nutrient neutrality and development. The Council will continue to monitor any future changes to legislation, planning policy and guidance regarding this matter.

Forecasting completions

- 3.6. The housing delivery forecasts (trajectories) used in TABLE 11, TABLE 12, and TABLE 13 are based on the status of sites and extant planning permissions at 01 April 2023. The forecasts cover the following types of sites:
 - Sites that are not major (ie 9 or less dwellings) that were under construction or with an extant permission at 01 April 2023, unless there is clear evidence that homes will not be delivered within 5 years. The forecasts are based on the HELAA methodology.
 - Major sites (10+ dwellings (gross)) that were under construction or with an extant permission at 01 April 2023. The council has forecast individual, site specific, housing delivery “lead-in” times and build-out rates for these sites.
 - Adopted DPD allocations. The council has forecast individual, site specific, housing delivery “lead-in” times and build-out rates for these sites.

- 3.7. Sites with dwellings forecast for completion in the five years 1 April 2023 to 31 March 2028 are those sites which the council considers are available now, offer a suitable location for development now, and are achievable with a realistic prospect that housing will be delivered on the site within five years. They are 'deliverable' and there is evidence of their deliverability. The council is mindful that NPPF does not require that there is certainty of or even a probability of delivery in the 5 years.
- 3.8. Whether sites are deliverable and can be included or not included in the 5 year housing land supply is a planning judgement. In making this judgement the council has applied the definition of 'deliverable' set out in NPPF plus the guidance in the PPG Housing Supply and Delivery on the type of information needed to identify deliverable sites. Based on this, the council has produced the forecasts of completions in order to demonstrate the 5 year housing land supply position.
- 3.9. As well as sites which are considered to be deliverable in principle, the council has made planning judgements about other sites in line with PPG, to determine which to include in the five year supply. This encompasses sites with outline planning permission. It also includes sites allocated in adopted Development Plan Documents, including Cranbrook where there are now sites with Planning Committee resolution to grant planning approval subject to completion of S106 Agreements.
- 3.10. The council has been mindful of appeal decisions regarding the question of 'clear evidence' when identifying specific deliverable sites on sites that do not have detailed planning approval.
- 3.11. The housing monitoring update 2023 benefits from extensive upgrades made by the council to its housing monitoring through data collection, analysis and reporting. This is reflected in the information and analysis in this document, and ensures that:
- The housing delivery forecasts produced by the council which are used in this document comply with the latest NPPF (September 2023) and the latest PPG Housing supply and delivery (22 July 2019);
 - The housing delivery trajectories for major sites and allocations (10 and more dwellings) are forecasts that are informed by information obtained via the council's engagement with developers/builders/landowners and are not simply projections of trends based on the HELAA methodology. The HELAA method for predicting delivery is only used for a large site's trajectory where no other information is available. Only a very few major sites' trajectories had to rely on the HELAA method this year;
 - The council has not used the developers/builders/landowners' information without question. The council has carefully considered the information supplied and made a planning judgment about lead in times and build rates on each site, individually and in combination; and

- There is a comprehensive audit trail of evidence and analysis to support and justify the council’s housing trajectory for each large site. Where the council’s trajectory departs from the developers/builders/landowners’ information the audit trail justifies the reasons for departure. The council intends to publish the audit trail document shortly after publishing the Housing Monitoring Update to 31 March 2023. This former explains the process of engaging with the developers/builders/landowners and provide the detailed results for each individual major site including the full justification of its housing trajectory. It will also justify the Council’s application of the guidance on deliverability in reaching the conclusion about how many completions are forecast to be deliverable on each site.
- The forecasts of completions on small (ie non-major) sites follows the approach set out in the HELAA methodology.

3.12. The HELAA Methodology 2021 was agreed between the 4 local authorities (East Devon District Council, Exeter City Council, Mid Devon District Council, and Teignbridge District Council) in 2022. It is reproduced as part of the East Devon Housing and Economic Land Availability Assessment 2022. (Appendix A is the HELAA Methodology 2021) This is available online at:

<https://eastdevon.gov.uk/media/3724867/appendix-a-helaa-methodology-may-2021.pdf>

TABLE 8 HELAA method assumptions

Size of site (no. of dwellings)	Commencement of sites			Build-out rate	
	Sites where dwellings are under construction	Sites where dwellings have planning permission	Suitable sites without planning permission	Years 1-5	Years 6+
1-15 dwellings (assumes one developer)	Commence in Year 1	Commence in Year 1	Commence in Year 3	1st year - 12 dwellings maximum 2nd year onward - 25 dwellings per year maximum	1st year - 25 dwellings maximum 2nd year onward - 50 dwellings per year maximum
16-500 dwellings (assumes one developer)	Commence in Year 1	Commence in Year 2	Commence in Year 3	1st year - 12 dwellings maximum 2nd year onward - 25 dwellings per year maximum	1st year - 25 dwellings maximum 2nd year onward - 50 dwellings per year maximum
501-1,000 dwellings (assumes two developers)	Commence in Year 1	Commence in Year 3	Commence in Year 4	1st year - 12 dwellings maximum 2nd year onward - 50 dwellings per year maximum	1st year - 25 dwellings maximum 2nd year onward - 100 dwellings per year maximum
1001+ dwellings (assumes three developers)	Commence in Year 1	Commence in Year 3	Commence in Year 4	1st year - 12 dwellings maximum 2nd year onward - 75 dwellings per year	1st year - 25 dwellings maximum 2nd year onward - 150 dwellings per year

- 3.13. The table above is an extract from the HELAA methodology, showing the assumptions about commencement and built rates for sites, by site size, number of outlets (developers) and the site’s planning status.

Projecting completions on small sites with planning permission

- 3.14. Projected build-out rates for small sites (1-9 dwellings in total) generally follow the approach advocated by the Exeter Housing Market Area (HMA) Housing and Economic Land Availability Assessment (HELAA) methodology market conditions model, unless we are aware of an alternative build-out rate. The council has used this method to forecast completions on non-major i.e. small sites as set out in row B of TABLE 10 and in Table 11 in this document.

Windfall projections

- 3.15. Paragraph 71 of the NPPF allows for future additional windfall completions to be taken into account in the housing supply provided that the Council has compelling evidence that they will be a reliable source of supply. The Council has robust evidence of historic windfall delivery is considered and with the implication that sites on gardens are not counted.
- 3.16. The Exeter HMA HELAA methodology sets out a clear process by which windfalls will be calculated assessing delivery of windfalls (excluding gardens and sites of more than 20 gross dwellings) over the last five full years. That being the case, the assessment below shows net windfall completions (excluding gardens) over the last five full years (1 April 2018 to 31 March 2023).
- 3.17. Net completed windfall dwellings are split into the gross capacity of the site on which they came forward in order to be able to analyse the types of windfalls that might come through in the future:

TABLE 9 Windfall completion analysis 2018-2023

Gross site capacity	Apr 2018 to Mar 2019	Apr 2019 to Mar 2020	Apr 2020 to Mar 2021	Apr 2021 to Mar 2022	Apr 2022 to Mar 2023	Average per year
1-2 dwgs	68	69	50	58	43	57.6
3-5 dwgs	45	29	30	19	17	28.0
6-9 dwgs	28	17	35	3	26	21.8
10-20 dwgs	34	18	22	47	32	30.6
Totals	175	133	137	127	118	138

- 3.18. TABLE 9 identifies a basic net average windfall projection of 138 dwellings. The methodology then requires this figure to be tempered by subtracting projected windfall completions on sites with planning permission or resolution to grant permission subject to

S106. TABLE 10 below shows how this figure is tempered accordingly to identify the adjusted windfall projection for each forecast year:

TABLE 10 Adjusted windfall projections 2023-2023

Final projected windfall allowance	2023 to 2024	2024 to 2025	2025 to 2026	2026 to 2027	2027 to 2028
Total windfalls with permission (A)	597	299	273	248	193
<i>Of which windfalls that are on sites of 20 or less dwellings and not on garden-greenfield land (B)</i>	280	90	19	6	1
Basic windfall projection (C)	138	138	138	138	138
<i>Total eligible net windfalls (D)</i>	138	90	19	6	1
Adjusted windfall projection (E) (C-D)	0	48	119	132	137

3.19. 396 dwellings with extant planning permission on sites of 20 or less dwellings and not on garden-greenfield land and that had not been completed as at 31 March 2023 are forecast for completion in the five year period 1 April 2023 to 31 March 2028. This is the sum of row B in TABLE 10. Based on the HELAA methodology, these 396 dwellings are projected to be completed in the years shown in row B in TABLE 10. Because there are more permissions (total eligible net windfalls) than the basic windfall projection (the 138 per year in row C in TABLE 10) in 2023/24, we cannot increase our predicted number of completions in that monitoring year. Therefore, the adjusted additional windfall in 2023/24 is nil. In the periods 2024/25 through to 2027/28, however, the basic windfall projection is more than the total number of permissions – so we can add the difference to these two sets of figures (the adjusted windfall projection in row E) to our predictions for these monitoring periods. This means that using the Exeter HMA HELAA methodology we can include **436** additional dwelling windfalls in the forecast of deliverable housing supply in the next five years.

3.20. Moving forward through the rest of the Local Plan period after 31 March 2028, there is the residue of 135 dwellings with extant planning permission on non-major sites that had not been completed as at 31 March 2023 (see TABLE 11). These are not counted as ‘deliverable’. This means they are not included in the five year supply (ie in years 1 to 5). However, the 135 dwellings are ‘developable’ and they are all forecast to be completed in monitoring year 2028/29 (i.e. year 6). In monitoring year 2028/29 the adjusted windfall figure is 11 (see TABLE 13), taking account of which of the 135 dwellings are on non-garden land. From 1 April 2029 onwards where there are monitoring years with zero eligible net windfalls, we can add the full 138 basic windfall projection to our prediction for the last 2 years of the plan period for the adopted Local Plan (see TABLE 13).

- 3.21. The adjusted windfall allowance is still a conservative estimate. In reality, larger windfall sites will on occasion come forward for development; as will small garden sites, but these have not been included in these adjusted windfall projections.

4 Plan period completions and trajectory

Overall completion forecasts/projections and trajectory

- 4.1. Based on the various elements of future supply considered in Section 3 of this report, the tables below set out the annual forecasts of net housing completions for all housing supply for the remainder of the plan period from 1 April 2023 to 31 March 2031.
- 4.2. This is not intended to give a precise year-on-year prediction of how many new homes will be built each year, but it is the result of applying Planning Practice Guidance on identifying deliverable housing for major and non-major sites, and from applying the HELAA methodology for forecasting windfall development. This gives an overview of the potential future pattern of development.

TABLE 11 Annual projected housing completions for 2023/24 to 2030/31

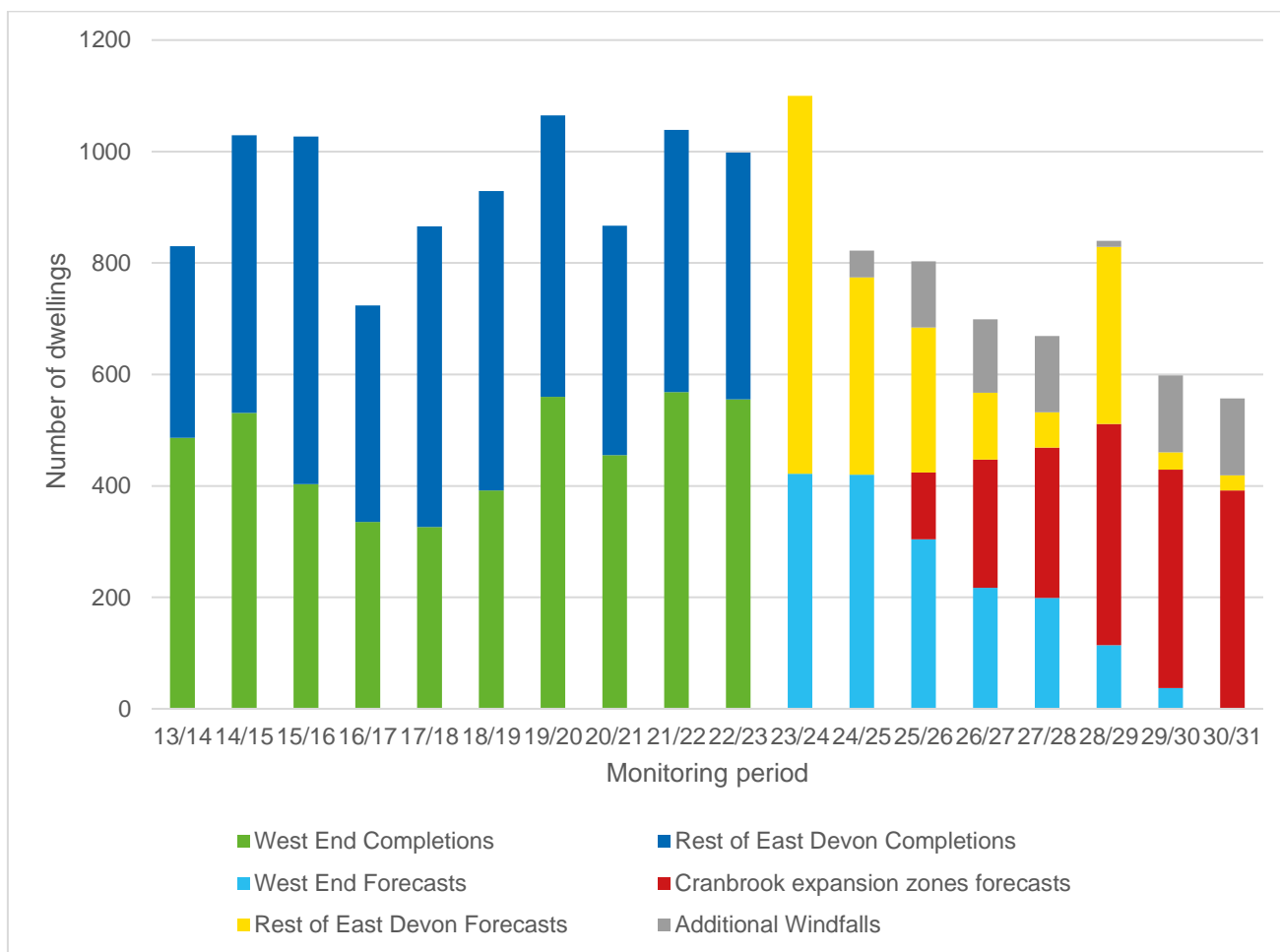
Year	Extant permissions	Major / Large sites	Non-Major / Small sites	Cranbrook expansion zones projections	Exeter HMA HELAA calculated additional predicted windfalls	Total projections
2023/24	1,100	781	319	0	0	1,100
2024/25	774	671	103	0	48	822
2025/26	564	558	6	120	119	761
2026/27	337	332	5	230	132	689
2027/28	262	259	3	270	137	638
2028/29	432	298	134	397	11	882
2029/30	68	67	1	392	138	608
2030/31	27	27	0	392	138	588

TABLE 12 Housing Supply - Five Year period and to March 2031

Year	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31
Totals	1,100	822	803	699	669	840	598	557
	4,093 ←					Projected five year housing delivery for 2023/24 to 2027/28		

- 4.3. The net number of deliverable dwellings in the five years from 1 April 2023 to 31 March 2028 is 4,093 as shown in TABLE 12. This is the figure used to calculate the five year housing land supply position at the 2023 monitoring point (see Section 5 of this report)
- 4.4. The graph below shows the breakdown of different supply sources making up the housing trajectory for the period 2013 to 2031.

GRAPH 1 – Forecast/Projected East Devon district housing trajectory to 2031



- 4.5. The table on the following page shows the data used for the various components of supply, including completions to 2013 to 2023, site forecasts/projections and windfall projections in the graph above.

TABLE 13 Data for the overall housing trajectory graph

Period	West End Completions	Rest of East Devon Completions	West End Forecasts	Cranbrook expansion zones forecasts	Rest of East Devon Forecasts	Additional Windfalls	Total Comp/Pro
13/14	486	344					830
14/15	531	498					1,029
15/16	403	624					1,027
16/17	335	389					724
17/18	326	540					866
18/19	392	537					929
19/20	560	505					1,065
20/21	455	412					867
21/22	568	471					1,039*
22/23	555	443					998*
23/24			422	0	678	0	1,100
24/25			420	0	354	48	822
25/26			304	120	260	119	803
26/27			217	230	120	132	699
27/28			199	270	63	137	669
28/29			114	397	318	11	840
29/30			37	392	31	138	598
30/31			0	392	27	138	557

*Assumes DLUHC adjustments for care home beds have been made

5 District Five Year Housing Land Supply Position

- 5.1. As set out in PPG Housing supply and delivery (paragraph 001), “*The five year housing land supply is a calculation of whether there is a deliverable supply of homes to meet the planned housing requirement (or, in some circumstances, local housing need over the next five years.*” The ‘five year land supply position’ is one of the Government’s planning policy tools to encourage local authorities to promote a sufficient supply of land for housing and support delivery.
- 5.2. The purpose of the five year housing land supply is to provide an indication of whether there are sufficient sites available to meet the housing requirement. In line with PPG Housing supply and delivery paragraph 3, we are using local housing need calculated using the standard method in place of the adopted Local Plan housing requirement because the East Devon Local Plan 2013 to 2031 is more than five years old and its strategic policies are in need of updating.
- 5.3. In accordance with PPG Housing Supply and Delivery paragraph 2, “*a five year land supply is a supply of specific deliverable sites sufficient to provide five years’ worth of housing (and appropriate buffer) against a housing requirement set out adopted strategic policies, or against a local housing need figure, using the standard method, as appropriate in accordance with paragraph 74* of NPPF.*” (* updated paragraph reference)
- 5.4. The purpose of this section of the report is to provide the evidence to show whether the Council can demonstrate a five year land supply in East Devon as at the 2023 Monitoring Point, for NPPF paragraph 74 purposes in accordance with the National Planning Policy Framework and Planning Practice Guidance. It covers the five year period from 1 April 2023 to 31 March 2028.
- 5.5. This section therefore sets out the steps in calculating the five year housing land supply position, focussed on:
- a) Establishing the basic five year requirement - based on Local Housing Need;
 - b) Identifying any previous shortfall or surplus, based on:
 - Local Housing Need,
 - Adopted Local Plan,
 - Planning judgement;
 - c) Adding a buffer;
 - d) Identifying the total five year requirement:
 - Annualising the total five year requirement;
 - e) Identifying the total five year supply forecast for specific deliverable sites;
 - f) Calculating the number of years of deliverable supply.

a) Establishing the basic five year requirement

- 5.6. NPPF paragraph 74 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and have not been found in need of updating). Footnote 37 of the NPPF expands upon this, stating that where local housing need is to be used as the basis for assessing the five year housing supply, it should be calculated using the Government's standard method set out in PPG.
- 5.7. The adopted Local Plan has a housing requirement of 17,100 new homes for the 2013-2031 plan period, equivalent to an average of 950 dwellings per annum. However, the East Devon Local Plan 2013 to 2031 was adopted on 28 January 2016 and is therefore more than five years old. The Council has commenced the preparation of a new East Devon Local Plan which will include a strategic policy housing requirement.
- 5.8. In accordance with NPPF and PPG Housing Supply and Delivery paragraph 3, in these circumstances the five year housing land supply assessment for NPPF paragraph 74 purposes compares five year housing supply against a requirement based on local housing need calculated using the standard method.

East Devon Local Housing Need at the 2023 Monitoring Point

- 5.9. The latest local housing need figure is the starting point for the East Devon five year housing land supply assessment. The calculation of the district's local housing need is set out in Appendix 1 of this report. Based on the standard method, East Devon's current annual local housing need figure is 910 per year. Multiplying this by five years generates a basic five year housing requirement of 4,550.

b) Identifying any previous shortfall or surplus

- 5.10. The next step is to consider whether there is any past supply shortfall or surplus to add to or deduct from the basic five year housing requirement.

Is there a shortfall?

- 5.11. For the purposes of calculating the five year housing requirement, the PPG Housing Supply and Delivery paragraph 31 considers how shortfalls can be addressed. It states that:

“Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure”.

5.12. Therefore, as East Devon's five year housing requirement is based on local housing need using the standard method, there is no requirement to specifically address any past under delivery of housing separately when establishing the minimum annual local housing need figure and the five year housing requirement for NPPF paragraph 74 purposes.

Is there a surplus?

5.13. Paragraph 32 of PPG Housing supply and delivery states that "Where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years."

5.14. However, the issue of over-supply (i.e. a surplus) is a somewhat 'grey area' in planning policy because NPPF is not clear how additional supply could be used to offset shortfalls against requirements from previous years. NPPF is silent, or alternatively, does not deal, with what account if any should be taken of oversupply achieved in earlier years when calculating the five year supply.

5.15. Recent case law³ concludes that whilst the intention of NPPF is that planning authorities should meet the housing requirements set out in adopted strategic policies that does not necessarily mean that any oversupply in earlier years will automatically be counted within the five year supply calculation. That case law also concludes that guidance in PPG Housing supply and delivery paragraphs 31 and 32 is about addressing a particular circumstance, namely where there has been some shortfall as well as some oversupply in previous years. That is, that a shortfall against requirements from previous years would be necessary, in order to take account of any additional supply.

5.16. There has been no change to NPPF or to related PPG on this matter since the Gotherington High Court decision.

5.17. For the avoidance of doubt, the Council has considered whether there has been a housing supply surplus for the purposes of this five year housing supply assessment at the 2023 Monitoring Point, compare to 'requirement' as follows:

1. Requirement based on Local Housing Need

5.18. PPG Housing Supply and Delivery paragraph 31 is clear that where the five year land supply is based on Local Housing Need using the standard method then "Step 2 of the standard method factors in past under-delivery as part of the affordability ratio". The 2023 East Devon five year housing land supply assessment in TABLE 14 and TABLE 15 in this report uses the Local Housing Need (standard method) for the requirement figure in the calculation. So it includes the requirement uplift from applying the affordability ratio.

³ High Court decision EWHC 2782 (Admin) 18 October 2021 Land off Ashmead Drive, Gotherington

Mindful of PPG paragraph 31, this implies that there was past under-delivery in East Devon. It would not be logical to conclude that there was past over-delivery when PPG states that the standard method factors in past under-delivery. Therefore there is no oversupply for TABLE 14 to take into account.

5.19. Furthermore, neither NPPF nor PPG requires the annual local housing need figure calculated by the standard method to be applied retrospectively⁴. For the purposes of this five year housing land supply assessment, the Local Housing Need figure of 910 dwellings pa is not applied retrospectively to the period 2013 to 2023. Consequently, there are no grounds for asserting that there was an oversupply in East Devon in the 10 years preceding the 2023 Monitoring Point based on local housing need.

2. Requirement based on Local Plan requirement

5.20. Where a Local Plan requirement is used for calculating the five year housing land supply, it involves measuring delivery to date from the start of the Local Plan period. Comparing the 9,374 dwellings supply delivered 2013 to 2023 (see TABLE 13) to the adopted East Devon Local Plan 2013-2031 housing requirement of 9,500, there would be a delivery shortfall of 126 between 2013 and 2023. Therefore this means there would then be no over-delivery of supply compared to that requirement.

5.21. However, the 5 year housing land supply calculation in TABLE 14 and TABLE 15 is not based on the requirement from the adopted East Devon Local Plan 2013 to 2023.

5.22. Even if the 9,374 supply for the ten years 2013 to 2023 is compared to the 950 pa requirement for the ten years (ie 9,500), the evidence would demonstrate an undersupply (shortfall) since that Local Plan was adopted, not over-supply.

5.23. Furthermore, in light of the Gotherington High Court decision and in the context of NPPF paragraph 31, the Council is mindful that the Local Plan's housing requirement figure took account of previous shortfall (ie prior to 2013) and was agreed as part of the plan making process in adopting the East Devon Local Plan 2013 to 2031. Even if there had been an overall surplus since the start of the plan period of the adopted plan, then there would be no shortfall against requirement from previous years prior to 2013 which could be offset.

3. Planning judgment – on a case by case basis

5.24. Mindful of the Gotherington High Court decision, the local planning authority can make a planning judgment on a case by case basis as to whether or not previous over supply

⁴ The Council is mindful that paragraph 12 PPG Housing and Economic Needs Assessment about applying the standard method to the whole plan period is in the context of plan making.

(surplus) should be taken into account, and if so, by how much, and how to respond to identified over supply against the adopted plan's requirement.

- 5.25. That planning judgement may be complex. For example the Council might consider the following when determining a planning application:
- The scale of oversupply and whether this is material
 - The contribution of oversupply in meeting the objective of meeting the strategic housing requirement across the plan period
 - The tilted balance introduced by the five year housing land supply to address circumstances where planning permissions are required to improve the prospects of meeting that requirement
 - The shape of the future supply trajectory, such as whether delivery trends continue, e.g. whether the future delivery rate is forecast to accelerate or decelerate over time
 - Related matters such as would the circumstances leading to over-supply in the past be repeated in the future; and was the Standard Method capped?
- 5.26. However, even if the evidence demonstrated over-supply, which it doesn't, the shape of the future housing delivery trajectory in TABLE 13 and Graph 1 shows that the amount of completions in the future is forecast to slow down over the five year period and the slow down continues after the five year period. The emerging new East Devon Local Plan is not at advanced stage, so the council is not able to include supply from potential future housing allocations into the district housing trajectory at this time, and certainly not into forecast deliverable supply. In these circumstances it would not be prudent to take account of any oversupply, if this existed.

Supply Surplus - conclusion

- 5.27. Based on the above analysis, no oversupply is taken into account in the five year housing land supply assessment in TABLE 14 and TABLE 15 in this report.
- 5.28. Consequently, no undersupply is added to the 4,550 Local Housing Need figure and no oversupply is deducted. The 'basic' requirement in TABLE 14 is 4,550 dwellings for the five year period.

Adding a buffer

- 5.29. To ensure that there is a realistic prospect of achieving the planned level of housing supply, PPG Housing Supply and Delivery Paragraph 22 advises that a local planning authority should always add an appropriate buffer to the housing requirement in the first five years, bringing forward additional sites from later in the plan period. This will result in a five year requirement over and above the level indicated by the local housing need figure.

5.30. The PPG states that one of the following buffers should be added, depending upon circumstances:

- 5% - the minimum buffer for all authorities, necessary to ensure choice and competition in the market, where they are not seeking to demonstrate a five year housing land supply
- 10% - the buffer for authorities seeking to 'confirm' five year housing land supply for a year, through a recently adopted plan or subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework), unless they have to apply a 20% buffer (as below); and
- 20% - the buffer for authorities where delivery of housing taken as a whole over the previous 3 years, has fallen below 85% of the requirement, as set out in the last published Housing Delivery Test results.

5.31. The adopted East Devon Local Plan 2013 to 2031 is not "recently adopted" and the adopted Cranbrook Plan DPD (2022) does not establish the 5 year housing land supply, so East Devon District Council is not seeking to 'confirm' its five year housing supply for a year as set out in NPPF Paragraph 74. Therefore a 10% buffer is not applicable.

5.32. East Devon does not have a pattern of persistently delivering below housing requirements when measured against Government Housing Delivery Test numbers (see paragraph 1.19 of this report). Based on NPPF and guidance in PPG Housing Supply and Delivery it is therefore appropriate to apply a 5% buffer to the 'basic' requirement figure.

Total five year requirement target

5.33. Applying the 5% buffer to the 4,550 basic requirement results in a five year requirement target of 4,778 dwellings. Dividing this by five years generates the annual target for the five year period of 956 dwellings per year (see TABLE 14).

Total five year supply forecast

5.34. The main components of the deliverable supply forecast for 1 April 2023 to 31 March 2028 are set out in TABLE 15. The net total five year supply forecast is 4,093 dwellings.

Five year housing land supply calculations (2023 Monitoring Point)

5.35. TABLE 14 and TABLE 15 summarise the East Devon five year housing land supply position calculations for NPPF paragraph 74 purposes.

TABLE 14 Five year requirement plus buffer calculations

East Devon housing requirement and buffer for 01 April 2023-31 March 2028			
	Calculation	No. of dwellings	Item
A		910	Basic annual requirement *
B	Ax5	4,550	Basic five year requirement (excluding buffer)
C		0	Past under or over supply
D	(B +C)x1.05	4,778	Total five year requirement target (including 5% buffer)
E	D/5	956	Annual target (assuming 5% buffer)

TABLE 15 Five year supply calculations

Supply sources at 31 March 2023 with realistic prospects of delivering dwellings 01 April 2023-31 March 2028			
	Calculation	No. of dwellings	Supply sources
F		3,037	Extant permissions
G		620	Cranbrook Plan DPD expansion zones (allocations) – unconsented **
H		436	Future additional windfalls
I	F+G+H	4,093	Total five years deliverable supply
Five year housing land supply position at 2023 Monitoring Point			
J	D-I	685 SHORTFALL	Five year Supply Surplus / Shortfall (assuming 5% buffer)
K	I/E	4.28	Years of land supply (assuming 5% buffer)

Notes:

* Annual requirement based on Local Housing Need (standard method)

** Planning applications on 3 of the 4 Cranbrook expansion areas received Planning Committee ‘Resolution to grant approval’ after the 2023 Monitoring Point

FIVE YEAR LAND SUPPLY POSITION - CONCLUSION

- 5.36. At 31 March 2023, East Devon District Council can demonstrate a **4.28** year housing land supply position against the Local Housing Need of 910 dwellings plus 5% buffer (956 dwellings), with the total number of dwellings deemed deliverable in the 5-year period being 4,093 dwellings. Comparing the 4,093 forecast 5 year supply(including dwelling equivalents from care homes) to the 4,778 net dwellings 5 year requirement (including 5% buffer) indicates a district supply shortfall of **685** dwellings.
- 5.37. Where policies which are most important for determining an application are out-of-date because the council cannot demonstrate a five year supply of deliverable sites at 31 March 2023, the presumption in favour of sustainable development as set out in NPPF paragraph 11d applies for development management purposes.
- 5.38. The results and conclusions in this document supersede all previous East Devon Housing Monitoring Updates reports regarding the five year housing land supply position.
- 5.39. Finally, for the avoidance of doubt, the five year housing land supply assessment in TABLE 14 and TABLE 15 does not prejudge or predetermine the rolling five year housing land supply assessment to be made in the future relating to the emerging East Devon Local Plan, including the five year land supply position at the anticipated point of plan adoption. The rolling five year housing land supply assessment for the Local Plan will need to be consistent with NPPF and PPG specifically regarding plan-making.

6 Delivery compared to adopted plan trajectory

Comparing the local plan and the 2023 housing trajectories

- 6.1. The adopted East Devon Local Plan 2013 to 2031 includes a housing trajectory for the plan period. This takes the form of a graph (the illustrative trajectory) and the related data which is provided in Appendix 2 of the plan. TABLE 16 compares the 2023 housing trajectory to the trajectory Appendix 2.

TABLE 16 Comparison of Local Plan and 2023 trajectories

Period	2023 MP actuals and trajectory Total Comp/Proj	Local Plan trajectory Total Comp/Proj	Over (+) / Under (-) delivery compared to local plan trajectory	Cumulative difference in trajectories
13/14	830	824	6	6
14/15	1,029	1,089	-60	-54
15/16	1,027	1,191	-164	-218
16/17	724	1,261	-537	-755
17/18	866	1,455	-589	-1,344
18/19	929	1,464	-535	-1,879
19/20	1,065	1,287	-222	-2,101
20/21	867	1,553	-686	-2,787
21/22	1,039*	1,295	-256	-3,043
22/23	998*	1,092	-94	-3,137
23/24	1,100	1,041	+59	-3,078
24/25	822	1,012	-190	-3,268
25/26	803	830	-27	-3,295
26/27	699	691	-8	-3,287
27/28	669	566	+103	-3,184
28/29	840	551	+289	-2,895
29/30	598	551	+47	-2,848
30/31	557	565	-8	-2,856
TOTAL	15,462	18,318		

- 6.2. TABLE 16 clearly shows that the delivery forecasts in the Local Plan trajectory are now not expected to be achieved. Those forecasts were ambitious. They also pre-date the latest Planning Practice Guidance on Housing supply and delivery. The consequence of PPG is that the new forecasts are more cautious. The Covid 19 pandemic impacted on delivery in 2020/21. Furthermore, delivery on strategic allocations has been delayed, notably due to:

- the lack of funding for the Axminster relief road and now the nutrients neutrality constraint has prevented the previously forecast early delivery of the strategic allocation at Axminster (in the Rest of East Devon) between 2017/18 and 2025/26;
- the timing of the Cranbrook Plan DPD inspector's report, and subsequent plan adoption, which has led to longer forecast lead in times for applications in the Expansion Areas.

6.3. In producing the trajectory for the 2023 Housing Monitoring Update, the council is aware that work is currently in progress in preparing the emerging new East Devon Local Plan 2020 to 2040. To avoid prejudging or predetermining the new plan, the council has to be mindful that NPPF and PPG 'rules' relating to 'deliverable' and 'developable' will apply to the housing trajectory for the emerging local plan. In particular NPPF requires the Council to demonstrate that the emerging plan has a five year supply at the point of plan adoption. At this time the council has therefore categorised some sites with planning permission at 2023 as developable, meaning that they are not forecast to deliver housing before April 2031, i.e. after the end of the plan period of the adopted Local Plan. It may be that some developable sites deliver before that time.

Five year housing land supply by sub-area

- 6.4. The adopted Local Plan identifies non delivery of the five year housing supply as a specific trigger for policy review and action. 2023 is the second consecutive year that the Council is not able to demonstrate a five year housing land supply. Action is already underway through the preparation of the emerging new East Devon Local Plan to address the issue. NPPF paragraph 11d is also engaged (unless paragraph 11c applies), with the application of the presumption in favour of sustainable development in the planning judgment when determining relevant planning applications.
- 6.5. A further local plan monitoring requirement is identified in the paragraph 20.4 in the adopted local plan regarding five year land supply.

20.4 "In East Devon we will work to two sub-areas for five year land provision:

1. The West End - to include Cranbrook and other big strategic housing sites on the Western side of the District. On current assessment (under Devon Structure Plan housing 'requirements') we have less than five years' land supply in this area.

2. The Rest of East Devon - that is, everywhere else within our District. On current assessment (under Devon Structure Plan housing 'requirements') we have considerably more than five years' land supply."

(Note - the Devon Structure Plan was revoked on 20 May 2013)

- 6.6. TABLE 17 and TABLE 18 below provide an overview of the 5-year housing land supply against the two sub-areas for monitoring identified in paragraph 20.4 of the adopted East Devon Local Plan 2013 to 2031. This position should **not** be used in the operation of paragraph 74 of the NPPF, but is provided for context against the provisions of the development plan.

TABLE 17 Five year requirement plus buffer calculations

East Devon and sub-area housing requirement and buffer for 01 April 2023 - 31 March 2028					
	Calculation	Rest of East Devon	West End	District No. of dwellings	Item
A		348	562	910	Basic annual requirement*
B	Ax5	1,740	2,810	4,550	Basic five year requirement (excluding buffer)
C		0	0	0	Past under or over supply
D	(B +C)x1.05	1,827	2,951	4,778	Total five year requirement target (including 5% buffer)
E	D/5	365	590	956	Annual target (assuming 5% buffer)

TABLE 18 Five year supply

Supply sources at 31 March 2023 with realistic prospects of delivering dwellings 01 April 2023-31 March 2028					
	Calculation	Rest of East Devon	West End	District No. of dwellings	Supply sources
F		1,475	1,562	3,037	Extant permissions
G		0	620	620	Cranbrook Plan DPD expansion zones (allocations) - unconsented**
H		414	22	436	Future windfalls
I	F+G+H	1,889	2,204	4,093	Total five years deliverable supply
J	D-I	-62 SURPLUS	747 SHORTFALL	685 SHORTFALL	Five year supply surplus / shortfall (assuming 5% buffer)
Five year housing land supply position at 2023 monitoring point					
K	I/E	5.17	3.73	4.28	Years of land supply (assuming 5% buffer)

7 APPENDIX 1 - Local housing need calculation

Government guidance on calculating local housing is set out in the Planning Practice Guide: Housing and economic needs assessment. Please see the guidance⁵ for further explanation. The Council has applied this guidance to calculate the local housing need for East Devon for use in the five year housing land supply calculation as at the 2023 monitoring point. The calculations are as follows:

TABLE 19 Average annual increase in households

ONS 2014-based household projections: East Devon District		
A	Projected households 2023	66,244
B	Projected households 2033	72,813
C	Projected increase in households 2023-2033 (B – A)	6,569
D	Annual projected increase in households 2023-2033 (C/10)	657

TABLE 20 2022 Affordability ratio

Affordability Ratio (ONS data published March 2023 - Table 5c) Ratio of median house price to median gross annual (where available) workplace-based earnings by local authority district, England & Wales, 1997 to 2022		
E	Median house prices 2022	325,000
F	Median workplace earnings 2022	32,000
G	Affordability Ratio (E/F)	10.16

TABLE 21 2023 Monitoring Point East Devon Local Housing Need

H	Adjustment factor (PPG method)	1.385
I	Annual projected increase in households 2023-2033 (D)	657
J	Local Housing Need (annual) as at 1 April 2023 (I * H)	910

⁵ [Housing and economic needs assessment - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/housing-and-economic-needs-assessment)

Calculation of Adjustment factor (based on PPG standard method)

Adjustment factor is calculated as follows = (((10.16 – 4) /4) * 0.25) + 1)

i.e.

$$10.16 - 4 = 6.16$$

$$6.16/4 = 1.54$$

$$1.54 * 0.25 = 0.385$$

$$0.385 + 1 = 1.385$$

Calculation of Local Housing Need (based on PPG standard method)

Local Housing Need = Annual projected increase in households 2023-2033 * Adjustment factor

i.e. 657 multiplied by 1.385 = 909.945

i.e. 910 dwellings per year (rounded)

The annualised housing requirement (950 pa) in the adopted East Devon Local Plan 2013-2031 is higher than the LHN. Therefore, under the standard method the 'capped figure' is 950 + 40% ie 1,330. The capped figure (1,330) is greater than the minimum annual local housing need figure (910) and therefore does not limit the increase to the local authority's minimum annual housing need figure. The minimum figure for this East Devon is therefore 910 dwellings pa.



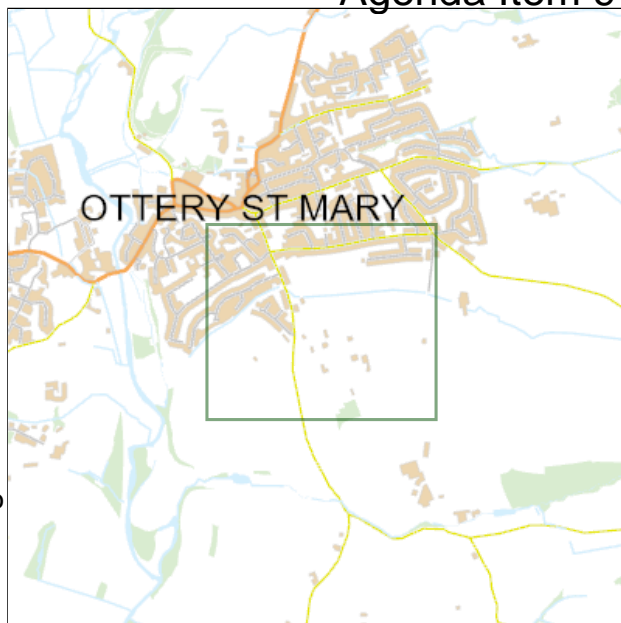
Ward Ottery St Mary

Reference 22/1973/MOUT

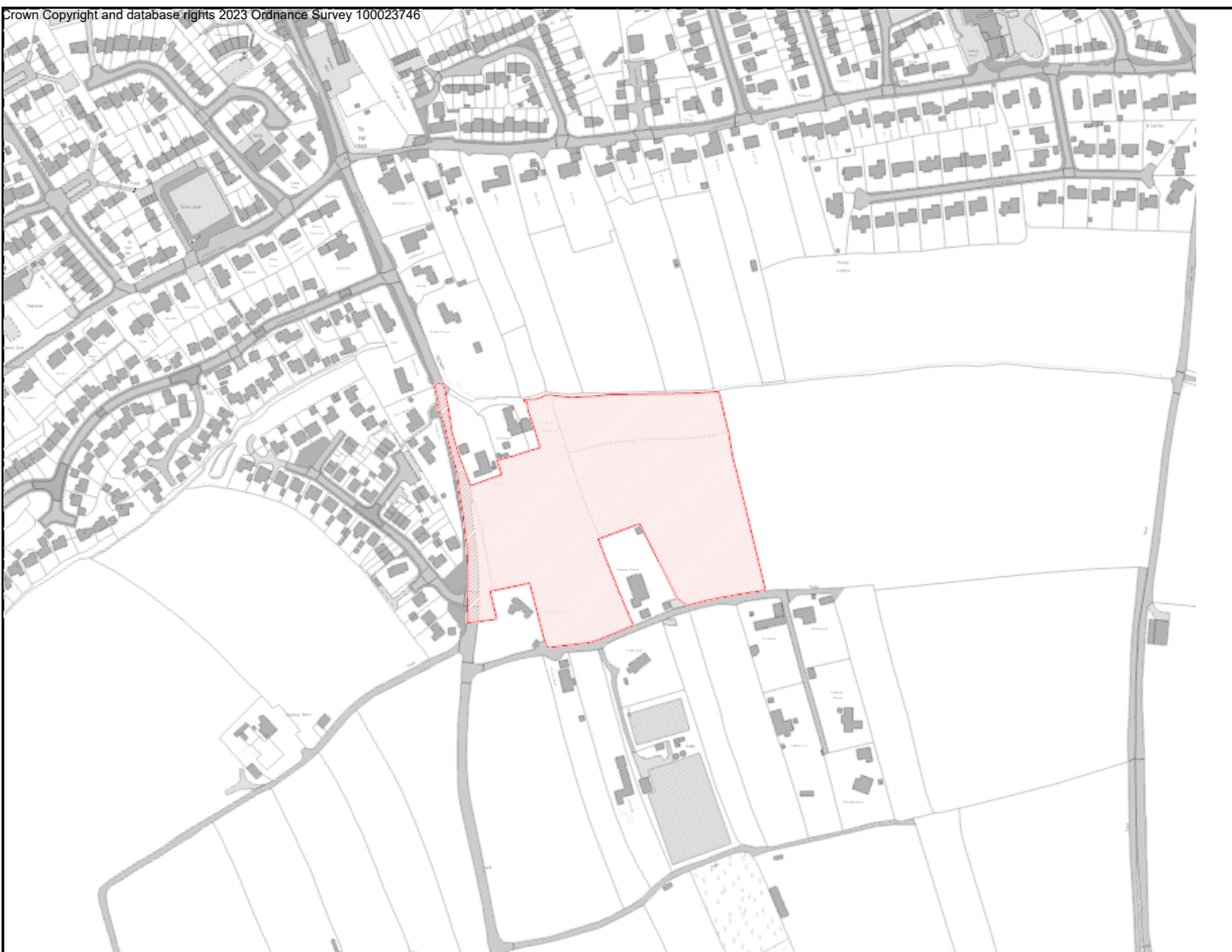
Applicant ALD Developments (Mr A Davis)

Location Land East Of Sidmouth Road Ottery St Mary

Proposal Outline application with some matters reserved (access) for the residential development of up to 63 dwellings and associated infrastructure.



RECOMMENDATION: Resolution to approve with conditions, subject to the completion of a s106 legal agreement and to adopt the Appropriate Assessment



		Committee Date: 24.10.2023
Ottery St Mary (Ottery St Mary)	22/1973/MOUT	Target Date: 16.12.2022
Applicant:	ALD Developments (Mr A Davis)	
Location:	Land East Of Sidmouth Road Ottery St Mary	
Proposal:	Outline application with some matters reserved (access) for the residential development of up to 63 dwellings and associated infrastructure.	

RECOMMENDATION: Resolution to approve with conditions, subject to the completion of a s106 legal agreement and to adopt the Appropriate Assessment

EXECUTIVE SUMMARY

Outline planning permission with all matters reserved other than access is sought for the clearing of the existing farm buildings and the development of up to 63 dwellings.

The site lies beyond the built up area boundary of the town of Ottery St Mary and is therefore as a matter of principle contrary to the policies of the Local Plan. However, the council is currently unable to demonstrate a 5 year housing land supply and so relevant policies such as those that restrict residential development to within the built-up area boundaries are considered to be 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.

Access is to be considered at this stage and the proposal seeks to install an access point and install a priority system with adjoining footpaths. Given that this would occur along one of the main routes into Ottery St Mary this has attracted much controversy. DCC Highways have considered this proposal and after several amendments they do not wish to object to this proposal on highway issues. Although the footway width would be substandard in places user conflict which would result in highway safety risks is unlikely to occur. Whilst this is a balanced consideration giving weight to the expert view of the highway engineers this does not weigh against the proposal.

Adequate reports have accompanied this planning application with regarding to flood risk and ecology. Surface water drainage systems are still under review at the time of writing.

Factors that weigh against the scheme identified consist of the urbanising impact in and around the proposed access point. This impact would be noticeable from immediate vantage points on one of the main routes into the settlement. There also remains questions over the agricultural classification of the land.

However, the boost to housing supply must weigh heavily in favour of the development at the present time and is considered to justify a recommendation of approval.

As this recommendation conflicts with the views of the ward members this application is referred to members of the Development Management Committee.

CONSULTATIONS

Local Consultations

30.09.2022 - Parish/Town Council

Two residents spoke to provide their objections to the application.

The Town Council strongly objects to this planning application which is not in accord with the East Devon Local Plan or the Ottery St Mary and West Hill Neighbourhood Plan.

The Town Council is concerned that the site is outside the Built Up Area Boundary, and is remote from the town`s facilities, and is therefore not a sustainable location.

The Town Council has considerable specific concerns about this application:

- * it is outside the Built Up Area Boundary, is not a strategic site allocated for housing in the East Devon Local Plan or the Ottery St Mary Neighbourhood Plan, and thus would be building in the countryside;
- * the number of houses specified in the current East Devon Local Plan for Ottery has been substantially exceeded, and need for additional housing at this location has not been demonstrated;
- * The Kings School and Ottery St Mary Primary School are at capacity, and the Coleridge Medical Centre is struggling to meet the needs of its existing patients; the development would be likely to place additional pressure on other local resources and services, which are already severely stretched;
- * the proposed development site is at a higher level than Sidmouth Road, so the proposed access road would require substantial hedge and tree removal, and it

would cause serious harm to the landscape, and have a considerable adverse visual impact on the approach to Ottery from the south; it would cause harm to views from the East Devon Area of Outstanding Natural Beauty, and from nearby Public Rights of Way;

* it would represent the loss of grade 2 agricultural land, contrary to the EDLP policy to preserve the best and most versatile agricultural land;

* it would cause damage to environmental and wildlife interests and protected species;

* it would result in the loss of important trees and hedges;

* the Town Council is concerned about increased flood risk, particularly to properties in Claremont Field from the Gerway stream; the Town Council considers it completely unacceptable that the applicant has not completed an adequate and up to date flood risk assessment for this application, instead relying on a piece of work carried out in May 2015 - more than 7 years ago!;

* the Town Council is concerned about the increased vehicle traffic using Sidmouth Road which has inadequate road width, and the impact on the seriously substandard Tip Hill crossroads, immediately to the north, and the impact at Wiggaton to the south. Most road movement from the site would take traffic through the already very congested centre of Ottery St Mary.

* the Town Council is particularly concerned about an increase in pedestrian movements to the town centre along a highway lacking adequate footways with additional danger to all users of the road, and is particularly concerned at the prospect of very young children from the proposed development having to walk along the seriously substandard western end of Longdogs Lane where there are no pavements or step-off areas on their way to Ottery primary School;

* the Town Council is particularly concerned that the application is contrary to numerous policies in the Ottery St Mary and West Hill Neighbourhood Plan:

NP1 Development in the Countryside;

NP4 Settlement Containment;

NP6 Valued Views

NP8 Protection of Wildlife Sites and Features of Ecological Value;

NP9 Accessible Developments

NP14 Demonstrating Infrastructure Capacity

* the Town Council is concerned that the applicant has once again failed to carry out a public consultation about its proposal;

The planning application is contrary to many policies in the East Devon Local Plan and in the Ottery St Mary and West Hill Neighbourhood Plan, and Ottery St Mary Town Council therefore strongly urges East Devon District Council to refuse planning permission.

30.03.2023

The objections submitted by the Council on the 30th September 2022 still stand. The issue with the highways has not been satisfactorily addressed and it is believed that the amended proposal will, in fact speed up traffic.

The NHS have now demonstrated that this development will create potentially long term impact on the trusts ability to provide services as required.

There are currently 464 comments from members of the public of which only 4 are in support of this application.

28.10.2022 Ottery St Mary - Cllr Peter Faithfull

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

There is no major change to this application from planning application number 20/1974/MOUT. Much of the survey information is out of date. The main concern for me is the issue of the proposed highway changes. These changes are still unacceptable.

Ottery does not have any banks and many of the shops have closed. The schools are at capacity, with other services and infrastructure being overloaded.

This proposal for houses is in the open countryside, outside the built up area boundary for Ottery, on grade 2 agricultural land. It will cause an increase in surface water run-off, which will impact the properties to the west of the Sidmouth road.

These are my views, based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

18.04.2023

Further to my comments earlier, I continue my view that this application should be refused.

I am very concerned about the decision by Devon County Council to withdraw their objection to this proposal. The Sidmouth Road, historically, used to be part of the B3176 Sidmouth to Cullompton road. Despite having been declassified from being a B road, it continues to be the main route from Sidmouth to Ottery St Mary. As such this road carries heavy goods vehicles along its length, including articulated lorries.

At the northern end of the proposed road narrowing, a section of pavement protrudes out into the road by approximately 1.4m. This was added in connection with the development of Gurway Close and was an issue that I objected to. It is now proposed to have a pedestrian crossing at this section of the road. Due to the proposed design of the road layout, any large vehicles such as articulated lorries coming from the Sidmouth direction will need to drive over to the opposite side of the road to ensure that their rear axle will not go over the pavement. As there is a very high likelihood of oncoming traffic waiting in the space that the lorries will need to be able to clear this section of pavement, it will be impossible for lorries to drive through this section of road without driving over the pavement; this all at a point in the pavement where the residents of the proposed development will be expected to be waiting to cross the road to get back to their homes, complete with pushchairs and shopping. Regardless of the width of the pavement proposed, the road itself is not enough for the heavy goods vehicles and other large vehicles to drive through safely.

These are my views, based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

25.09.2023

I continue to recommend refusal for this planning application.

I have attached images of Sidmouth Road, showing the section where the alterations are proposed to be made. The images show how the present pavement protrudes out from the original line. The alterations were made for the development of Gerway nursery to form Gerway Close (planning application 15/1974/FUL). The pavement is a low-level pavement, which is open to abuse by vehicles being tempted to cut the corner and drive over this section of pavement. An increase in houses along this road will create an increase in traffic and therefore an increase in congestion at this point. Even with the change in priority, there will be a build up of vehicles waiting at the north end of the section of narrowing caused by vehicles entering the narrow section of road. This will cause any large vehicles to drive onto the pavement at the same point where pedestrians will be waiting to cross the road. With the road having a high retaining wall and a bend to the left, vehicles waiting at the north end cannot see beyond the road narrowing point to see if any more vehicles will be coming before they start off along the narrow section of road.

Throughout the year farm machinery use this road to access the fields and farms in the area. Much of the modern machinery is over 3m wide when folded up for transport. They will be forced onto the pavement due to cars and lorries waiting at the northern section, regardless of who has priority.

The increase in surface water run-off will have an impact on the numerous dwellings down stream of the proposed development

These are my views, based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

20.10.2022 - Ottery St Mary - Cllr Vicky Johns

I object to this application due to this planning application which is not in accord with the East Devon Local Plan or the Ottery St Mary Neighbourhood plan.

I am concerned that the site is outside the Built Up Area Boundary, and is remote from the town's facilities, and is therefore not a sustainable location, with a narrow road to the town which would not allow for a safe passage for pedestrians.

* it is outside the Built Up Area Boundary, is not a strategic site allocated for housing in the East Devon Local Plan or the Ottery St Mary Neighbourhood Plan, and thus would be building in the countryside;

* the number of houses specified in the current East Devon Local Plan for Ottery has been substantially exceeded, and need for additional housing at this location has not been demonstrated;

* The Kings School and Ottery St Mary Primary School are at capacity, and the Coleridge Medical Centre is struggling to meet the needs of its existing patients; the development would be likely to place additional pressure on other local resources and services, which are already severely stretched;

* the proposed development site is at a higher level than Sidmouth Road, so the proposed access road would require substantial hedge and tree removal, and it would cause serious harm to the landscape, and have a considerable adverse visual impact on the approach to Ottery from the south; it would cause harm to views from the East Devon Area of Outstanding Natural Beauty, and from nearby Public Rights of Way;

* it would represent the loss of grade 2 agricultural land, contrary to the EDLP policy to preserve the best and most versatile agricultural land;

* it would cause damage to environmental and wildlife interests and protected species;

* it would result in the loss of important trees and hedges;

* concerns about increased flood risk, particularly to properties in Claremont Field from the Gerway stream; the Town Council considers it completely unacceptable that the applicant has not completed an adequate and up to date flood risk assessment for this application, instead relying on a piece of work carried out in May 2015 - more than 7 years ago!;

* concerns about the increased vehicle traffic using Sidmouth Road which has inadequate road width, and the impact on the seriously substandard Tip Hill crossroads, immediately to the north, and the impact at Wiggaton to the south. Most

road movement from the site would take traffic through the already very congested centre of Ottery St Mary.

* concerns about an increase in pedestrian movements to the town centre along a highway lacking adequate footways with additional danger to all users of the road, and is particularly concerned at the prospect of very young children from the proposed development having to walk along the seriously substandard western end of Longdogs Lane where there are no pavements or step-off areas on their way to Ottery primary School;

* I have strong concerns that the application is contrary to numerous policies in the Ottery St Mary and West Hill Neighbourhood Plan:

NP1 Development in the Countryside;

NP4 Settlement Containment;

NP6 Valued Views

NP8 Protection of Wildlife Sites and Features of Ecological Value;

NP9 Accessible Developments

NP14 Demonstrating Infrastructure Capacity

* I am concerned that the applicant has once again failed to carry out a public consultation about its proposal;

The planning application is contrary to many policies in the East Devon Local Plan and in the Ottery St Mary and West Hill Neighbourhood Plan, and Ottery St Mary Town Council therefore strongly urges East Devon District Council to refuse planning permission.

These are my views with the information that I have I withhold my right to change my opinion if further information comes to light.

09.05.2023

I strongly object to this planning application due to the following reasons; There have been two previous planning applications on this site under 15/1734/MOUT for up to 53 dwellings and 20/1974/ MOUT for up to 63 dwelling . In both cases the East Devon Planning committee refused permission. A similar application is now made for outline planning for the construction of up to 63 dwellings incorporating open market and affordable dwellings together with associated infrastructure (all matters reserved except for access) The site falls outside the Built-up Area Boundary of Ottery St Mary and is not a strategic allocation within the Local Plan or the Neighbourhood Plan. It is within the countryside where residential development is restricted. Accordingly the proposal is contrary to Strategy 7 - Development in the Countryside of the Local Plan .

The proposed housing development including removal of a hedgebank to provide vehicular access and visibility splays, would have a harmful effect on the character and appearance of the area. The proposed development site is at a higher level than Sidmouth Road, so the proposed access road would require substantial hedge and tree removal, and it would cause serious harm to the landscape, and have a considerable adverse visual impact on the approach to Ottery from the south; it would cause harm to views from the East Devon Area of Outstanding Natural Beauty, and would therefore be contrary to Strategy 7 - Development in the Countryside, Strategy 46 - Landscape Conservation and Enhancement, and Policy D1 - Design and Local Distinctiveness of the Local Plan and Policy NP1 - Development in the Countryside of the Neighbourhood Plan.

The proposed development fails to provide suitable footways for the pedestrians it would generate and which are necessary to facilitate journeys on foot between the site and the town centre. Consequently the development would give rise to additional danger to all users of the road, contrary to Policy TC4 - Footpaths, Bridleways and Cycleways of the Local Plan; The proposed road facilitate for pedestrian access to the site is unsuitable to accommodate traffic, contrary to Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan, and Policy NP9 - Accessible Development, of the Neighbourhood Plan

I am aware that DCC highways have dropped their objection to this application however I do not share their views and would like to ask them to attend a site inspection to show why they have changed their view. The road is no wider now than when they first visited and is certainly no quieter, the road is exceptionally narrow in various places leading to vehicles having to stop to allow access to other vehicles travelling in the opposite direction. The thought of pedestrians being encouraged to walk along this narrow strip of road is quite concerning.

For the above reasons I cannot support this application. I do however reserve my right to change my views in the event that further information becomes available to me.

14.08.23

I emailed last week to advise that I was unhappy with the variations and late reports sent in with support of the above application without it going out to an update from Consultees myself included. I was advised that it was decided only technical consultees needed to be advised, I disagree with this as I feel due to the nature of the planning application it should have been redistributed so all consultees can put in another comment. I was advised that I could indeed put in another comment but it has been removed from my in-tray so I am having to do it via email, please put this under my EDDC consultee not as a member of the public.

I am aware that DCC highways have withdrawn their objection and I don't agree with them, the road is exceptionally narrow in places and not suitable for a pedestrian way. I would like my original application to be put forward again but also noting that I do not agree with DCC, as a resident of Ottery and member of both the town council and EDDC council I would like to ask the planning committee to attend a site visit with myself and our DCC councillor, Jess Bailey to see the road for itself. I have

great concerns that Ottery is being allowed to have substandard pedestrian facilities just to ensure housing can be built, the pavements being proposed to get into Ottery itself are narrower than the standard minimum width no matter how 'short a length' it may be this is not acceptable and will push pedestrians into the road, this is not acceptable. I am also aware that a previous development on the opposite side of the road has still not been finished this includes streetlights etc, which may impact on the width of Sidmouth Road, planning application 14/1227/MOUT. I understand DCC have asked for the priority system to be turned around this will lead to e[vehicles being backed up during busy periods up towards the centre of Ottery particularly towards Tip Hill/Longdogs Lane junction when children are trying to cross the road, which is difficult enough at the best of times even with a lollipop person.

These are my views based on the current information I have; I reserve my right to change my opinion if further information comes to light.

10.10.2022 - West Hill And Aylesbeare - Cllr Jess Bailey

As the County Councillor for the Otter Valley I wish to object to this planning application on the basis of two specific issues which fall within the County Council's remit, namely flood risk and highways/road safety.

I support the views of DCC officers and those of the Environment Agency that state inadequate assessments have been provided to address surface water drainage issues to ensure the site is safe and there is no increased risk to third parties. This is the first ground for my objection.

I also object on highways grounds including road safety. I believe this application would generate significant additional traffic movements through the congested centre of Ottery St Mary and also through the small settlement of Wiggaton. The Tip Hill crossroads is inadequate yet more traffic would be directed towards it should permission be granted. This is unacceptable.

I am very concerned about all pedestrians accessing the site from the centre of Ottery St Mary without proper footways. Of particular concern to me is the risk to primary school children and their parents having to navigate the substandard western end of Longdogs Lane on foot to and from school each day.

In my view this application should be refused on these grounds.

05.06.2023

As the Devon County Councillor for the Otter Valley I wish to re-confirm my objection to this application on road safety grounds. This follows a recent site visit where DCC highways officers attended with me, at my request.

In my view the proposed development will significantly compromise pedestrian safety. The new hierarchy of road users means that that greater consideration

should be given to pedestrians than previously. I remain totally unconvinced that the re-drawn plans resolve the safety issues.

It is not acceptable for there to be a pavement servicing the proposed development which is narrower than the standard minimum width. Whatever the length of this substandard pavement, it will force pedestrians, including children to step onto the highway to avoid pedestrians walking in the opposite direction. This comprises road safety and is particularly concerning, given the large number of lorries and agricultural vehicles and the proposed 'priority' system which will cause vehicles to travel at increased speeds.

I also do not accept that the pinchpoint at the 'wait' section is of an acceptable width despite the redrawn plans. This also in my view comprises pedestrian safety. Wide vehicles trying to squeeze past each other will come into conflict with pedestrians.

What is more, I believe the priority system, particularly during busy periods of the day will result in traffic backing up towards the centre of Ottery St Mary and in particular to the sub standard Tip Hill/Longdogs Lane Junction where many school children cross the road each day. In my view the priority system will exacerbate road safety dangers of this junction. I also have great concern about the narrowness of Logdogs Lane and the proposed development would mean more primary children and their families contending with this narrowness in conflict with vehicles when walking to and from school each day.

In addition to road safety I wish to object on three further grounds.

First, The King's School is oversubscribed for school year 2023-4 meaning that there is insufficient space for all year 7 children living within the school catchment area to attend. Therefore there should be no further development in Ottery St Mary (and I particularly object to a large site such as this which if approved will generate numerous secondary school children). Further development will mean children have to be transported to school elsewhere. This is not 'sustainable development' within the NPPF. The oversubscription cannot simply be addressed by making an education contribution because class sizes cannot simply be enlarged.

Second, Ottery has already grown by 25% in recent years and the Coleridge Medical Centre has already reduced its catchment boundary several times (including Newton Poppleford in 2022) It would in my view be unacceptable to build more houses which would increase the pressure from within the catchment area.

Third, I object on the grounds of flood risk from surface water run off and note that DCC as local lead flood authority have objected again on 23rd May 2023. Particularly in view of the terrible flooding which occurred in local villages in the Otter Valley on 9th May 2023 (100 properties flooded) when run off was a particular issue, it is essential that EDDC takes a robust approach to flood risk.

For all these reasons I very much hope that this application will be refused.

Councillor Bethany Collins 12/9/23
Ward Member –Ottery St Mary

With regards to application 22/1973/MOUT, I object to its approval on the following grounds:

I am concerned about the removed objection from DCC and do not agree with this. I am most concerned about pedestrian safety due to the narrow nature of the road and the volume of traffic passing through. Pedestrians may have to step into the road to pass other pedestrians and vehicles may mount the pavement to pass other vehicles because the road is so narrow.

I also understand that the development is not part of the strategic allocation of both the Local Plan and the Neighbourhood Plan. It is also outside the Built-Up Area Boundary, causing more people to use private vehicles or walk on a narrow and busy road which further contributes to the road safety issue.

I would also object on the grounds that it cannot be considered a sustainable development. The King's School is already oversubscribed and cannot take on more pupils. Similarly, as highlighted by the NHS consultee comments, the "existing service delivery infrastructure for acute and planned health care is unable to meet the additional demand generated as a result of the proposed development.

Technical Consultations

District Ecologist

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)

Ecological survey work for the site has been undertaken between January 2020 and June 2021, including an extended phase 1 habitat survey, hedgerow survey, bat roost survey of trees, bat activity survey, dormouse nest tube survey, breeding bird survey, and surveys for badgers, otter, water vole, and beaver. The Biodiversity Net Gain (BNG) calculations are based on field survey work undertaken in 2020. The EcIA has been produced in accordance with CIEEM guidelines.

BS 42020:2013 Code of Practice for planning and development states that "ecological information should be sufficiently up to date (e.g., not normally more than two/three years old, or as stipulated in best practice guidance)". East Devon District Council validation checklist states biodiversity reports should "*A report by a suitably*

qualified ecological consultant carried out at an appropriate time of year and within a year of the date of the application”.

Given that the majority of the surveys are within three years, the current age of the survey data would be acceptable for a planning submission in 2023, given that the presence of dormice, reptiles, badgers, nesting birds, and a range bat species on the site has been identified.

Ecological value

Species-rich Devon hedge banks are a Habitat of Principal Importance (NERC, 2006) and a Devon Biodiversity Action Plan (DBAP) habitat. Streams are also DBAP habitats, and both are considered of County ecological value, rather than of Local value. Other habitats are valued appropriately.

Dormice

Dormice are confirmed as nesting on the site and are assumed to be in all suitable habitat including all hedges and the area of woodland. Clearance of hedges and woody vegetation prior to development will require a European protected species licence from Natural England.

Mitigation is proposed including enhancing existing hedges, provision of new hedges, an area of hazel coppice and dormouse nest boxes. Taken in isolation these measures are likely to be acceptable for licencing purposes. There is likely to be a temporal lag for the suitability of the hazel coppice to become a functional habitat for nesting dormice, especially as this is within the public realm. Hedges over the site are also likely to be subject to cat predation and potentially insensitive management from residents. Consideration of additionality regarding the provision of dormouse habitat is provided in the Biodiversity Net Gain (BNG) section below.

Bats

The site is used by at least 10 bat species including Annex II barbastelle, greater horseshoe, and lesser horseshoe bats, and also by light adverse myotis and long-eared bat species. Following CIEEM guidance, the assemblage of bats would be considered of Regional value (Reason, P.F., and Wray, S., 2023).

The surveys identified the northern riparian corridor as the most frequently used feature by bats, with the specie-rich hedgerow in the centre of the site noted as providing a north/south commuting feature used by bats over the site. The east boundary hedge is also used by numerous species including all Annex II species recorded on the site, including up to 92 barbastelle call registrations, as well as use by long-eared, and myotis bats.

The issue 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.

The detailed design should be supported by a detailed lighting plan including lux contours to demonstrate that retained features used by bats should not be in excess of 0.5 lux. To ensure north/south permeability is maintained there should be a 10 m dark corridor along the east boundary as well as the northern boundary. The use of standard trees should also be used within the central hedge (H2) to ensure it can function as a foraging and commuting habitat by bats.

Consideration of additionality regarding the provision of bat habitat is also provided in the BNG section below.

Birds

The site is used by a moderate assemblage of typical suburban edge/farmland species including Red1 listed house sparrow and starling, and amber listed song thrush, and dunnock. Dunnock, house sparrow, and starling are considered as possibly breeding species on the site.

1 Birds of Conservation Concern 5. Eaton *et al.* 2021

Recommendations are made for nest boxes and/or bat boxes to be provided at a ratio of one per unit. In accordance with BS42021:2022 Integral bird nest boxes should be provided at a ratio of one per unit, i.e., not split between provision of bat boxes.

Reptiles and amphibians

The site supports a Good2 population of slow worms which are distributed across the site largely associated with hedge banks. It also supports a Low3 population of grass snakes located near the riparian corridor. The presence of great crested newts (GCN) has been scoped out and it is considered the site would support other common amphibians such as common toad, a Species of Principal Importance.

Mitigation measures proposed includes habitat manipulation and clearance of hedges under supervision of an Ecological Clerk of Works (ECoW), which is proportionate as most of the reptiles are associated with hedge margins. Should the grassland on the site remain unmanaged then a translocation exercise may be required.

2 5-10 adults. Froglife, 1999

3 <5 adults

Badgers

Two active outlier badger setts are located on the site, one in the central hedgerow (H2) and another in the hedge in the north-east part of the site (H5). The EclA states the setts need to be closed under Natural England licence. However, from the outline landscape plan and indicative locations of the setts in the EclA it is unsure why the design cannot retain these setts using reasonable avoidance. The location of the

northern sett is adjacent to the area of proposed Public Open Space (POS) so this should be retained. The other sett within the central bisecting hedgerow towards the south appears to be away from the proposed road layout and should be retained if possible.

Other ecological receptors including water vole, otter, and other Section 41 Species of Principal Importance

The submitted ecological survey information, general ecological avoidance, mitigation, enhancement measures proposed for other ecological receptors are considered acceptable and proportionate, assuming their successful implementation.

Biodiversity Net Gain (BNG)

The submitted BNG calculation based on the outline plan indicates that it is possible to achieve a 9.66% gain in habitat units and 12.73% gain in hedgerow units using the Biodiversity Metric 2.0. No assessment of net gain for the watercourses is provided despite the stream being within the red line boundary (RLB).

The BNG baseline calculations are based on the results of an extended phase 1 habitat survey undertaken by EcoLogic in January 2020, which is outside of the optimal botanical survey period. Proposed habitat condition of new assumed Devon bank hedges are assessed as in 'Good' condition, which if they are bordering residential properties is unlikely as management cannot be guaranteed, e.g., to retain 1 m buffer of undisturbed ground etc. Moderate condition would be more appropriate. There are also some indicative individual trees, but these are not included in the calculations using the urban tree helper.

BNG Additionality

The first principle of BNG states "*the metric does not change existing biodiversity protections, statutory obligations, or policy requirements*", i.e., any ecological enhancements considered using the BNG metric must result in *additionality* over and above legal and compensation requirements (also stated in DCC guidance, July 2022).

This means that any ecological enhancement of a development should be delivered through separate habitat provision and/or enhancements which are not already required to mitigate or compensate impacts on protected species, e.g., habitat provided for dormice, as this is an existing legal requirement to provide these habitats. Any habitat provided for protected species compensation can only account for up to no net loss when using the biodiversity metric. The provision of bat boxes, bird boxes, or similar are not taken into account using the metric and are considered separately to habitat provision.

In the submitted application this is likely to include the provision of hazel scrub, species-rich hedges, and dark corridors/foraging habitat for bats. Therefore, there is a risk that the proposed development quantum may not achieve a net gain for biodiversity when additionality is taken into consideration and the detailed site design

is considered using the most up to date metric, i.e., more habitat may be required to achieve an ecological enhancement.

3. Conclusions and recommendations

1.2. Acceptability of the proposal

The submitted ecological survey information including ecological avoidance, mitigation, and enhancement measures subject to the above recommendations, especially regarding dark corridors (north and east boundaries) and additionality regarding landscaping and biodiversity net gain calculations, are generally considered acceptable assuming the following conditions are imposed and the successful implementation of the mitigation and enhancement measures.

1.3. Conditions

Should this application be approved, the following conditions should be imposed.

- No works shall commence on site unless the local planning authority has been provided with a copy of the dormouse mitigation licence 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 with an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.
- No works shall commence on site without writing approval from the local planning authority confirming that a detailed site design is supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0) and an updated condition assessment undertaken in the optimal botanical period. The development shall deliver at least a 10% biodiversity net gain (BNG) for all habitat types within the development boundary. It should include 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. Any net gain calculations should clearly demonstrate how any proposed compensatory habitats for protected species, i.e., bats and dormice, account for up to no net loss within the metric and that other habitats are providing a biodiversity net gain over and above what is required for protected species compensation.
- No works shall commence on site until a Lighting Impact Assessment (LIA) including lux contours, based on the detailed site design and most recent guidelines (currently GN08/23 and DCC 2022), has been submitted and approved in writing by the local planning authority. The LIA should clearly demonstrate that dark corridors provided around the site are achievable without the attenuation of habitat features which long-terms management cannot be guaranteed. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development based on the submitted Ecological Impact Assessment (GE Consulting, 2021) and comments made from the District Ecologist. It should include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, permeable fencing, and other features clearly to be shown on submitted plans. The content of the LEMP shall also include the following.

- a) *Description and evaluation of features to be managed.*
- b) *Ecological trends and constraints on site that might influence management.*
- c) *Aims and objectives of management.*
- d) *Appropriate management options for achieving aims and objectives.*
- e) *Prescriptions for management actions.*
- f) *Preparation of a work schedule (including an annual work plan capable of being rolled forward over a minimum 30-year period).*
- g) *Details of the body or organization responsible for implementation of the plan.*
- h) *Ongoing monitoring and remedial measures.*

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- *No development shall take place (including ground works or vegetation clearance) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority based on the details within the submitted EclA (GE Consulting, 2021). The CECoMP shall include the following.*

- a) *Risk assessment of potentially damaging construction activities.*
- b) *Identification of "biodiversity protection zones".*
- c) *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- d) *The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) *The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) *Responsible persons and lines of communication, including reporting compliance of actions to the LPA*
- g) *The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.*
- h) *Use of protective fences, exclusion barriers and warning signs. The approved CECoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.*

The development shall not be occupied until the local planning authority has been provided with evidence, including photographs, that all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), permeable garden fencing, reptile hibernacula have been installed/constructed, and compliance with any ecological method statements in accordance with details within the submitted LEMP and CEcoMP.

1.4. 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.

County Highway Authority

We would just like to add an additional comment to our stance, that we would like the priority flow to be reversed, so that traffic entering Ottery is slowed and traffic exiting Ottery, particularly during busier times, is not held up, this would not change our overall stance, if there is still time to do this, I will send the consultee response now.

Observations:

I have reviewed this application 22/1973/MOUT progressed from 20/1974/MOUT and visited this site.

As a Highway Development Management Officer, I still have concerns regarding the footway width to be provided, whilst I appreciate it is only for a short length, the development is likely to require facilitation of a high amount of buggies and prams due to the affordable housing percentage provision. Therefore during the frequent times that the 1m footway stretch will experience overgrowth and enforcement action, all of these pedestrians will be required to use Gerway Lane and Gerway close, sections of which have no footway provision at all. As illustrated in the code of practice and inclusive mobility design guidance.

Furthermore, I am concerned that sections of this priority flow layout will still form a width less than 5.5m considered the absolute minimum from our standard guidance document Manual for Streets 1 and 2. Whilst I can understand that some sections of Sidmouth Road already fall under this width, we do not want to be adding to the problem with designing in further infrastructure layout problems with the increased trip generation from this development. Indeed for Traffic management on temporary works, the minimum passing width for roads likely to contain hgv's and buses is 6.5m. As seen in the Safety at Street Works and Road Works.

Addendum 11/04/2023

Following receipt of the Amended plan, 19./123/001 Rev H, with the relevant changes. The County Highway Authority is happy to drop its stance of refusal, with the recommendation of conditions.

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.

23.05.2023 - DCC Flood Risk Management Team

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has revised Residential Development, Sidmouth Road, Ottery St Mary Drainage Strategy Addendum (Report Ref. 1544w001, Rev. P2, dated 22th October 2022). The greenfield runoff rates calculations submitted show that Soil Type 3 was used. The applicant shall justify the change of the soil type. Also, we only accept FEH rainfall for new applications in line with best practice. The FSR is based on a dataset from 1970s and is out-of-date.

The report mentioned that the climate change allowance of 45% and 10% urban creep were used but the model outputs still using 40% of climate change allowance and no urban creep allowed for. Also, a constant contributing area of 0.07ha was used to design the surface water network. All key information in terms of cover levels, invert levels etc were missing from the Drainage Strategy Drawings (Drawing No. 0500 and 0501, Rev. P1, dated 28th July 2022).

The inlet and outlet of the attenuation pond shall be placed further apart to maximise the flow path through the pond.

Additional Plans

Recommendation:

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has submitted Proposed Residential Development Land East of Sidmouth Road,, Otter St Mary Flood Risk Assessment Report (Report Ref. 3/2015/FRA/1/2, Rev. -, dated May 2015) which we assumed the Drainage Strategy element of it is superseded by Residential Development, Sidmouth Road, Ottery St Mary Drainage Strategy Addendum (Report Ref. 1544w001, Rev. P1, dated 28th July 2020).

The Drainage Strategy Addendum was prepared back in July 2020 and both infiltration and attenuation options were proposed. However, the parameters used in the report is outdated. There is no calculations showing how to greenfield runoff rates were derived and the we only accept FEH rainfall for new applications in line with best practice. The FSR is based on a dataset from 1970s and is out-of-date.

The climate change allowance of 40% used is also not in line with the latest release of new climate change guidance, the Flood Risk Assessment: Climate Change Allowances.

The applicant would need to make allowance for 10% of urban creep in the surface water drainage calculations.

07.07.2023

Recommendation:

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has submitted the Illustrative Sketch Site Layout showing the 100 year event plus 100% blockage. It is however, unsure from the sketch which blockage scenario the applicant are trying to demonstrate.

The description of the additional plans shown on the planning portal indicates some updated drainage strategy plan. However, there is no other plan submitted apart from the Illustrative Sketch Site Layout.

The applicant are yet to address our previous comments from our previous consultation response FRM/ED/1973/2022, dated 22nd May 2023. We therefore maintain our objection to this planning permission.

Recommendation:

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant have revised Residential Development, Sidmouth Road, Ottery St Mary Drainage Strategy Addendum (Report Ref. 1544w001, Rev. P3, dated 19th June 2023).

The greenfield runoff rates calculations submitted show that Soil Type 3 was used. This is similar to the value quoted in the previous report. However, the derived greenfield is now changed from 4.2l/s to 3.2l/s.

The applicant shall justify the change of the soil type. Based on the same impermeable area and other parameters provided, the previous derived greenfield runoff rate is 4.2l/s but the current submission shows a value of 3.2l/s (in Network 1 Table). The greenfield calculation, however still shows a greenfield runoff rate of 4.2l/s.

The other comments made in the previous consultation remain valid as there are no appendices attached to the above report for us to make any observations.

17.07.2023

Recommendation:

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant have revised Residential Development, Sidmouth Road, Ottery St Mary Drainage Strategy Addendum (Report Ref. 1544w001, Rev. P3, dated 19th June 2023).

The greenfield runoff rates calculations submitted show that Soil Type 3 was used. This is similar to the value quoted in the previous report. However, the derived greenfield is now changed from 4.2l/s to 3.2l/s.

The applicant shall justify the change of the soil type. Based on the same impermeable area and other parameters provided, the previous derived greenfield

runoff rate is 4.2l/s but the current submission shows a value of 3.2l/s (in Network 1 Table). The greenfield calculation, however still shows a greenfield runoff rate of 4.2l/s.

The other comments made in the previous consultation remain valid as there are no appendices attached to the above report for us to make any observations.

19.09.2023

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

(b) A detailed drainage design based upon the approved Land off Sidmouth Road Ottery St Mary Devon Flood Risk and Drainage Strategy (Report Ref. 1544w002, Rev. P2, dated September 2023) and the results of the information submitted in relation to (a) above.

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

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

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

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) 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 have revised the Land off Sidmouth Road Ottery St Mary Devon Flood Risk and Drainage Strategy (Report Ref. 1544w002, Rev. P2, dated September 2023). No formal site investigation has been carried out and therefore no soakaway test results are available.

The applicant must note that infiltration tests, undertaken in strict accordance with BRE Digest 365 Soakaway Design (2016) must be undertaken in order to demonstrate whether infiltration is a viable means of surface water drainage

management on this site. A representative number of tests must be conducted in order to provide adequate coverage of the site, with particular focus placed on the locations and depths of potential infiltration devices.

Should infiltration is proven to be viable, the applicant is required to provide evidence that groundwater monitoring has been undertaken at least between November and May, or ideally over a 12 month period. The results should clearly indicate that the groundwater level as peaked and declined for at least two consecutive months. The applicant have submitted an alternative attenuation pond option with a restricting discharge rate of 3.2l/s.

The inlet and outlet of the attenuation pond shall be placed further apart to maximise the flow path through the pond during the detailed design.

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/>.

The outfall pipe must discharge pointing downstream obliquely to the watercourse flow between 30° and 60° (ideally 45° to the direction of flow).

Royal Society For The Protection Of Birds

The RSPB would like to comment on this application, we support Section 6.1.1 of the Preliminary Ecological Appraisal & Protected Species Surveys:

We note and support the :

"Ecology Mitigation & Enhancement Measures:

The National Planning Policy Framework (NPPF, 2019) outlines the Government's commitment to minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The required enhancements include:

- o Inbuilt bat, bird and bee provisions to be incorporated into the proposed buildings, at a ratio of one of each provision type for each dwelling unit (see Appendices 4, 5 & 6)

- o Retention and creation of wildlife habitats to be informed by a Landscape Ecological Management Plan (LEMP)

- o Development scheme to include wildlife habitats including native woodland, hedgerows, wildflower grassland and/ or wetland connected to the wider countryside;
- o Water attenuation feature to include wildlife habitats, including native aquatic, waterside and emergent plants;
- o Garden boundaries to comprise of native hedges, post and rail fencing or close boarded fencing with wildlife holes 130 mm by 130 mm at ground level; and,
- o Creation of habitat piles within a relatively undisturbed locations to the site. The above-required enhancements should be illustrated on landscape plan(s), proposed plans and/ or elevation drawings, where appropriate"

We do however question the types of integral bird boxes that have been recommended in Appendices 4, 5 & 6

The report was dated in February 2020, since then BS42021 Integral nest boxes. "Selection and installation for new developments", has been published, it specifies installing boxes that will be used by most if not all the smaller passerine species that nest in cavities on older buildings and mature trees, see attached which is compliant with the Standard.

We are aware of all too numerous occasions where either lack of adequate plans/ instructions to site teams have resulted in integral boxes being installed incorrectly, in the wrong places or not at all.

Correcting mistakes/retrofitting after completion is an expensive exercise and may not be possible without the new occupant's permission.

Prevention is better than a cure so we recommend that "Clause 9.2 of BS42021 Integral nest boxes - installation plan Details for the selection, siting, positioning and installation of integral nest boxes shall be prepared and submitted to the local planning authority, to include:

- a) the total number of integral nest boxes to be installed on site;
- b) a list of recommended integral nest boxes selected for installation, i.e. manufacturer(s) and model(s) along with illustrations, where available;
- c) a site plan at an appropriate scale showing the location of specific buildings in the development into which boxes are to be installed;
- d) building elevations showing the position on each building on site where boxes are to be installed;
- e) details of materials, methods and workmanship necessary to install each box, taking into account relevant building regulations (such as Approved Document 7 [5]); and
- f) a drawing showing the relationship between green infrastructure and the locations where integral nest boxes are to be installed, illustrating access to suitable, natural resources for birds including food, water and nesting materials in nearby habitats.

NOTE 1 Swifts are the exception as they collect these necessities whilst on the wing and travel large distances to forage if local supplies are not available.

NOTE 2 The installation plan should be informed by the siting positions shown in Annex B" is included in the proposed LEMP.

Police Architectural Liaison Officer - Kris Calderhead

Please see comments under documents tab.

Natural England

DESIGNATED SITES [EUROPEAN] – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION FOR RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

Natural England considers that this advice may be used for all applications that fall within the parameters detailed below.

This advice relates to proposed developments that falls within the 'zone of influence' (ZO I) for one or more European designated sites, such as East Devon Pebblebed Heaths Special Area of Conservation (SAC) and East Devon Heaths East Devon Heaths Special Protection Area (SPA). It is anticipated that new residential development within this zone is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development and therefore such development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will in our view be reliable and effective in preventing adverse effects on the integrity of the relevant European Site(s) from such impacts associated with such development. The strategic solution may or may not have been adopted within the local plan but must be agreed to by Natural England.

Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing adverse effects on the integrity of the relevant European Site(s) from recreational impacts for the duration of the development proposed within the relevant ZOI.

However, the application of these measures to avoid adverse effects on site integrity from recreational impacts associated with development proposed within the relevant ZOI should be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended). In this regard, Natural England notes the People Over Wind Ruling by the Court of Justice of the European Union that mitigation may

not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment.

Providing that the appropriate assessment concludes that the measures are secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other likely significant effects identified (on this or other protected sites) as requiring to be considered by your authority's appropriate assessment, Natural England indicates that it is likely to be satisfied that your appropriate assessments will be able to ascertain that there will be no adverse effect on the integrity of the European Site (from recreational pressure in view of its conservation objectives). Natural England will likely have no further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications where the outline permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Landscape advice – East Devon AONB

The proposed development is for a site within or close to a nationally designated landscape namely East Devon AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AO N B is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose.

Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Housing Strategy/Enabling Officer - Cassandra Harrison

This application site sits outside the built up area boundary for Ottery St Mary and therefore should provide 50% affordable housing. The applicant is offering to provide 50% affordable housing so is policy compliant. Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership.

The government have introduced through a written ministerial statement and planning policy guidance a new affordable housing tenure called First Homes. First Home should account for 25% of affordable housing provision and is the governments preferred discounted market tenure. First Homes are for eligible first time buyers and are sold with a 30% discount on market price in perpetuity. On initial sale a price cap of £250,000 (after discount) is applied. Eligibility includes an income cap for purchasers and requirement to fund the purchase with a 50% mortgage. EDDC have produced an interim guidance note which confirms our approach to dealing with First Homes. Whilst this guidance and the introduction of First Homes does not supersede policy within our local plan it is a material consideration in any planning decision and will be weighted accordingly.

If First Homes are to be provided on this site then this will reduce the above percentages sought for rented and other affordable home ownership tenures. For a scheme of 63 units and based upon a 50% provision for affordable housing, 8 units should be for First Homes, 16 for social rent and 7 for shared ownership or other affordable home ownership. A commuted sum will be sought for less than a whole unit, and in this case would amount to £13,634.

As this is an outline application there is very little detail on the type of dwellings to be provided. For the social rented dwellings to meet the need a mixture of 1, 2, 3 and even a 4-bedroom house should be provided. The need is predominately for 1 and 2 bedroom properties for rent, but a mix of unit types is preferable. For home ownership products 2 and 3 bedroom properties should be provided. First Homes are to be sold by the developer and the remainder of the affordable units should be transferred to and managed by a Registered Provider.

23.12.2022 - NHS Local

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 £111,976 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.

- see follow up 20 page report under "document" tab on our WEBSITE

Please find our submission in respect of the following application on behalf of NHS Devon

The application has been reviewed from a primary care perspective and the response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance>) which was jointly prepared with NHS England.

The GP surgeries within the catchment area that this application would affect, currently have sufficient infrastructure capacity to absorb the population increase that this potential development would generate.

However, please be advised that this response from NHS Devon is a snapshot of capacity assessment at the date of this letter and should there be any change to this position as a result of any current planning applications that may or may not affect the capacity at Coleridge Medical Centre being approved prior to a final decision on this particular development, then the NHS position could change.

Therefore, whilst at this time there would be no need for a Section 106 contribution towards NHS Primary Care from this development, we would advise that the estimated sum of £580 per dwelling towards NHS Primary Care is factored in to any viability assessments.

Accordingly, the NHS reserve the right to review and respond again when any future planning applications are received by the Council. The NHS cannot guarantee that the response will be the same once all the factors surrounding any future application are considered.

County Highway Authority

I have reviewed this application 22/1973/MOUT progressed from 20/1974/MOUT and visited this site.

As a Highway Development Management Officer, I still have concerns regarding the footway width to be provided, whilst I appreciate it is only for a short length, the development is likely to require facilitation of a high amount of buggies and prams due to the affordable housing percentage provision. Therefore during the frequent times that the 1m footway stretch will experience overgrowth and enforcement action, all of these pedestrians will be required to use Gerway Lane and Gerway

close, sections of which have no footway provision at all. As illustrated in the code of practice and inclusive mobility design guidance.

Furthermore, I am concerned that sections of this priority flow layout will still form a width less than 5.5m considered the absolute minimum from our standard guidance document Manual for Streets 1 and 2. Whilst I can understand that some sections of Sidmouth Road already fall under this width, we do not want to be adding to the problem with designing in further infrastructure layout problems with the increased trip generation from this development. Indeed for Traffic management on temporary works, the minimum passing width for roads likely to contain hgv's and buses is 6.5m. As seen in the Safety at Street Works and Road Works.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to paragraph 111 of the National Planning Policy Framework.
2. The road giving access to the site is by reason of its inadequate width and poor horizontal alignment is unsuitable to accommodate the increase in traffic likely to be contrary to paragraph 111 of the National Planning Policy Framework.

Environmental Health

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.

Environment Agency

Thank you for your consultation of 19 September 2022 in respect of this planning application.

Environment Agency position

We object to this application because it is not supported by an acceptable flood risk assessment (FRA). The reason for our position and what information is required to overcome our objection is set out below.

Reason

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. The reasons

The submitted FRA is dated 2015 and needs to be updated to align with present day planning policy and climate change allowances as well as with the plans that are proposed for this development.

Whilst the indicative plans suggest that a sequential approach will be taken to the layout of development, our consultation response to the previous application for this site (20/1974/MOUT) in 2020 commented on the issues with the flood zones in this area. A site-specific comprehensive FRA undertaken by a flood risk professional should be produced for this site. Considering the issues with the flood maps in this location it is vitally important that the flood levels for the design flood event (1% AEP plus and allowance for climate change) are understood to ensure that the development will be safe and there will be no increase in risk to third parties.

Overcoming our objection

The applicant should comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 22 of the Flood Risk and Coastal Change section of the planning practice guidance. Furthermore, the following should be noted:

- o The flood risk and coastal change section of the planning practice guidance was updated on 25 August 2022. When producing the FRA the updated guidance must be taken into account.
- o We will not accept the 0.1% AEP flood extent as the 1% AEP plus climate change flood extent.
- o When setting a finished floor level a minimum 600mm freeboard from the design flood level must be used.
- o SuDS features are not permitted to be located within the 1% AEP plus climate change flood extent.

09.08.2023

Thank you for re-consulting us on the 30th June 2023 for this application. Our position remains unchanged following our previous response on Friday 7th October 2022.

Environment Agency position

We object to this application because it is not supported by an acceptable flood risk assessment (FRA). The reason for our position and what information is required to overcome our objection is set out below.

Reason

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. The reasons

The submitted FRA is dated 2015 and needs to be updated to align with present day planning policy and climate change allowances as well as with the plans that are proposed for this development.

Whilst the indicative plans suggest that a sequential approach will be taken to the layout of development, our consultation response to the previous application for this site (20/1974/MOUT) in 2020 commented on the issues with the flood zones in this area. A site-specific comprehensive FRA undertaken by a flood risk professional should be produced for this site. Considering the issues with the flood maps in this location it is vitally important that the flood levels for the design flood event (1% AEP plus and allowance for climate change) are understood to ensure that the development will be safe and there will be no increase in risk to third parties.

Overcoming our objection

The applicant should comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 22 of the Flood Risk and Coastal Change section of the planning practice guidance. Furthermore, the following should be noted:

- o The flood risk and coastal change section of the planning practice guidance was updated on 25 August 2022. When producing the FRA the updated guidance must be taken into account.
- o We will not accept the 0.1% AEP flood extent as the 1% AEP plus climate change flood extent.
- o When setting a finished floor level a minimum 600mm freeboard from the design flood level must be used.
- o SuDS features are not permitted to be located within the 1% AEP plus climate change flood extent.

09.08.2023

Environment Agency position

Following review of the revised Flood Risk Assessment, we are able to remove our objection to the application subject to the inclusion of conditions relating to minimising the flood risks to the proposed development on any permission granted. Suggested wording for these conditions and the reason for this position is provided below.

Condition - No Ground Raising in Flood Zone

No raising of ground levels (including no storage of excavated material) shall occur within the areas identified as being at risk of flooding within the Hydraulic Modelling Study (JBA Consulting rev: A01-C01 dated June 2023) and Flood Risk Report (JRC Consulting ref: 1544w002 - P1 July 2023).

Reason - To safeguard the storage and conveyance function of this area for flood waters.

Condition - Finished Floor Levels and Floodplain Levels

No development approved by this permission shall commence until such time that the Finished Floor Levels of properties adjacent to the flood zones and the levels of the floodplain are submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure the development of the site will not alter the functionality of the defined flood plain and to reduce the risk of flooding to the proposed development and its future users.

Reason for position - As outlined in our previous consultation responses, the development site is located partially within flood zone 3 (high risk) which poses risks to the proposed development. We recognise that this application is an Outline application and therefore the applicant does not necessarily need to provide a specific layout or details such as finished floor levels at this stage. However, it is important that the flood risks are identified with accuracy and confidence to establish the acceptable parameters for development. The revised Flood Risk Report (JRC Consulting ref.: 1544w002 rev P1) is a very comprehensive assessment of the flood risks on site and is informed by a hydraulic model. The application is also accompanied by the Hydraulic Modelling Study by JBA Consulting revision A01-C01.

Having reviewed these documents (and other appendices), we are satisfied that development can be delivered that would be compatible with the requirements of the National Planning Policy Framework (NPPF). The reports provide clarity regarding the extent of the areas at risk of flooding within the site which demonstrates that the potential proposed development layout as shown on 'Illustrative sketch site layout' drawing is compatible with the sequential approach as detailed within the NPPF and associated Planning Practice Guidance.

Importantly, the comprehensive modelling work undertaken incorporates the latest planning practice guidance requirements and provides confidence regarding the area at risk of flooding, including taking into account climate change effects over the lifetime of the development. We are therefore satisfied that our previous concerns have been adequately addressed and recommend the above conditions to be placed on any permission granted.

National Highways

Referring to the notification of an Outline application referenced above (all matters reserved except access) for the residential development of up to 63 dwellings and associated infrastructure, at land east of Sidmouth Road, Ottery St Mary, Devon, 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 recommended 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.

Highways England was renamed National Highways in August 2021. Prior to April 2015 the organisation was known as the Highways Agency. National Highways is a government owned company responsible for operating, maintaining and improving the SRN.

Statement of Reasons

The application seeks outline permission (all matters reserved except access) for the residential development of up to 63 dwellings and associated infrastructure, at land east of Sidmouth Road, Ottery St Mary, Devon. The 2.6ha site is located approximately 2.6km south of the A30/Gosford Road junction and 4m east of the A30/Exeter Road B3180 junction.

It is understood that the site is not allocated for development in the adopted East Devon Local Plan and that an application for 53 dwellings on the site was refused by the Local Planning Authority in April 2015 on the grounds of landscape impact, loss of agricultural land and lack of safe pedestrian routes to the town and primary school.

Impact on the Strategic Road Network

A Transport Statement (TS) dated August 2020 has been submitted in support of the application by Highways & Access Ltd. Given the date of the TS the assessment contained within is considered unlikely to reflect current operating conditions of the surrounding highway network.

National Highways has reviewed the TS and makes the following comments.

The TS states that it has not been possible to derive appropriate trips rates from the TRICS database on the basis of a minimum number of 50 dwellings being required to derive detailed data. As paragraph 5.1.1 of the TS sets out a quantum of 63 dwellings are sought by the application it is unclear why trip rates have not been derived from TRICS on the basis of the above.

Paragraph 6.1.2 states the development is likely to generate in the region of 20 peak hour movements (two-way trips) but provides no justification as to how this figure has been derived or whether this applies to the AM and/or PM network peak hours. National Highways would expect the applicant to derive and substantiate suitable trip rates from TRICS or undertake a first principles assessment supported by appropriate evidence.

On the basis of 63 dwellings National Highways considers the above trip generation to be significantly understated, with the development anticipated to generate in the region of 35-40 two way trips in both the AM (0800-0900) and PM (1700-1800) network peak hours, based on comparable developments.

The TS presents no distribution of the forecast development traffic onto the wider highway network, stating only that development traffic is 'expected to be low' and predicts 'traffic flows will dissipate onto the highway network without issue'. It is unclear on what basis these conclusions have been reached and we have been unable to locate any supporting transport evidence or assessment. As such we consider that the traffic impact of the development on the surrounding highway network is currently unknown.

Notwithstanding the above, given the forecast traffic generation as derived by National Highways, the proximity of the site from the A30 trunk road and available route choice to/from our network is it considered unlikely that the proposal would result in an unacceptable impact on the safe operation of the strategic road network and its junctions, as defined by NPPF.

Recommendation

National Highways has no objection to application 22/1973/MOUT.

Devon County Council Education Dept

Regarding the above planning application, Devon County Council has identified that the proposed increase of 63 family type dwellings will generate an additional 15.75 primary pupils and 9.45 secondary pupils which would have a direct impact on primary and secondary schools in Ottery St Mary.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

We have forecasted that there is currently not capacity at the nearest primary school for the number of pupils likely to be generated by the proposed development and therefore Devon County Council will seek a contribution directly towards additional primary education infrastructure at the local school that serves the address of the

proposed development. The contribution sought for primary is £269,277 (based on the DfE extension rate of £17,097 per pupil). This will relate directly to providing education facilities for those living in the development.

We have currently forecast that there is enough spare capacity at the local secondary school for the pupils expected to be generated by this development and therefore a contribution towards secondary education would not be sought.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122. It is anticipated that these contributions would be provided for through CIL.

Other Representations

To date there have been 462 letters of objection received (in summary);

The access arrangements are unsafe on an already busy and narrow road and would add to the safety concerns at the top of Tip Hill
The development would add to pressure on overstretched services and infrastructure
The town has had more than its share of housebuilding in the last ten years
The proposal is contrary to the development plan
The development would be outside the built-up area boundary
It would result in a loss of grade 2 agricultural land
The adverse impact on traffic congestion in the town
The risk of flooding
The loss of trees and hedgerows and the impact on wildlife
The visual impact
The impact on amenity
Pollution
Inadequate public transport

4 letters of support received (in summary);

There is an overwhelming need for housing, especially affordable housing
The development would improve highway safety
The occupants would support businesses in the town
The land is not grade 2
It is a logical extension of the town

PLANNING HISTORY

Reference	Description	Decision	Date
15/1734/MOUT	Outline planning application for the construction of up to 53no. dwellings incorporating open market and affordable dwellings, together with associated infrastructure (all matters reserved except for access).	Refused	26/04/2016
20/1974/MOUT	Outline planning application for the construction of up to 63 dwellings incorporating open market and affordable dwellings, together with associated infrastructure (all matters reserved except for access).	Refused	08.09.2021

In summary planning application 20/1974/MOUT was refused for the following reasons;

1. Outside BUAB for Ottery so as to conflict with the spatial approach to development
2. Urbanising impact on the character and appearance of the countryside
3. Lack of suitable footway for pedestrian traffic.
4. Inadequate width of priority system
5. Lack of adequate Flood Risk Assessment
6. Loss of grade 2 agricultural land.
7. No mechanism to offset harm to European designated SAC
8. No mechanism to secure other required elements.

POLICIES

Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP1: Development in the Countryside

Policy NP2: Sensitive, High Quality Design

Policy NP6: Valued Views

Policy NP8: Protection of Local Wildlife Sites and Features of Ecological Value

Policy NP9: Accessible Developments

Policy NP12: Appropriate Housing Mix

Policy NP13: Accessible and Adaptable Homes

Policy NP14: Demonstrating Infrastructure Capacity

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

Site Location and Description

The site occupies an area of land on the east side of Sidmouth Road between Longdogs Lane and Gerway Lane. It is comprised of three fields of semi-improved grassland and has a site area of just under 3 hectares. The entire site is provisionally classified as grade 2 agricultural land. Dividing the fields there are mature hedgerows along with some hedgerow trees. The site rises to the south east and wraps around

three sides of two dwellings at its southern extent as well as adjoining the boundary with three properties in the north west corner. Access to the site is currently from Gerway Lane. Separating the site from Sidmouth Road there is a vegetated bank with a difference in level of between 2 and 4 metres, increasing as the site rises to the south.

The site is outside the Built-up Area Boundary of the town as established in the local plan, but is not subject to any landscape or nature conservation designations. The northern part of the site is adjacent to a watercourse and partly within flood zone 3. The East Devon Area of Outstanding Natural Beauty is about 1 mile to the east. About 2.7 miles to the south west is the nearest point of the Pebblebed Heaths Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

Proposed Development

Planning permission is sought for the construction of up to 63 houses on this green field site on the southern edge of Ottery St Mary. The application is in outline and seeks approval for the principle of development and details of the access to the site. All other matters are reserved for future consideration in the event of approval. As well as details of the access, the application has been accompanied by an indicative site layout plan, a tree survey, ecological impact assessment, a historic environment assessment, a transport statement, a flood risk assessment, a landscape and visual impact assessment and an agricultural land assessment. A Heads of Terms has also been submitted indicating that 50% of the dwellings would be affordable.

A new access to the site would be created from Sidmouth Road. This would entail the regrading of the roadside bank and removal of the vegetation as well as cutting a new road into the site which would rise up from Sidmouth Road.

Emerging Local Plan

As part of the evidence base in support of the emerging local plan the site, known as GH/ED/30 although it should be recognised that the site only forms part of the large area. This was assessed in the following passage;

Infrastructure implications: Lack of secondary or primary education provision. Current access is via Gerway Lane which is not much more than a track serving nine houses off Sidmouth Road. Gerway Lane would not be suitable as it currently stands and would require improvements to visibility splays at the junction with Sidmouth Road, as well as potentially requiring widening. Alternatively, access could be secured directly off Sidmouth Road. However, this would likely require considerable highway engineering to widen Sidmouth Road and address the difference in height with the site, which is elevated from the road. Sidmouth Road at this point is a reasonably wide C-class road potentially capable of accommodating additional development and associated movements in itself. However, the road narrows significantly towards Sidmouth to the south and access into and through Ottery is constrained by narrow roads and a single route through the town centre. Further investigation may be required as to whether more significant highways improvements (bypass/distributor road) are necessary. Development of the site has the potential to impact on Junction

29 of the M5, which suffers from congestion at peak periods. The centre of the site is approximately 4.4km from Feniton train station (though not easily accessible from this location). The site itself is served by a once weekly service linking Sidmouth-Ottery-Feniton-Honiton-Taunton, but Ottery St Mary as a town is well connected by regular routes linking to Axminster, Honiton, Sidmouth, Cranbrook, Exeter Airport and Exeter amongst other places. All of these locations are accessible from buses stopping in the town centre (approx. 490m from the centre of the site). Pedestrian/cycle movement into Ottery St Mary would need to be greatly improved. Landscape sensitivity - summary of findings: The site is located outside but reasonably near (approx. 1.6km) to the East Devon AONB. There would be intervisibility with the AONB.

However, the site may be seen in the context of the town and, due to its westerly slope away from the AONB and intervening vegetation, visibility may be more limited than sites on the opposite side of the valley. The site may also be visible from Belbury Castle hillfort on the opposite side of the valley. The site is bounded and crossed by hedgerows and trees which may be of landscape importance. There are various PRowS in the wider landscape context, which may offer views of the site. Impact on historic environment - summary of findings: A number of neolithic and Roman pits have been identified in the vicinity, as well as medieval and post medieval artefact finds. In addition to this, the site is within a large area to the south of Ottery St Mary known to contain historic field systems.

Ecological impact - summary of findings: Minor adverse effect predicted (not significant) Accessibility assessment: The site is within 1600m of all facilities except a train station

Other known site constraints: Part of the site is liable to flood. Site is Grade 2 agricultural land. Not possible to meet highway standards re road width and pedestrian pathway. Two previous major planning applications refused on, inter alia, landscape, highway safety, pedestrian access, flooding and loss of agricultural land.

Site opportunities: Limited opportunity to provide a footpath, however highways are concerned that this will not meet their width requirements Amended Maximum Yield following discounted areas on site: 47 Brief summary of the key positives and negatives of the site: Positives- site is close to existing facilities and will be seen against a backdrop of existing development Negatives- Highway access is difficult (impossible?) to achieve, previous reasons for refusal still stand, landscape concerns, high heritage sensitivity.

Should the site be allocated? No Reason(s) for allocating or not allocating: Greenfield site which relates well to the built up area, highly sensitive in heritage terms, unable to achieve satisfactory access and pavement.

ANALYSIS

The main issues with this proposal are:

- Whether, in principle, the site offers an appropriate location for development, having regard to the development plan's settlement strategy;

- The effect of the proposed development on the character and appearance of the area;
- Highway issues;
- Potential flooding and drainage;
- Whether the development would result in the loss of an area of best and most versatile agricultural land; and the.
- Planning Balance

Principle

Strategies 1 and 2 of the Local Plan set out the scale and distribution of residential development in the district for the period 2013-2031. The main focus is on the West End and the seven main towns, one of which is Ottery St Mary. Development in the smaller towns, villages and other rural areas is geared to meet local needs and represents a much smaller proportion of the planned housing development.

Notwithstanding the inclusion of Ottery St Mary amongst the seven main towns, no housing allocations were made in the Local Plan because in a relatively short period leading up to adoption of the plan around 500 dwellings had already been consented and were under construction. From 2012 to the present date around 580 dwellings and a 166 bed care home have been consented and most of those have been built, bar a few small developments. Of those dwellings, 120 were affordable and five affordable extra care apartments were also provided. Therefore, around 20% of the housing delivered has been affordable, and it has been delivered across four sites.

At the 2011 census there were 2111 households in the Ottery St Mary Town output area (which extends beyond the built-up area boundary). There has therefore been a 27% increase in the number of households (excluding the care home) in less than 10 years. The Neighbourhood Plan, which was 'made' in 2016 states:

"Given the large numbers of consented homes in recent years, the consensus from the community is that no allocations should be made at Ottery St Mary Town, West Hill or Tipton St John."

The proposed development would comprise major development in the open countryside, outside of the defined settlement limit of Ottery St Mary, thereby conflicting with Strategy 7. Consequently, the site would not offer an appropriate location for the development proposed having regard to the development plan's settlement strategy.

The Nation Planning Policy Framework (NPPF) is a material consideration to be taken into account. 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-date⁸, 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.

Members should be aware of 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.

As an outline planning application has been submitted the principal of development is sought to be established. 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.

Members should also be aware that paragraph 14 of the Framework advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made. In this instance the proposal takes place within the ward of Ottery St Mary and West Hill. Whilst Ottery St Mary and West Hill has a 'made' neighbourhood plan the defined neighbourhood area, wherein development would be subject to its policies does not include this site. Furthermore, this neighbourhood plan this was 'made' in 19 July 2018 – more than two years ago from

the time of writing. Accordingly, paragraph 14 of the Framework does not affect the application of paragraph 11 under this proposal.

Character and Appearance

The site comprises two fields of grassland on the outskirts of the town. A small housing estate has been developed to the west but around the site the character is much more rural with only a scattering of dwellings in a loose-knit arrangement. Furthermore, the bank, hedgerow and trees on the site frontage provide a strong sense of enclosure to the road which is matched by the bank and hedgerow opposite until the splay for Gerway Close opens up. With its mix of urban and rural characteristics, the site frontage is in a transitional area between the town and the open countryside beyond Gerway Lane.

In views towards the site, the long gardens and paddocks to the south of Longdogs Lane would separate the development from the main built form of the town on the east side of Sidmouth Road. In particular the development would have an urbanising effect in certain views from East Hill and Knightstone Lane as well as from properties to the north and south that currently have a rural outlook.

Clearly one of the main impacts would be the loss of trees and enclosure on the site frontage, along with provision of the new highway infrastructure. This would have a significant urbanising effect in this transitional area and would lead to a localised but highly adverse impact along this stretch of road.

From the indicative layout provided the site can contain the quantum of development proposed. Although this is denser than the more sporadic development around some the periphery of the site notably to the north and south it is broadly compatible with that seen in Gerway Close to the West. This density and overall layout is acceptable would not appear as a stark contrast from the vast majority of public vantage points.

While to some extent new planting within the site would mitigate the adverse impacts, overall the change in the rural character of the site to an urban environment would still be harmful to the character and appearance of the area and contrary to Strategies 7 and 46 and policy D1 of the Local Plan. This weighs against the scheme.

Highway Issues

With regards to the proposed highway works these consist of the following;

- **Creation of an access onto Sidmouth Road to serve the development with 2.4m by 43m visibility splays. 30mph signage.**
- **Landscaping and excavation to accommodate this.**
- **Provision of footpath along the Sidmouth Road of varying width – 1.42m to 2.0m to the north of the proposed access. Provision of footpath to the south of the proposed access of 2m width**

- **Installation of priority system with vehicles heading eastward (leaving Ottery) having priority over oncoming vehicles.**
- **Tactile paving crossing point**

Many of the objections received relate to the highway issues posed by this development. The main highway issues stem from the installation of the access point along one of the main routes in the settlement, the installation of a priority system effecting this flow, lack of safe pedestrian routes and lack of suitable width of the pavement and road. It is also noted that there is a school in the area with the intended occupiers likely to use this route for access. To accommodate the development an access with suitable visibility would need to be installed, suitable pedestrian linkages created as well as a traffic flow priority system. It is therefore necessary to assess the highway issues in turn.

Access

The current site access is from Gerway Lane but as this is not suitable for the scale of development proposed accordingly a new access fronting Sidmouth Road is proposed. Notwithstanding the significant adverse landscape impact this would give rise to, it would provide suitable two-way access for cars and larger vehicles.

Notwithstanding the safety concerns, the distance and terrain in the direction of the town centre is not likely to be a deterrent to pedestrians and cyclists. A finger of the built up area boundary (BUAB) reaches approximately where the proposed access is positioned. In terms of pedestrian user experience to reach the town centre heading along Tip Hill in a northward direction it is approximately 500m and therefore complies with the distance requirements within Manual for Streets document. The proposal is to install a pavement alongside the highway from the access towards Tip Hill. However it will be a necessity for pedestrians to cross the road in order to connect to the rest of the pedestrian network which leads towards the town centre. This element is examined further below.

It is noted, however, that the route to the primary school in Longdogs Lane involves vehicles negotiating a busy junction and a narrow section of road with no pavements. This is a long standing problem but even so the development would add to pedestrian and vehicular traffic at this junction thereby worsening the problem to a small degree.

The 85th percentile vehicle speeds recorded at the speed survey undertaken by Trace Design showed that vehicles travelling southbound were of 31.45mph and above the Sign posted limit of 30mph.

The results of the vehicle speed survey show that the required visibility from the site access junction would be 45.9m to the north (to the right of the proposed access) and 38.0m to the south (to the left of the proposed access) as specified by Manual for Streets section 7.7. As there is conformity with this standard this does not weigh against the scheme.

The proposed access, due to the work proposed to the adjacent highway, would not prejudice highway safety and no objections based on the access have been raised by

DCC Highways. Therefore the proposal is considered to accord with policy TC7 of the East Devon Local Plan.

Highway Manoeuvrability

There is potential for interruptions to the flow of traffic in Sidmouth Road both from the creation of an additional access and the priority system to have a knock on effect in the town centre where congestion is regularly experienced. However the risk is considered to be low given the distance between the site and the town centre – a distance of approximately 400m to the north.

The proposal includes the provision of a priority way working to the north of the application site and by the boundary with Fieldfare. This priority system would run for approximately 70m and will have priority for vehicles travelling away from Ottery St Mary.

The Transport statement has identified that the carriageway width along the section of Sidmouth Road passing by the site access would be widened from the existing 4.8m to 5.5m (as demonstrated in the submitted drawings). This will allow for two large vehicles passing each other as per Manual for Streets Figure 7.1 (as shown in Figure 4) and will provide a betterment for vehicle traffic flows along Sidmouth Road.

It was a requirement of the Highway Authority that the proposed priority system original submitted was revised so as to give priority to vehicles leaving Ottery St Mary and heading in a southerly direction (towards Sidmouth). Amended plans to that effect have been received which change the priority flow in favour of those leaving Ottery and heading southward to Sidmouth. This switch alleviated DCC Highway concerns in this regard to alleviate potential for congestion.

Taking the above into account highway manoeuvrability can be accommodated without an unacceptable highway safety risk presented or interruption of the overall free flow of traffic. The proposal is considered to accord with Manual for Streets and policy TC7 of the East Devon Local Plan.

Pedestrian linkages

The nearest pavements providing a route into the town centre are at the vehicular entrance to Gerway Close, to the south of the proposed access, and near Cardarroch, which is to the north. All of the pavements leading to the town centre are on the opposite side of the road to the site and therefore anyone walking from the proposed dwellings would need to cross the road.

To connect the site to the existing pavement network a new footway is proposed on the site frontage. While this would connect with Gerway Close, any pedestrians accessing the town centre would prefer the shorter and more direct route along Sidmouth Road. The footway therefore extends northwards adjacent to Fieldfare but as that property is not in the ownership of the applicants the pavement would be

constructed on highway land, thereby narrowing the road. In particular the proposed pavement width have drawn objections.

The proposal includes the provision a priority right of way. This would run for a length of approximately 70m and will have priority for vehicles travelling on a northbound direction towards Ottery St Mary.

Whilst the pavement width is not the desired 2m throughout it is an increased width compared to that previously submitted. Instead the pavement width varies between 1.4m and 1.8m to the north of the proposed access. This latest proposal appears to detail an edge lined margin arrangement between the footway and running carriageway which would suitably aid drivers positioning on the road when passing through the proposed priority access arrangement. A certain degree of situation awareness would be required from users, but there is no suggestion from the Highway Authority that conflict between pedestrians and vehicles would be unsafe. There is a responsibility, as noted in the Manual for Streets, for drivers to take into account the road and traffic conditions. Indeed it would not be possible to absolve all potential highway risk with such matters. In and around the proposed access area, noting that there would be a range in ability of users to navigate the routes, there is no substantial evidence that manoeuvres would equate to a 'conflict' which would not render this route unsafe for pedestrians.

DCC Highways have not objected to this element and therefore this highway matter is considered to accord with policy TC7 of the East Devon Local Plan.

Trip Generation and Parking

Within the Transport assessment a TRICs figure of 28- daily vehicles trips is identified as a result of the housing associated with this development. Following on from this it is submitted that the proposed development would add an additional 32 vehicle trips to the AM peak flow and 31 vehicle trips to the PM peak flow onto the local highway network on an average of roughly 1 vehicle in and out of the site every 2 minutes.

Subject to conditions there are no objections from the highway authority based on increased trip generation using the wider highway network with weight placed on their expertise in such matters.

Although layout is a reserved matter the illustrative masterplan shows adequate provision of parking relative to the number of units. This would be finalised at reserved matters stage. As noted above there are adequate pedestrian links to the services and facilities within Ottery itself, which is recognised as of the main settlements in the local plan. This is complimented in terms of public transport with stops within walking distance in the town centre which links to Exeter, West Hill, Sidmouth and Honiton available.

Summary on highway issues

There has been many discussions over these highway issues which have resulted in amendments and changes to the access, passing place and priority flow. This

highways issues continues to draw objection from residents and ward members. However, the highways department raise no objection to the proposal and given weight to their expert view this issue should not weigh against the development.

Analysis of the sites connectivity in terms of linkages to services and facilities that Ottery has to offer this has revealed that subject to the installation of pavements, and reconfiguration of the highway, in terms of distance and user experience the site is considered acceptable so that potential occupiers would not be overly reliant on private modes of transport. On this specific issue the proposal complies with policy TC2 of the East Devon Local Plan.

The provision of 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 Ottery St Mary 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.

Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership and so this should be secured within the s106.

According to the submitted application forms 31 of the 63 dwellings are to be affordable, therefore just under 50%. However, in light of the above stance which has been applied consistently to similar large scale housing planning application a 25% should instead be required. Planning obligations should only be imposed in order to make the development acceptable. Therefore in line with the above 25% should be sought with the appropriate tenure split. The developer can still choose to provide a higher amount of affordable housing however and when delivered outside of a S.106 could be eligible for Homes England funding.

Agricultural land

Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available or the benefits of development justify the loss of the high quality land.

The land is provisionally classified as grade 2 and therefore considered as 'best and most versatile' and protected for the purposes of planning. Given that the provisional classification is based on a high level assessment, the applicant has had a site-specific assessment undertaken. This site assessment concludes that the land should be classed as grade 3b based on an assessment against the relevant guidance.

A rebuttal has been presented under this latest planning application in response to the previous committee report on this subject which identified a number of issues that required resolution before its conclusions could be ratified. However, there are still misgivings over the explanation given as to why the field would be inaccessible to tractors, a lack of water over the summer months and lack of commentary of this specific site. As such it is considered that there is a lack of evidence to depart from its grade 2 identification. In this regard there is identified conflict with policy EN13 and paragraph 174 of the NPPF.

However, whilst it is considered that the potential loss of the higher quality land is regrettable, where it is not physically connected to land of a similar quality and there are large amounts of other land in the locality of higher quality it is considered that the loss would not significantly harm agricultural interests or the national food supply. Nevertheless this weighs against the development in the planning balance

Other matters

Archaeology

The proposed development site lies in an area where prehistoric activity is recorded in the County Historic Environment Record in the surrounding landscape. The Historic Environment Serviced therefore assessed that there was potential for the development to expose and destroy archaeological and artefactual deposits. However, the applicant subsequently had a geophysical survey undertaken on the site in January 2021 which found no evidence that would necessitate more intrusive investigation. Accordingly the archaeology objection has been received.

Amenity

The main consideration in respect of amenity is the likely impact of development on the living conditions of the occupiers of houses adjoining the site. The indicative layout shows an acceptable relationship with the properties on the north side of the site, subject to consideration of window positions. However, at the southern end, where the houses have private garden areas which are not currently overlooked by any other property, the relationships are less satisfactory.

Gerway House has a large rear garden and it may be possible for a degree of overlooking to take place without causing harm to the main amenity areas near to the house. However, the indicative plan shows houses with rear elevations looking directly over that area, some at a distance of only 11 metres from the boundary.

The relationship between the new development and its neighbours will need to be given careful consideration at the reserved matters stage

It is considered that an acceptable layout could be achieved at reserved matters stage with suitable available space for reconfiguration if needed. Remembering that layout and appearance are reserved matters there is no reason at this outline stage why there could not be adequate space with topography allowing for suitable open space

and amenity area. The space for such features indicates that this could make for good place making with the ability to reflect local distinctiveness. Therefore at this outline stage there is compliance with policy D1 of the East Devon Local Plan.

Potential Flooding and drainage

A drainage strategy has been prepared which, following clarification and subject to consideration of the detailed design, is satisfactory. The reserved matters application will need to be informed by the site constraints and the advice in force at the time but it is expected that, notwithstanding the indicative layout, a SuDS scheme will be properly integrated into the layout and landscaping.

A watercourse runs along the northern edge of the site and the north east corner is at risk of river and surface water flooding according to the Environment Agency's maps which place this part of the site within flood zone 3.

The revised Flood Risk Report (JRC Consulting ref.: 1544w002 rev P1) is a very comprehensive assessment of the flood risks on site and is informed by a hydraulic model. The application is also accompanied by the Hydraulic Modelling Study by JBA Consulting revision A01-C01.

After several revisions of the FRA document being submitted the EA removed their original objection to the application, subject to suggested conditions. It is important that the flood risks are identified with accuracy and confidence to establish the acceptable parameters for development.

The comprehensive modelling work undertaken incorporates the latest planning practice guidance requirements and provides confidence regarding the area at risk of flooding, including taking into account climate change effects over the lifetime of the development.

Having reviewed these documents (and other appendices) the development can be delivered that would be compatible with the requirements of the National Planning Policy Framework (NPPF). The reports provide clarity regarding the extent of the areas at risk of flooding within the site which demonstrates that the potential proposed development layout as shown on 'Illustrative sketch site layout' drawing is compatible with the sequential approach as detailed within the NPPF and associated Planning Practice Guidance in that at this stage housing is shown as being outside the flood zones 2 and 3 which is along the north east periphery of the site.

The DCC Lead Flood team, after a series of additional requests, are now satisfied so that the proposal conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031) subject to a suggested condition requiring a series of infiltration testing.

Ecology

Paragraph 180 of the Framework includes a number of principles that should be applied by decision-makers when planning applications are being determined with a view to conserving and enhancing biodiversity.

An ecological appraisal has been submitted along with further commentary which explores the potential impact on protected species. The assessment notes the impacts on a wide range of species but none would be affected to the extent that provision of alternative habitats would be required. It is noted that there are two outlier badger setts on the site which would be closed but it is concluded that their closure would not harm the local population (and would only be carried out with the necessary licence). Subject to appropriate timing of the works, protection of retained hedgerows, and other detailed considerations, the proposal could be undertaken without adversely affecting biodiversity.

A desk study, Extended Phase 1 Habitat Survey and phase 2 surveys for foraging and commuting bats, beaver, breeding birds, dormouse and reptiles were undertaken by EcoLogic and GE Consulting in 2020 and 2021 to provide baseline data for the Site

Amphibians - The site is likely to be of value to common amphibian species at the Local level albeit this is limited by the lack of waterbodies on or in the vicinity of the Site. The Site is considered to be of negligible value to Greater Crested Newt.

Badgers - Two outlier badger setts were identified during the phase 1 survey, located within the two hedgerows within the Site, separating the grassland fields. Both setts were classified as single hole outlier setts, used on an intermittent basis by the local badger social group. A network of badger pathways was also recorded to be present at the Site. The Site is considered to form part of a badger social group territory and is used for both foraging and sett construction. Given the presence of outlier setts and some evidence of foraging and commuting it is considered the site is value to badger at the Local level.

Bats - Records of long-eared species, brown long-eared, common pipistrelle, soprano pipistrelle, Nathusius'pipistrelle, Daubenton's bat,greater horseshoe, lesser horseshoe, noctule and serotine were returned from the desktop study, the nearest of which relates to a long-eared bat located approximately 65m to the west of the site. Two EPS licences for bats have been granted within 1km of the Site boundary, the nearest is located approximately 600m to the north-west, included a 2014 licence associated with roosts for common pipistrelle, lesser horseshoe, serotine and soprano pipistrelle. A second EPS licence, located approximately 600m to the north which was granted in 2009 associated with roosts for common and soprano pipistrelle, lesser horseshoe, greater horseshoe and brown long-eared bat. None of the trees on site were recorded to support any feature that could be used by roosting bats.

Surveys conducted between July and October 2020 found at least six species of bat utilising including common pipistrelle, soprano pipistrelle, serotine,Myotis spp. and lesser horseshoe. The activity predominantly comprised common pipistrelle commuting and foraging.

Overall, the Site is considered to be important for commuting and foraging bat species at the Local level.

Birds - the Site has potential to support a low number of breeding house sparrow (red-listed BoCC and SPI), dunnock (amber-listed BoCC), starling (red-listed BoCC and SPI) and song thrush (red-listed BoCC and SPI) within the hedgerows and woodland edge. The Site is considered to be important for nesting birds at the Local level.

Dormouse – the Site is considered to be important for nesting birds at the Local level. In September 2020 two new dormouse nests were identified in the central and eastern hedgerows. Given the comparative small amount of suitable habitat present in comparison to the wider surrounds, and the fact that this species was not found to be present during the earlier surveys (in 2015), it is considered the site is of value at the local level for this species.

Reptiles - These surveys in April and May 2012 recorded a peak count of 8 slow worm and 1 grass snake, which corresponds to a 'low' population of grass snake, and a 'good' population of slow worm. Slow worm were largely also recorded to the north, along with the western side of the central north–south hedge at the site. As such, it is considered that the site is of value at the Local level for reptiles.

In terms of mitigating the impact on European designated sites and on site species the following is proposed;

- Financial contributions will be made in accordance with local policy to offset recreational impacts to East Devon Pebblebed Heaths SAC and East Devon Heaths SPA;
- An EPS Licence for dormouse will be in place prior to the commencement of works on the Site;
- Removal of vegetation appropriately timed to avoid potential for impacts on breeding birds and dormouse;
- Habitat manipulation to encourage common species of reptile and amphibian potentially present to move away from the working area and into retained habitats at the north;
- Important bat commuting and foraging areas would be retained and unobstructed from physical and environmental barriers;
- Wildlife sensitive lighting scheme implemented to ensure boundary features remain unilluminated during construction and operation, dark corridors included;
- Landscaping to include new ponds, wildflower grassland and wildlife-friendly and native tree and scrub planting, particularly within the northern POS resulting in a 9.66% net habitat gain and a 12.73% net hedgerow gain;
- Retained hedgerows and trees will be protected with an appropriate buffer in design around root protection areas; in line with BS5837:2012., including the provision of a minimum of 2m buffer adjacent to hedgerows during construction;
- Bolstering of retained hedgerows with appropriate native woody species to reinforce connectivity and quality of these habitats;
- Control via a CEMP and LEMP

Given the identified presence of protected species within the site is likely that a licence from Natural England (NE) would be required. Therefore consideration of the derogation test must be had.

Natural England can only issue a licence if the following tests have been met:

- the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest;
- there is no satisfactory alternative; and
- the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.

Whilst decision makers should have regard to the 3 tests above it should be noted that the LPA is not expected to duplicate the licensing role of NE (as per *Morge v Hampshire County Council* (2011, UKSC 2)). Instead an LPA should only refuse permission if the development is *unlikely* to be licensed pursuant to the derogation powers *and* 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 above 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.

Biodiversity Net Gain (BNG)

The first principle of BNG states "*the metric does not change existing biodiversity protections, statutory obligations, or policy requirements*", i.e., any ecological enhancements considered using the BNG metric must result in *additionality* over and above legal and compensation requirements. Any ecological enhancement of a development should be delivered through separate habitat provision and/or enhancements which are not already required to mitigate or compensate impacts on protected species, e.g., habitat provided for dormice, as this is an existing legal requirement to provide these habitats. The submitted BNG calculation based on the outline plan indicates that it is possible to achieve a 9.66% gain in habitat units and 12.73% gain in hedgerow units using the Biodiversity Metric. This is likely to include the provision of hazel scrub, species-rich hedges, and dark corridors/foraging habitat for bats. There is a risk that the proposed development quantum may not achieve a net gain for biodiversity when 'additionality' is taken into consideration and the

detailed site design is considered using the most up to date metric however this did not prevent the ecologist recommending approval subject to conditions.

It should be noted that the Devon Wildlife Trust have objected to the proposal citing that further survey relating to protected species have not been carried out and that the net gain/loss of biodiversity has not been carried out. However, further information was duly submitted in this regard which has since been considered acceptable by the council's ecologist.

Taking into account all of the above the proposal is considered to accord with policy EN5 of the East Devon Local Plan, the NPPF and reflective of guidance within circular 06/2005.

Trees

A tree survey and tree constraints plan has been provided which identifies the main trees and hedgerows within and adjacent to the site. The indicative layout plan allows for the retention of most of these, other than where the new access to Sidmouth Road would be created and where the road would punch through the internal hedgerow. Further work has been undertaken on the hedgerow losses and it has been concluded that these hedgerows are not classed as 'important' under the hedgerow regulations and therefore new planting is appropriate mitigation. A detailed scheme making suitable provision for protection measures and mitigation is therefore likely to be possible at the reserved matters stage. The proposal therefore accords with policy D3 of the East Devon Local Plan in this regard.

Open Space

Strategy 43 requires on-site provision of certain types of open space. In this case it would require the provision of around 490 square metres of amenity open space as well as 70 square metres of children's play space and 70 square metres of youth play 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, subject to it being demonstrated that the land is not at risk of flooding. The open space requirements are required in order to make this development acceptable and so should feature as an obligation within a s106 agreement.

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. The justification for the amount requested is yet to be qualified. 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 amount.

Habitat Regulations Appropriate Assessment

The nature of this application and its location close to the 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 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 although a Heads of Terms has been provided that includes provision for the financial contribution, a legal agreement securing the contribution will need to be provided (alongside other mitigating contributions). On this basis that such an agreement is secured it can be concluded that significant effects would be avoided

Planning Balance

Members will note from the planning history section of this report that previously similar planning application have been refused. Most recently 20/1974/MOUT which was refused for five reasons. Each of the reasons have been worked on through additional information and amended plans so that as it stands the main issue weighing against this proposal is the harm identified to the character and appearance of the area, with this mostly centred on the impact of the change to the road through the creation of the access.

It is also important to note the housing context which materially departs from when consideration of planning application 20/1974/MOUT took place. As previously mentioned there is no demonstrable 5 year housing land supply. Where this is the case the relevant policies of the local plan most important for determining the application should be treated as out of date. As such the NPPF, which sits as a material consideration, make it explicit that any harm needs to significantly and demonstrable outweigh the benefits in order for the proposal to not benefit from 'the presumption in favour of sustainable development'. It is under this context that the planning balance is now made.

Whether the proposal conflicts with the development plan, taken as a whole.

As can be seen from the forgoing sections there is no significant conflict with the individual policies of the adopted local plan. Footnote 8 of the Framework 'triggers' the need for a development proposal to be considered against paragraph 11 d) ii. but this, in itself, does not determine the weight to be attached to the conflict with any development plan policies relevant to that proposal. If there is no 5 year housing land supply the most important policies are deemed to be out-of-date for the purpose of

paragraph 11 d). However, the Framework does not prescribe the weight which should be given to the conflict with those development plan policies in such circumstances. At the time of writing the housing supply deficit is approximately half a year behind meeting its 5 year target. This has direct bearing on this proposal.

The paragraph 11 balance

Paragraph 11 d of the NPPF is applicable because of the 5 year housing land supply position within the district. There are no land designations, as stipulated in the exhaustive footnote of the same paragraph, preventing the application of this tilted balance. The proposed development outside of the build-up area represents encroachment into the countryside. The proposal would provide much needed housing within the district and provide affordable housing which is socially beneficial. The evidence base for the emerging local plan identified the site as having indivisibility with the AONB, heritage significance and access issues precluding a recommended allocation as part of the plan formation. It can be seen from above that following assessment that these preliminary issues raised as part of the evidence base for the emerging local plan no longer weigh against the scheme overall.

The proposal would bring some economic benefits including short term through the construction phase and longer term through additional spend generated by new residents, who could also help to sustain local services. These other benefits can be attributed moderate weight in the planning balance.

If has been found that the proposal can be achieved whilst mitigating the impact of the development on the highways. Impact on character and appearance results in harm but this is relatively limited to the area around the proposed access, so the benefits of the proposal outweigh any adverse impacts stemming from this.

Settlements such as Ottery St Mary may feel put upon as recent history has seen an increase in housing around its periphery. However, this is reflective of the sustainable attributes within the settlement and no definitive evidence of harm to its infrastructure has been submitted which cannot be offsite with mitigating contributions. Further, the 5 year land supply does not represent a maximum ceiling figure on housing required and it is clear that housing provision is one of the main thrust of the Planning agenda at a national scale.

Taken in the round the above considerations has not established that any adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Final planning balance - S38(6)

The Framework indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites the policies important for decision making 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 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 suitable location with suitable transport links to an appropriate level of services and facilities. The harm that may arise to the character and appearance what is now an enclosed highway would not significantly and demonstrably outweigh the substantial benefits the scheme would provide in relation to housing provision and other identified benefits.

The outcome of the Framework paragraph 11 d) process indicates that this decision should be taken otherwise than in accordance with the development plan in this instance. Therefore taking the requisite balance into account a recommendation of approval is made, subject to completion of a S106 and conditions.

S106 legal matters

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

- Provision of onsite 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 and priority system
- Securing BNG and its maintenance
- Contribution to NHS (final amount TBC)

NB – it is anticipated that education contribution would form part of the CIL.

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 and the conditions below.

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

RECOMMENDATION

Resolve 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 - 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)
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 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 development shall not proceed other than in strict accordance with the Flood Risk Assessment dated July 2023, conducted by JRC consulting.
(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).
7. The development shall not proceed other than in strict accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Assessment dated February 2020 conducted by Ecologic.
(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.)
8. The landscaping scheme approved at the reserved matters stage shall be carried out in the first planting season after commencement of the development or in accordance with a timetable previously 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)
9. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

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

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

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in

Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

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

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

10. No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the dwelling to which they relate.. (Reason: To promote sustainable travel in accordance with policy TC9 (Parking Provision) of the East Devon Local Plan).
11. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

(Reason - 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)

12. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority) of arrangements which secure the highway improvement works for provision of the access and priority system as illustrated in approved plan 19.123/001 J. The development shall not proceed above slab level on the dwellings hereby approved until the works have been carried out in accordance with the approved details.

(Reason - In the interest of highway safety, 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).

13. No raising of ground levels (including no storage of excavated material) shall occur within the areas identified as being at risk of flooding within the Hydraulic Modelling Study (JBA Consulting rev: A01-C01 dated June 2023) and Flood Risk Report (JRC Consulting ref: 1544w002 - P1 July 2023).
Reason - To safeguard the storage and conveyance function of this area for flood waters and 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).

14. No development approved by this permission shall commence until such time that the Finished Floor Levels of properties adjacent to the flood zones and the levels of the floodplain are 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 ensure the development of the site will not alter the functionality of the defined flood plain and to reduce the risk of flooding to the proposed development and its future users and 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)).

15. As part of the reserved matters concerning 'layout' the following details shall be submitted to and approved in writing by the Local Planning Authority:

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

- (b) A detailed drainage design based upon the approved Land off Sidmouth Road Ottery St Mary Devon Flood Risk and Drainage Strategy (Report Ref. 1544w002, Rev. P2, dated September 2023) and the results of the information submitted in relation to (a) above.
- (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (e) A plan indicating how exceedance flows will be safely managed at the site.

The development shall not commence until the works have been approved and shall be implemented in accordance with the details under (a) - (e) above prior to the occupation of the dwellings to which they relate.

(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).

- 16. No development shall commence on site unless the local planning authority has been provided with a copy of the dormouse mitigation licence 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 with an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.

(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).

- 17. No development shall commence on site without writing approval from the local planning authority confirming that a detailed site design is supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0) and an updated condition assessment undertaken in the optimal botanical period. The development shall deliver at least a 10% biodiversity net gain (BNG) for all habitat types within the development boundary. It should include 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. Any net gain calculations should clearly demonstrate how any proposed compensatory habitats for protected species, i.e., bats and dormice, account for up to no net loss within the metric and that other habitats are providing a biodiversity net gain over and above what is required for protected species compensation.

Development shall take place in accordance with the approved details.

(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).

18. Installation of any external lighting shall not commence until a Lighting Impact Assessment (LIA) including lux contours, based on the detailed site design and most recent guidelines (currently GN08/23 and DCC 2022), has been submitted and approved in writing by the local planning authority. The LIA should clearly demonstrate that dark corridors provided around the site are achievable. All external lighting shall be installed in accordance with the specifications and locations set out in the agreed design, and these shall be maintained thereafter for the lifetime of the development.

(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 Policies EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031).

19. A landscape and ecological management plan (LEMP) based on the submitted Ecological Impact Assessment (GE Consulting 2012) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. It should include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, permeable fencing, and other features clearly to be shown on submitted plans. The content of the LEMP shall also include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a minimum 30-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. Where results from monitoring show that the objectives of the LEMP are not being met a plan establishing contingencies and/or remedial action shall be submitted to and approved in writing by the Local Planning Authority to ensure that the development delivers fully functional biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

(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 Policies EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031).

20. No works shall take place (including ground works or vegetation clearance) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority based on the details within the submitted EclA (GE Consulting, 2021). The CECoMP shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication, including reporting compliance of actions to the LPA
- g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.
- h) Use of protective fences, exclusion barriers and warning signs. The approved CECoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

No dwelling shall be occupied until the local planning authority has been provided with evidence, including photographs, that all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), permeable garden fencing, reptile hibernacula that relate to the dwelling or site area have been installed/constructed in compliance with any ecological method statements within the approved LEMP and CECoMP.

(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 Policies EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031).

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this

application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

19123-022 D	Location Plan	16.09.22
19.123/001 J :	Other Plans	10.07.23
Highway Access & Frontage Works		

List of Background Papers

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

Ward West Hill And Aylesbeare

Reference 23/0727/MOUT

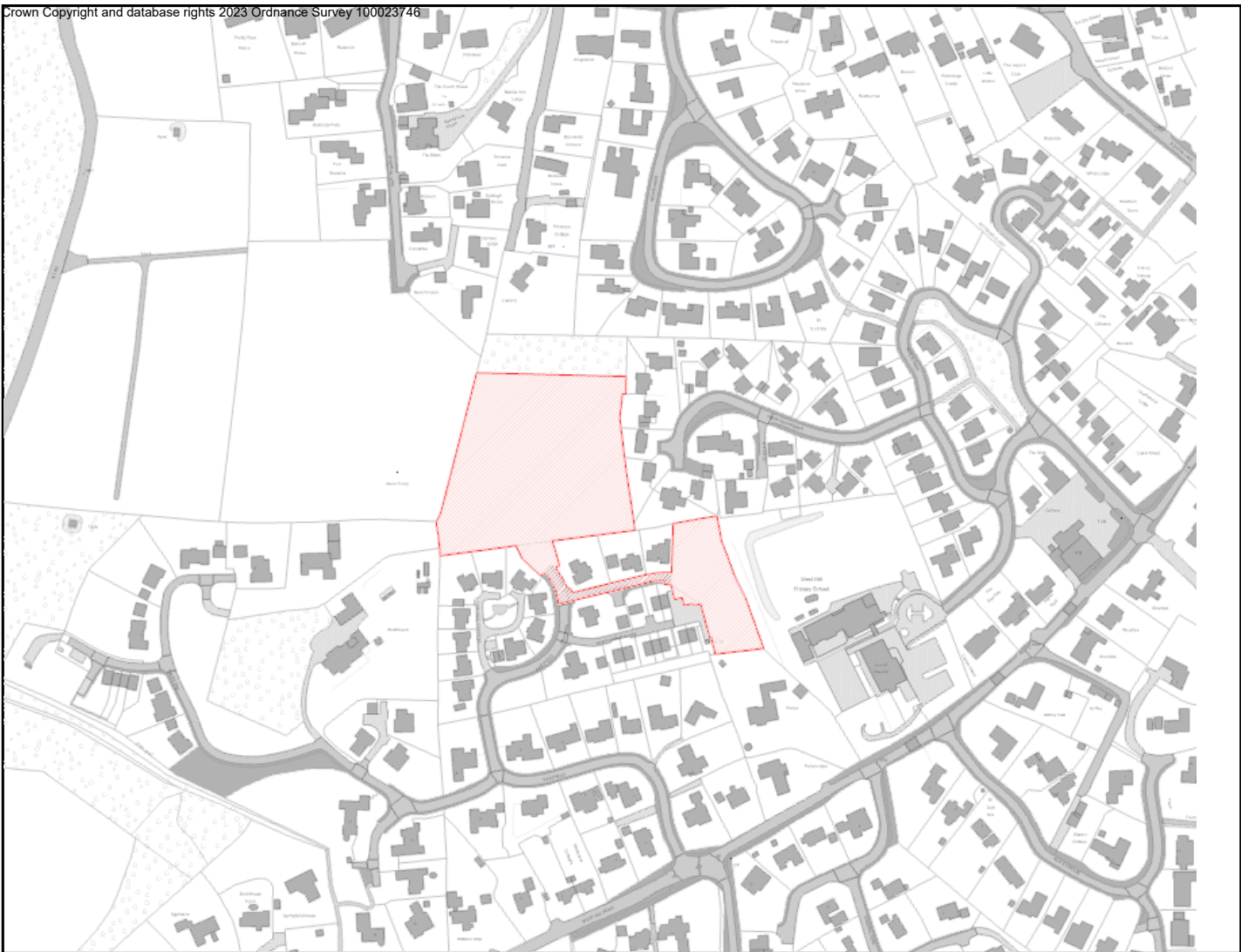
Applicant Blue Cedar Homes

Location Land North Of Eastfield West Hill

Proposal Erection of up to 30 dwellings with all matters reserved apart from means of access



RECOMMENDATION: Resolution to approve with conditions, subject to the completion of a s106 legal agreement and to adopt the Appropriate Assessment.



		Committee Date: 24.10.2023
West Hill And Aylesbeare (West Hill)	23/0727/MOUT	Target Date: 24.07.2023
Applicant:	Blue Cedar Homes	
Location:	Land North Of Eastfield	
Proposal:	Erection of up to 30 dwellings with all matters reserved apart from means of access	

RECOMMENDATION: Resolution to approve with conditions, subject to the completion of a s106 legal agreement and to adopt the Appropriate Assessment

EXECUTIVE SUMMARY

The proposal seeks outline consent for the creation of 30 dwellings including 50% affordable housing, with all matters reserved save for access. The planning application concerns two parcels of land in West Hill. To the north of Eastfield Gardens is the larger field parcel to be developed and to the east of Eastfield Gardens is a smaller parcel.

The site lies beyond the built up area boundary of West Hill and the proposed development therefore as a matter of principle contrary to the policies of the Local Plan. However, the district is currently unable to demonstrate a 5 year housing land supply and so relevant policies such as those that restrict residential development to within the built-up area boundaries are considered to be 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 boost to housing supply represents a national objective and so must weigh heavily in favour of the development at the present time. The proposal would bring about additional housing on what is considered to be on balance a sustainable location with services within a walkable distance. There are no objections raised by technical consultees taking into account the context and constraints of this site. This boost towards meeting housing supply forms a compelling material considered thereby justifying developing beyond former built up area boundaries. As such a recommendation of approval is made.

As the officer recommendation of approval conflicts with the views of a ward member this application is referred to members of the Development Management Committee.

CONSULTATIONS

Local Consultations

West Hill And Aylesbeare - Cllr Jess Bailey

I wish to OBJECT to this planning application and firmly believe this application should be REFUSED.

LACK OF SUSTAINABILITY

There has been considerable development in and around West Hill in recent years meaning that the infrastructure is already under strain. Ottery St Mary which shares many services with West Hill, has seen growth of 25% in recent years.

The Kings School is oversubscribed for the year 7 intake (academic year 2023-4) which has resulted in 20 children from within the catchment area being unable to attend. Granting consent for this application will exacerbate this issue and will result in additional displacement of pupils from within the catchment area, including West Hill. This is not a sustainable approach to planning ' building more houses resulting in children being transported elsewhere to go to school.

Simply allowing a developer to make a monetary contribution to education does not overcome the issue as it is not possible for the School to simply enlarge its class sizes.

The Coleridge Medical Centre is already under considerable pressure and this is reflected by the surgery reducing its catchment area in recent years. New residents moving to Newton Poppleford are now no longer able to register as patients at the Coleridge Medical Centre, for instance, as a result of the boundary reduction. It would be wrong to further exacerbate the pressures on the surgery by building yet more houses in West Hill.

It is not acceptable to support substantial development which is proposed by this application unless and until the issues around existing pressure of infrastructure have been resolved.

It is also concerning to note that West Hill village shop has declined materially in recent weeks/months/years. It currently serves no fresh produce (milk, cheese etc) and has not done so for many months - since February 2023. West Hill cannot be considered a sustainable village without residents having access to even the basics in their local shop.

CONCERN ABOUT SURFACE WATER FLOODING

Approximately 100 houses flooded in villages close to West Hill on 9th May 2023 predominantly due to surface water run off. This very much emphasizes the precautionary approach that EDDC as planning authority must take in order to protect homes and residents and to avoid creating additional risks of run off and flooding.

I note the concerns expressed by residents about surface water flooding, springs, drainage and run off from the site. I very much share these concerns and their concerns that building on the site with houses and associated hardstanding etc seriously risks exacerbating existing surface water and drainage issues.

I note that the historic google maps imagery shows two long trenches across the site ' and the function of these needs to be identified and explained by the applicant.

I find it unsatisfactory that the ground investigation and environmental assessment is dated 2010 so is thirteen years old. This pre-dates the building work in the immediate area and an up to date investigation must be required.

As the Devon County Councillor I have called EDDC to formally consult with DCC a the Lead Local Flood Authority on this application.

TREES

As this is a split site the applicant should provide information about both parts of the site. However it appears the applicant has not included any tree information ' tree survey, constraints plan, arb impact assessment, in relation to the smaller of the two sites at Hawthorn Close. This is unacceptable and must be rectified particularly as there are significant trees on the eastern boundary of the smaller site.

This application is set to harm mature trees. The proposed entrance will encroach into the root protection areas of mature oaks T1 and T40. Tree T1 is a category A1 tree and tree T40 is a category B2 tree and so they should not be harmed or damaged in any way.

There are significant trees around the site, and the proposed development will cause unacceptable pressure on these trees ' with future inhabitants of the site inevitably wishing to reduce and fell due to shading and leaf drop.

I understand that the woodland in the north of the site is ancient woodland ' particular care and attention must be given to protection of this important area.

I am disappointed to note that there has been pre-emptive felling on the western boundary of the site. This is clearly visible from google historic mapping as having taken place between 2016-18.

I seriously question the applicant's arboricultural impact assessment which claims that the arboricultural impact is moderate to low when in all reality it is very high.

APPLICATION NOT IN ACCORDANCE WITH PLANNING POLICY

EDDC is currently reviewing its local plan, however due to changes in government policy that process has not been concluded and the site in question remains outside the built up area boundary.

There is therefore no planning policy support for this application. This is a greenfield site and I am strongly opposed to development on greenfield sites particularly when the full potential of brownfield sites in East Devon has not been fully explored. It is harmful to our natural environment and erodes the rural ambience of our village.

This application should be refused.

Parish/Town Council

West Hill Parish Council considered this application at its meeting on 23rd May 2023. Also in attendance were 35 members of the public who spoke against the proposed development during the public session at the beginning of the meeting. It is unusual to have so many public attendees at a Parish Council meeting, which demonstrates the importance of this issue to residents. It was clear that all of the public attendees objected to the application and none were in favour. The Parish Council's response reflects the issues presented by residents at the meeting and also from several emails sent prior to the meeting by residents unable to attend. Residents were reminded to also submit their comments direct to EDDC Planning Officers. Councillors considered the following:

1. The Proposal:

- The site has an extensive planning history included two planning appeals which were dismissed.
- The site is outside the current BUAB. The application is a departure from the Development Plan and is contrary to Strategy 7 (Development in the Countryside) and Strategy 27 (Development at the Small Towns and Larger Villages) of the Local Plan.
- The site is one of the preferred allocations in the Draft Local Plan, though the current proposal is for 30 houses rather than 25.
- 50% affordable housing is to be provided, which is policy compliant and a benefit of the proposal.

2. Flooding

- West Hill residents expressed serious concerns regarding the risk of flooding due to surface water run off from the site and underground springs.
- Over several years residents have previously contacted Blue Cedar Homes, WHPC and EDDC seeking to resolve the problem of flooding.
- The existing flooding problems affect properties in Perrys Gardens and Eastfield Gardens. Further development would aggravate this situation. Currently there are holding tanks underneath the area at the end of Hawthorne Close where further development is proposed. There must be a more robust system to deal with drainage issues.
- The flooding of East Devon communities on 9th May 2023 highlights the potential risks of water flowing off the sloped site into adjacent residential areas. Residents have provided EDDC with photographs taken of the site and neighbouring

areas on/after 9th May which demonstrate how the site, nearby gardens and properties were affected. These evidence streams of water flowing down the site.

3. Sustainability:

- The walking distances to village facilities are above the upper end of acceptable. Although as the crow flies the village hall and primary school are close by, the walking distance is 1.0km. Other village facilities including the Royal British Legion Club, Church and bus stop are around 1.5km walking distance. This would likely increase reliance on the private car for most journeys and would therefore amount to non- sustainable development that would be contrary to the provisions of Strategy 5B (Sustainable Transport) and Policy TC2 (Accessibility of New Development).
- If a pedestrian access through to Bendarroch Road could be provided (with co- operation from the developers of the WH_04 site) this would improve access to a bus route and also improve general pedestrian connectivity for the village.

4. Infrastructure:

- During the recent public consultation for the Emerging Local Plan many residents expressed concerns regarding the serious deficiencies in infrastructure which should be addressed before further development is considered. This proposal could do much more to address these issues.
- Schools - West Hill Primary School is over-subscribed. The Kings School, Ottery, is also over-subscribed and unable to take all children within its catchment area.
- GP services are overstretched with long waits for appointments.
- There is a lack of public open space and a serious lack of sports and recreational facilities in West Hill. The public open space proposed in this application does not remedy this situation.

5. Highways and Road Safety:

- The roads within the existing Blue Cedar development are crowded and narrow, aggravated by on-street parking. At times larger vehicles such as delivery vehicles and refuse lorries are unable to pass. An additional 30 dwellings with limited visitor parking would aggravate this situation further and could prevent/delay access by emergency vehicles.
- Because of the lack of recreation and open space, children currently play on the street at Hawthorne Close and Eastfield Gardens, which are currently cul-de-sacs. If another 9 houses were built at the end of Hawthorne Close, the additional traffic would make this too dangerous for children to play safely. This is aggravated by the lack of any suitable nearby public open space or play area.

6. Housing Need?

- The Housing Need of West Hill has not been established.
- A 2021 survey of residents identified the community's preference for smaller "downsize" properties.

7. Construction phase:

- Local residents have serious concerns over the disruption that would be caused during the construction phase. The estate roads are not suitable for HGVs and construction vehicles because they are narrow and because of on-street

parking. The noise and nuisance from construction would be adverse for the elderly residents of Oak Tree Gardens and other local residents.

- The impact on other areas of the village, such as West Hill Road, should also be considered. During the development of the existing Blue Cedar development the transfer of materials from storage sites to the construction site caused significant disruption to residents and traffic.
- A robust Construction Environment Management Plan must be in place.

Having considered all of the above, and taking into account residents' comments, Councillors voted to OBJECT to this application.

Technical Consultations

DCC Flood Risk SuDS Consultation

Recommendation:

At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.

Observations:

The applicant appears to be proposing to manage surface water within a detention basin as well as attenuation tank and permeable paving before discharging into a surface water sewer. The applicant should provide further details of the proposed surface water drainage system. MicroDrainage model outputs have been submitted, but these only seem to be for the southern development area.

The surface water drainage system to the south might be attenuated. The applicant will need to demonstrate that they have permission to connect into this system. Above-ground features should be fully assessed. Multiple surface water drainage features could be used to form a SuDS Management Train. A suitable SuDS Management Train should offer opportunities for interception losses as well as treatment.

The applicant should demonstrate how exceedance flows shall be managed. Maintenance details are required for the entire surface water drainage system (including who shall be responsible for maintaining the system).

25.08.2023

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 Flood Risk Assessment and Drainage Strategy.
- (b) Detailed proposals for the management of surface water and silt run-off 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.

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

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

Observations:

Following my previous consultation response (FRM/ED/0727/202; dated 7th June 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

It is understood that the applicant owns the downstream surface water drainage system, which they have proposed to connect into.

The ecological corridor should be designed appropriately, possibly with bunds in addition to the ditch, to provide management of potential overland flows.

Above-ground features should be used to form a SuDS Management Train.

Exceedance flows should be managed within open spaces.

Police Crime Prevention Officer

I appreciate that the layout of the site is only illustrative 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) and conform with both local and national planning guidance.

- 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.
- 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 needed 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.
- 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.
- 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 / buffers should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.
- 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.
- 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.

In the main vehicle parking appears to be on plot solutions / garages which is supported. Should communal parking areas be 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.

The central public open space appears well overlooked. It should be afforded a suitable boundary treatment that prevents vehicular access and clearly defines the space.

EDDC Trees

The following consultee response follows receipt of an updated Tree Survey, Tree Constraints Plan, Draft Layout Plan and Addendum Report dated the 26/07/2023, as requested for the smaller development site to the east of Eastfield Gardens / Hawthorn Close.

As per the larger site, in principle I have no objection to development of this smaller site based on appropriate design which considers the constraints posed by significant trees on /adjacent either site.

Notes on draft layout for site to east of Eastfield Gardens / Hawthorn Close:
T47, T51 and T52 are likely to be significant constraints due to their size. As per previous comments, good sustainable design will need to take into account likely issues of shading and proximity to ensure that there is no unnecessary pressure to prune or remove nearby trees due to poor juxtaposition between dwelling and crown spread of trees or due to small gardens.

T45, Beech was noted as being in a poor condition and G46 (predominantly Ash) were noted as suffering from the Ash Dieback. It is considered that long-term the Beech will require removing on safety grounds and that the Ash are likely to succumb to Ash Dieback. It was not apparent whether these trees are within the development boundary or not which may have an impact of the design of the site.

As per the Addendum Report, it is noted that that the plans are only outline at present (accept access) and that detailed plans will be finalised during reserved matters. However, it is considered appropriate to raise potential issues at the earliest opportunity so that these can be taken into account during the layout design. Therefore my comments regarding shading, proximity and works within the RPA still stand.

16.08.2023

The proposal consists of two sites though only arboricultural information has been provided for the larger site to the north of Eastfield Gardens & Oak Tree Gardens. A detailed tree survey including tree constraints plan and arboricultural impact assessment is required for the smaller site to the east of Eastfield Gardens / Hawthorn Close so that the impact on the trees on site can be assessed. Until these details have been received no formal response to the smaller site can be given.

However, in principle I would have no objection to development of either site based on appropriate design which considers the constraints posed by significant trees on /adjacent to both sites. Careful construction using a no dig solution will be required for the access road between category A and B trees T1 and T40.

Notes on current plans:

T10 & T40 (both Oak) are categorised as B trees, though it is considered that these could be A when compared to other A and B classified trees on site.

T16 ? (Sweet Chestnut) categorised as B but on site was of poor vigour - C.

T18 (Oak), categorised as B, but poor structure - C.

Both sites contain large mature significant trees which are protected. These trees pose a significant constraint to the site due to their size and associated issues and concerns that will arise due to proximity of mature trees to dwelling; namely concerns over risk of failure, leaf and debris fall, shading and future growth potential which may lead to pressure to prune or remove trees. A number of trees along the southern boundary are according to the tree survey 22m in height with crown spreads of up to 10m to the east and west; these will therefore cause significant shading. The dwelling closest to T38 is just 2.5m to the north of edge of the crown.

On site, it was noted that shading from trees on the southern boundary would cover practically all of the rear gardens from between 11am to 17:00. T10 is a similarly large tree on the western boundary and will cause significant shading to the nearby dwellings from early afternoon onwards.

The construction of car parking area within the RPA of T28 (category A Oak) is not appropriate. Construction within the RPA should only occur in exceptional circumstances. Therefore parking spaces will need to be located outside of the RPA of T28. The tree has low crown touching the floor and still has significant growth potential. The attachment points of some of the large upper branches are not considered great and the lower branches act as a damper to upper branch movement. Crown lifting has the potential to expose these limbs and increases the risk of failure.

Recommendations:

Ensure that sufficient space is provided between the edge of the crowns and rear of the dwelling so that proximity issues do not arise. I currently have concerns over the size of the gardens and level of shading for plots on the southern boundary and plot nearest to T10. Dwellings should be located further north & west (of T10). Car parking removed from RPA & crown spread of T28 and large buffer area to be retained between tree and nearby structures as other plots along the north boundary.

The planning condition should be as follows;

1) 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.

2) 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.

3) 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.

4) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed AMS shall include details of how the no dig road is to be constructed. The AMS will also show all 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 2013-2031)

District Ecologist

The submitted ecological impact assessment highlights that ecological survey work for bats and dormice are not completed. The report also details that a dark zones for bats being provided in the north but there is no reference to lighting levels or a detailed lighting plan demonstrating lux contours. There is a nearby barbastelle, greater horseshoe, brown long-eared and lesser horseshoe bat roost to the south-west but not within the DBRC data search so the west boundary hedge should also be maintained as a dark corridor to provide landscape permeability.

The report also highlights that the proposals would result in a biodiversity net gain based on the Biodiversity Metric 3.1 but no spreadsheet and condition assessment has been provided. The report indicates that the woodland would be enhanced to 'good' condition which often requires woodland to have features such as standing deadwood, veteran trees, multiple age class etc. so unsure if this is realistic.

The provision of integrated bird boxes should be supplied at a ratio of one per dwelling in accordance with BS42021:2022 integral nest boxes.

I would currently submit a holding objection until all recommended surveys have been undertaken and reports have been submitted detailing the results of the surveys and full ecological mitigation, compensation, and enhancement measures to be provided. The biodiversity metric, condition assessment sheets and a lux contour plan demonstrating dark corridors, i.e., not above 0.5 lux on the horizontal illuminance contour plan, measured at 1.5m and at the height typically flown by any other relevant light sensitive species should also be provided.

Reasons:

ODPM Circular 06/2005 states: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

Consideration of impacts on protected species is a material consideration of planning permission. It is not possible to properly consider the impacts of the proposals on priority and protected habitats and species, or designated sites, in absence of all survey information and suitable avoidance/mitigation/compensation measures.

In absence of the necessary information identified above, it has not been demonstrated that the proposals would not result in an adverse impact on protected and priority species and priority habitats. In absence of this information, the proposal is not in accordance with Policies EN5, and Strategy 47 of the East Devon Local Plan 2013 to 2031

21.08.2023

The amended ecological impact assessment and submitted biodiversity net gain calculator addresses my previous comments regarding completion of the ecological surveys and submission of further information.

The proposed ecological avoidance, mitigation, and enhancement measures (subject to the recommended conditions below), and indicative biodiversity net gain calculations are considered acceptable and proportionate.

Recommended conditions

1. 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.

2. The development shall proceed in accordance with the submitted ecological impact assessment (GE Consulting, July 2023), in particular no works shall commence until the following information has been submitted and approved in writing by the Local Planning Authority.

- o A Landscape and Ecological Management Plan (LEMP),
- o Construction and Environmental Management Plan (CEMP); and
- o A detailed lighting design for bats following Devon County Council (2022) guidance, including provision of lux contours illustrating dark corridors, i.e., where predicted lighting levels are not in excess of 0.5 lux.

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

The location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, insect bricks, permeable fencing and any other features should be clearly shown on plans supporting a detailed application.

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.

County Highway Authority

I have visited the site in question and reviewed the planning documents. All matters are reserved under this outline application except from access, therefore I will reserve commenting upon any future internal layout. Eastfield Orchards will facilitate the access to the northern parcel, with a 5m carriageway width, this meets our current best practice guidance, Manual for Streets (MFS) 1 and 2, which requires a minimum 4.8m carriageway width, allowing simultaneous access and egress. Along with a 2m footway, which also meets the basic design requirements of MFS. The Eastern parcel will be facilitated with an extension to Eastfield Gardens as a shared space facility.

Traffic speeds are generally low in this residential area and visibility for both accesses is good.

The County Highway Authorities (CHA) requirement is that development parcels under 40 dwellings in total do not require a Travel Plan, though I do recommend the provision of secure cycle storage to encourage sustainable travel, especially for shorter trips, to help mitigate the trip generation from this site.

I can also appreciate that as an established residential area, any construction period will need to be sensitive to the local highway network, therefore I also recommend a comprehensive Construction and Environment Management Plan (CEMP) to help mitigate any effects on the local highway network.

Overall, however, I do not envisage that should this application gain permission, an unsatisfactory trip generation intensification will occur on 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. 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 policy East Devon Local Plan 2013-2031.

Other Representations

To date there have been 44 objections to the proposal and 4 letters of representation;

Issues raised in the objections (in summary);

- Harm to the character and appearance of the area – over development, incongruous designs and out of character with woodland village
- Harm to surrounding trees (inc. TPOs)
- Land has a history of drainage and flooding issues
- Increase traffic would harm pedestrian safety – also result in wear and tear of existing highway
- Routes to services and facilities are inaccessible.
- Harm to ecological value of the land – harm to protected species.
- There is no need for the housing – conflicts with planning policies.

- Increased pressures on Infrastructure (oversubscribed schools, medical centres etc)
- Phosphates prevent housing
- Harm to amenity of surrounding residents – loss of light and overlooking.
- Environmental health harms arising from construction process

Issues raised in the representations (in summary);

- Environmental impact
- Additional car movements
- Impact on infrastructure
- Eroding woodland village
- West Hill doesn't need additional housing – too many houses proposed
- Noise, dirt and disruption
- Impacts on road
- Drainage issues

PLANNING HISTORY

Reference	Description	Decision	Date
10/0761/MOUT	Outline application (seeking determination of means of access only) for the erection of 50 dwellings of which 20 to be age restricted dwellings and 30 to be for general needs housing, together with associated open space and necessary infrastructure, the change of use of part of the site to educational use and provision of a new building for educational purposes	Dismissed at Appeal	15.11.2011
95/P1395	Residential development	Dismissed at Appeal	29.07.1996

POLICIES

Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP1: Development in the Countryside

Policy NP2: Sensitive, High Quality Design

Policy NP6: Valued Views
Policy NP8: Protection of Local Wildlife Sites and Features of Ecological Value
Policy NP9: Accessible Developments
Policy NP12: Appropriate Housing Mix
Policy NP13: Accessible and Adaptable Homes
Policy NP14: Demonstrating Infrastructure Capacity

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

Site Location and Description

West Hill 'the Woodland Village' is particularly notable for its unique low density wooded character. The rural quality of its verges and Devon banks, the glimpses of tree framed views and the maturity of the trees all contributes to West Hill's special character.

The application site concerns two field parcels;

Firstly, the larger of the two field parcel is positioned to the north of Eastfield Gardens. The existing road at Eastfield Garden terminates where the proposed access point of the development proposed would be located. Here in this location is an existing field gate positioned which allows access to the agricultural field beyond. As it exists today this access area has been laid with a track of unconsolidated material through an existing gap in the boundary hedge. This field is roughly rectangular in shape with land generally sloping down to the east. To the east of this site are the detached properties within Perrys Gardens and are situated at a lower level than the application site. To the north lies a belt of TPO trees and there are also notable protected trees around the perimeter with mature trees. To the west is another field parcel. At the time of writing there is a planning application pending for the erection of 36 dwellings (EDDC ref; 23/1143/MFUL) on this adjacent field parcel.

Secondly, the smaller of the two parcels of land lies to the east of Eastfield Gardens. This is a narrower field parcel more linear in shape and features high canopy mature trees along it's east boundary. Further to the east of this site lies the playing field of the local primary school, and to the west are the existing dwellings belonging to Hawthorn Close and Eastfield Gardens. Both of these roads terminate adjacent to the west boundary of this application site. Generally the land slopes down to the east. There are protected trees around the perimeter of this site.

In terms of overall character there is a mixture of suburban residences of a larger size, often detached and centrally positioned within plots. The rear garden of these dwellings form the built up area boundary line.

Proposed Development

Although this proposed development is not in accordance with the adopted Local Plan it is worth noting that the consultation on the draft new Local Plan identifies this site as a preferred allocation. Although the emerging Local Plan cannot carry weight at this early stage it is worth noting the assessment work that has been carried out highlighted the potential for this site to be allocated;

WEST 06

Infrastructure implications: 36 ha development proposed. West Hill Primary has capacity to support limited development (requiring safe walking routes) but not on this scale. New primary and secondary capacity would be required and need to be funded by development. The Kings academy has previously clearly indicated it will not expand with significant investment and potentially new school.

DCC Highways: Assuming it has access to the new estate road off Eastfield access is fine

Landscape sensitivity - summary of findings: Located in Landscape Character Type 1C: Pebble Bed Heaths. Comprised of two fields- one to north of modern development at Eastfield Gardens, and a smaller field to west. Gently sloping west to east. TPO covers section of northern field, also along southern and eastern boundary. However overriding context of built form associated with modern development at Eastfield Gardens, along with dwellings along north eastern boundary.

Impact on historic environment - summary of findings: Around 400m to nearest designated heritage asset. Overall, no change to heritage assets or their settings.

Ecological impact - summary of findings: Agriculturally improved grassland. Numerous mature trees along site boundary, many of which are subject to TPOs. NRN and s.41 adjacent to south west boundary. However, relatively low ecological value of the site itself means that a minor adverse effect predicted (not significant)

Accessibility assessment: 6 out of 12 facilities within 1,600m of site. Pavement and street lights present along most of the route to the school, village hall, shop nearby to the south west, but there are some gaps along West Hill Road.

Other known site constraints: Grade 3 agricultural land.

Whilst located in a Mineral Safeguarding Area, Devon County Council has stated the potential area of resource is small and already constrained by existing built development and therefore unlikely to be economic - as such DCC do not object.

Adjacent to Local Green Space to the east (primary school recreation field). Part of larger site (incl land to south which is now developed) for 50 dw dismissed at appeal in 2011 (10/0761/MOUT) because it would encroach onto an attractive tract of countryside, would perform poorly in relation to the objectives of sustainable development, and would not accord with the spatial vision for the district.

Site opportunities: Provide pedestrian/cycle access through Eastfield Orchard Amended Maximum Yield following discounted areas on site: 25

Brief summary of the key positives and negatives of the site: Positives: Suitable highways access off Eastfield Gardens. Close to school, shop, village hall, with pavement and street lights present along most of the route. No change to heritage assets. Adjacent to existing development, so less sensitive landscape.

Negatives: TPO covers woodland in northern part of site (although this area has been excluded when calculating the yield).

Should the site be allocated? Yes Reason(s) for allocating or not allocating: The scale of development on this site would help deliver the district-wide housing requirement in a manner that is consistent with the spatial strategy. Relatively good pedestrian access

to facilities, along with suitable highways access. No change to heritage assets. Adjacent to existing development, so less sensitive landscape

The emerging local plans site allocation for this location can be summarised as;

Positives: Suitable highways access off Eastfield Gardens. Close to school, shop, village hall, with pavement and street lights present along most of the route. No change to heritage assets. Adjacent to existing development, so less sensitive landscape. Negatives; TPOs

ANALYSIS

The proposal seeks outline planning consent for the creation of up to 30 dwellings. This planning application is made in outline with all matters reserved apart from the access which is to be assessed at this stage. As such the main issues are the following;

- the principle of the development and the impact on the supply of 5 year housing land supply on the decision making process
- whether occupiers would be in suitable proximity to access services and facilities without the need to private modes of transport
- the impact on the character and appearance of the area
- the impact on the highway network
- the impact on trees (including protected trees)
- the impact on ecology
- the impact on surface water drainage, potential flooding in the area and foul drainage
- the requirement for affordable housing
- mitigating the impact on infrastructure
- the planning balance

Addressing each issue in turn;

The principle of the development and the impact of the supply of 5 year housing land supply on the decision making process

Strategies 1 and 2 of the Local Plan set out the scale and distribution of residential development in the district for the period 2013-2031. The main focus is on the West End and the seven main towns. Development in the smaller towns, villages and other rural areas is geared to meet local needs and represents a much smaller proportion of the planned housing development.

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of West Hill, thereby conflicting with Strategy 7 of the local plan. Consequently, the site would not offer an appropriate location for the development proposed having regard to the development plan's overall settlement strategy and expectation for such development to be contained within a designated built up area boundary.

Planning legislation is clear that planning applications should be determined in accordance with the development plan, unless other material considerations suggest otherwise. One such consideration is the National Planning Policy Framework (NPPF). The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. 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.

This development does not take place within a designated landscape and so the tilted balance referred in ii above should be applied where policies are not up to date.

Members should be aware of the report to strategic planning committee on the 3rd October 2023. This report stated that the 5 year housing supply in the district (plus buffer) has dropped to 4.28 years. This has direct consequences 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.

Paragraph 11 of the NPPF is clear in that where the policies of the Local Plan are out of date, which is the case here in the absence of a 5 year housing land supply, then a so called 'tilted balance' is applied, i.e. unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This tilted balance is applicable to the determination of this planning application.

Members should also be aware that paragraph 14 of the Framework advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made. In this instance the proposal takes place in West Hill. Whilst West Hill and Ottery St Mary has a 'made' neighbourhood plan this was

'made' more than two years ago from the time of writing. Accordingly, paragraph 14 of the Framework does not affect the application of paragraph 11 (Tilted Balance) under this proposal.

The above noted the proposal needs to be assessed against the development plan and other material considerations to determine how the assessment of the principle sits with the tilted balance. This tilted balance is revisited at the end of this report as this can only be applied once all the issues are considered.

The ability of occupants to reach services and facilities

The NPPF advocates the creation of places that promote social interaction and encourage walking and cycling, thereby helping to provide inclusive and safe places which support healthy lifestyles. The 'village core' of West Hill can reasonably be identified as West Hill Road area which features the school, hall and shops/post office or, to a lesser extent, Bendarroch Road where the Church and Legion Club are sited.

In terms of sheer distances from the entrance of the north site it is 600m to the shop and 870m to the village hall and school. The legion club is 1,040m away and the church (St Michael's) is 1,700m via school lane.

The government published Manual for Streets states 'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot. Not only is the distance of important but so too is the nature and character of the route, for example; is it safe for pedestrians and cyclists? Is it well lit? Is the terrain challenging? Is it protected from the elements?

The previous 2011 appeal noted that whilst the village shop is nearby the lack of footways on West Hill Road would deter some residents from walking there. As such the Inspector in 2011 considered that the site was not well related to local facilities and services and not in a location with good public transport access. The majority of the route to the village shop features a pavement, however it is recognised that the main road would have to be crossed several times. Moreover, there is also short distance of no pavement along the main route (West Hill Road) to the village shop, school and village hall due to the restrictive width of the highway. En route from the site to these destinations the length of West Hill Road with no pavement stretches for approximately 15.0 metres. This is the only section along this route with no pavement.

Pedestrian users would be need to be aware and responsible traversing this short section and Manual for Streets recognises that drivers must take the road and traffic conditions into account. This is the situation faced by all residents of the village such that most drivers will be aware of the likely shared nature of the road surface So whilst this lack of pavement could deter some pedestrian users from reaching the local shop this is not to say that it represents an unacceptable safety issue that would force users with no alternative but to travel by cars.

The Planning policy landscape and context has changed much in the intervening period since that appeal decision. Governmental guidance in the form of the NPPF provides for a compelling material consideration. Further, the East Devon current local plan was adopted in January 2016 and Manual for Streets has been updated.

The sites are situated within reasonable distance to services and facilities on offer within West Hill. On balance, noting the short stretch with a lack of a pavement and the fact that the legion club and church are in excess of 800m there are adequate pedestrian and cycle linkages to the majority of services on offer within the village. There are also bus stops nearby which provide suitable linkages further afield.

Taking all of the above into the balance the proposal is considered acceptable in relation to policy TC2 of the local plan and policy NP9 of the Neighbourhood Plan (NP).

Impact on the character and appearance of the area

The proposal, with the introduction of housing, would fundamentally change the character and appearance of this part of the landscape. The field to the north appears agricultural in nature. Perimeter hedgerows and mature trees (inc. TPOs to the north) which provide for a high quality environment a common feature on the fringe of this village. The verdant character of the village is displayed in this area. Within the NP West Hill valued 'viewpoint 1' looks towards the general direction of this site, but direct views are obscured to a large extent by intervening field boundaries and topography.

The proposal relates to a greenfield site which has not been previously developed. Previous appeal decisions have concluded that the site is visually associated with and forms part of the surrounding countryside and makes a valuable contribution to the rural setting of West Hill. Since the latest of those assessments made in November 2011 the lower field parcel adjacent this site has been developed. The north larger site is effectively bounded on three sides with residential development. However, there is a buffer of mature high canopy trees along the northern part which benefits from formal protection and as such prevent visual association in this direction. Although some of the comparatively recent development to the south features two storey properties the general surrounding area is recognised as low rise.

The smaller east parcel of land is arguably better integrated with the previously developed land. It protrudes less into the countryside (compared to the northern parcel) and so would appear more integrated with the built form of the village. Therefore whilst there would be an intrinsic change to the character of this field this would be less noticeable due to the surrounding developed land. Put simply it would read as a less drastic change in character and instead read as a continuation of the existing build form of a residential estate.

Although layout is a reserved matter and therefore not for consideration at this stage the quantum of the development is known and illustrative layouts provided to give indication of how this can be accommodated within the confines of the site. Whilst noting that the evidence base of the emerging local plan suggested a figure of 25 dwellings the 30 dwellings now proposed does not appear overly cramped in terms of layout or incompatible with that of the surrounding residential development. The

illustrative layout shows a development of similar grain to that of the surrounding suburban areas which adjoin the site and therefore from intervisibility vantage points the development would provide continuity and harmonious integration with surrounding residential development. Although illustrative this layout would broadly accord with policies NP2 and NP26 of the NP which establishes principles of a high quality design.

If approved the reserved matters should seek to introduce planting, with minimal harsh means of the enclosure to maintain the verdant character and appearance of the village. Features, specifically mentioned in policy NP1 of NP would need to be addressed, protected and retained under the reserved matters.

However, mitigatory landscape measures such as additional planting to soften the appearance would not overall prevent the intrinsic change in character which would arise on the larger north field parcel. In this regard although the evidence base of the emerging local plan views this site as a natural infill of the settlement there would nevertheless be some character harm in conflict with policy D1. This intrinsic change from a rural to urban character, viewable from several public vantage points, weighs against the scheme.

The impact on the highway network

Access is a matter to be considered at this stage. The larger north parcel of land seeks connection to the existing highway network of the adjacent residential estate. Two separate access points would facilitate access to the smaller field parcel from Eastfield Gardens and Hawthorne Close each. The key consideration at this point is the impact of increased traffic movements on the existing highway network. Devon County Highway in their role as a consultee have reviewed the proposal.

Eastfield Orchards would facilitate the access to the northern parcel. With a 5m carriageway width this meets best practice guidance which requires a minimum 4.8m carriageway width thereby allowing simultaneous access and egress. The 2m footway proposed also meets the basic design requirements of MFS. The Eastern parcel would be facilitated as an extension to Eastfield Gardens.

Devon County have noted that traffic speeds are generally low in this residential area and visibility for both accesses is good.

The requirement is that development parcels under 40 dwellings in total do not require a Travel Plan. However, provision of secure cycle storage to encourage sustainable travel, especially for shorter trips, to help mitigate the trip generation from this site are suggested.

The highway officer does not envisage that should this application gain permission, an Unsatisfactory trip generation intensification would occur on the local highway network.

Whilst layout is a reserved matter the illustrative layout would appear to make appropriate room for parking serving the dwellings. However, this shall be assessed in more detail at reserved matters stage.

Given the above this outline consent is considered to comply with policies TC7 and TC9 of the local plan.

The impact on trees (including protected trees)

Within the northern portion of the northern larger parcel of land is a distinctive thick belt of trees protected by a TPO. There are also category A trees around both sites which could be effected by the proposal. Aside from the health and retention of such trees for their own sake these also contribute greatly to the defined character of area.

A detailed tree survey including tree constraints plan and arboricultural impact assessment was required for the smaller site to the east of Eastfield Gardens / Hawthorne Close so that the impact on the trees on site can be assessed.

There is no objection to development of either parcels of land based on appropriate design. This adequately considers the constraints posed by significant trees on /adjacent to both sites. For the avoidance of doubt careful construction using a no dig solution will be required for the access road between category A and B trees T1 and T40 are required.

On the small parcel of land there is a degraded hedge along the east boundary and there are some category A trees which act as a constraint.

Both sites contain large mature significant trees which are protected. These trees pose a significant constraint to the site due to their size and associated issues and concerns that would arise due to proximity of mature trees to dwelling; namely concerns over risk of failure, leaf and debris fall, shading and future growth potential which may lead to pressure to prune or remove trees.

The construction of car parking area within the RPA of T28 (category A Oak) has been identified as not appropriate as construction within the RPA should only occur in exceptional circumstances. Therefore parking spaces shown on illustrative plans would need to be located outside of the RPA of T28. The tree has low crown touching the floor and still has significant growth potential. Some of the large upper branches are not considered 'great' and the lower branches act as a damper to upper branch movement. Crown lifting has the potential to expose these limbs and so increase the risk of failure.

With regards to the northern larger area the Tree Protection Plan (TPP) identifies the area of the existing gate, between T1 and T40, as requiring a method statement to ensure successful construction of the road. The gateway provides the most suitable access point as the ground has been heavily compacted over many years from the former livestock use. It is agreed that the most viable access point is in this location and suitable mitigation controls can be put in place to reduce any impacts to acceptable levels.

With regards to the eastern smaller area this has two access points on the western boundary that link into the adjacent housing developments. These are clear of the key trees and the access can be achieved without any impact on the retained trees.

Whilst the larger trees cast shade in the southern areas the daylight levels on overcast days (approximately 60-70% in the UK). Therefore, diffuse daylight levels will be good and sufficient to illuminate dwellings in accordance with national standards and design guidance.

The spatial relationship between trees and dwellings can be dealt with at a detailed design stage. Overall the site has development potential for the density proposed.

The tree officer has some outstanding concerns over the size of the gardens and level of shading for plots on the southern boundary and plot nearest to T10. Dwellings should be located further north & west (of T10) with car parking removed from RPA & crown spread of T28 and large buffer area to be retained between tree and nearby structures as other plots along the north boundary. However, these comments relate to layout and there is no reason as to why these could not be resolved at this stage. As such the tree officer went on to consider appropriate conditions for this outline application.

Accordingly, subject to conditions the outline proposal is considered to comply with policy D3 of the Local Plan.

The impact on ecology

The amended ecological impact assessment and submitted biodiversity net gain calculator addresses previous comments from the District Ecologist regarding completion of the ecological surveys and submission of further information.

The proposed ecological avoidance, mitigation, and enhancement measures (subject to the recommended conditions below), and indicative biodiversity net gain calculations are considered acceptable and proportionate

ODPM Circular 06/2005 states: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

In terms of protected species within the site;

Amphibians - The site is within a great crested newt consultation zone. However, no records of great crested newts were returned within the search, with no ponds being present on site or within 250m of the site boundary. There is no suitable habitat for this species on site.

Badgers - There were three records of badger within 2km of the site from the last 15 years, the closest recorded 220m south of the Site. No setts were present on the Site at the time of survey, although badgers are widespread in the area and may use the site for occasional commuting and foraging.

Bats - The surveys recorded nine species of bats using the hedgerows and tree lines, consisting predominantly of common pipistrelle (European Protected Species; EPS) and soprano pipistrelle (EPS, SPI). The surveys recorded nine species of bats using the hedgerows and tree lines, consisting predominantly of common pipistrelle (European Protected Species; EPS) and soprano pipistrelle.

The rare and light averse species lesser and greater horseshoe bats (EPS, SPI, Annex II species) were recorded in low numbers per night at all automated detector locations with a maximum average of 1.4 passes per night from lesser horseshoe bats on the southern boundary of the northern parcel and 0.9 passes per night of greater horseshoe bats on the northern boundary of the northern parcel adjacent to the woodland.

Birds - The barn owl was recorded 1.1km from the Site. There were 12 records for red listed Birds of Conservation Concern (BoCC) species returned, including records for linnet, woodcock and yellowhammer, and 26 records for amber listed BoCC, including records for redwing, tawny owl and sparrowhawk. There were three records for Devon Biodiversity Action Plan (DBAP) species returned, including two records for nightjar, also an amber listed species.

Dormice - There are two records of hazel dormouse (EPS, DBAP) within 2km, located 1.1km southeast and 1.5km south of the Site. A nest tube survey in 2022/ 2023 recorded dormice within the Site. It is not deemed a significant impact, and therefore a Dormouse Mitigation Licence will not be required. A dormouse nest was found in the south-western parcel in June 2023.

Invertebrates - There are 20 records of notable invertebrates within 2km of the Site. There is one record of silver-studded blue butterfly, which is listed under Schedule 5 of the Wildlife and Countryside Act (WCA) 1981.

Reptiles - There were 15 records of reptiles within 2km returned from DBRC. This included four records for adder, the closest located 1.1km from the Site; three records for common lizard, the closest located 1.6km from the Site; five records for grass snake, the closest located 1.3km from the Site; and three records for slow worm, the closest located 1.1km from the Site. The habitats within the site were of low potential value to reptiles.

The development would result in the loss of 1.06ha of modified grassland, 0.01 bramble scrub and a maximum of 10 m of hedgerow for access.

The following mitigation and compensation measures will be undertaken;

- Impacts on important ecological designation – Special Area of Conservation contributions to mitigate impacts on the internationally designated East Devon Pebblebed Heaths Special Protection Area (SPA); During construction, protect

hedgerows using temporary fencing in accordance with BS 5837:2012 'Trees in relation to design, demolition and construction';

- No clearance of vegetation during breeding bird season, or with a pre-works check for active nests and nests buffered until chicks have fledged;
- Mitigation for the presence of dormice including a fingertip search will take place by a licenced ecologist during hedgerow removal;
- Prior to and during construction the grassland will be maintained at a short sward height through grazing or cutting to ensure that the Site does not become suitable for reptiles to colonise the Site;
- Good working practices prior to/ during construction, including capping of large pipes and trenches to prevent mammals from becoming trapped and provision of a CEMP;
- A retained 10m dark zone of <0.5Lux on the northern parcel, adjacent to the woodland copse;
- Closed board fencing will be used on the western boundary to retain a 2m wide flyway for bats, with a Lux
- Plan showing <0.5Lux provided at the Reserved Matters stage;
- A 2m buffer on all boundaries, outside of the curtilage of property owners will be enhanced with species-rich grassland planting;
- Species-rich grassland planting will be provided in the attenuation basin;
- No direct lighting to boundaries during construction or operation to prevent fragmentation effects for bats, including in the northeastern car park adjacent to the northern buffer.

Additional recommendations have been provided in order to enhance the Site for biodiversity post-development, including:

- Enhancement of the woodland through native planting;
- Integrated bat and bird boxes along with five tree mounted bat boxes including three for barbastelle bats;
- 13cm x 13cm cut outs within all solid fences to allow passage of hedgehogs through gardens and across the landscape.

Derogation tests

Given that bats were found to use the hedgerow and trees, and further that badgers may use the site for commuting and foraging it is necessary to consider these aspects in light of the derogation test. Natural England can only issue a licence if the following tests have been met:

- the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest;
- there is no satisfactory alternative; and
- the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.

Whilst decision makers should have regard to the 3 tests above it should be noted that the LPA is not expected to duplicate the licensing role of NE. An LPA should only

refuse permission if the development is *unlikely* to be licensed pursuant to the derogation powers *and* 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 would occur through recommendations of the ecology report and Biodiversity Net Gain. There is also a consensus that in order to provide housing, thereby meeting a public interest, greenfield sites such as this would need to be developed. Given what has been reported for this site, the fact suitable mitigation measures are proposed and both of these elements have been found acceptable by the council's ecologist there is no reason why a license would not be issued or why Article 12 would be infringed.

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.

Summary

Based on the information received and proposed mitigation measures the council ecologist raises no objection. Taking into account all of the above the proposal is considered to accord with policy EN5 of the East Devon Local Plan, NP8 of the NP, the NPPF and reflective of guidance within circular 06/2005

The impact on surface water drainage, potential flooding in the area and foul drainage

It is clear from the objections received from adjacent properties, reinforced by the parish comments, that there is concern regarding surface water drainage in this area. Many objections refer to existing on going drainage issues which have reportedly occurred in recent times. The site is not in floodzone 2 or 3 and it is not in a critical drainage area.

The development appears to be proposing to manage surface water within a detention basin, as well as attenuation tank and permeable paving, before discharging into a surface water sewer.

It is understood that the applicant owns the downstream surface water drainage system, which they have proposed to connect into.

Above-ground features should be used to form a SuDS Management Train with exceedance flows managed within open spaces.

Ongoing discussions have been taken place with DDC Lead Flood Team to ensure that surface water is properly disposed of in line with the aims to meet sustainable urban drainage systems. Ultimately an acceptable solution has now been arrived at. The DCC Lead Flood Team have no in-principle objections to the proposed development

at this outline stage, assuming that the following pre-commencement planning conditions are imposed on any approved outline permission.

The development has been satisfactorily conform to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan.

According to the submitted details foul water would connect to the existing sewer system. There have not been any comments from South West Water to claim that this would not be feasible or that the existing infrastructure is at a capacity making connection unacceptable.

The requirement for affordable housing

The submitted heads of terms offer a commitment to deliver a minimum of 50% of the affordable housing prior to 50% open market housing occupation AND to provide 100% affordable housing prior to 75% occupation of open market housing take place.

Policy requirement inside the BUAB of West Hill in line with adopted policy would have been 50% and in the countryside 50% and so as weight cannot be given to BUABs there should be no difference between the two requirements. It would be the following reserved matters which would established layout to finalise the position of such affordable housing over the two sites.

Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership and so this should be secured within the s106. The above is compliant with the stance the local planning authority is taking without an adequate housing land supply in place.

The provision of 50% affordable housing weighs substantially in the planning balance.

Mitigating the impact of the development on infrastructure

As noted within the evidence base of the emerging local plan the school facilities are near capacity. Others have also noted that the medical facilities, the closest being in Ottery St Mary, are nearing capacity. At the time of writing the NHS have not responded to consultation request to date, but if a request is made this can be verbally updated at the committee meeting.

Similar concern has been noted with regards to capacity levels at nearby schools; this development will be CIL liable which includes a proportion of funding for education infrastructure.

Whilst CIL will provide for some aspects such as education it will be necessary for a s106 to provide a contribution towards the other elements.

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

- Provision of onsite affordable housing (50% of the total number of houses)
- Provision of Open space and maintenance of (to comply with strategy 43 of the LP)
- Arrangement of maintenance for any grassland/parkland/communal areas.
- Secure and maintain BNG
- Contribution to NHS (final amount TBC)

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 and the conditions at the end of this report. Completion of the above mitigation measures are required to accord with policy NP14 of the NP.

Other matters

Agricultural Land Classification

Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available or the benefits of development justify the loss of the high quality land. It would appear that the land is grade 3 agricultural land although our maps do not differentiate between grade 3a or 3b. Taking into account the quantum of agricultural land that could be lost in the northern parcel (the east parcel does not appear to hold much agricultural potential) this would equate to approximately 1.06ha. It would appear that there are large amounts of other land in the locality of higher quality land. As such it is considered that the loss would not significantly harm agricultural interests or the national food supply.

Amenity

The proposal has been made in outline with appearance and scale reserved matters. It is clear that there are surrounding properties of each site which could be impacted upon in terms of amenity without proper consideration or appreciation of the surrounds. Specifically the properties at the eastern end of Eastfield Gardens and Hawthorne Close, side on to the smaller site would need to be taken into account. With regards to the larger northern parcel the properties on Eastfield Gardens and the dwellings along Perrys Gardens would need to be taken into account. Appropriate separation distance and consideration for the positioning of windows to habitable rooms are needed when layout and appearance are to be considered. However, illustrative plans show that the quantum of development can be achieved without undue pressures on site boundaries (in part due to tree constraints) thereby offering suitable separation distances.

With regards to the land north of Eastfield it is noted that there are several properties in proximity to the proposed access point. Given the distances between the proposed access route and these surrounding properties although noise and lights from vehicles

movements could be noticeable there is nothing to suggest that this would be to an unreasonable degree to compromise harm to living standards of occupiers.

Given the above the proposal is considered to be acceptable under policy D1 of the local plan.

The Planning Balance

The planning history shows that this site was dismissed at appeal for residential development in 2011. However, the development plan has changed since then and so too has national guidance in the form of the NPPF, now a compelling material consideration. Accordingly, both the development plan and material consideration differ.

Consideration of the potential benefits in favour of this proposal

The latest monitoring report has established that the supply of housing within the district has worsened since the year before. This represents a significant shortfall of housing and going forward more sites for housing will be needed.

The NPPF seeks to significantly boost the supply of housing across England. The proposal would provide for a not insignificant amount of dwellings, required to bolster the much needed supply of housing in the district. This proposal would bring about some shorter term economic benefits through the construction phase as well as longer lasting social benefits in making housing available at a time when this is much needed. This provision of housing (including 50% affordable housing), is one of the main thrusts of the NPPF and high of the governments agenda - accordingly this is given significant weight in the planning balance.

Although the evidence base for the emerging local plan takes a high level look at the suitability of sites for allocation the benefits mentioned therein have to a large extent been agreed with as per the above report.

It needs to be made clear that there are no objections raised by technical consultees, subject to conditions.

Identifying any conflicts with the development plan, taken as a whole.

There has been an identified conflict with the policies of the adopted local plan – in this instance policy D1 due to the harm to the existing character of the larger north field parcel. The loss of potentially higher quality agricultural land also could weigh against the scheme, notwithstanding that similar quality land appears plentiful in the area. Moreover, by reason of its location the proposal conflicts with local plan strategies and policies which aim to restrict residential development such as this within its defined built up area boundaries.

The paragraph 11 d) balance

It can be seen from the above that paragraph 11 d of the NPPF is engaged. There are no land designations concerning this application site, as stipulated in the exhaustive footnote of the same paragraph, preventing the application of this so called 'tilted balance'.

In terms of the social benefits, the scheme would deliver some additional housing, adjacent to a sustainable village and in line with the Framework's aim to significantly boosting the supply of housing. There is a general acceptance that the release of additional greenfield sites will be necessary to meet the Council's housing shortfall.

It has been identified that the site would provide an accessible location relative to local services and facilities thereby encouraging active travel modes and public transport. There are significant protected trees around the perimeter and these contribute greatly to the character of the area. However, no objections are raised by the tree officer as sufficient details have been submitted to demonstrate the trees can be retained.. Ground conditions are such that a robust SuDs scheme would be required and DCC Lead Flood team are satisfied that this can be accommodated. No objections are raised by the council's ecologist with suitable mitigation measures provided. The highway officer has not raised any objection to the increased traffic on the existing highway network. Whilst some amendments to the layout are likely to be required at reserve matter stage but that does not weigh against this outline.

From a social perspective affordable housing is needed within the district and with half of the proposed number being affordable this would help boost this social element.

Mitigation of the scheme to account for impacts such as the requirements to protect and maintain open space, secure affordable, NHS payments and ensure BNG are not to date secured, as there is no completed s106 legal agreement. However, should members resolve to approve the scheme it would be subject to the completion of a s106 which is the appropriate mechanism to secure such mitigating contributions.

When taking all of the above into account the conflict with residential development beyond built up area boundary's, now of course considered out of date, and harm to the intrinsic character of the countryside resulting from the larger north parcel of land this is not considered to significantly and demonstrably outweigh the benefits (noted above), when assessed against the policies of the framework as a whole. Therefore this proposal benefits from the presumption in favour of sustainable development, which is a material consideration.

Final planning balance - S38(6) of the Planning and Compulsory Purchase Act

Applications for planning permission 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 one such material consideration and even where paragraph 11 applies it remains necessary to reach a final conclusion against section 38(6).

The NPPF 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. The scheme has been found to benefit from a presumption in favour of sustainable development which, as a material consideration, outweighs the limited conflict with the development plan. As such a recommendation of approval is made, subject to completion of a s106.

Appropriate Assessment

The nature of this application and its proximity to the 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 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. A legal agreement securing the contribution can be secured and on this basis significant effects would be avoided.

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

RECOMMENDATION

Resolve to APPROVE subject to the following conditions, adoption of the Appropriate Assessment above 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 - 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)
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 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 development shall not proceed other than in strict accordance with the Flood Risk Assessment and Surface Water Drainage Strategy dated 15th June 2023 and conducted by Pegasus Group. (Reason – To ensure that the drainage and flood risk of the development is suitably mitigated in accordance with policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan).

7. Prior to the commencement of development 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 Flood Risk Assessment and Drainage Strategy.
 - (b) Detailed proposals for the management of surface water and silt run-off 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.

No dwelling hereby permitted shall be occupied until the works which relate to the dwelling or site area have been approved and implemented in accordance with the details under (a) - (d) 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).

8. 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.

The AMS will also show all 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 2013-2031)

9. 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.
(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).
10. The development shall proceed in accordance with the submitted ecological impact assessment (GE Consulting, July 2023). No works shall commence until the following information has been submitted and approved in writing by the Local Planning Authority.
 - o A Landscape and Ecological Management Plan (LEMP),
 - o Construction and Environmental Management Plan (CEMP); and
 - o A detailed lighting design for bats following Devon County Council (2022) guidance, including provision of lux contours illustrating dark corridors, i.e., where predicted lighting levels are not in excess of 0.5 lux.

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

The location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, insect bricks, permeable fencing and any other features should be clearly shown on plans supporting a detailed application. The development shall be carried out in accordance with the agreed details.

(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).

11. 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;

The development shall be carried out in accordance with the agreed 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)

12. 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 prior to the occupation of the dwelling to which they relate.

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

13. The development shall not proceed other than in strict accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Assessment dated July 2023 conducted by GE consulting. (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.)

14. 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)

Plans relating to this application:

220501 L 001 rev	Location Plan	20.04.23
a		

List of Background Papers

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

Ward Exmouth Halsdon

Reference 22/2669/MFUL

Applicant Mr N James (Exmouth Youth Football Club)

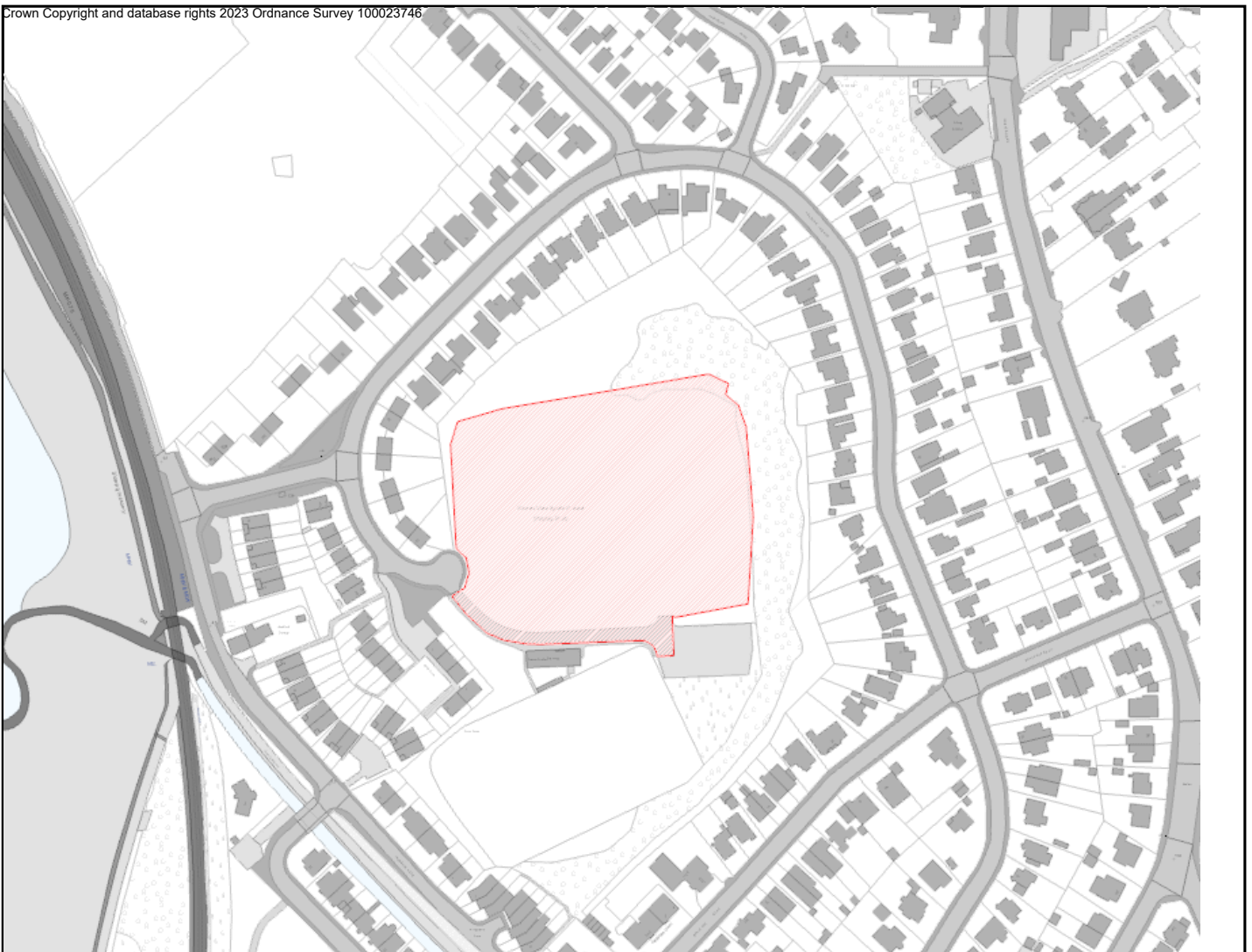
Location Warren View Sports Ground Halsdon Avenue
Exmouth EX8 3DH

Proposal Engineering operations for playing pitch improvement works including raising and levelling of surface



RECOMMENDATION: Approval with conditions

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		Committee Date: 24.10.2023
Exmouth Halsdon (Exmouth)	22/2669/MFUL	Target Date: 07.03.2023
Applicant:	Mr N James (Exmouth Youth Football Club)	
Location:	Warren View Sports Ground Halsdon Avenue	
Proposal:	Engineering operations for playing pitch improvement works including raising and levelling of surface	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members as East Devon District Council is the freehold owner of the site.

The application site lies within the built up area boundary of Exmouth and comprises a parcel of land totalling an area of 1.4 hectares. The site is located along Halsdon Avenue to the western part of Exmouth town. It benefits from vehicular access off the adopted highway to the southwest of sports field.

The site comprises an open area laid to grass that is used for sports and recreation. The land has been in relatively poor condition for a number of years, with species poor grassland that does not drain well, resulting in surface flooding and boggy ground conditions not conducive to regular use for sporting activities.

This application seeks full planning permission for improvement works to the existing sports pitches at Warren View Sports Ground, the works include the raising of the level of the ground by up to 1 metre in a west to east direction with the existing site sloping down from the west by 1 metre over its 63 metre width and the raising of the level of the ground by a fairly consistent 0.8 metres in a north to south direction.

Limited drainage information has been submitted, however Devon County Flood Risk Management Team consider that the proposal is acceptable in principle subject to a condition requiring the submission of additional information prior to commencement of development, similarly the Environmental Health Officer raises no objections subject to the imposition of an appropriately worded condition to require submission of a remediation strategy to deal with any identified risks associated with contamination of the site (being a former land fill site) prior to any works commencing.

The proposed development represents a benefit to the local community through the improvement and enhancement of a well-used sports ground which is predominantly used for both adult and youth football in the town. Sport England, the statutory consultee, supports the proposal for the enhancement works to create a plateau level playing surface that would be installed with improved drainage and consider it will result in around 6 hours use per week. The impacts on neighbours, the highway network, flood risk and contamination have been considered in the report and been found to be acceptable such that approval of the application is recommended.

CONSULTATIONS

Local Consultations

Parish/Town Council

Meeting 19.12.22

No objection in principle subject to the submission of additional information requested by consultees and that subsequently supported the proposed works. It was noted that the Contaminated Land Officer had not been consulted, members were concerned given that the site was previously used as a landfill that they should be consulted.

Technical Consultations

DCC Flood Risk Management Team

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

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

- (a) A detailed drainage design based upon the approved Drainage Strategy
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (b) 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 has provided an indicative drainage strategy providing details on how surface water flows will be managed through the site.

The Applicant may wish to consider the feasibility of an alternative routing for formalising and managing the overland flows from the east through an improved ditch/ french drain type network perhaps running along the northern boundary, should levels allow, to avoid the freely draining overland flows cascading down the existing bank of vegetation on the east as present.

Sports England

The proposal seems to create a large plateau (not a single pitch) that can be used for adult and youth players that can be marked out to the suit the changing needs of football. The current playing area has a 'slope' on it. The proposed works will improve the site for football. Our recommendation would be "Type 4" pipe drained with sand grooves will allow up to 6 hours of use a week (Source Natural Turf for Sport 2011).

The Football Foundation on behalf of the FA/Devon FA advise that whilst the proposals seem to best use the area available, it is difficult to tell what the dimensions of the pitch are as the applicant just states 'single pitch'. The FF would ask the applicant to specify the pitch size that they are looking to install.

Another question has been raised by Devon FA regarding the use of the pavilion as this was submitted in a previous application. Whilst the FF appreciates the applicant has stated that they have put the pavilion application on hold at the moment, however, the FF would ask the applicant to reconsider this position as it could prove to be a useful service for the proposed Natural Turf Pitch.

We would be happy to receive confirmation of the above.

Exmouth Halsdon - Cllr Megan Armstrong

Thank you very much for bringing me up to date with this application and presumably there is still time for me to comment as ward member?

When looking at the planning portal yesterday, I noticed that only five of the public comments relate to this application and the other four are comments about an application for the sports ground which has not yet been submitted (regarding a new build for a boxing club, etc.).

Would you please be able to remove those four comments from this current application, to avoid any confusion?

Meanwhile could you please update me when you receive feedback about the Sport England and Devon County Flood team's concerns?

With many thanks.

Environmental Health

I have considered the application and do not anticipate any environmental health concerns

Contaminated Land Officer

No development approved by this planning permission shall commence until a remediation strategy to deal with any identified risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - I. all previous uses
 - II. potential contaminants associated with those uses
 - III. a conceptual model of the site indicating sources, pathways and receptors
 - IV. potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN16.

Other Representations

Seven letters of representation have been received as a result of this application raising the following concerns:

- No proper drainage details submitted;
- Why does the land need to be raised so much;
- biodiversity impact due to being close to the estuary;
- increased flood risk;
- future uses other than football on other parts of the site;
- parking often spills out onto residential streets;
- methane gas leaks possible if surface is broken;
- drainage is essential;
- the soil imported needs to have good drainage properties;
- football players often visible over the fence line from garden;
- fencing around the site needs improving;
- increased noise due to more usability of pitches.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

RC2 (New Open Space, Sports Facilities and Parks)

D1 (Design and Local Distinctiveness)

D3 (Development and Trees)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Policy CF3

ANALYSIS

Site Location and Description

The application site lies within the built up area boundary of Exmouth and comprises a parcel of land totalling an area of 1.4 hectares. The site is located along Halsdon Avenue to the western part of Exmouth town. It benefits from vehicular access off the adopted highway to the southwest of sports field.

The site comprises an open area laid to grass that is used for sports and recreation. The land has been in relatively poor condition for a number of years, with species poor grassland that does not drain well, resulting in surface flooding and boggy ground conditions not conducive to regular use for sporting activities.

The topography of the site is undulating with an uneven surface across the application site. The site is located within flood zone 1.

Proposed Development

This application seeks full planning permission for improvement works to the existing sports pitches at Warren View Sports Ground, the works include the raising of the level of the ground by up to 1 metre in a west to east direction with the existing site sloping down from the west by 1 metre over its 63 metre width and the raising of the level of the ground by a fairly consistent 0.8 metres in a north to south direction.

Main considerations

The main considerations in the determination of this application relate to:

- The principle of the proposed development;
- The impact of the proposed development on its surroundings including residential amenity;
- Drainage;
- Contaminated land; and
- Impact on highway safety.

Principle

The site lies in the built up area boundary of Exmouth, where, in accordance with Strategy 6 of the EDDC Local Plan, development will be permitted if it is compatible with the site and its surroundings, would not involve loss of land of local amenity importance or recreational value, impact on highway safety or prejudice the development potential of an adjacent site.

The proposal seeks to redevelop an existing recreational area so that it can be used more frequently, at present in times of inclement weather the site becomes boggy and does not drain well such that there are times of the year when it cannot be used to its full potential. By raising the level of the land to create a level plateau and install proper drainage systems, the sports ground will be able to be used as one larger pitch or a number of smaller pitches for youth football matches, thereby benefiting the local community.

Furthermore, Policy RC2 - New Open Space, Sports Facilities and Parks of the EDDC Local Plan states the following:

Within or adjoining urban or built-up areas, permission will be granted for new open space areas, allotments, sports facilities and parks, the accommodation of the visual and performing arts, and the upgrading or enhancement of existing facilities provided the following criteria are met:

- 1. They do not unduly affect the character and appearance of the area and the visual and physical amenities enjoyed by adjoining residential areas.*
- 2. They are accessible by public transport, bicycle and on foot.*
- 3. Appropriate car and cycle parking is provided.*
- 4. The proposed road access to the site provides for safe exit and entry and the local road network can safely accommodate the extra traffic the proposal would generate.*
- 5. The facilities are located without detriment to the best and most versatile agricultural land, nature conservation interest and the conservation of areas of landscape, scientific, archaeological or historic interest.*

These issues will be discussed in more detail under the specific heading below.

Sport England, who are a statutory consultee when proposals relate to the upgrading of facilities or the loss of sports facilities have commented as follows:

The proposal seems to create a large plateau (not a single pitch) that can be used for adult and youth players that can be marked out to the suit the changing needs of football. The current playing area has a 'slope' on it. The proposed works will improve the site for football. Our recommendation would be "Type 4" pipe drained with sand grooves will allow up to 6 hours of use a week (Source Natural Turf for Sport 2011).

The Football Foundation on behalf of the FA/Devon FA advise that whilst the proposals seem to best use the area available, it is difficult to tell what the dimensions of the pitch are as the applicant just states 'single pitch'. The FF would ask the applicant to specify the pitch size that they are looking to install.

The site is used by youth football and adult football and has been for a number of years such that the proposal does not seek to change the way the area is used, rather make it more usable without a slope and to enable it to drain effectively.

It is considered that the principle of the upgrading of the facilities on site to create a more usable playing surface with appropriate drainage is acceptable in principle under Strategy 6 and Policy RC2 of the EDDC Local Plan and Policy CF3 of the Exmouth Neighbourhood Plan.

Impact on surroundings, including residential amenity

The wider sports ground at Warren View is surrounded on all sides by residential development, the majority of which are set at a higher level than the pitches themselves such that in the wider landscape the pitches are not visible from public view instead views down onto the pitches are from private properties.

The raising of the level of the pitch on the western side of the complex by 1 metres (at its greatest extent) would not have any discernible visual impact in its surroundings and would not in itself be harmful to residential amenity given the difference in level of the sports ground and the residential properties. Representations have been received regarding the increased usability of the pitches and the increase in noise that it could generate. Whilst the works to provide better drainage and a level playing surface would provide an improved playing surface, the site is not floodlit (nor is it proposed to be) and there is no suggestion that the usage would generate any more noise than the site currently does during sociable hours. The Council's Environmental Health Officer raises no objections to the proposed development in terms of the criteria listed within Policy EN14 of the EDDC Local Plan.

Accordingly, it is considered that the proposed development is acceptable, not impacting unreasonably on its surroundings or residential amenity in accordance with Policies D1 and EN14 of the EDDC Local Plan.

Tress

There is well established landscaping to the east of the site growing at the base of and up the side of a slope, concerns have been raised regarding the impact that laying additional soil on the ground may have on the rooting environment of the trees ultimately leading to their potential loss. However, there is a small ditch/water course that runs the entire length of the application's eastern boundary that separates the trees from the playing surface and a further 3-5 metres area of scrub that is proposed to be retained on the pitch side of the ditch such that any roots that have either grown under the watercourse or transversed it in some way would be protected from harm. It is important to note that none of the trees on the bank are worthy of protection in their own right but do form a pleasing visual screen around the sports ground.

It is therefore considered that there would be no detrimental impact on the health of the existing trees in accordance with Policy D3 of the EDDC Local Plan.

Drainage

The application has been submitted on the basis that the existing pitches are often boggy and unplayable during inclement weather due to their uneven surface and the fact that the grass is species poor and therefore does not allow proper drainage, raising the level and importing new soil with effective drainage systems would improve this situation and the playability of the pitches year round.

Devon County Flood Risk Management Engineers have been consulted on this application and after initially objecting to the application on the basis of a lack of

surface water drainage information they have commented on the submission of additional information as follows:

The Applicant has provided an indicative drainage strategy providing details on how surface water flows will be managed through the site.

The Applicant may wish to consider the feasibility of an alternative routing for formalising and managing the overland flows from the east through an improved ditch/ French drain type network perhaps running along the northern boundary, should levels allow, to avoid the freely draining overland flows cascading down the existing bank of vegetation on the east as present.

They are content that the development is acceptable subject to an appropriately worded condition requiring more information prior to any works commencing on site.

The proposal is therefore considered acceptable in relation to Policy EN22 of the EDDC Local Plan.

Contaminated land

The land subject of this application was a former landfill site such that there is potential for gases to be released should the existing ground be broken in a significant way, however, the proposal does not seek to break and ground, instead additional soil is to be brought onto the site to create a level playing surface at its maximum height raised by 1 metre.

The Council's Environmental Health Officer has considered the application and raises no objection subject to conditions.

Accordingly, subject to the imposition of a condition as discussed above, the proposal is considered acceptable in relation to Policy EN16 of the EDDC Local Plan.

Impact on highway safety

The site is accessed by a dedicated roadway from the surrounding residential streets with informal parking available on site for around 20 vehicles, on some match days visitors to the site often use the surrounding unrestricted residential streets to park, this situation has existing for a number of years. It is not proposed to increase the capacity of the pitch(es) on site such that the number of visitors to the site would increase, instead the pitch(es) would be able to be used when weather conditions are less favourable because the land would drain more freely.

No comments have been received from Devon County Highways Department, however, it is considered that the raising of the land would not create any additional trips to the site, except for when the lorries are bringing the additional soil to the site, for this reason it is considered necessary to impose a condition requiring the submission of a construction and environmental management plan (CEMP) to ensure that surrounding residents are protected from a detrimental impact during the, whilst relatively short, soil importation stage.

Subject to the condition outlined above, the proposal is considered acceptable in relation to Policy TC7 of the EDDC Local Plan.

Conclusion

The proposed development represents a benefit to the local community through the improvement and enhancement of a well-used sports ground which is predominantly used for both adult and youth football in the town. Sport England, the statutory consultee, supports the proposal for the enhancement works to create a plateau level playing surface that would be installed with improved drainage and consider it will result in around 6 hours use per week. The impacts on neighbours, the highway network, flood risk and contamination have been considered in the report and been found to be acceptable such that approval of the application is recommended.

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 development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
 - (a) A detailed drainage design based upon the approved Drainage Strategy
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

No part of the newly laid surface shall be brought into use until the works have been approved and implemented in accordance with the details under (a) - (b) 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.

4. No development approved by this planning permission shall commence until a remediation strategy to deal with any identified risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
 1. A preliminary risk assessment which has identified:
 - I. all previous uses
 - II. potential contaminants associated with those uses
 - III. a conceptual model of the site indicating sources, pathways and receptors
 - IV. potentially unacceptable risks arising from contamination at the site
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the

effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EN16 (Contaminated land) of the East Devon Local Plan. The conditions should be pre-commencement since it is essential that any contamination found is dealt with appropriately before any further development takes place.

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

(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan.) The conditions should be pre-commencement since it is essential that the proposed vehicle routes for construction are known and how off site effects are to be mitigated before they occur.

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:

DR-A-050-002 A	Proposed Combined	19.06.23
: site/sections	Plans	

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

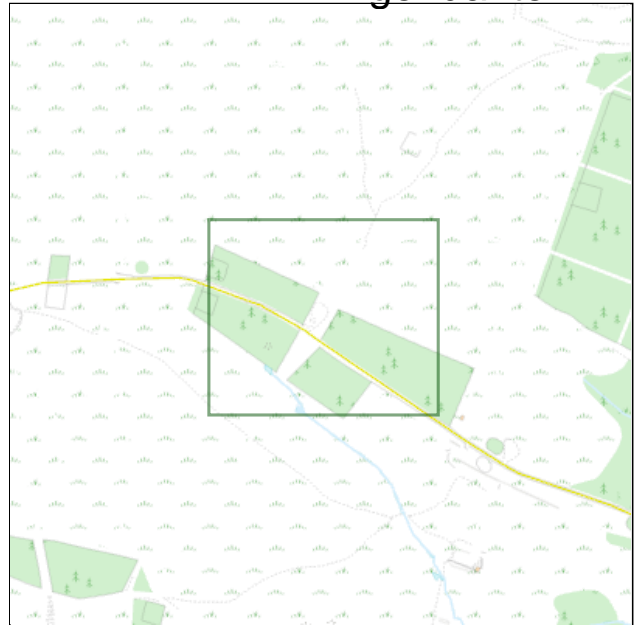
Ward Budleigh And Raleigh

Reference 23/0851/FUL

Applicant Mr Neil Harris

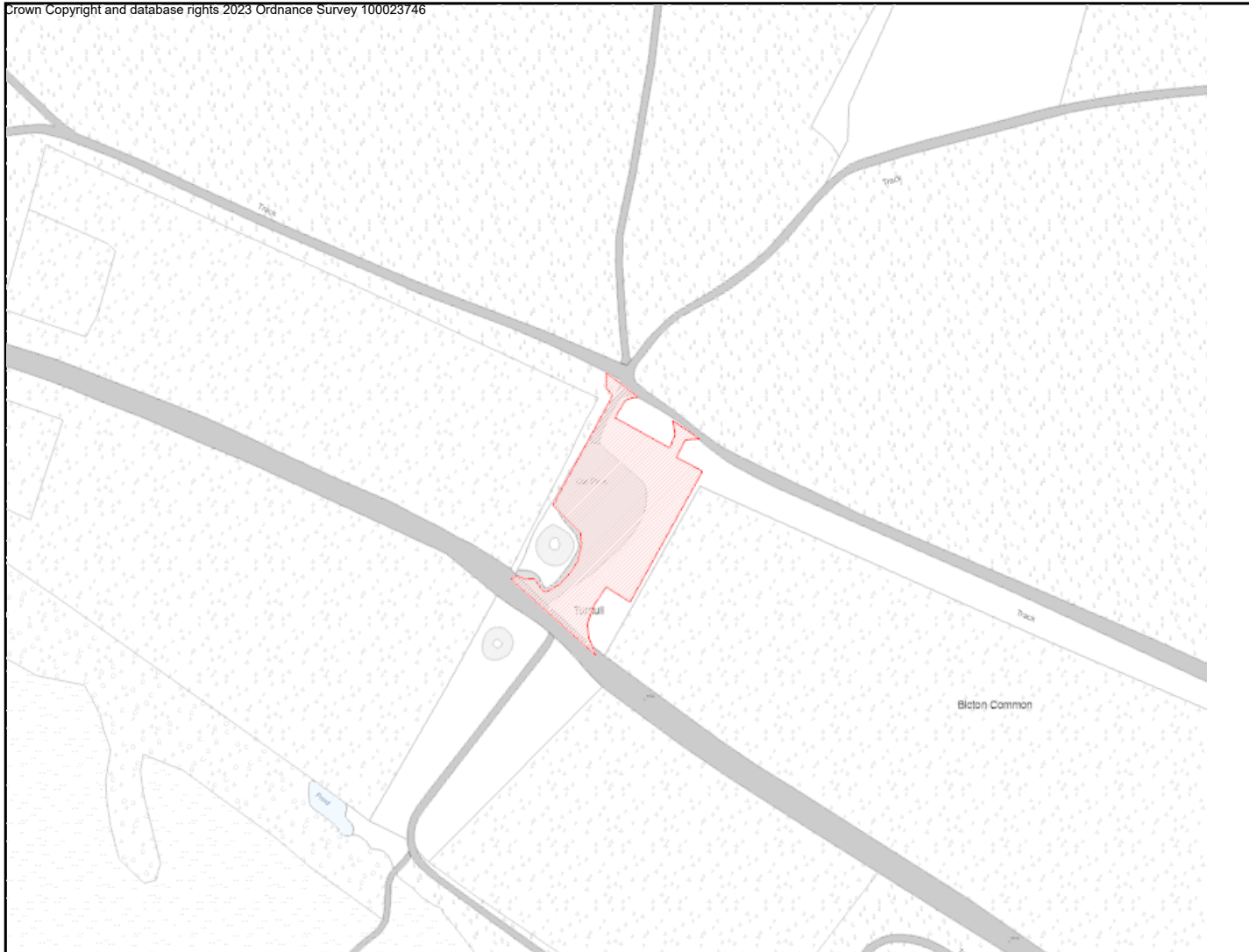
Location Bicton Common Yettington Model Airfield
Carpark, Grid Ref SY 03771 86378

Proposal Installation of new tarmac entrance, layout changes, vehicle barriers and alterations to boundary treatments.



RECOMMENDATION: Approval with conditions

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		Committee Date: 24.10.2023	
Budleigh Raleigh (Bicton)	And	23/0851/FUL	Target Date: 14.07.2023
Applicant:	Mr Neil Harris (East Devon District Council)		
Location:	Model Airfield Car Park Bicton Common Yettington		
Proposal:	Installation of new tarmac entrance, layout changes, vehicle barriers and alterations to boundary treatments.		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Committee as the applicant is East Devon District Council.

The East Devon Pebblebed Heaths is a Site of Special Scientific Interest (SSSI) covering some 1,400 ha. They are also designated a Special Area of Conservation (SAC) for the heathland habitat and the presence of the Southern Damselfly and as a Special Conservation Area (SPA) owing to the habitat that they provide for the Nightjar and Dartford Warbler.

The proposals relate to works to upgrade the Model Airfield Car Park, one of a number parking facilities for visitors to the Pebblebed Heaths. It is located off of the northern side of the Class C road that connects Yettington and Four Firs Cross (the B3180).

The application is one of three essentially very similar applications that are on this Committee agenda; the others relating to Uphams Car Park (ref. 23/0852/FUL), a short distance to the east of Model Airfield Car Park, and Wheathill Plantation Car Park (ref. 23/0868/FUL), approximately 1.4 km. to the south.

They follow the grant of planning permission in 2021 (application ref. 21/1392/FUL) for similar works at four other car parks on the Pebblebed Heaths, namely: Joneys Cross Car Park, Hawkerland; Stowford Woods Car Park, Colaton Raleigh; Four Firs Car Park, Woodbury and Frying Pan Car Park, The Common.

Together, the works to each of the three sites, taken together with those previously approved at the four other car parks referenced above, provide a coherent strategy for updating the visitor experience and providing for increased visitor numbers. By improving the larger car parks, there would be an increased

focus in these areas with less harm likely to arise in other satellite car parking areas, thereby reducing harm to the wider Pebblebed Heaths.

The proposals would lead to much needed improvements to the surfacing, configuration and drainage of the existing car parking. The enhanced functionality of the site would be justified due to the increased demand experienced.

The application is therefore recommended for approval.

CONSULTATIONS

Local Consultations

None received.

Technical Consultations

Historic England

Dear Sir/Madam Planning Team

T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990

BICTON COMMON YETTINGTON MODEL AIRFIELD CARPARK, GRID REF SY
03771 86378

Application No. 23/0851/FUL

Thank you for your letter of 12 September 2023 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Historic England Advice

The proposals have the potential to result in harm to the scheduled monument, bowl barrow at Model Airfield, however, it has been subject to pre-application advice and we are content that the proposal will, on balance, provide benefits for the preservation of the monument. Were the height barrier moved back so it does not obstruct views of the monument we would support the application, but at the proposed location we can only record 'no objection.

Recommendation

Historic England has no objection to the application on heritage grounds.
We consider that the application meets the requirements of the NPPF.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

East Devon AONB

The East Devon Pebblebed Heaths is a significant area of Open Access Land to the western edge of the East Devon AONB which gets in excess of 400,000 annual visits, mostly by car. As well recreational and heritage significance, the area is an important wildlife habitat, with Sites of Scientific Interest, Special Areas of Conservation and SPA designations, and more recently, National Nature Reserve Status. As such, with a growing population and increasing interest in outdoor recreation, visitor management is critical to the site integrity.

A Visitor Management Plan was developed to provide a framework for delivery of mitigation for the Pebblebed Heaths to ensure they can cope with the increased levels of recreation in the future, and to give confidence that the expected growth in East Devon will not result in adverse impacts on designated features. The report was commissioned by South East Devon Habitats Regulation Partnership to recommend a strategy for managing visitor numbers through car park space provision and distribution across the SPA/SAC. The report has been compiled analysing background reports and existing data and undertaking site surveys to prepare a plan depicting the Existing Arrangement and Habitat Context.

The primary objective of the Car Parking Strategy is to safeguard the SPA protected bird species (Nightjar and Dartford Warbler) and SAC heathland habitats from the adverse impacts and disturbance caused by people, particularly from dogs that are not on a lead.

Natural England and the East Devon AONB Partnership were represented on the officer working group developing the strategy on which the application is based and for that reason we are supportive of this application.

DCC Historic Environment Officer

I refer to the above application and the Written Scheme of Investigation (WSI) submitted in support of this application. This document sets out the scope of the archaeological work to be undertaken in mitigation for the impact of the proposed development upon the archaeological resource and is acceptable to the Historic Environment Team.

I would therefore advise that any consent that may be granted by the Planning Authority should be conditional upon the following worded conditions:

'The development shall proceed in accordance with the Written Scheme of Investigation prepared by South West Archaeology (document ref: BMA22WSIv1, dated 16th December 2022) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.'

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 brought into its intended use 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 will be happy to discuss this further with you, the applicant or their agent.

Natural England:

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on East Devon Pebblebed Heaths Special Area of Conservation (SAC), East Devon Heaths Special Protection Area (SPA) and East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) and has no objection

Other Representations

No representations relating to the application proposals have been received from any interested third parties.

RELEVANT PLANNING HISTORY

21/1392/FUL - Car park improvements (Full). Approved 28/10/21. (Joneys Cross Car Park, Hawkerland)

21/1442/FUL - Car park improvements (Full). Approved 28/10/21. (Stowford Woods Car Park, Colaton Raleigh)

21/1443/FUL - Car park improvements (Full). Approved 28/10/21. (Four Firs Car Park, Woodbury)

21/1444/FUL - Car park improvements (Full). Approved 28/10/21. (Frying Pan Car Park, The Common)

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 5 (Environment)

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)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made East Budleigh with Bickton Neighbourhood Plan to 2031 Policies

N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

The Model Airfield car park is one of a number of vehicle parking facilities located on the Commons/Pebblebed Heaths. Popular with visitors, these are primarily informally arranged areas with uneven and unmade surfaces and irregular configurations.

It is located on the northern side of the Class 3 road that connects Yettington with the B3180 at the Four Firs crossroads, approximately 650 metres to the east of the latter.

The car park is flanked by coniferous woodland plantations to both west and east and heathland to the north. It is served by a wide splayed entrance off the highway.

The area of plantation to the west contains a scheduled ancient monument (SAM) in the form of a burial mound.

The site, as well as much of the immediate surrounding area, forms part of the designated East Devon Area of Outstanding Natural Beauty (AONB). It is also within the European-designated Pebblebed Heaths Special Protection Area (SPA) and Special Area of Conservation (SAC) as well as a Site of Special Scientific Interest (SSSI) and National Nature Reserve.

Proposed Development

The proposals, which have been submitted on behalf of the Council's Habitats Regulations Delivery Manager, involve various works/operations to upgrade the car park so as to create a more efficient layout, improve safety for users and reduce impacts to existing site features.

Applications relating to similar works/operations to the nearby Uphams (ref. 23/0852/FUL) and Wheathill Plantation (ref. 23/0868/FUL) car parks have also been submitted. Reports relating to these also appear elsewhere on this agenda.

This series of applications follows a previous series of applications for works, alterations, etc. to upgrade the Joneys Cross, Stowford Woods, Four Firs and Frying Pan car parks elsewhere on the Pebblebed Heaths, all of which were approved around two years ago. These are referred to in the Planning History section of the report above. The various works/operations to which these permissions relate have since largely been completed.

The proposals for the Model Airfield car park are summarised as follows:

1. Provision of a new entrance, in a position just to the south east of the existing entrance, constructed with a tarmac surface. This is to move the entrance further away from the SAM.
2. The creation of an earth bund, around 0.6 metres in height, to close off the existing entrance. This would also extend along the north western radius of the junction of the new entrance with the highway.
3. Installation of a 2.2 metre high vehicle height barrier over the entrance at a point 11 metres back from the highway.
4. The removal of potholes and the regrading and compacting of the surface of the car park with existing material from the site coupled with top up imported material to create a consistent free draining surface.
5. Removal of vegetation from the north eastern end of the car park to enable an increase in parking area.
6. The creation of further bunding within the central part of the car park to formalise parking areas.
7. Protection of the edges of the parking area, in the form of a combination of posts, logs and additional earth bunds, so as to maintain its proposed boundaries.
8. Installation of a lockable low level security barrier to a new access route to the north of the car park to be formed through the removal of an area of heathland and the laying of a new compacted and graded pebblebed gravel surface.
9. Provision of a signed parking area for disabled users along the northern edge of the car park.
10. Renewal/repositioning of dog waste bins and information boards.

Considerations/Assessment

The main issues that are material to assessment of the proposals are discussed in turn as follows.

Principle and Justification

The current Local Plan identifies a requirement to build over 40,000 new homes in the East Devon, Exeter and Teignbridge districts by 2030. This level of growth has implications for recreation sites in the area, with significant increases in visitor pressure expected.

There is a requirement under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) to protect European conservation sites, including SPAs and SACs, from the negative impacts of development.

The East Devon Pebblebed Heaths are designated as Open Access Land under the Countryside and Rights of Way Act 2000 with an estimation that 400,000+ visits are made annually by local people, mostly travelling to the site by car (East Devon Pebblebed Heaths Visitor Management Plan). The Visitor Management Plan was developed to provide a framework for delivery of mitigation for the Pebblebed Heaths to ensure they can cope with the increased levels of recreation in the future and to give confidence that the expected growth will not result in adverse impacts on designated features.

The Council and the Pebblebed Heaths Conservation Trust have undertaken a holistic review of the car parking strategy within the area. Its principles seek to achieve this objective through:

- directing visitors towards car parks that are away from sensitive locations and have less impact on protected habitats and species
- retaining and developing the formal car parks that are as close as possible to the points of entry on to the Heaths, adjacent to the principal roads where the car parks are easy to find and easy to sign (e.g. car park name signs), thereby reducing car movements across the heaths and the scattered informal parking that occurs as a consequence
- maintaining the current number of car parking spaces across the heaths
- establishing nodes as the starting point for promoted trails, to direct people away from sensitive areas at key times of the year and to create welcoming, attractive locations where visitors can engage with interpretation, messaging and wardens about the nature, value and significance of the Pebblebed Heaths, and particularly about responsible dog walking.

The proposed works, aligned to the strategy, have been approved by the South East Devon Habitat Regulations Executive Committee as part of the South East Devon European Site Mitigation Strategy as well as the management plan, which together form the strategic response to the requirements of the Habitat Regulations.

They also follow a public consultation exercise undertaken in 2019 to determine the scope and direction of works associated with the car parks.

As such, and given the perceived increase in the importance of the works following visitor number increases to the Heaths in the wake of the Covid pandemic, the proposals are considered to be appropriately robustly justified and positively welcomed. It is anticipated that they would continue to assist in triggering behavioural changes by creating safe, accessible and efficient layouts for the public whilst deterring roadside parking which has led to damage to legally designated features.

Impact on Character and Appearance of AONB

Relevant policy requirements stipulate that development within the AONB be undertaken in a manner that is sympathetic to, and helps conserve and enhance the

quality and local distinctiveness of, the natural and historic landscape (Local Plan Strategy 46). Moreover, paragraph 176 of the National Planning Policy Framework (NPPF) confers upon AONBs (along with other designated landscapes) the highest status of protection in relation to the conservation and enhancement of landscape and scenic beauty.

The proposals would, to some extent, bring about an engineered aesthetic to the entrance and car park, which at the moment have a largely undisturbed rural character, aside from an informal layby to the immediate west of the existing entrance. However, this impact would be limited in terms of the scope of works proposed taken together with the extent to which the parking area itself is set back from the highway. Furthermore, screening provided by the adjacent trees means the visual impact would be mitigated to a large extent. Moreover the car parking bays, seen in the context of the adjacent highway, would not be an untypical feature and gravel surfaces would not detract from the rural setting.

The strategic importance of consolidation of parking areas, with the focus at this and other sites to which both previous and current proposals relate, the reduction in pressure on other parking areas and the resulting improvements to other areas of the AONB are also acknowledged.

As such, and when balanced against the benefits of the overarching car parking strategy for the Pebblebed Heaths set out above that the proposed measures are designed to achieve, it is considered that the proposals would be acceptable and would comply with the provisions of Strategy 46 of the Local Plan. Furthermore, they would meet with the relevant provisions of Local Plan Policy D1 (Design and Local Distinctiveness) which, among other criteria, require that important landscape characteristics are not adversely affected by development.

Impact on Highway Safety

In broad highway safety terms, it is not considered that the proposed new entrance would result in any material change to the existing levels of visibility available from, and of, vehicles emerging from the car park. There would not therefore be any particularly obvious benefit in this regard.

However, the proposals would reconfigure the existing facility to create a purposely allocated specific parking area, as opposed to the existing ad hoc configuration. Resurfacing and regrading of the parking area with gravel would be carried out with soakaway ditches installed. This would all be to the benefit of the existing area which is currently more difficult to traverse and allows for pooling of water.

Overall therefore, it is accepted that they would comply with the requirements of Local Plan Policy TC7 (Adequacy of Road Network and Site Access).

Impact on Heritage Assets

The proposed repositioning of the entrance to the south east of its present position has been conceived purposely with the objective of moving it further from the Scheduled Ancient Monument (SAM) within the plantation to the west of the car park,

thereby relieving any potential for any increased risk to its integrity or setting that might otherwise be presented by the retention of the present access arrangement.

Furthermore, although the submitted plans indicate that the existing entrance and section of track leading to the car park would be retained 'in situ', with no landscaping aside from the proposed bund across the entrance itself, the proposed run of wooden posts to define the edge of the new entrance and track would prevent any vehicle access or parking within proximity of the SAM.

In safeguarding the integrity of, and avoiding harm to, the designated heritage asset, it is acknowledged that the development would comply with Local Plan Policy EN9 (Development Affecting a Designated Heritage Asset).

Impact on Ecology

The majority of the site is already in use as a car park to serve visitors to the Pebblebed Heaths.

Notwithstanding, the application is accompanied by a Construction Environmental Management Plan (CEMP) that incorporates all of the information ordinarily required of such a document.

The content of this document is considered to be acceptable and therefore a condition to secure compliance with its measures is recommended.

In this regard, the proposals would satisfy Policy EN5 (Wildlife Habitats and Features) and Strategy 47 (Nature Conservation and Geology) of the Local Plan.

Impact on Pebblebed Heaths and Appropriate Assessment

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulations ("Habitat Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations requires consideration of whether a development proposal, is likely to give rise to significant effects on a European site or a European offshore marine site (either alone or in combination with other plans or projects), in view of that site's conservation objectives.

The East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) cover some 1,400 ha. and are designated a Special Area of Conservation (SAC) for the heathland habitat and Southern Damselfly and as a Special Protection Area (SPA) for Nightjar and Dartford Warbler.

Lowland heaths are some of the most important habitats in Europe due to the rarity of species they support. The East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) cover some 1,400 ha, and comprises the single largest area (1,112ha) of lowland heath in Devon (where there are 4,000ha). A biodiversity audit of the East Devon Pebblebed Heaths was undertaken in 2016 with over 3,000 species

documented, 10% of which have conservation significance. (Bridgewater, S & Lesley, K. 2016. East Devon Pebblebed Heaths: Providing Space for Nature. Biodiversity Audit 2016. Pebblebed Heaths Conservation Trust.)

The first stage of Habitat Regulations Assessment is to screen development to identify whether any development proposals are likely to give rise to a 'significant effect'.

The scale and nature of the application, which involves controlled public access where public access is already available to an extent, together with mitigation measures incorporated as part of any planning permission, is unlikely to affect the associated designations.

The proposals would result in improvements to the Pebblebed Heaths car parks. They form a key part of the jointly agreed strategic mitigation strategy to manage recreational pressure on this internationally important site for wildlife. The proposals have the primary objective of safeguarding the European protected bird species and heathland habitat and have been developed through consultation with Natural England.

It is considered therefore that the proposed development would not have significant adverse impacts on designated sites or protected landscapes. Furthermore, it is considered that the proposals would be unlikely to have a significant effect on any European site, either alone or in-combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment.

The works are clearly intended to be to the benefit of wider ecology by focusing visitors to the site. As such, the proposals are not considered to give rise to any 'likely significant effects'.

Conclusion

The proposals would create much needed improvements to the surfacing, configuration and drainage of the existing car parking. The improved functionality of the site would be justified due to the increased demand experienced. This application is part of an overall strategy to focus visitors to this main car park, thereby relieving pressures on smaller satellite parking areas and preventing wider ecological disturbance. It would provide for a central location to provide information, dog bins and a site warden presence.

The proposal is therefore welcomed and supported for these reasons and, as such, is recommended for approval.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be APPROVED 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 development shall proceed in accordance with the submitted Written Scheme of Investigation dated 16th December 2022 prepared by South West Archaeology (document ref: BMA22WSlv1). The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the adopted East Devon Local Plan 2013-2031 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.)

4. The development shall not be brought into its intended use 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 thereafter 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.)

5. The development hereby permitted shall be carried out in accordance with the Outline Construction Environmental Management Plan (CEMP) dated April 2023 prepared by WSP (document ref. 70079322-GN-CEMP-301), or such other details as may be agreed in writing by the Local Planning Authority.

(Reason - To ensure that species within and around the site are protected during the construction phase in accordance with Policy EN5 (Wildlife and habitat Features) and Strategy 47 (Nature Conservation and Geology) of the adopted East Devon Local Plan 2013-2031.)

6. Prior to the commencement of any works on site (including demolition and site clearance or tree works), 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 Local 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 - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

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:

70079322-WSP- HGN-MA-100- DR-01 REV P03	Proposed Site Plan	19.05.23
70079322-WSP- HGN-MA-100- DR-02 REV P02	Location Plan	19.05.23
70079322-0100- 300 REV P01	Other Plans	19.05.23
70079322-0100- 301 REV P01	Other Plans	19.05.23

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.

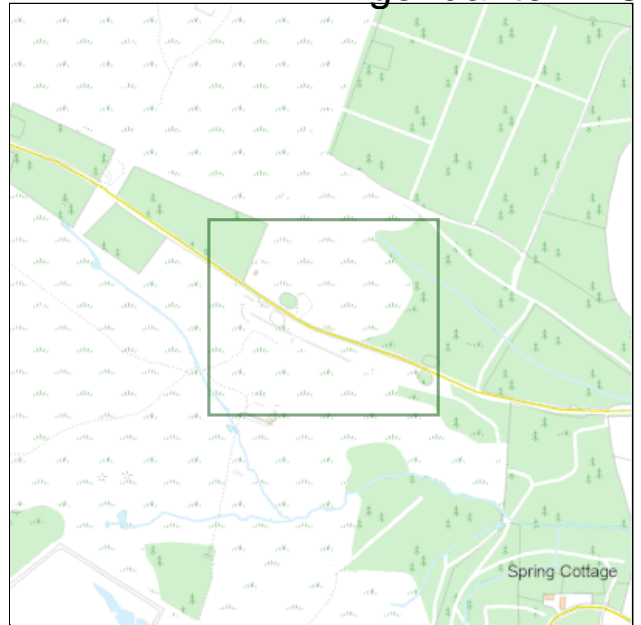
Ward Budleigh And Raleigh

Reference 23/0852/FUL

Applicant Mr Neil Harris (East Devon District Council)

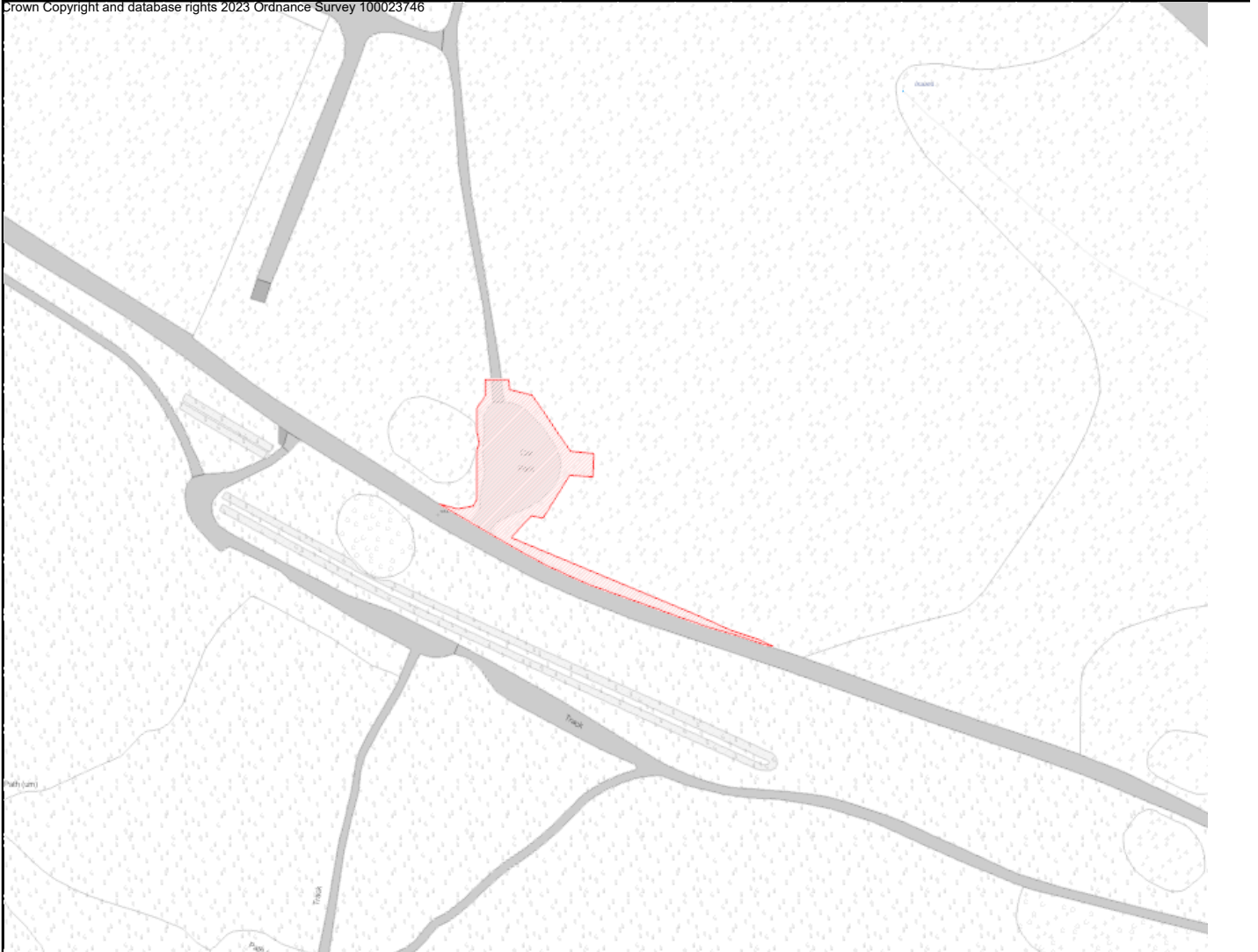
Location Uphams Car Park Yettington

Proposal Installation of new tarmac entrance, layout changes, vehicle barriers and alterations to boundary treatments.



RECOMMENDATION: Approval with conditions

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		Committee Date: 24.10.2023	
Budleigh Raleigh (Bicton)	And	23/0852/FUL	Target Date: 29.06.2023
Applicant:	Mr Neil Harris (East Devon District Council)		
Location:	Uphams Car Park Yettington		
Proposal:	Installation of new tarmac entrance, layout changes, vehicle barriers and alterations to boundary treatments.		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Committee as the applicant is East Devon District Council.

The East Devon Pebblebed Heaths is a Site of Special Scientific Interest (SSSI) covering some 1,400 ha. They are also designated a Special Area of Conservation (SAC) for the heathland habitat and the presence of the Southern Damselfly and as a Special Conservation Area (SPA) owing to the habitat that they provide for the Nightjar and Dartford Warbler.

The proposals relate to works to upgrade the Uphams Car Park, one of a number parking facilities for visitors to the Pebblebed Heaths. It is located off of the northern side of the Class C road that connects Yettington and Four Firs Cross (the B3180).

The application is one of three essentially very similar applications that are on this Committee agenda; the others relating to Model Airfield Car Park (ref. 23/0851/FUL), a short distance to the west of Uphams Car Park, and Wheathill Plantation Car Park (ref. 23/0868/FUL), approximately 1 km. to the south.

They follow the grant of planning permission in 2021 (application ref. 21/1392/FUL) for similar works at four other car parks on the Pebblebed Heaths, namely: Joneys Cross Car Park, Hawkerland; Stowford Woods Car Park, Colaton Raleigh; Four Firs Car Park, Woodbury and Frying Pan Car Park, The Common.

Together, the works to each of the three sites, taken together with those previously approved at the four other car parks referenced above, provide a coherent strategy for updating the visitor experience and providing for increased visitor numbers. By improving the larger car parks, there would be an increased

focus in these areas with less harm likely to arise in other satellite car parking areas, thereby reducing harm to the wider Pebblebed Heaths.

The proposals would lead to much needed improvements to the surfacing, configuration and drainage of the existing car parking. The enhanced functionality of the site would be justified due to the increased demand experienced.

The application is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

The Parish Council is pleased to note that Uphams will now continue to allow use by the general public when not in use by coach parties. However, the Design and Access Statement states that the car park will mainly be used for coaches from the armed forces & visiting schools. This is certainly not the case currently and seems very unlikely to be the case in future. Can it be prescribed that the car park will genuinely be open to the public when not used by coaches, which is likely to be most of the time. There is potential for the barrier to remain locked, even when not in use by coaches.

The Council is also concerned about the statement that the level of site maintenance will be similar to the existing situation for the carparks. Photographs included with the application show the dreadful state to existing car park surfaces, including Uphams. Four Firs new car park surface is already being gouged, so suggesting that maintenance will be at current levels is alarming. Perhaps it would be more cost effective to reinforce the critical turning points of the car park, particularly near the entrance (see Four Firs), with latticed structures that still allow drainage?

Technical Consultations

Historic England

Dear Sir/Madam Planning Team

T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990

UPHAMS CAR PARK, YETTINGTON
Application No. 23/0852/FUL

Thank you for your letter of 12 September 2023 regarding the above application for planning permission.

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

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

Natural England:

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on East Devon Pebblebed Heaths Special Area of Conservation (SAC), East Devon Heaths Special Protection Area (SPA) and East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) and has no objection

Other Representations

One representation of support has been received from an interested third party.

Summary of Grounds of Support

1. Welcome the improvement in infrastructure.
2. Concern that height restriction barriers prevents genuine recreational users, many of whom have vans, from visiting.
3. It is unclear on the plans if the specific "LOCKABLE LOW LEVEL SECURITY BARRIER" is height restricted, but I would urge officers and councillors to review this aspect in the interest of inclusivity.

RELEVANT PLANNING HISTORY

21/1392/FUL - Car park improvements (Full). Approved 28/10/21. (Joneys Cross Car Park, Hawkerland)

21/1442/FUL - Car park improvements (Full). Approved 28/10/21. (Stowford Woods Car Park, Colaton Raleigh)

21/1443/FUL - Car park improvements (Full). Approved 28/10/21. (Four Firs Car Park, Woodbury)

21/1444/FUL - Car park improvements (Full). Approved 28/10/21. (Frying Pan Car Park, The Common)

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 5 (Environment)

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)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made East Budleigh with Bicton Neighbourhood Plan to 2031 Policies

N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

The Uphams car park is one of a number of vehicle parking facilities located on the Commons/Pebblebed Heaths. Popular with visitors, these are primarily informally arranged areas with uneven and unmade surfaces and irregular configurations.

It is located on the northern side of the Class 3 road that connects Yettington with the B3180 at the Four Firs crossroads, approximately 1 km. to the east of the latter.

The car park is bordered to the west by a small area of coniferous woodland plantation and by open heathland elsewhere.

The site, as well as much of the immediate surrounding area, forms part of the designated East Devon Area of Outstanding Natural Beauty (AONB). It is also within the European-designated Pebblebed Heaths Special Protection Area (SPA) and Special Area of Conservation (SAC) as well as a Site of Special Scientific Interest (SSSI) and National Nature Reserve.

Proposed Development

The proposals, which have been submitted on behalf of the Council's Habitats Regulations Delivery Manager, involve various works/operations to upgrade the car park so as to create a more efficient layout, improve safety for users and reduce impacts to existing site features.

Applications relating to similar works/operations to the nearby Model Airfield (ref. 23/0851/FUL) and Wheathill Plantation (ref. 23/0868/FUL) car parks have also been submitted. Reports relating to these also appear elsewhere on this agenda.

This series of applications follows a previous series of applications for works, alterations, etc. to upgrade the Joneys Cross, Stowford Woods, Four Firs and Frying Pan car parks elsewhere on the Pebblebed Heaths, all of which were approved around two years ago. These are referred to in the Planning History section of the report above. The various works/operations to which these permissions relate have since been largely completed.

The proposals for the Uphams car park are summarised as follows:

1. Provision of a new enlarged entrance, constructed with a tarmac surface. Although in the same location as the existing, it would be of greater width to better facilitate use by coaches.
2. Reprofilng/reduction of the verge height adjacent to the entrance to the south east to improve visibility.
3. Installation of low level security barriers over the entrance to the car park, set back 11 metres from the junction with the highway, and to an access route extending from the northern end of the parking area.
4. The removal of potholes and the regrading and compacting of the surface of the car park with existing material from the site coupled with top up imported material to create a consistent free draining surface.
5. Protection of the edges of the parking area, in the form of a combination of posts, logs and earth bunds, the latter around 0.6 metres in height, so as to maintain its proposed boundaries.
6. The installation of a vehicle counter system within the site entrance.
7. Nominal vegetation removal adjacent to the car park boundaries to allow for the proposed parking area footprint to be better defined and a turning facility for coaches.
8. Renewal/repositioning of dog waste bins and information boards.

Considerations/Assessment

The main issues that are material to assessment of the proposals are discussed in turn as follows.

Principle and Justification

The current Local Plan identifies a requirement to build over 40,000 new homes in the East Devon, Exeter and Teignbridge districts by 2030. This level of growth has implications for recreation sites in the area, with significant increases in visitor pressure expected.

There is a requirement under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) to protect European conservation sites, including SPAs and SACs, from the negative impacts of development.

The East Devon Pebblebed Heaths are designated as Open Access Land under the Countryside and Rights of Way Act 2000 with an estimation that 400,000+ visits are made annually by local people, mostly travelling to the site by car (East Devon Pebblebed Heaths Visitor Management Plan). The Visitor Management Plan was developed to provide a framework for delivery of mitigation for the Pebblebed Heaths to ensure they can cope with the increased levels of recreation in the future and to give confidence that the expected growth will not result in adverse impacts on designated features.

The Council and the Pebblebed Heaths Conservation Trust have undertaken a holistic review of the car parking strategy within the area. Its principles seek to achieve this objective through:

- directing visitors towards car parks that are away from sensitive locations and have less impact on protected habitats and species
- retaining and developing the formal car parks that are as close as possible to the points of entry on to the Heaths, adjacent to the principal roads where the car parks are easy to find and easy to sign (e.g. car park name signs), thereby reducing car movements across the heaths and the scattered informal parking that occurs as a consequence
- maintaining the current number of car parking spaces across the heaths
- establishing nodes as the starting point for promoted trails, to direct people away from sensitive areas at key times of the year and to create welcoming, attractive locations where visitors can engage with interpretation, messaging and wardens about the nature, value and significance of the Pebblebed Heaths, and particularly about responsible dog walking.

The proposed works, aligned to the strategy, have been approved by the South East Devon Habitat Regulations Executive Committee as part of the South East Devon European Site Mitigation Strategy as well as the management plan, which together form the strategic response to the requirements of the Habitat Regulations.

They also follow a public consultation exercise undertaken in 2019 to determine the scope and direction of works associated with the car parks.

As such, and given the perceived increase in the importance of the works following visitor number increases to the Heaths in the wake of the Covid pandemic, the proposals are considered to be appropriately robustly justified and positively welcomed. It is anticipated that they would continue to assist in triggering behavioural changes by creating safe, accessible and efficient layouts for the public whilst deterring roadside parking which has led to damage to legally designated features.

Impact on Character and Appearance of AONB

Relevant policy requirements stipulate that development within the AONB be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape (Local Plan Strategy 46). Moreover, paragraph 176 of the National Planning Policy Framework (NPPF) confers upon AONBs (along with other designated landscapes) the highest status of protection in relation to the conservation and enhancement of landscape and scenic beauty.

The proposals would, to some extent, bring about a more engineered aesthetic to the entrance and car park, which at the moment have a largely undisturbed rural character. However, this impact would be limited in terms of the scope of works proposed.

Indeed, unlike the proposals for the Model Airfield and Wheathill Plantation car parks to which the other applications on the agenda relate, the works proposed for Uphams do not envisage the introduction of central bunding within the parking area to define and separate out areas of parking and, overall, involve a reduced level of intervention in its appearance by comparison.

The strategic importance of consolidation of parking areas, with the focus at this and other sites to which both previous and current proposals relate, the reduction in pressure on other parking areas and the resulting improvements to other areas of the AONB are also acknowledged.

As such, and when balanced against the benefits of the overarching car parking strategy for the Pebblebed Heaths set out above that the proposed measures are designed to achieve, it is considered that the proposals would be acceptable and would comply with the provisions of Strategy 46. Furthermore, they would meet with the relevant provisions of Local Plan Policy D1 (Design and Local Distinctiveness) which, among other criteria, require that important landscape characteristics are not adversely affected by development.

Impact on Highway Safety

The intended reduction in the height of the roadside verge to the south east of the entrance, alongside the works to widen the entrance itself and internal re-configuration to enable coach manoeuvrability within the parking area, represent positive benefits in broader highway safety terms that are considered to weigh further in favour of the proposals.

As such, it is accepted that the proposals would comply with the requirements of Local Plan Policy TC7 (Adequacy of Road Network and Site Access).

Impact on Ecology

The majority of the site is already in use as a car park to serve visitors to the Pebblebed Heaths.

Notwithstanding, the application is accompanied by a Construction Environmental Management Plan (CEMP) that incorporates all of the information ordinarily required of such a document.

The content of this document is considered to be acceptable and therefore a condition to secure compliance with its measures is recommended.

In this regard, the proposals would satisfy Policy EN5 (Wildlife Habitats and Features) and Strategy 47 (Nature Conservation and Geology) of the Local Plan.

Other Matters

Although the points raised by the parish council in regard to the level of availability of the parking area and its ongoing maintenance are acknowledged, these are largely management issues and, as such, are not material to assessment of the proposals having regard to their planning merits.

Impact on Pebblebed Heaths and Appropriate Assessment

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulations ("Habitat Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations requires consideration of whether a development proposal, is likely to give rise to significant effects on a European site or a European offshore marine site (either alone or in combination with other plans or projects), in view of that site's conservation objectives.

The East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) cover some 1,400 ha. and are designated a Special Area of Conservation (SAC) for the heathland habitat and Southern Damselfly and as a Special Protection Area (SPA) for Nightjar and Dartford Warbler.

Lowland heaths are some of the most important habitats in Europe due to the rarity of species they support. The East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) cover some 1,400 ha, and comprises the single largest area (1,112ha) of lowland heath in Devon (where there are 4,000ha). A biodiversity audit of the East Devon Pebblebed Heaths was undertaken in 2016 with over 3,000 species documented, 10% of which have conservation significance. (Bridgewater, S & Lesley, K. 2016. East Devon Pebblebed Heaths: Providing Space for Nature. Biodiversity Audit 2016. Pebblebed Heaths Conservation Trust.)

The first stage of Habitat Regulations Assessment is to screen development to identify whether any development proposals are likely to give rise to a 'significant effect'.

The scale and nature of the application, which involves controlled public access where public access is already available to an extent, together with mitigation measures incorporated as part of any planning permission, is unlikely to affect the associated designations.

The proposals would result in improvements to the Pebblebed Heaths car parks. They form a key part of the jointly agreed strategic mitigation strategy to manage recreational pressure on this internationally important site for wildlife. The proposals have the primary objective of safeguarding the European protected bird species and heathland habitat and have been developed through consultation with Natural England.

It is considered therefore that the proposed development would not have significant adverse impacts on designated sites or protected landscapes. Furthermore, it is

considered that the proposals would be unlikely to have a significant effect on any European site, either alone or in-combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment.

The works are clearly intended to be to the benefit of wider ecology by focusing visitors to the site. As such, the proposals are not considered to give rise to any 'likely significant effects'.

Conclusion

The proposals would create much needed improvements to the surfacing, configuration and drainage of the existing car parking. The improved functionality of the site would be justified due to the increased demand experienced. This application is part of an overall strategy to focus visitors to this main car park, thereby relieving pressures on smaller satellite parking areas and preventing wider ecological disturbance. It would provide for a central location to provide information, dog bins and a site warden presence.

The proposal is therefore welcomed and supported for these reasons and, as such, is recommended for approval.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be APPROVED 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 development hereby permitted shall be carried out in accordance with the Outline Construction Environmental Management Plan (CEMP) dated April 2023 prepared by WSP (document ref. 70079322-GN-CEMP-301), or such other details as may be agreed in writing by the Local Planning Authority.
(Reason - To ensure that species within and around the site are protected during the construction phase in accordance with Policy EN5 (Wildlife and habitat Features) and Strategy 47 (Nature Conservation and Geology) of the adopted East Devon Local Plan 2013-2031.)
 4. Prior to the commencement of any works on site (including demolition and site clearance or tree works), 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 Local 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 - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

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:

70079322-WSP- HGN-UW-100- DR-01 REV P01	Other Plans	04.05.23
70079322-WSP- HGN-UW-100- DR-02 REV P02	Location Plan	04.05.23
70079322-1011- 300 REV P01	Other Plans	19.04.23
70079322-1011- 301 REV P01	Other Plans	19.04.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

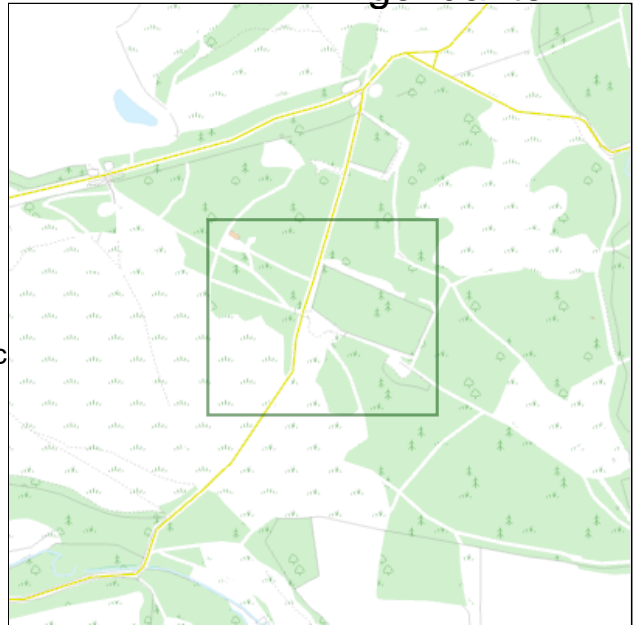
Human Rights Act:

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

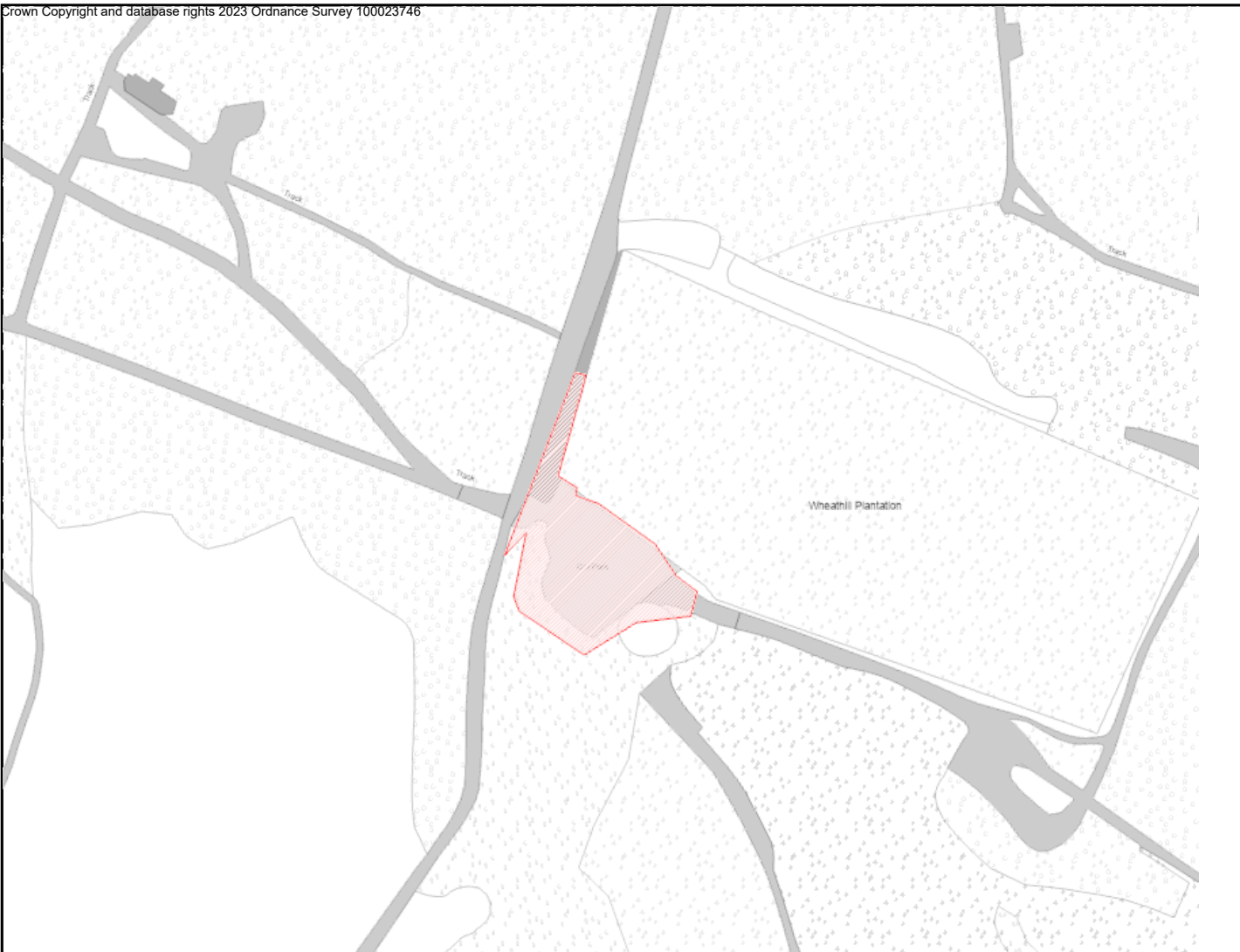
Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality 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 Budleigh And Raleigh
Reference 23/0868/FUL
Applicant Mr Neil Harris
Location Wheathill Plantation Car Park East Budleigh
 Grid Ref: SY 04062 84763

Proposal Improvements to the carpark. The improvements include provision of a new tarmac entrance, layout changes within the existing carpark extents, expansion of the car park area to the southern side, the provision of new signage, vehicle barriers, and boundary treatments in the form of logs, wooden posts or earth bunds.



RECOMMENDATION: Approval with conditions



		Committee Date: 24.10.2023
Budleigh And Raleigh (East Budleigh)	23/0868/FUL	Target Date: 30.06.2023
Applicant:	Mr Neil Harris (East Devon District Council)	
Location:	Wheathill Plantation Car Park East Budleigh	
Proposal:	Improvements to the carpark. The improvements include provision of a new tarmac entrance, layout changes within the existing carpark extents, expansion of the car park area to the southern side, the provision of new signage, vehicle barriers, and boundary treatments in the form of logs, wooden posts or earth bunds.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Committee as the applicant is East Devon District Council.

The East Devon Pebblebed Heaths is a Site of Special Scientific Interest (SSSI) covering some 1,400 ha. They are also designated a Special Area of Conservation (SAC) for the heathland habitat and the presence of the Southern Damselfly and as a Special Conservation Area (SPA) owing to the habitat that they provide for the Nightjar and Dartford Warbler.

The proposals relate to works to upgrade the Wheathill Plantation Car Park, one of a number parking facilities for visitors to the Pebblebed Heaths. It is located off of the eastern side of a Class C road that connects Yettington and the B3179 opposite the top end of Higher Marley Road.

The application is one of three essentially very similar applications that are on this Committee agenda; the others relating to Model Airfield Car Park (ref. 23/0851/FUL), approximately 1.4 km. to the north, and Uphams Car Park (ref. 23/0852/FUL), approximately 1 km. to the north.

They follow the grant of planning permission in 2021 (application ref. 21/1392/FUL) for similar works at four other car parks on the Pebblebed Heaths, namely: Joneys Cross Car Park, Hawkerland; Stowford Woods Car Park, Colaton Raleigh; Four Firs Car Park, Woodbury and Frying Pan Car Park, The Common.

Together, the works to each of the three sites, taken together with those previously approved at the four other car parks referenced above, provide a coherent strategy for updating the visitor experience and providing for increased visitor numbers. By improving the larger car parks, there would be an increased focus in these areas with less harm likely to arise in other satellite car parking areas, thereby reducing harm to the wider Pebblebed Heaths.

The proposals would lead to much needed improvements to the surfacing, configuration and drainage of the existing car parking. The enhanced functionality of the site would be justified due to the increased demand experienced.

The application is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

East Budleigh with Bicton Parish Council has the following view:

Although the Parish Council is pleased that the existing extremely poor car park surface at Wheathill will be improved, there is concern about the statement that the level of site maintenance will be similar to the existing situation for the carparks. Photographs included with the application show the dreadful state to existing car park surfaces, including Wheathill. Four Firs new car park surface is already being gouged, so suggesting that maintenance will be at current levels is alarming. Perhaps it would be more cost effective to reinforce the critical turning points of the car park, particularly near the entrance (see Four Firs), with latticed structures that still allow drainage?

The Council does not see a pressing need to close the existing road edge parking at Wheathill and it does not seem a sensible use of funds. The road edge is wide with a hard level surface and is superior to the car park itself and less likely to incur vehicle damage which results from poor maintenance of the car park. The vegetation is not adversely impacted by the road edge parking as the hard surface has been in place for many years. It is stated that there is a desire to encourage parking at Wheathill as an alternative to Frying Pans (which has been closed) and surrounding informal car parks, but there is no proposed increase to the overall 41 parking places to accommodate this wish. Retention of road edge parking would give 51 overall parking places. It is also noted that Squabmoor parking is under pressure from insufficient parking and the Devon Wildlife Trust car park at Bystock was closed. These two scenic / educational areas are very popular with the public and parking is lamentable. Maximising parking at Wheathill at 51 spaces would therefore be sensible. It is also noted that the road edge parking at Wheathill is far superior to that at Bystock Ponds, which will continue to operate. Road edge parking also continues to operate at Frying Pans. It is therefore difficult to understand the inconsistency of proposed road edge parking closure at Wheathill.

Technical Consultations

County Highway Authority

I have visited the site and reviewed the planning documents.

The swept path plans show successful manoeuvring in off-carriageway turning and access/egress from this enhanced public car park access, furthermore the standard detail of the proposed bund shows a height of 0.6m, which means it will not affect the visibility splay in both the East and West direction.

The road safety audits are appreciated at the County Highway Authority (CHA) is satisfied with this content along with the Construction and Environment Management Plan (CEMP) to help mitigate any effects upon the carriageway during the construction phase.

The provision of a new bound tarmac entrance will provide a highway safety net gain of reducing debris and drainage being brought onto the highway.

Therefore, in summary the CHA has no objection to this planning application.

Recommendation:

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

EDDC Trees

I have no arboricultural concerns subject to the following conditions:

(a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a scheme for the protection of the retained trees, hedges and shrubs and arboricultural method statement for the construction of the car park shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

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

DCC Historic Environment Officer

I refer to the above application and the Written Scheme of Investigation (WSI) submitted in support of this application. This document sets out the scope of the archaeological work to be undertaken in mitigation for the impact of the proposed development upon the archaeological resource and is acceptable to the Historic Environment Team.

I would therefore advise that any consent that may be granted by the Planning Authority should be conditional upon the following worded conditions:

'The development shall proceed in accordance with the Written Scheme of Investigation prepared by South West Archaeology (document ref: BMA22WSIv1, dated 16th December 2022) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.'

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 brought into its intended use 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 will be happy to discuss this further with you, the applicant or their agent.

Natural England:

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on East Devon Pebblebed Heaths Special Area of Conservation (SAC), East Devon Heaths Special Protection Area (SPA) and East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) and has no objection

Other Representations

No representations relating to the application proposals have been received from any interested third parties.

RELEVANT PLANNING HISTORY

21/1392/FUL - Car park improvements (Full). Approved 28/10/21. (Joneys Cross Car Park, Hawkerland)

21/1442/FUL - Car park improvements (Full). Approved 28/10/21. (Stowford Woods Car Park, Colaton Raleigh)

21/1443/FUL - Car park improvements (Full). Approved 28/10/21. (Four Firs Car Park, Woodbury)

21/1444/FUL - Car park improvements (Full). Approved 28/10/21. (Frying Pan Car Park, The Common)

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies Strategy 5 (Environment)

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)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made East Budleigh with Bicton Neighbourhood Plan to 2031 Policies

N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character)

Government Planning Documents
NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

The Wheathill Plantation car park is one of a number of vehicle parking facilities located on the Commons/Pebblebed Heaths. Popular with visitors, these are primarily informally arranged areas with uneven and unmade surfaces and irregular configurations.

It is located on the eastern side of the Class 3 road that connects Yettington with the B3179 opposite the top end of Higher Marley Road. Wheathill Plantation itself flanks the car park to both the north and east. Further trees also screen the site to the south and along the roadside.

The site, as well as much of the immediate surrounding area, forms part of the designated East Devon Area of Outstanding Natural Beauty (AONB). It is also within the European-designated Pebblebed Heaths Special Protection Area (SPA) and Special Area of Conservation (SAC) as well as a Site of Special Scientific Interest (SSSI) and National Nature Reserve.

Proposed Development

The proposals, which have been submitted on behalf of the Council's Habitats Regulations Delivery Manager, involve various works/operations to upgrade the car park so as to create a more efficient layout, improve safety for users and reduce impacts to existing site features.

Applications relating to similar works/operations to the nearby Model Airfield (ref. 23/0851/FUL) and Uphams (ref. 23/0852/FUL) car parks have also been submitted. Reports relating to these also appear elsewhere on this agenda.

This series of applications follows a previous series of applications for works, alterations, etc. to upgrade the Joneys Cross, Stowford Woods, Four Firs and Frying Pan car parks elsewhere on the Pebblebed Heaths, all of which were approved around two years ago. These are referred to in the Planning History section of the report above. The various works/operations to which these permissions relate have since been largely completed.

The proposals for the Wheathill Plantation car park are summarised as follows:

1. Provision of a new enlarged entrance, constructed with a tarmac surface. Although in the same location as the existing, it would be of greater width to better two way traffic flow and improve visibility at the junction with the highway for users.
2. The introduction of bunds to either side of the entrance to deter parking within the unsurfaced roadside lay by areas.
3. The removal of potholes and the regrading and compacting of the surface of the car park with existing material from the site coupled with top up imported material to create

a consistent free draining surface. Re-profiling work is to include the covering over of an existing brickwork structure, currently 5-10mm above ground level, in aggregate.

4. Installation of a 2.2 metre high vehicle height barrier over the entrance.

5. The creation of 0.6 metre high bunding within the central part of the car park to formalise parking areas.

6. Protection of the edges of the parking area, in the form of a combination of posts, logs and additional earth bunds, so as to maintain its proposed boundaries.

7. Installation of a lockable low level security barrier to an access route to the east of the car park.

8. The installation of a vehicle counter system within the site entrance.

9. Renewal/repositioning of dog waste bins and information boards.

10. Provision of 3no cycle stands.

Considerations/Assessment

The main issues that are material to assessment of the proposals are discussed in turn as follows.

Principle and Justification

The current Local Plan identifies a requirement to build over 40,000 new homes in the East Devon, Exeter and Teignbridge districts by 2030. This level of growth has implications for recreation sites in the area, with significant increases in visitor pressure expected.

There is a requirement under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) to protect European conservation sites, including SPAs and SACs, from the negative impacts of development.

The East Devon Pebblebed Heaths are designated as Open Access Land under the Countryside and Rights of Way Act 2000 with an estimation that 400,000+ visits are made annually by local people, mostly travelling to the site by car (East Devon Pebblebed Heaths Visitor Management Plan). The Visitor Management Plan was developed to provide a framework for delivery of mitigation for the Pebblebed Heaths to ensure they can cope with the increased levels of recreation in the future and to give confidence that the expected growth will not result in adverse impacts on designated features.

The Council and the Pebblebed Heaths Conservation Trust have undertaken a holistic review of the car parking strategy within the area. Its principles seek to achieve this objective through:

- directing visitors towards car parks that are away from sensitive locations and have less impact on protected habitats and species
- retaining and developing the formal car parks that are as close as possible to the points of entry on to the Heaths, adjacent to the principal roads where the car parks are easy to find and easy to sign (e.g. car park name signs), thereby reducing car movements across the heaths and the scattered informal parking that occurs as a consequence
- maintaining the current number of car parking spaces across the heaths

- establishing nodes as the starting point for promoted trails, to direct people away from sensitive areas at key times of the year and to create welcoming, attractive locations where visitors can engage with interpretation, messaging and wardens about the nature, value and significance of the Pebblebed Heaths, and particularly about responsible dog walking.

The proposed works, aligned to the strategy, have been approved by the South East Devon Habitat Regulations Executive Committee as part of the South East Devon European Site Mitigation Strategy as well as the management plan, which together form the strategic response to the requirements of the Habitat Regulations.

They also follow a public consultation exercise undertaken in 2019 to determine the scope and direction of works associated with the car parks.

As such, and given the perceived increase in the importance of the works following visitor number increases to the Heaths in the wake of the Covid pandemic, the proposals are considered to be appropriately robustly justified and positively welcomed. It is anticipated that they would continue to assist in triggering behavioural changes by creating safe, accessible and efficient layouts for the public whilst deterring roadside parking which has led to damage to legally designated features.

Impact on Character and Appearance of AONB

Relevant policy requirements stipulate that development within the AONB be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape (Local Plan Strategy 46). Moreover, paragraph 176 of the National Planning Policy Framework (NPPF) confers upon AONBs (along with other designated landscapes) the highest status of protection in relation to the conservation and enhancement of landscape and scenic beauty.

The proposals would, to some extent, bring about an engineered aesthetic to the lane, which at the moment has a largely undisturbed rural character, aside from the informal layby to either side of the existing entrance. However, this impact would be limited in terms of the scope of works proposed taken together with the extent to which the parking area itself is screened from the highway. Furthermore, screening provided by the adjacent plantations means the visual impact would be mitigated to a large extent. Moreover the car parking bays, seen in the context of the adjacent highway, would not be an untypical feature and gravel surfaces would not detract from the rural setting.

Furthermore, the measures - in the form of bunds - to deter roadside parking outside of the car park would represent a visual improvement over the present unsurfaced lay by areas to both north and south of the entrance.

The strategic importance of consolidation of parking areas, with the focus at this and other sites to which both previous and current proposals relate, the reduction in pressure on other parking areas and the resulting improvements to other areas of the AONB are also acknowledged.

As such, and when balanced against the benefits of the overarching car parking strategy for the Pebblebed Heaths set out above that the proposed measures are designed to achieve, it is considered that the proposals would be acceptable and would comply with the provisions of Strategy 46. Furthermore, they would meet with the relevant provisions of Local Plan Policy D1 (Design and Local Distinctiveness) which, among other criteria, require that important landscape characteristics are not adversely affected by development.

Impact on Highway Safety

In broad highway safety terms, and notwithstanding the proposed introduction of roadside bunds to prevent parking adjacent to the highway, the proposals would retain the existing levels of visibility available from, and of, vehicles emerging from the car park.

This finding is reflected in the consultation comments made by the County Highway Authority (CHA). These also refer to the acceptability of the submitted swept path analysis that demonstrates the manoeuvrability of off-road turning and access to/egress from the access as well as a Construction and Environment Management Plan (CEMP) that accompanies the application, the measures within which will help mitigate any effects upon the carriageway during the construction phase.

The laying of a new bound tarmac entrance is also acknowledged as enabling a highway safety net gain in terms of reducing debris and drainage being carried onto the highway.

More generally, the proposals would reconfigure the existing facility to create a purposely allocated specific parking area, as opposed to the existing ad hoc configuration. Resurfacing and regrading of the parking area with gravel would be carried out with soakaway ditches installed. This would all be to the benefit of the existing area which is currently more difficult to traverse and allows for pooling of water.

Overall therefore, it is accepted that they would comply with the requirements of Local Plan Policy TC7 (Adequacy of Road Network and Site Access).

Impact on Ecology

The majority of the site is already in use as a car park to serve visitors to the Pebblebed Heaths.

Notwithstanding, the application is accompanied by a Construction Environmental Management Plan (CEMP) that incorporates all of the information ordinarily required of such a document.

The content of this document is considered to be acceptable and therefore a condition to secure compliance with its measures is recommended.

In this regard, the proposals would satisfy Policy EN5 (Wildlife Habitats and Features) and Strategy 47 (Nature Conservation and Geology) of the Local Plan.

Other Matters

The points highlighted by the parish council in its consultation response are acknowledged. However, the first of these essentially relates to the ongoing management of the parking area and is not therefore material to the assessment of the proposals on their planning merits.

In relation to the loss of the existing roadside parking to which reference is also made, the car parking strategy for the Pebblebed Heaths cites the restriction upon roadside parking as providing benefits in terms of keeping the entrance clear, reducing damage to the existing surface and restoring rural character. The study also identifies the vulnerability of vehicles to theft and the adverse visual effects arising from roadside parking.

As such, whilst the various factors highlighted by the parish council in its wish to see the retention of roadside parking at Wheathill are recognised, it is considered that they are outweighed by the benefits in the wider planning balance.

Impact on Pebblebed Heaths and Appropriate Assessment

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulations ("Habitat Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations requires consideration of whether a development proposal, is likely to give rise to significant effects on a European site or a European offshore marine site (either alone or in combination with other plans or projects), in view of that site's conservation objectives.

The East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) cover some 1,400 ha. and are designated a Special Area of Conservation (SAC) for the heathland habitat and Southern Damselfly and as a Special Protection Area (SPA) for Nightjar and Dartford Warbler.

Lowland heaths are some of the most important habitats in Europe due to the rarity of species they support. The East Devon Pebblebed Heaths Site of Special Scientific Interest (SSSI) cover some 1,400 ha, and comprises the single largest area (1,112ha) of lowland heath in Devon (where there are 4,000ha). A biodiversity audit of the East Devon Pebblebed Heaths was undertaken in 2016 with over 3,000 species documented, 10% of which have conservation significance. (Bridgewater, S & Lesley, K. 2016. East Devon Pebblebed Heaths: Providing Space for Nature. Biodiversity Audit 2016. Pebblebed Heaths Conservation Trust.)

The first stage of Habitat Regulations Assessment is to screen development to identify whether any development proposals are likely to give rise to a 'significant effect'.

The scale and nature of the application, which involves controlled public access where public access is already available to an extent, together with mitigation measures

incorporated as part of any planning permission, is unlikely to affect the associated designations.

The proposals would result in improvements to the Pebblebed Heaths car parks. They form a key part of the jointly agreed strategic mitigation strategy to manage recreational pressure on this internationally important site for wildlife. The proposals have the primary objective of safeguarding the European protected bird species and heathland habitat and have been developed through consultation with Natural England.

It is considered therefore that the proposed development would not have significant adverse impacts on designated sites or protected landscapes. Furthermore, it is considered that the proposals would be unlikely to have a significant effect on any European site, either alone or in-combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment.

The works are clearly intended to be to the benefit of wider ecology by focusing visitors to the site. As such, the proposals are not considered to give rise to any 'likely significant effects'.

Conclusion

The proposals would create much needed improvements to the surfacing, configuration and drainage of the existing car parking. The improved functionality of the site would be justified due to the increased demand experienced. This application is part of an overall strategy to focus visitors to this main car park, thereby relieving pressures on smaller satellite parking areas and preventing wider ecological disturbance. It would provide for a central location to provide information, dog bins and a site warden presence.

The proposal is therefore welcomed and supported for these reasons and, as such, is recommended for approval.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be APPROVED 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 development shall proceed in accordance with the submitted Written Scheme of Investigation dated 16th December 2022 prepared by South West Archaeology (document ref: BMA22WSlv1). The development shall be carried

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

(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the adopted East Devon Local Plan 2013-2031 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.)

4. The development shall not be brought into its intended use 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 thereafter 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.)

5. The development hereby permitted shall be carried out in accordance with the Outline Construction Environmental Management Plan (CEMP) dated April 2023 prepared by WSP (document ref. 70079322-GN-CEMP-301), or such other details as may be agreed in writing by the Local Planning Authority.

(Reason - To ensure that species within and around the site are protected during the construction phase in accordance with Policy EN5 (Wildlife and habitat Features) and Strategy 47 (Nature Conservation and Geology) of the adopted East Devon Local Plan 2013-2031.)

6. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a scheme for the protection of the retained trees, hedges and shrubs and an Arboricultural Method Statement (AMS) for the construction of the car park, shall be submitted to and approved in writing by the Local Planning Authority. These shall adhere to the principles embodied in B.S. 5837:2012. No development or other operations shall take place except in complete accordance with the approved protection scheme and method statement.

(a) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(c) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

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

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

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:

70079322-WSP- HGN-WP-100- DR-01 REV P03	Other Plans	20.04.23
70079322-0100- 301 REV P01	Other Plans	20.04.23
70079322-0100- 300 REV P01	Other Plans	20.04.23
	Location Plan	20.04.23

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

		Committee Date: 24.10.2023
Woodbury And Lymptone (Woodbury)	22/2838/MOUT	Target Date: 12.04.2023
Applicant:	Hayes Grange LLP	
Location:	Land To South Broadway	
Proposal:	Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access)	

RECOMMENDATION:

- 1. Adopt the appropriate assessment forming part of the report**
- 2. Approve subject to a legal agreement and conditions**

EXECUTIVE SUMMARY

This application is before Members as it represents a departure from the adopted Development Plan and objections have been raised by Ward Members and the Parish Council.

The site is located adjoining the built up area boundary for Woodbury, as identified in the Villages Plan, to its eastern boundary and is currently gently sloping agricultural land in the countryside to the south of the main arterial road through the village known as Broadway.

The application is made in outline and includes details for consideration of means of access only and proposes the construction of up to 70 dwellings) on a site area of 2.4ha. The application is accompanied by an indicative layout which seeks to establish the quantum of development proposed can be achieved. It is important to note that the illustrative site layout plan submitted with this application indicates a layout that would not be supported at the reserved matters stage, which has been communicated to the applicant's agent, this is with particular reference to parking which is remote from the houses and cramped into unpleasant backland parking courts often with no clear route from the car park to the house. These matters can be addressed prior to submission of a reserved matters application where layout, scale and appearance (as well as landscaping) is to be considered in detail.

A single point of vehicular access is proposed onto Broadway through the removal of approximately 30 metres of hedgerow and a mature tree, County Highways are in agreement with the Transport Assessment submitted with the application and consider the access to be safe and suitable. Even though some impact upon the local highway network will result, this would not be considered by the Highway Authority to be severe enough to justify refusal of planning permission.

Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement on rising ground to the north. As such the Landscape Architect considers that the proposal could be considered acceptable in principle for housing development in terms of landscape and visual impact.

Matters of flood risk, ecology, archaeology, drainage and disturbance during the construction period can be adequately addressed through conditions.

The application is therefore recommended for approval subject to securing the appropriate obligations, including 35% affordable housing, on site open space with LEAP, wildlife corridors and habitat mitigation payment secured through a Section 106 Agreement.

Given the current need for housing in the district and the lack of a 5 year housing land supply engaging the tilted balance in favour of sustainable development, the lack of significant constraints to development, sustainable location of the site and provision of 35% affordable housing, it is considered that the principle of development can, on balance, be supported.

CONSULTATIONS

Local Consultations

Parish/Town Council

Woodbury Parish Council does not support this application.

The primary role of the Villages Plan is to set boundaries (known as built-up area boundaries) around villages, which will help determine where new development, especially new housing, will typically be allowed to be built.

Outside these boundaries opportunities for development will be far more restricted, which will effectively control the outward expansion of villages into the surrounding countryside. The Villages Plan will sit alongside the adopted East Devon Local Plan and together they will guide and manage development across the district.

This development is adjacent to the BUAB of Woodbury. As a development within the countryside then the expectation is a minimum of 50% affordable housing.

Transport and Planning and Heritage statements have several inaccuracies. The section on community consultations mentions the existing residents' concerns but does little to address the inadequate footpaths, lighting and traffic issues. The applicants own consultant's report highlights that in excess of 1350 vehicles exceed 35mph per day. The consultation also raises the issue of inadequate and unsafe walking and cycling routes from this development particularly for people with restricted mobility and parents with prams.

The concerns expressed of crossing the B3179 has been little more than a very minor upgrade of that that already exists.

The East Devon Local Plan states that 'development in open countryside outside defined boundaries will be resisted, unless on the merits of the particular case, there is a proven need it will meet a community need'. Traffic calming, footpaths and affordable housing would be a proven case. The case for traffic calming is within the Bellamy Transport Statement that shows the speed of traffic along Broadway. Woodbury in particular is much less catered for in public transport services than the Transport Statement implies when Parish figures are quoted rather than specifically Woodbury figures. The implication is that the new development will generate less car movements than would be the reality adding to the traffic issues on Broadway. These points all lead to the recommendation that this application is not supported.

Woodbury And Lympstone - Cllr Geoff Jung
22/2838/MOUT

I have viewed the documents for outline planning permission 22/2838/MOUT for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) on land to South Broadway Woodbury. This Application is on a site that has come forward as a proposed site for the new emerging East Devon Local Plan. Although it is recommended by officers to be included in the new local plan, I do not consider the application is appropriate that this is brought forward as this time.

It is claimed by the applicant that the Local Authority cannot demonstrate a 5-year land supply, which may have been the case prior to the Government announcement that the 'Housing Number Algorithm' will not be mandatory from 22.12.2022.

Although this key strategy requirement has been removed, no replacement strategy or policy has replaced it, and therefore at this time it is not clear what the Local Authority housing numbers are required to be built each year, and therefore it may be shown that the local Authority can shortly demonstrate a five-year land supply.

It is also the case that as the Local Authority has successfully taken the new Local Plan to the first Public Consultation stage, there is a possibility according to the government consultation papers that the requirement may be reduced to only 4 years for Authorities working on a new Local Plan and completed their first public consultation. Therefore, it may be shown that the Authority can claim an up-to-date plan, and a five year land supply.

Therefore, I cannot support this Application as this time. However, I reserve my final views on the application until I am in full possession of all the relevant arguments for and against.

Woodbury and Lymstone – Cllr Ben Ingham

I recommend this application for refusal.

I agree with the objections of WPC.

In addition, I see no benefit to the community from this application.

In addition, this site is nowhere near an employment site so is inappropriate in terms of sustained employment and social value, failing the NPPFs golden thread

Technical Consultations

Conservation

On the basis of the information provided through the application, the works as proposed would result in no harm to the contribution the setting makes to the significance of the Grade II heritage assets; Rosemary Cottage and Bixley Haven sited to the north-west of the site, in addition to the historic and architectural interest of the adjacent Woodbury Conservation Area. In this respect conservation do not wish to offer any comments. Case Officer to assess.

DCC Flood Risk SuDS Consultation

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) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins. Confirmation from a geotechnical engineer that based on the geology found at the site, there is no risk of infiltrated water re-emerging downslope and impacting on the properties.

(b) A detailed drainage design based upon the approved Land South of Broadway, Woodbury Flood Risk Assessment & Drainage Strategy (Report Ref. E06077/0001_FRA, Rev. V4, dated 07th March 2023) and the results of the information submitted in relation to (a) above

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

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

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

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) 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 have revised Land South of Broadway, Woodbury Flood Risk Assessment & Drainage Strategy (Report Ref. E06077/0001_FRA, Rev. V4, dated 07th March 2023).

The applicant have not carried out any infiltration testing for the site. The applicant therefore proposed both an infiltration and attenuation options to manage the surface water runoff.

The proposed development site impermeable area is 1.166ha and the derived greenfield runoff rate is 2.4l/s.

For the infiltration option, it is proposed that the smaller north western sector will drain to a large below ground soakaway located within an area of open space and the larger south eastern sector to an above ground infiltration basin located to the south of the site.

For the attenuation option, the north western sector will drain to below ground attenuation crates with controlled discharge of 0.7l/s to the Gill Brook. The south eastern area will drain to an above ground attenuation basin located to the south of the site via a flow control to Qbar of 1.65l/s (as shown in Drawing Indicative Drainage strategy Plan Attenuation Option (Drawing No. 0002, Rev. P02, dated 09th January 2023).

The controlled discharge of 0.7l/s for the north western sector has resulted in a really small orifice size which is prone to blockages. The applicant shall refine the design during detailed design.

Hock Lee
Flood and Coastal Risk SuDS Engineer

DCC Historic Environment Officer

Application No. 22/2838/MOUT

Land To South Broadway Woodbury - Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) amended plans: Historic Environment

My ref: ARCH/DM/ED/38283b

I refer to the above application and your recent re-consultation. The Historic Environment Team has no additional comment to make to those already made, namely:

The proposed development occupies a large area in a landscape where little in the way of formal archaeological investigations have been undertaken but where in the wider landscape prehistoric and Romano-British activity is recorded in the county Historic Environment Record. The application area lies on west facing land sloping down to a small water course and would have been an attractive site for early settlement. As such, groundworks for the construction of the proposed development have the potential to expose and destroy previously unrecorded archaeological and artefactual deposits associated with prehistoric and Romano-British activity in this landscape. 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 a staged programme of archaeological works, commencing with (i) and archaeological geophysical survey followed - if required - by (ii) the excavation of a series of evaluative trenches to investigate any anomalies identified and to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of 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/>.

Stephen Reed

Senior Historic Environment Officer

Housing Strategy/Enabling Officer - Cassandra Harrison 27/09/23

SUPPORT

Further to my comments of 26th July 2023 on this application, I note the percentage of affordable housing has been changed to 35%. Under current policy Strategy 34, a requirement of 50% affordable housing is required. However, given the lack of a 5 year land supply I feel this is a reasonable offer. We could insist on a viability

appraisal, however I feel this could result in a lower percentage of affordable housing in the current economic climate with high interest rates.

My comments on housing tenure, mix and parking still apply. The 70% rented units should be Social Rent tenure.

Housing Strategy/Enabling Officer - Cassandra Harrison 26/07/23

SUPPORT

Percentage of Affordable Housing - under current policy Strategy 34, a requirement for 50% affordable housing would be required. However, given the lack of a 5 year land supply and out of date policies, a pragmatic approach is being taken with sites adjacent to an existing built up area boundary and the level of affordable housing to be sought. The applicant is proposing to provide 25% affordable housing which equates to 18 units and this is acceptable.

Tenure - Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership. For the proposed 18 units, this would amount to 12 rented units and 6 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - will be determined at Reserved Matters stage. However I expect the applicant to engage with the housing team early on to ensure a mix that meets local housing needs. A parish level housing needs survey is currently being undertaken in Woodbury during August 2023. All affordable units should also meet M4(2) standards.

Parking - the design and access statement states there is only 1 parking space for 2 bedroom apartments, however there are 2 parking spaces for 2 bedroom houses. If some of the affordable units are going to be 2 bedroom apartments, they would need 2 parking spaces. However, I would also want to see some 2 bedroom houses as affordable, I would not want to see all the affordable housing as flats. There also needs to be suitable provision for visitor parking to avoid overflow parking in neighbouring streets.

Council Plan 2021 - 2023 - East Devon District Council wants to increase access to social and affordable homes and this is one of the Council's highest priorities. This application will provide 18 affordable homes, so will help us to meet this priority.

Environment Agency

Thank you for re-consulting us on this application.

Environment Agency position

We have reviewed the additional information submitted in support of this application and advise that our previous response still stands. This response is copied below:

"We have no objections to this planning application provided that conditions are included within any permission granted to secure the implementation of the submitted Flood Risk Assessment (FRA) and flood resilience measures.

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

The suggested wording for our recommended condition and associated advice on flood risk is set out below.

Condition - Implementation of the FRA

The development shall be carried out in accordance with the submitted flood risk assessment (ref 10/01/23, E06077/FRA, Clarkebond) and the following mitigation measures it details:

- o There shall be an 8m no build corridor between the top of the riverbank and the new development as demonstrated in drawings 'indicative drainage strategy plans' (Appendix C 3 - shown as 8m bank offset) and section 5.5 of the flood risk assessment.

The mitigation measures shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

Condition - Flood Resilience

No development approved by this planning permission shall commence until such time as a scheme to ensure the development is flood resilient, by demonstrating that finished floor levels are above the design flood level, has been submitted to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and its future users in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

Advice - Flood Risk

We have reviewed the submitted FRA and consider that this contains sufficient information to satisfy us at this stage that the proposed development could be acceptable in principle. Nevertheless, the applicant will need to provide further information in due course to ensure that the proposed development can go ahead without posing an unacceptable flood risk to the new residential properties. We

consider that the above-mentioned conditions will be sufficient to ensure that no development takes place within 8m of the top of the riverbank and that the development itself will be appropriately resilient to flooding over its lifetime.

We note that some of the maps available in 'EA Data and Correspondence' in appendix F3 seem to have been inverted. The data itself that has been used in the main document is still relevant and seemingly correct but these should be updated when discharging the above conditions.

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 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.

EDDC Landscape Architect

1 INTRODUCTION

This report forms the EDDC's landscape response to the outline application for the above site and is an updated response following submission of additional information by the applicant.

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

2 SITE DESCRIPTION AND CONTEXT

2.1 Site description

The site comprises a single, roughly wedge-shaped arable field extending to 2.4ha immediately to the south of Broadway and west of an unnamed country lane.

The topography is slightly undulating, with a westerly aspect, sloping down to a watercourse, with gradients ranging from 1:20 higher up to 1:10 lower down. There is an overall level difference of 14m from the top eastern most corner to the southwest

corner. A tree lined water course forms the southwestern site boundary. The site is bounded by native hedgebanks adjacent to the road boundaries to the north and southeast. The western boundary abuts the recent Meadow View Close housing development. Site trees are limited to those along the watercourse and a single early-mature lime within the northern boundary hedgerow.

A well-used public footpath (Woodbury footpath 3) runs from Broadway at the northwestern end of the site along the watercourse to the minor lane in the southeast corner. The footpath alignment shown on the definitive map does not reflect the natural desire line which is clearly evident on site as a worn path following the edge of the watercourse. There are long views from the higher parts of the site over the Exe Estuary to the Haldon ridge in which the water in the estuary is visible. The wooded ridge of Woodbury Common which marks the boundary of the East Devon AONB is clearly visible to the east. Woodbury footpath 3 affords clear views over the site. There are views over the site from the frontage with Broadway. A clear view of the eastern half is obtained from the field gate in the southern corner off the minor lane to the southeast. There are also a couple of gateway views from which most of the site is visible from the minor lane to the southwest near Bridge Pitt Farm (150m) and Tedstone Lane (350m) to the west.

The site is directly overlooked by houses fronting the north side of Broadway and to a lesser extent by houses along the lane adjacent to the southeast boundary. The latter are detached in large plots and have principal views that look away from the site. It has not been possible to identify the site in publically accessible views from the edge of the AONB.

2.2 Local landscape character

The site lies within East Devon landscape character type 3B: Lower rolling farmed and settled slopes key features of which relevant to the site are:

- Gently rolling landform, sloping up from valley floor. Numerous shallow valleys contain small streams. Red sandstone geology apparent in cuttings and soils in west of study area.
- Many hedgerow trees, copses and streamside tree rows. Oak and ash predominate, and there are small blocks of woodland.
- Predominantly pastoral farmland, often with a wooded appearance. Variable sized fields with wide, low hedged boundaries and a mostly irregular pattern, reflecting different phases of enclosure.
- Semi-natural habitats include streams and ditches, grassland, woodland and trees.
- Numerous historic landscape features including farmsteads, lanes, villages and churches.
- Settled, with various settlement sizes, building ages, patterns and styles. Various building materials, including stone, cob, whitewash/ render, slate, thatch and tile.
- Winding, often narrow sunken lanes, with tall earthbanks.
- A relatively enclosed and sheltered landscape. Some parts of the LCT feel well settled, whilst others feel exceptionally remote, with very little traffic.
- Views tend to occur across valleys, rather from within them. Higher land in other LCTs forms the backdrop to views.
- Often strong colours within the landscape, influenced by underlying geology, season and choice of crops.

Relevant management guidelines for this LCT are given as:

- Manage field patterns, by repairing degraded hedgerows, promoting traditional hedgerow management, and also retaining/ planting hedgerow trees. Replace lost ash trees with alternative species.
- Manage traditional orchards, supporting restoration where possible.
- The location and form of any settlement expansion to be sensitive to existing road patterns and settlement form. For example, avoid ribbon development on the edges of nucleated villages.
- Retain distinctive entrances to villages and consider how village approaches and entrances could be enhanced.
- Choose building materials which fit with the existing palette, taking particular care if considering bright or reflective surfaces.
- Consider settlements within their wider landscape settings. Ensure that appropriate measures to soften the settlement edge, and to integrate development into the landscape, are incorporated into any settlement expansion plans. Screening should enhance landscape character, for example through using fruit trees in traditional orchard areas, and avoiding stark lines of planting which do not respect the existing landscape pattern.
- Create stronger habitat links, particularly between woodland areas through additional woodland and hedgerow planting.
- Consider the role of this LCT in wider views. It is often seen from above, so any developments spread over a large area (such as solar farms) are likely to be very apparent.

The site generally conforms to the landscape character description and is in good condition and despite its proximity to Woodbury it retains a rural character particularly along the watercourse.

2.3 Planning Policy

There are no specific planning policies relating to the site. The site lies outside of the BUAB as identified in the current local plan but is allocated for residential development within the draft new local plan. The East Devon AONB boundary lies approximately 600m to the east of the site.

2.4 Landscape and visual impact

Development of the site as proposed would result in the loss of an open and relatively prominent field to built-form but sensitivity is reduced by the presence of existing modern residential development to the northeast and west. Gradients are sufficiently gentle not to entail major terracing of the site. The location of the proposed access will result in the loss of the only notable tree on the boundary with Broadway, an early-mature stage lime, and the removal of most of the existing roadside hedge. Although the hedge will be transplanted or replaced further back from the site boundary, the proposed highway works will lead to a substantial change in character along Broadway, creating a much wider highway corridor and changing its character from semi-rural to urban.

The development is considered unlikely to adversely impact the setting of the East Devon AONB. There are numerous sensitive visual receptors likely to be effected by the development, particularly residents to the north side of Broadway opposite the site and users of the public footpath running through it. Walkers, cyclists and motorists along Broadway would also be impacted.

For existing residents to the north of Broadway, and travellers along it, the proposed development will have a high adverse visual impact introducing prominent built form to the south side of the road which will block or substantially alter an expansive and attractive long-range view over the Exe Estuary to the Haldon Ridge.

Users of the public footpath across the site will experience a loss of openness and tranquillity and encroachment of built form over the whole length of the path that will be hard to mitigate for and consideration should be given to what additional public access could be offered in compensation. There are limited visual receptors to the south and southwest of the site and where views are obtained they are limited to a few field gateways or are generally heavily filtered by intervening trees and hedgerow. Where views from these directions are obtained they are generally seen in the context of the urban fabric of the town to the north and west and lower density residential development to the east.

Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Broadway and the visual impact on Broadway residents and travellers and users of footpath 3 would be significant adverse, subject to appropriate density and sensitive design, development could be accommodated without wider significant adverse impact to the host landscape character.

3 REVIEW OF SUBMITTED LAYOUT & ASSOCIATED DETAILS

Layout and density

The indicative site layout is set back from Broadway with houses mostly orientated with their sides or backs to it. This is contrary to good practice guidance, such as given in *Building for a Healthy Life*, which recommends active street frontages. Such an arrangement has been used in the recent development of Meadow View Close to the northwest of the site where it fronts Broadway and should be continued through to the application site.

A 5m or so ecological buffer shown on the landscape plan and sections along the northern boundary between the development and Broadway does not appear to be supported by the submitted ecological survey which notes that the existing boundary hedge is of limited biodiversity value, and recommends only that light sources are set back at least 5m from it. This space could be more usefully used within the overall layout.

The proposed straight line of 4-bedroom units to the southern edge of the development appears incongruous in relation to the meandering water course and creates a narrow pinch-point between them where the footpath runs that would be overly dominated by built form. They also back on to the river limiting natural surveillance opportunities over this section of the river edge.

The design of parking courts, particularly the largest one to the northwest of the site access road, lacks opportunities for planting. The generous provision of trees shown in the site illustrations in adjacent rear gardens could not be relied upon to provide screening and softening of the development, as they would be prone to removal by residents. Sufficient provision should be made for planting within the parking courts

themselves and other communal areas which can be managed in perpetuity through an agreed management plan.

New hedgebank

The proposed hedgebank detail, dwg. no. LHC-00-XX-DR-L-92.01 rev P1 is generally acceptable but a 1m wildflower verge should be provided between the face of the hedge and adjacent roadside footway in order to accommodate summer out-growth without excessive cutting back of the hedge.

Backfill for the bank should be specified as sub-soil. The detail should be amended accordingly.

4 CONCLUSION & RECOMMENDATIONS

4.1 Acceptability of proposals

The development will inevitably have a significant impact on the character of the site itself and Broadway. Visual impacts on adjacent Broadway residents and users of the public footpath through it will also be significant. Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement on rising ground to the north. As such the site could be considered acceptable in principle for housing development in terms of landscape and visual impact, although the proposal for 70 units appears excessive given the nature of the site and rural edge location.

Should the application be approved any condition discharge/reserved matters application should consider points raised at sections 2 and 3 above.

EDDC Trees

The indicative site plan shows a reasonable buffer zone within public open space, around the perimeter of the site. This allows for the long-term retention of, and management of the boundary trees and hedges.

The proposed highway access will require removal of a section of hedgerow from the sites northern boundary. However this does not appear to be the original Devon hedge bank and there is adequate space for compensation planting elsewhere on site.

The above principles relating to the development footprint and spatial arrangement, around the boundary tree and hedgerow features, should be carried across to the reserved matters application on this site.

Based on the above no objection is raised to the proposed outline application on arboricultural grounds.

Any reserved matters application should be supported by an arboricultural method statement and tree protection plan, detailing how the sites trees and hedges will be protected during all works on site.

In addition, any soft landscaping plans and landscape management plans submitted as part of a reserved matters application should be included details of all post

planting tree management, to ensure new tree survival to the point of being independent within the landscape, and that the landscape management plan includes the ongoing proactive management of the existing tree population. However as this is a broad area of expertise, I will leave the details of landscaping and landscape management plans to the District's Landscape Architect to comment on, we can provide additional tree specific information as required.

Draft tree protection condition:

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

Environmental Health

I recommend that the following documents are submitted with the full planning application

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.

A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

Reason: To comply with Policy EN15 for the avoidance of light pollution.

DCC Historic Environment Officer

I refer to the above application. The proposed development occupies a large area in a landscape where little in the way of formal archaeological investigations have been undertaken but where in the wider landscape prehistoric and Romano-British activity is recorded in the county Historic Environment Record. The application area lies on west facing land sloping down to a small water course and would have been an attractive site for early settlement. As such, groundworks for the construction of the proposed development have the potential to expose and destroy previously unrecorded archaeological and artefactual deposits associated with prehistoric and Romano-British activity in this landscape. 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 a staged programme of archaeological works, commencing with (i) and archaeological geophysical survey followed - if required - by (ii) the excavation of a series of evaluative trenches to investigate any anomalies identified and to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of 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/>.

County Highway Authority

I have visited the site and reviewed the Transport Statement, Design and Access Statement and indicative site layout of this project.

The parcel in question has been accessed as amenable within the latest emerging local plan. The site currently has permitted agricultural use with two existing accesses. Therefore the provision of 70 houses would present some level of trip generation intensification upon the local network.

However the access proposed would be just the one, for vehicles, which therefore represents a highway safety gain, with less interaction of opposing traffic. Additionally the access junction will be improved with a right turn box for traffic entering the site, whilst also retaining the right turn lane for Fulford Way. The site frontage will also see the benefit of a footway to adjoin to the tactile crossing, as well as a separate footway access path. The trip generation would be mitigated with secured cycle storage, Travel Plan contributions and the local bus service of Woodbury.

The visibility splay for the site access to be provided has been designed bespoke to the actual speeds of Broadway through a speed survey.

Therefore in summary the County Highway Authority (CHA) has no objections to this MOUT application. We may have further comments or conditions upon the receipt of the reserved matters application should it come forth, I will therefore reserve comment upon the internal layout until such time.

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

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

- The amenities of Woodbury cannot support such a large development;
- Woodbury has witnessed a large level of housing growth over recent years;
- The site is outside the village boundary;
- Poor transport links;
- School is too small;
- Doctor's is too small;
- A pavement is needed on this side of the road
- Traffic speeds are too great;
- Need for pedestrian island to cross the road;
- Woodbury needs a neighbourhood plan;
- Poor drainage and sewerage system in the village;
- Loss of green fields;
- Loss of wildlife habitats;
- Impact on heritage assets

PLANNING HISTORY

23/0103/PREAPP – Resident development

POLICIES

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

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 34 (District Wide Affordable Housing Provision Targets)

D1 (Design and Local Distinctiveness)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

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

EN22 (Surface Run-Off Implications of New Development)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

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

Site Location and Description

The site lies on the edge of the settlement of Wodbury to the south of 'The Broadway' which is the main arterial route into the village, it lies outside of the recognised built up area boundary.

The site comprises a single, roughly wedge-shaped arable field extending to 2.4ha immediately to the south of Broadway and west of an unnamed country lane.

The topography is slightly undulating, with a westerly aspect, sloping down to a watercourse, with gradients ranging from 1:20 higher up to 1:10 lower down. There is

an overall level difference of 14m from the top eastern most corner to the southwest corner. A tree lined water course forms the southwestern site boundary. The site is bounded by native hedgebanks adjacent to the road boundaries to the north and southeast. The western boundary abuts the recent Meadow View Close housing development. Site trees are limited to those along the watercourse and a single early-mature lime within the northern boundary hedgerow.

A well-used public footpath (Woodbury footpath 3) runs from Broadway at the northwestern end of the site along the watercourse to the minor lane in the southeast corner. The footpath alignment shown on the definitive map does not reflect the natural desire line which is clearly evident on site as a worn path following the edge of the watercourse.

Proposed Development

The planning application is in outline for the erection of up to 70 new dwellings. Details of the means of access are the only matter for consideration at this stage. All other matters (layout, scale, appearance and landscaping) are reserved for future consideration.

The application includes an indicative layout for the 70 units, 25 of which (35.7%) would be affordable houses therefore 45 would be open market.

The proposal is being put before the Council on the basis that the site would be a logical extension to Woodbury given the existing/surrounding development, and it would provide additional housing within the district. The site has been put forward as a potential site for inclusion in the new Local Plan, but the applicants expressed the view that, given the need for housing, and the nature of the site in relation to existing development, it could be brought forward ahead of the new Local Plan.

Planning Considerations

The main considerations in the determination of this application relate to:

- The principle of the proposed development;
- Affordable housing;
- Agricultural land classification;
- Impact on highway safety;
- Residential amenity;
- Landscape and visual impact;
- Ecology and habitats;
- Flood risk and drainage;
- Heritage impacts;
- Planning obligations;
- Planning balance and conclusion.

Principle of Development

The site lies outside of the built up area boundary for Woodbury under the currently adopted Local Plan (as defined by the Villages Plan) and as such is considered to lie

in the countryside. Under the emerging Local Plan which seeks to find additional land for housing growth, the site is currently being included and consulted upon as one which could support an acceptable extension of Woodbury however this document carries no weight at present. The proposal has been advertised as a departure from the Development Plan.

The Council's position on policies of housing restraint (i.e built up area boundaries) has recently changed as the Local Planning Authority can no longer demonstrate a 5 year land supply of housing. The Council's latest Housing Monitoring Report ending 31st March 2022 went before Strategic Planning Committee on the 4th October 2022 where the report put before members stated the following;

"This report provides a summary of house building monitoring information to the year ending 31 March 2022. It had been noted in the previous Housing Monitoring Update that the housing land supply position was declining and that action was needed to address this position. In the meantime the annual requirement figure has gone up from 918 homes per year to 946 homes per year as a result of changes to the affordability ratio which is a key input into the government's standard method for calculating housing need. The increased need figure combined with a declining supply position means that a 5 year housing land supply can no longer be demonstrated. The report advises Members of the implications of this and what actions are and should be taken to address this position."

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."

Development constraint policies, such as Strategy 7 (Development in the Countryside) that applied built-up area boundaries to settlements can no longer carry significant weight. Proposals for residential development that are outside of these areas and that are not compliant with the spatial strategy of the Local Plan should be approved unless points (i) and (ii) above apply. In this case (i) the protected areas referred to includes AONB's, SSSI's, designated heritage assets and areas at risk of flooding among others.

i) above does not apply in this case and so we must determine whether point (ii) is satisfied.

It should be noted that paragraph 14 of the National Planning Policy Framework states that where the presumption in favour applies ".....the adverse impact of allowing

development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits....", where among other things a neighbourhood plan has been made in the last 2 years. There is currently no Neighbourhood Plan for Woodbury so there is no additional protection in this case.

It is clear that Woodbury is a sustainable location for housing development where there is good infrastructure and services (including convenience shop, doctors surgery, church, village hall, primary school, hairdressers, public house etc...) together with transport links to larger settlements including Exmouth and Exeter. It is proposed to retain a built up area boundary for Woodbury in the emerging Local Plan, albeit widened from the current boundary to allow for housing growth through allocations, and plan positively to deliver housing development in sustainable locations around the village. The location and sustainability considerations weigh heavily in favour of the application.

The site represents a logical extension of the built form of the village adjacent to the main road in the village from the Exmouth/Woodbury common direction, though it is currently a green field in use for agricultural purposes, therefore it is for this report to consider the impact on the landscape and whether any other impacts would outweigh the benefits of the proposal. The benefits and impacts of the proposal will be balanced at the end of the report and a conclusion made.

Affordable housing

Lack of affordable housing is a critical issue in East Devon and in order to retain younger people in our neighbourhoods and communities, as well as housing others in need, we need more affordable homes. The application in its heads of terms indicates that the proposal would provide 35% affordable housing, this offer has been increased from an initial offer of 25%.

Strategy 34 of the EDDC Local Plan however indicates that in villages and rural areas applications should provide 50% affordable housing. It further elaborates by stating:

Where a proposal does not meet the above targets it will be necessary to submit evidence to demonstrate why provision is not viable or otherwise appropriate. An overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets.

No viability information as to why the required 50% affordable housing target could not be achieved on site has been provided, however, the applicant's agent has put forward the following arguments as to why the level of affordable housing provision proposed (35%) is appropriate on this site:

'The scheme has been brought forward in direct response to the Council's stated position (first expressed in Ed's report to the February 2022 Strategic Planning Committee) that it couldn't meet its land supply requirement and that it therefore needed to look favourably on windfall schemes coming forward in the right location to address the shortfall. Fundamentally, this scheme is not being presented as an exceptions development (requiring the 50% affordable) but in response to the NPPF position that your adopted policies on the location of new housing are out of date and

that development should be approved unless there are significant concerns to the contrary.

The application is not a speculative one but which flows from pre-application discussions and a presentation to officers (including yourself and Ed Freeman) and members. The written response from this confirms that the Panel was supportive of the form of the scheme and members were of the view that “a reduced level of affordable housing can be accepted because the Council can no longer demonstrate a 5 year housing land supply.” The 35% affordable level was therefore considered acceptable.

The application therefore directly responds to the MAP advice and to the Council’s more generally stated position on the implications of its supply position.

I would also suggest that a reduced AH provision is appropriate in that:

- It is reasonable level which enables applications to come forward promptly and thereby helping permissions to be granted to reduce the housing supply deficit*
- Any requirement for a higher level is likely to generate delay whilst valuation discussions take place between the parties to agree the level of AH viability and/or to the submission of appeals if a satisfactory position is not agreed in a timely manner. Neither are likely to help the Council address its supply problem.*
- In the case of Broadway, 70 units will make a significant contribution towards helping the Council meet its current shortfall and which amounts to 328 units as set out in your most recent monitoring report. As such, the scheme will help the Council to resist other, more speculative or less welcome applications in other locations. By contrast, Broadway is in a sustainable location and is the only one of the 3 current Woodbury applications which are proposed for allocation in the draft local plan’.*

The Housing Enabling Officer has the following comments to make:

I note the percentage of affordable housing has been changed to 35%. Under current policy Strategy 34, a requirement of 50% affordable housing is required. However, given the lack of a 5 year land supply I feel this is a reasonable offer. We could insist on a viability appraisal, however I feel this could result in a lower percentage of affordable housing in the current economic climate with high interest rates.

Tenure - Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership. For the proposed 18 units, this would amount to 18 rented units and 7 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - will be determined at Reserved Matters stage. However I expect the applicant to engage with the housing team early on to ensure a mix that meets local housing needs. A parish level housing needs survey is currently being undertaken in Woodbury during August 2023. All affordable units should also meet M4(2) standards.

The level of affordable housing proposed at 35% (25 units) falls short of the policy expectation of 50% (35 units), however, the provision of 25 units in the settlement must be seen as a benefit to the local population and those in need of affordable housing whether it be rented or shared ownership. The early provision of housing, in advance of the adoption of a new plan with housing allocations, to meet the identified shortfall in provision (5 year housing land supply) must also be seen as a benefit which is chiefly the agent's argument, in a sustainable location, for not providing viability information.

Accordingly, the proposal is contrary to Strategy 34 in that it does not provide a policy compliant level of affordable housing, however, the affordable housing must be seen as a benefit, it will be a matter than needs to be weighed in the planning balance at the end of the report as to whether a shortfall in affordable housing is outweighed by the need for housing to meet the needs of the district.

Agricultural land classification

The site is currently an agricultural field, and where the loss of agricultural land is proposed an assessment must be made as to whether it is the best and most versatile agricultural land (Grades 1, 2 and 3a). Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available or the benefits of development justify the loss of the high quality land.

The entire site constitutes grade 3 agricultural land which is not the highest grade land but one where an on-site survey would be needed to determine whether it is 3a or 3b. No such survey has been submitted with this application and so a cautious approach is to consider that the site could be Grade 3a, which does fall within the category of best and most versatile agricultural land. The field is currently farmed but is constrained by housing developments on 3 sides and a water course on the other side and therefore is not connected to other similar grades of land which reduces its agricultural viability and value.

Whilst it is considered that the loss of 2.4 hectares of the agricultural land is regrettable, where it is not physically connected to land of a similar quality or higher quality (as in this instance) and as there are large amounts of other land in the locality of higher quality, it is considered that the loss would not significantly harm agricultural interests or the national food supply. Nevertheless the loss of this agricultural land weighs negatively in the planning balance.

Highway Impact and Access

The proposal for 70 homes would be accessed by a new adopted roadway through what is presently a roadside verge and mature hedgerow to an agricultural field. The existing hedgerow would be translocated south to accommodate sufficient visibility splays and a footway adjacent to the road to enable access to a new pedestrian island that would facilitate access to services on the opposite side of a busy road including primary school and doctors surgery. Once the access road has entered the site in a southerly direction, adoptable standard roads are shown in the indicative Masterplan

that lead out to all of the proposed units. The existing public footpath which runs along the southern boundary of the site in an informal manner (unmade path within the field) is likely to be diverted, but is proposed to enter and leave the land in the same positions at the east and west of the site. No comments have been received from Devon County Footpaths Officer regarding this element of the proposal, however, it will be matter for the reserved matters application to provide the exact layout of the wider site and pathway.

In terms of the access and the development's impact on the wider road network where it generates additional vehicular traffic onto the B3179, known locally as Broadway, which is a B class road which runs through the settlement of Woodbury between Exmouth/Woodbury Common and the Clyst St George roundabout at its junction with the A376, the Highway Authority have considered the scheme in detail and the additional details that have been provided by the applicant's agent. The County Council as Highway Authority recommend approval of the scheme with specific conditions applied to ensure safe visibility at the access and timely provision of well-designed roadways.

The development will inevitably generate additional vehicular activity on local roads. This traffic will accumulate at pinch points with the new traffic being generated by other recent development in the village and further afield. The Highway Authority are satisfied that the new junction of the access will not suffer undue congestion at peak flows and has appropriate visibility that can be controlled and maintained together with a new dedicated right turn lane into the site from a westerly direction. They specifically do not consider there will be a significant denigration of highway safety. For these reasons the proposals are considered to accord with Policy TC7.

In terms of wider accessibility, Policy TC2 and the NPPF seek residential development that is located in positions where there are viable alternatives to the private car allowing pedestrian, cycle and public transport access to jobs, services and amenities. The application site is accessible to a range of services including bus services, shops, schools, medical services and jobs (predominantly in further afield settlements by bus). There are suitable and safe walking routes into the village centre. In short, the site is considered to be accessible and future residents would have viable and attractive sustainable alternatives to using the private car.

In conclusion, the proposals are considered to be in an accessible location with suitable and safe access. Vehicular traffic would enter an, at times, busy local road network, but these trips would naturally dissipate onto alternative routes that are safe and appropriate. There are viable alternatives to the use of the car with pedestrian and cycle links as well as walkable bus stops with regular services in the locality. The submitted Transport Assessment and the Residential Travel Plan are considered acceptable by Devon County highway Authority and the overall the scheme considered to accord with Policies TC2 and TC7 of the EDDC Local Plan and the guidance in the NPPF.

Residential amenity

The proposals are in outline and do not include detailed plans for the housing proposed. An indicative masterplan shows a layout of housing arranged following the

contours of the sloping ground from north down to the south. The houses are set in from the boundaries of the site due to the fact that the hedgerows are to be retained and there is a need for wildlife corridors to be maintained adjacent to them.

It is considered that at the number of homes being proposed, the land can accommodate the built development without resulting in undersized gardens, cramped building arrangements or a development that is dominated by parking. However, it is important to note that the illustrative site layout plan submitted with this application indicates a layout that would not be supported at the reserved matters stage, this has been communicated to the applicant's agent, this is with particular reference to parking which is remote from the houses and cramped into unpleasant backland parking courts often with no clear route from the car park to the house. These matters can be addressed prior to submission of a reserved matters application where layout, scale and appearance (as well as landscaping) is to be considered in detail.

Similarly, the impact on those already living adjacent to the site need not result in overlooking, enclosure or loss of light with plenty of room for new homes to be situated well away from the boundary. The impact of development is lessened further as the ground falls away to the south meaning that any new houses will be situated on lower ground than the existing houses on Broadway.

For these reasons the proposals are considered to be acceptable in terms of residential amenity and accord with Policy D1 of the EDDC Local Plan together with advice contained in the NPPF.

Landscape and Visual Impact

The application site is currently a pleasant green field, sloping gently down as it leaves the edge of Woodbury. Development of the site as proposed would result in the loss of an open and relatively prominent field to built-form but sensitivity is reduced by the presence of existing modern residential development to the northeast and west. Gradients are sufficiently gentle not to entail major terracing of the site. The location of the proposed access would result in the loss of the only notable tree on the boundary with Broadway, an early-mature stage lime, and the removal of most of the existing roadside hedge. Although the hedge will be transplanted or replaced further back from the site boundary, the proposed highway works will lead to a substantial change in character along Broadway, creating a much wider highway corridor and changing its character from semi-rural to urban.

Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Broadway and the visual impact on Broadway residents and travellers and users of footpath 3 would be significant adverse, subject to appropriate density and sensitive design, development could be accommodated without wider significant adverse impact to the host landscape character.

The Council's Landscape Architect concludes by stating:

'Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Broadway

and the visual impact on Broadway residents and travellers and users of footpath 3 would be significant adverse, subject to appropriate density and sensitive design, development could be accommodated without wider significant adverse impact to the host landscape character.

The development will inevitably have a significant impact on the character of the site itself and Broadway. Visual impacts on adjacent Broadway residents and users of the public footpath through it will also be significant. Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement on rising ground to the north. As such the site could be considered acceptable in principle for housing development in terms of landscape and visual impact, although the proposal for 70 units appears excessive given the nature of the site and rural edge location'.

The applicant's agent has been given the opportunity to justify the quantum of development proposed on site which they have done by justifying the following:

- *All the units would meet National Space Standards so the units are not artificially small. The garden sizes and back to back distances are all generous.*
- *Taken as a whole the scheme density is extremely low (19 dpha). Even with all the open space, circulation etc excluded, density is 37dpha. Nearby schemes at Webbers Meadow are 44 dpha and 36 dpha at Meadow View Close so the scheme is not of character – quite the opposite given the amount of open space.*

They have also commented that parking and circulation space would be a matter to be addressed in detail at the reserved matters stage.

Accordingly, the proposal is considered to be acceptable/can be made to be acceptable with suitable mitigation planting to be considered at the reserved matters stage.

Ecology and Habitats

A preliminary ecological appraisal, consisting of an extended UK Habitat Classification survey was undertaken on 6 July 2021 by Richard Green Ecology Ltd. An updated habitat condition assessment was undertaken on 12 October 2022, and hazel dormouse, cirl bunting, bat activity transect and static surveys were subsequently undertaken from October 2022 through to June 2023.

The proposal would result in the loss of approximately 3.26 ha of arable cropland and 0.08 ha of neutral grassland. The loss of these habitats is not considered to result in a significant ecological impact.

At least nine species of bat have been recorded foraging and commuting over the site during manual and static bat detector survey, including Annex II (Habitats Directive 1992) species barbastelle, greater horseshoe and lesser horseshoe bats. Given the diversity of bat species and the presence of rarer species, the site is overall considered to be of County value to foraging and commuting bats (Wray et al., 2010)

Two dormouse nests and one partially constructed nest were found in survey tubes on the eastern boundary hedgerow, meaning that dormouse presence is assumed in all boundary hedgerows. The site is considered to be of local ecological value for dormice.

The loss of 30 m of species-poor hedgerow for access into the site is considered likely to result in a minor adverse ecological impact at the site level. Translocation of short lengths of the northern species-poor hedgerow are proposed. The lengths affected are unconfirmed, however, translocation would involve movement by up to 2 metres, considered to cause a negligible adverse ecological impact. The hedgerow removal and translocation could result in the killing or injury of dormice and would result in the loss of dormouse nesting and foraging habitat. The proposed hedgerow removal and translocation will therefore require a European protected species licence (EPSL) from Natural England. One can only apply for an EPSL once planning approval has been granted and any conditions pertaining to protected species, which are capable of being discharged, have been discharged.

Outline mitigation and ecological enhancement measures include

- the provision of ecological buffers to avoid the illumination of hedgerows,
- ecological supervision of hedgerow removal and translocation,
- sensitive timing of works to avoid harm to nesting birds and dormice,
- a lighting plan, including lux contours across the site, will be required. Lighting design should be in accordance with 'Bats and artificial lighting in the UK' (BCT and ILP 2018) to minimise light spill and potential negative effects upon foraging and commuting bats.
- provision of dormouse nest boxes,
- reptile hibernacula,
- bat and bird boxes,
- creation of habitats detailed within the biodiversity unit calculation, and
- Payment of a standard Habitat Mitigation Contribution per house would also be payable to 'deliver' mitigation for recreational impacts on the nearby SPAs.

A Landscape and Ecological Management Plan (LEMP) should be produced, detailing the planting specifications and the ongoing management of the proposed and retained habitats.

The applicant's ecology consultant has calculated that this range of mitigation measures provides a BNG (biodiversity net gain) score as follows:

Overall, the proposal would result in a gain of 3.43 habitat units (a 31.98 % net gain), and a gain of 4.67 hedgerow units (48.31 % net gain). Assuming the proposed mitigation and enhancement measures are undertaken, and that relevant management and lighting plans are implemented, the overall effect on ecological receptors is expected to be slightly beneficial.

Due to there being no loss of habitat for bats, a bat license from Natural England will not be required for this application and as such the derogation tests for bats is not

necessary in this instance. However the test is required for dormice as a European Protected Species licence will be required due to the loss of hedgerow.

The proposed development would require a European Protected Species Licence from Natural England.

In these circumstances the Local Planning Authority has a statutory duty under Regulation 3(4) to have regards to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species may be affected.

The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations: The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application and that failing to do so will be in breach of the Habitats Regulations.

The three tests are:

1. the activity must be for imperative reasons of overriding public interest or for public health and safety;

In this case it is considered that the imperative reasons of overriding public interest are as follows:

- The proposal would use a site for residential purposes in a sustainable location.
- The development would make a positive contribution towards the Council's 5 year housing land supply
- The development would secure a 25% affordable provision

2. there must be no satisfactory alternative;

In this case the hedgerow providing the dormice habitat is required to be lost to provide a safe and suitable access to the site where there are no other suitable alternatives. Other locations in the field could be used to provide access, but these would also require the removal of hedgerows. The amount of hedgerow to be lost is limited to 30 metres of the entire 2.4ha site.

3. favourable conservation status of the species must be maintained.

To mitigate for the loss of a small section of hedgerow there are a number of measures proposed to retain the species on site such as:

- the provision of ecological buffers to avoid the illumination of hedgerows,
- ecological supervision of hedgerow removal and translocation,
- sensitive timing of works to avoid harm to nesting birds and dormice,
- provision of dormouse nest boxes

As such there would only be a limited loss of habitat provision as a result of the development, it is considered that the application does demonstrate that favourable conservation status of dormice bats would be maintained.

Having regard for the above assessment, it is considered that the three tests can be met and that Natural England are likely to grant an EPS licence.

Accordingly, as a package of protection and biodiversity enhancement, the site during and following development will benefit from a net gain and the measures are suitable mitigation. These measures are encapsulated in the Ecological Impact Assessment dated July 2023 and submitted with the application.

Habitats Regulation Assessment

The nature of this application and its location close to the Exe Estuary 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 a financial contribution will be secured through an appropriately worded legal agreement. 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.

For these reasons the proposals are considered to accord with Policy EN5 of the EDDC Local Plan, the NPPF and the stipulations of the Habitat Regulations.

Flooding and drainage

The site lies in Flood Zone 1 and is therefore not prone to flooding. Residential development is 'more vulnerable' to flooding, but is directed to Flood Zone 1 in national guidance and the development as proposed is considered appropriate. There is a ditch down the eastern side of the site which has been confirmed to be of no substantive flood risk to the site.

The submitted indicative masterplan shows a drainage attenuation pond in the south east corner of the site together with either infiltration for the north west corner or drainage into the Gil Brook, which is generally the preferred SUDS method of holding water being drained and attenuated before leaving a development.

A detailed drainage methodology would be required as part of a reserved matters submission that will inevitably follow the layout design of the site.

Devon County Flood Risk department originally objected to the proposal stating the following:

'At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered'.

On submission of additional information, DCC Flood Risk Team have removed their objection subject to conditions to secure a detailed design of drainage scheme to be submitted at the reserved matters stage with the following comments to make:

The applicant has not carried out any infiltration testing for the site. The applicant therefore proposed both an infiltration and attenuation options to manage the surface water runoff.

For the infiltration option, it is proposed that the smaller north western sector will drain to a large below ground soakaway located within an area of open space and the larger south eastern sector to an above ground infiltration basin located to the south of the site.

For the attenuation option, the north western sector will drain to below ground attenuation crates with controlled discharge of 0.7l/s to the Gill Brook. The south eastern area will drain to an above ground attenuation basin located to the south of the site via a flow control to Qbar of 1.65l/s (as shown in Drawing Indicative Drainage strategy Plan Attenuation Option (Drawing No. 0002, Rev. P02, dated 09th January 2023).

The controlled discharge of 0.7l/s for the north western sector has resulted in a really small orifice size which is prone to blockages. The applicant shall refine the design during detailed design.

The proposal is therefore considered acceptable, subject to conditions to provide a detailed design strategy at the reserved matters stage, in relation to Policy EN22 of the EDDC Local Plan.

Heritage Impact

As well as the policies of the Development Plan, the Planning Authority must give special consideration to the significance of any Listed Buildings or Conservation Areas

affected by this development as required by Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Woodbury Conservation Areas lies in close proximity to the site. There are 2no. Grade II Listed Buildings Rosemary Cottage and Bixley Haven sited to the north-west of the site.

The Council's Conservation Officer has the following comments to make:

On the basis of the information provided through the application, the works as proposed would result in no harm to the contribution the setting makes to the significance of the Grade II heritage assets; Rosemary Cottage and Bixley Haven sited to the north-west of the site, in addition to the historic and architectural interest of the adjacent Woodbury Conservation Area. In this respect conservation do not wish to offer any comments

For these reasons the proposals do not harm designated and undesignated heritage assets for which special consideration has been given. The proposal is therefore considered to be acceptable in relation to the aforementioned parts of the Act, Policies EN9 and EN10 of the EDDC Local Plan and advice contained in the NPPF.

Planning obligations

The report has already discussed the 35% onsite affordable housing proposal and the habitat mitigation payments which would need to be secured through the prior signing of a legal agreement, however, there are other items that are required to be secured through the legal agreement, namely:

Bat corridors

The ecology report indicates that there should be unlit corridors for bats of 5 metres adjacent to the existing hedgerows which bound the site to the north and east

Openspace

Strategy 43 of the Local Plan requires development of a certain size to provide and/or contribute towards on-site open space provision and maintenance. The adopted Planning Obligations Supplementary Planning Document is clear that for developments of this scale the requirement would be to provide amenity open space as part of the development which is shown on the indicative layout plan, however provision of an onsite locally equipped area for play (LEAP) and funding for equipment is also required.

The Planning Balance and Conclusion

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.

In this scheme, weight is attached to the offer of 25 affordable housing units that will provide social sustainability benefits, whilst not a policy compliant level of affordable housing 25 units a not an insignificant benefit. Similar importance is attached to the potential 70 new homes where the 5 year housing land supply cannot be given full weight at this point in time and the shortfall needs to be addressed in good time to ensure that it does not fall further behind.

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.

The economic benefits of building, furnishing and living in 70 new homes and the filter down effect this would have on the local and regional economy weigh in favour of the proposal.

The development would be accessible by a range of transport means to Woodbury's amenities and facilities without the need to resort to the private car, together with transport links to further afield settlements. Although the local road network would receive additional pressure, the impact is not considered severe and there are no objections from the County Highway Authority. This also weighs in favour of the proposal.

There is not a significant adverse impact on local residential amenity and an acceptable impact on the local and wider rural landscape and the setting of the village. Although there will be an inevitable erosion of the countryside with the new housing being built, the Landscape Officer's assessment does not consider the visual impact to be significantly adverse in light of the current policy position. A similar conclusion is drawn on local heritage assets where special consideration has been given and whose significance would not be harmed.

Ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. There would be retention of the primary hedgerows around the site save for some loss of the translocated roadside hedge with minimal tree or hedge removal overall.

The development could result in the loss of Grade 3a agricultural land and this weighs negatively in the planning balance.

The development is outside of the floodplain with a site that can be drained by sustainable means.

The proposals offer an appropriate package of mitigating measures to offset the impact that the new housing would have on local infrastructure through payment of CIL which is also of benefit to the parish of Woodbury through receiving 15% of the total CIL monies to use in the parish.

It is considered that there are substantial social and economic benefits to development at Broadway. The 35% provision of affordable housing, the open market housing and the benefit to the local economy should be given great weight. The environmental impacts are limited, the most significant being the erosion of countryside on the edge

of Woodbury and possible loss of BMV agricultural land. However, given the current housing land supply position, and given that the impact is not so harmful in light of the comments from the Landscape Officer, the environmental impact is not so adverse that it outweighs the substantial housing offer being tabled to help meet the current identified need for housing.

On balance the proposals are considered to represent sustainable development in the light of the guidance in the National Planning Policy Framework and the up to date policies of the Development Plan.

RECOMMENDATION

- 1. Adopt the appropriate assessment**
- 2. APPROVE subject to a legal agreement securing the following matters:**
 - **Habitat mitigation contribution of £367.62 per residential unit.**
 - **35% affordable housing to be 18 rented units and 7 units for affordable home ownership**
 - **Management company to maintain common areas on site.**
 - **Securing of funding and equipment to for a LEAP**
 - **Wildlife corridors to be kept free from light spill**

APPROVE subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission. The development hereby permitted shall be begun before the expiration of one year 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 and to ensure the development comes forward in a timely manner).
2. Approval of the details of the layout, scale and appearance of the building (s) 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. 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.)
4. All future reserved matters applications submitted pursuant to condition 2 of this permission shall be accompanied by a Construction and Environment Management Plan that 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. The plan shall also consider construction vehicle routing and delivery arrangements. Construction working hours and all site deliveries shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan.)

5. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

(Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

6. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with diagram BTC22056 P-01 P2 contained in the transport assessment 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 43.0 metres in both directions. (REASON: To provide adequate visibility from and of emerging vehicles in accordance with Policy TA7 of the adopted East Devon Local Plan).

7. 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) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins. Confirmation from a geotechnical engineer that based on the geology found at the site, there is no risk of infiltrated water re-emerging downslope and impacting on the properties.

(b) A detailed drainage design based upon the approved Land South of Broadway, Woodbury Flood Risk Assessment & Drainage Strategy (Report Ref.

E06077/0001_FRA, Rev. V4, dated 07th March 2023) and the results of the information submitted in relation to (a) above

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

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

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

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

8. The development shall be carried out in accordance with the submitted flood risk assessment (ref 10/01/23, E06077/FRA, Clarkebond) and the following mitigation measures it details:

There shall be an 8m no build corridor between the top of the riverbank and the new development as demonstrated in drawings 'indicative drainage strategy plans' (Appendix C 3 - shown as 8m bank offset) and section 5.5 of the flood risk assessment.

The mitigation measures shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

9. No development approved by this planning permission shall commence until such time as a scheme to ensure the development is flood resilient, by demonstrating that finished floor levels are above the design flood level, has been submitted to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and its future users in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

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

11. A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.
Reason: To comply with Policy EN15 for the avoidance of light pollution.

12. 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.

13. 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.

14. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
 - A) The main road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The main road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the main road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the main road and cul-de-sac have been provided and erected.

(Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with Policies TA7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

15. No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 30 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.
 - 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.

- Condition survey of existing trees, hedgerow and other habitat to be retained as a baseline for future monitoring and to inform any initial works required to address defects/ issues identified and bring them into good condition.
 - Detailed maintenance works schedules covering regular cyclical work and less regular/occasional works in relation to:
 - Existing trees, woodland and hedgerows.
 - New trees, woodland areas, hedges/ hedgebanks and scrub planting areas.
 - Grass and wildflower areas.
 - Biodiversity features - hibernaculae, bat/ bird boxes etc.
 - Boundary structures, drainage swales, water bodies and other infrastructure/facilities.
 - 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.

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.

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 5 (Environment), 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.)

16. 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, hedgebanks, 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.
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 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 3 sections through the site at 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. Details should include proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc and provision of water butts to private rear gardens to collect roof rain water.

e) A full set of soft landscape details including:

i) Planting plan(s) showing locations, species and number of new tree and shrub/ herbaceous planting, type and extent of new amenity/ species rich grass areas and 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.

f) 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.

i) 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.

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.

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 5 (Environment), 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.)

17. Development shall proceed in accordance with Sections 4 (Assessment, recommendations and mitigation) and 5 (Biodiversity net gain) detailed in the Ecological Impact Assessment dated July 2023 undertaken by Richard Green Ecology.
(Reason: To ensure that the mitigation measures are in place to safeguard the biodiversity and protected species displaced by the development in accordance with Policy EN5 (Wildlife Habitats and Features).

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:

DR UD 01.01 P6	Location Plan	11.01.23
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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

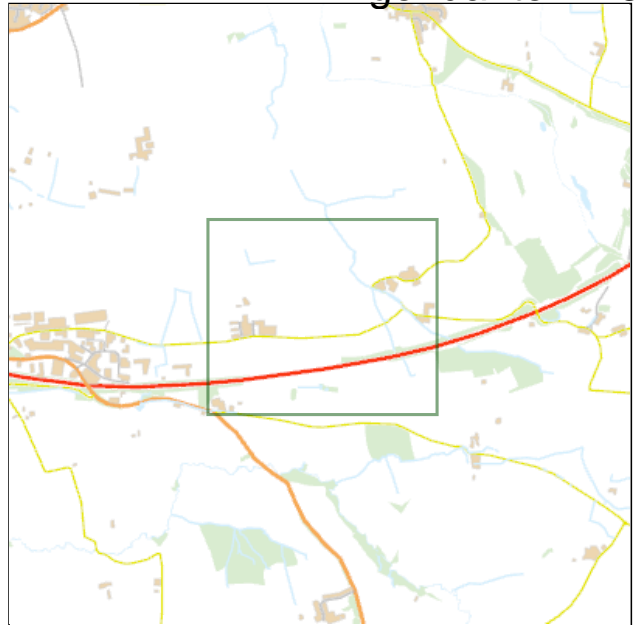
Ward Whimble And Rockbeare

Reference 23/1250/MOUT

Applicant Mr James Dickson

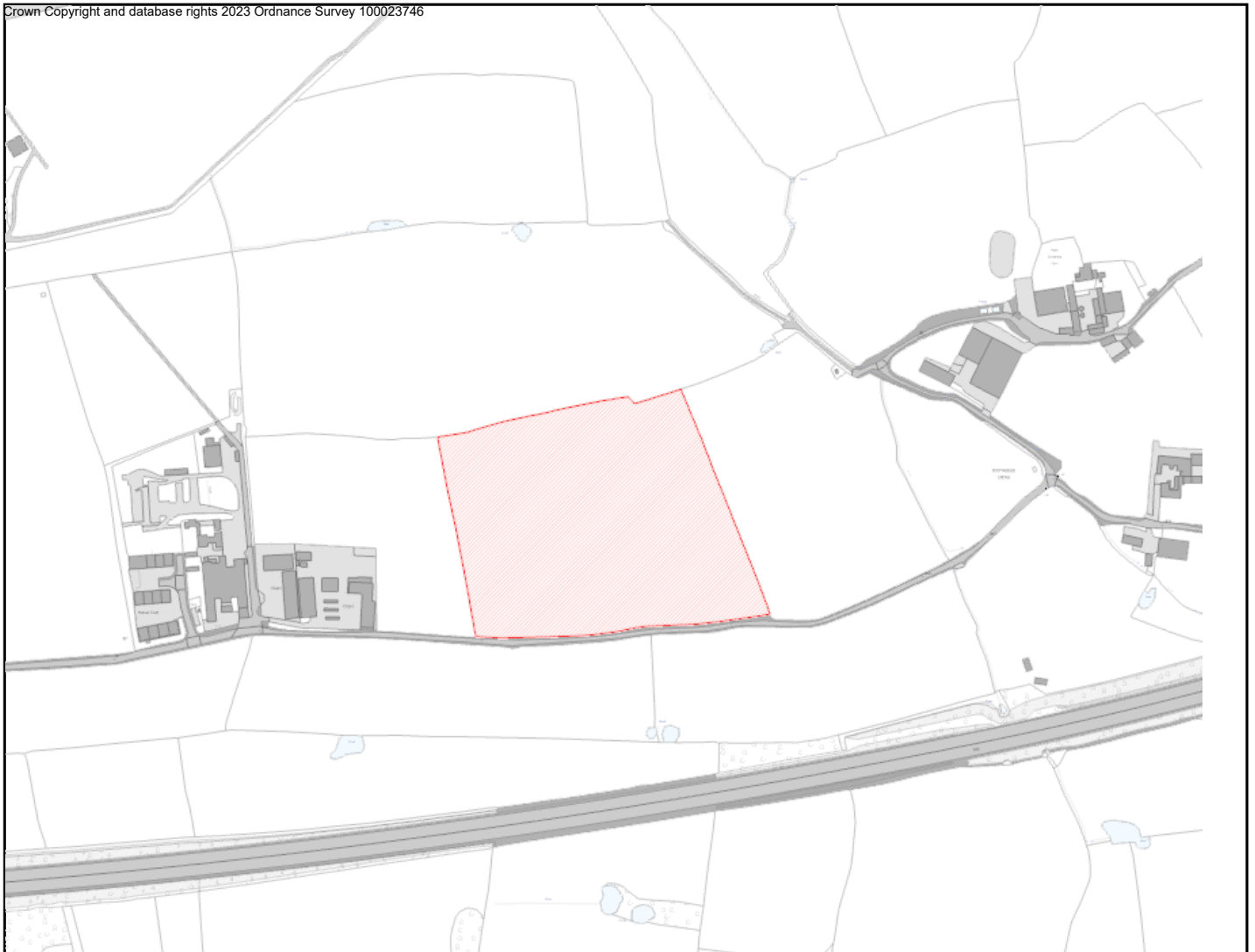
Location Land East Of Antiques Complex/Harriers Court Industrial Estate Long Lane Rockbeare

Proposal Outline application for the erection of HVDC Converter Station and associated infrastructure with all matters reserved



RECOMMENDATION: Approval with conditions

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		Committee Date: 24.10.2023
Whimble And Rockbeare Ward	23/1250/MOUT	Target Date: 20.09.2023
Applicant:	Mr James Dickson	
Location:	Land East Of Antiques Complex/Harriers Court Industrial Estate Long Lane	
Proposal:	Outline application for the erection of a HVDC Converter Station and associated infrastructure with all matters reserved.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Development Management Committee as the proposal is a departure from the adopted Local Plan.

This is an outline application with all matters reserved to construct a 1250MV High Voltage Direct Current converter station on Long Lane near Exeter Airport. The converter station forms part of the wider France, Alderney, Britain Interconnector (FAB Link) to allow the exchange and trading of up to 1250MW of electricity between France and Britain and will convert electricity from Alternating Current to Direct Current before transferring to the Exeter Substation near Broadclyst. The proposed converter station would be up to 9,750 sqm in floor area and the operational area of the development would be up to 3.4ha. A strategic landscape buffer of at least 10m would be provided around the perimeter of the site and the maximum height of buildings and structures on the site would be limited to 20m. The proposal would also include passing places along Long Lane to accommodate construction and other traffic.

The FAB Link, prior to the withdrawal of the UK from the European Union, was a European Project of Common Interest (PCI) under the provisions of the guidelines for trans-European infrastructure regulations (TEN-E Regulation) which establishes that PCI's are necessary to take forward the EU energy networks policy and should be given the most rapid consideration in the permitting process that is legally possible. PCI's were to be given a priority status at national level that should be considered by the competent authorities as being in the public interest. Since leaving the EU and the PCI framework, the importance of electricity interconnectors, and the public interest served by them, has been reaffirmed in UK Government policy and the support for them had been re-established with our European neighbours. This public interest is a material planning consideration which should weigh heavily in favour of the proposal notwithstanding any conflict with local plan policies.

The site is located outside of any Built-Up Area Boundary and would be located in open countryside as defined by Strategy 7. As this is not a typical land use, the site is not allocated for development and there are no relevant local plan or neighbourhood plan policies for this specific type of development. The NPPF sets out a presumption in

favour of sustainable development where there are no relevant policies or the policies are out-of-date, of which this is considered to be.

Strategy 39 (Renewable and Low Carbon Energy Projects) supports renewable or low carbon energy projects in principle and the key aim of the development is to replace high carbon fossil fuel generated electricity in Britain with lower carbon predominately nuclear generated electricity from France. Whilst the converter station does not generate electricity itself, this local plan strategy offers support to the overall aims of the development. The NPPF states that applications for renewable or low carbon energy should be approved if the impacts are, or can be made, acceptable.

The proposed development is considered to result in harm to the character and appearance of the local area and would result in less than substantial harm to the setting of a number of listed buildings resulting in a conflict with Strategies 46 and 49 as well as Policy No. Rock05 (Important Views and Vistas) of the Rockbeare Neighbourhood Plan (2018). Mitigation is provided to help screen the development but due to the nature, location, scale and size of the development, there will remain an adverse impact on the local area and heritage assets.

Other planning issues such as transport, noise, amenity, drainage, flood risk, airport safeguarding, etc., have been considered as part of the application and are either considered acceptable or can be suitably mitigated for through the use of planning conditions. Details of the layout, scale, access, landscaping and appearance shall be considered under reserved matters applications.

The AC to DC conversion process produces waste heat which could usefully be utilised in the existing and proposed extension of the District Heating (DH) network currently serving Cranbrook, Tithebarn and Skypark. The development would be made 'DH ready' with the applicant able to market the heat. Conditions are proposed to achieve this to support the local plan and the aim of government policy and guidance. This would also provide a significant benefit for East Devon.

A material consideration is application 16/2997/MOUT which approved the construction of a 1400MW converter station on this site. This application was considered to be contrary to Strategy 7 and would result in harm to the landscape but the wider public benefits outweighed the harm. The proposed development under this application would be smaller in output and smaller in built form when compared to the approved station and therefore potential impacts would be similar or no worse than the previously approved application. This outline planning permission has now lapsed and is not capable of implementation.

It is acknowledged that the proposal would be in conflict with a number of local plan policies however material considerations must be given weight in this case. The development would meet an essential need for additional electricity supply capacity, which is required in the national and public interest and officers consider that the impact can be made acceptable on balance through mitigation and use of planning conditions. The mitigation proposed including a landscaped buffer, a biodiversity net gain and passing places on Long Lane would ensure that the development would result in no greater harm than the previously approved scheme.

In weighing up the benefits and harm of the development, it is considered that the overall benefits of the development would outweigh the harm on balance and the application is therefore recommended for approval subject to conditions.

SUMMARY OF CONSULTATIONS

Local Consultations

No comments received from the Parish Council or Ward Members.

Technical Consultations

Devon County Council Waste Management 29 June 2023

This application is not supported by a Waste Audit Statement, it is therefore recommended that a condition is attached to any consent to require the submission of a statement at the reserved matter stage.

County Highway Authority 2 August 2023

This type of application tends to produce a low trip generation once established and under commencement due to the high automation technology and low maintenance requirement.

I appreciate the lengthier construction period for this Converter Station construction, however I believe the combination of a comprehensive Construction and Environment Management Plan (CEMP) including scheduled, 'just in time' deliveries, delivery routeing, fixed hours of construction, wheel washing facilities, car share incentives and new passing bays, together with the recent improvement works of Long Lane will help facilitate the mitigation of the construction period on the local highway as best as possible.

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

Police Architectural Liaison Officer - Kris Calderhead 4 July 2023

I have no comments at this stage however, should the application progress with more detailed design established, I'd appreciate it if you could consult with me again.

DCC Flood Risk SuDS Consultation 17 July 2023

At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.

DCC Flood Risk SuDS Consultation 19 September 2023

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

Following my previous consultation response (FRM/ED/1250/2023; dated 14th July 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application.

DCC Historic Environment Officer 3 July 2023

The Historic Environment Team has no comments to make on this planning application.

Devon & Somerset Fire and Rescue Service 7 August 2023

I have studied the drawings on the planning portal and it would appear (without prejudice) to satisfy the criteria we would require for B5 access under Building Regulations.

Conservation 9 August 2023

No designated heritage assets lie within the Site itself, but a number of listed buildings and registered landscapes lie within the Site's wider study area and will need to be considered in relation to the proposals' potential to harm their significance through change to their setting:

The assessment concluded that the proposed development would result in a slight loss of significance with regards the Grade 1 Manor and 3no. Grade II listed buildings and the Grade II Registered Park. In addition, a very slight loss of significance with 2no. Grade II listed buildings (see report for details). All of these include a change to the setting of the heritage assets.

No further Heritage Statement has been provided, but there is an update included within Chapter 5 Cultural Heritage of the Environmental Report dated June 2023.

The assessment therefore remains the same and no changes to the impact of the works to the heritage assets are envisaged as a result of the proposed revisions to the overall scheme for the converter station. Having regard to the reduced/smaller scale of the now proposed scheme it is likely that there will be no additional impact from the revised scheme and in fact any impact would actually either be the same or reduced.

ACCEPTABLE subject to conditions as before.

Contaminated Land Officer 29 June 2023

Recommended approval subject to an unexpected contamination condition.

Environmental Health 29 June 2023

Recommended approval subject conditions relating to a Construction and Environment Management Plan (CEMP) and a lighting scheme for the site.

EDDC Landscape Architect 24 August 2023

The LVIA is prepared in accordance with accepted industry standard best practice particularly. The findings of the LVIA are generally accepted but the following exceptions are noted.

Viewpoint 2 Rockbeare Recreation Ground - View is taken from the lower lying and more distant northern end of the recreation ground. Consideration should be given to providing off-site planting to reinforce existing trees along the southern boundary as mitigation, subject to Parish Council approval.

Viewpoint 3 Silver Lane at Higher Southwood Farm - The Photomontage after 10 years shows exaggerated growth of new screen planting which appears to be shown some 18m in height. On the basis of typical UK growth rates of 0.3-0.5m per year for native trees and shrubs it is likely to take in excess of 30 years for new planting to reach the heights indicated.

Since the 2016 scheme, outline consent has been granted for mixed use development at Treasbeare and proposed SANGS land to the eastern edge affords elevated views towards the site at a distance of 1.5km which would be impacted by the proposal. These views have not been considered in the updated LVIA. From here the proposed development is likely to give rise to low-

medium magnitude of effect on moderate to high sensitivity recreational receptors resulting in a moderate level of effect which is unlikely to be significant.

The scheme will give rise to major and significant adverse landscape and visual effects on receptors within and in the immediate vicinity of the site and lesser effects on a number of visual receptors particularly to the north and east of the site as noted in the updated LVIA and above. Overall it is accepted that the level of landscape and visual effects will be no greater than for the previously approved scheme.

The site layout has changed little from the previous scheme apart from the loss of the second converter hall. This change creates opportunity for enhanced area of mitigation planting particularly to the east side of the site. The possible ancillary building indicated in the southeast corner should be set back further into the site to reduce its visibility from Long Lane. The need for two site access points off Long Lane is questioned and should be changed to a single access unless a satisfactory justification can be provided for not doing so.

EDDC Landscape Architect 5 September 2023

Generally I accept the clarifications in relation to my previous comments. I remain unconvinced by the arguments for two access points. It seems that these are largely in relation to construction considerations and I would accept that a second temporary access could be provided for the construction phase.

EDDC Trees 12 July 2023

In principle I have no objection to the proposal. However, the impact on existing trees should be assessed (main concern is in regards to the access points & impact on nearby significant trees) and therefore a full BS 5837 survey is required, including Arboricultural Impact Assessment (AIA), Tress Protection Plan (TPP) and Arboricultural Method Statement (AMS).

EDDC Recycling & Waste Contract Manager 26 June 2023

As it does not involve domestic households there are no comments from Recycling & Waste.

Environment Agency 17 July 2023

Whilst we have no in-principle objection to the proposal in terms of our statutory planning remit, we recommend that this application is not determined until such time that the applicant provides assurances that access to the Environment Agency's Clyst Honiton Depot will remain unfettered during the construction and operational phases of the proposed development.

Exeter & Devon Airport - Airfield Operations + Safeguarding 10 July 2023

This proposal has been examined from an Aerodrome Safeguarding aspect and it does have the potential to conflict with Safeguarding criteria.

There are no physical safeguarding concerns from the proposal. One of the airports Obstacle Limitation surfaces passes over the site at 35m AGL, 75m AMSL. The highest building listed is 20m AGL so there is no conflict with this surface.

The Airports IFP Safeguarding map shows the location of the proposal in a grey square which means any development, regardless of height will need looking at in more detail to ascertain if there is likely to be any impact on the IFPs.

Due to the location, size and mass of the proposal a Technical Safeguarding Modelling Assessment for ILS, NAVAIDs and Radar will be required, which should be carried out by a specialist company to ascertain if there are likely to be any conflicts.

Any areas of planting and landscaping must be designed to be unattractive to birds with no fruit and berry bearing species that could provide a food source or roosting and nesting habitats. Any tree planting should be of smaller varieties that will not grow and become an OLS penetration or bird attractant over time.

Accordingly, Exeter Airport would like to place on record a holding objection pending the submission of the required safeguarding assessments. When these have been produced, studied and, providing there are no safeguarding conflicts, approved then the objection will be removed.

Exeter & Devon Airport - Airfield Operations + Safeguarding 14 September 2023

The applicant has supplied to the Airports Safeguarding team an Instrument Landing System (ILS), Navigational Aids (NAVAIDs) and Radar Technical Assessment. This assessment has been studied and concluded that there will be an impact to the primary navigational aids that provide instrumented precision approach procedures. However, the impact is acceptable when considering CAT 1 and Lower Than Standard CAT 1 approaches.

The Airport understands that the required Instrument Flight Procedure (IFP) Assessment produced by an APDO is in the process of being undertaken. Until such time as this has been completed, the Airport would like to request a condition to be applied to any permission.

Accordingly with the production of the acceptable Technical Assessment and providing the requested condition is applied then Exeter Airport can remove the previously requested objection.

National Highways 17 July 2023

The UK converter station was previously approved under outline permission 16/2997/MOUT and subsequent reserved matters applications 20/1361/MRES and 21/1232/MRES. National Highways offered no objections to these applications subject to the applicant gaining all necessary approvals for any proposed cabling beneath the A30 trunk road, which are separate to the planning process.

Impact on Strategic Road Network - A Transport Assessment (TA) reference JNY8091-09D dated June 2023 has been submitted in support of the application by RPS. Abnormal Loads Paragraph 1.45 of the TA estimates the construction of the development will require seven Abnormal Indivisible Loads (AILs) deliveries to site. No AIL movements are permitted to route via the SRN without the necessary advance approvals and/or Orders from National Highways. This information can be submitted either via a detailed AIL report or as part of a full construction traffic management plan (CTMP).

Traffic Impact Operational Phase - Once constructed the proposed converter station would be staffed by up to five full time equivalent employees and is forecast to attract up to one maintenance visit per week. National Highways is satisfied the operation of the development will not result in an adverse traffic impact on safe operation of the strategic road network.

Traffic Impact Construction Phase - It is understood the revised site proposal is smaller than the previous layout and as such the associated construction traffic is forecast to be lower than that approved for the 2016 consent. However for robustness the 2023 TA assumes there has been no change in the estimated numbers of construction HGVs, mode share, distribution, and assignment from that previously approved under permission 16/2997/MOUT.

On the basis the traffic generation associated with the construction phase is not forecast to exceed that previously approved under permission 16/2997/MOUT National Highways are satisfied the traffic impact of the development is unlikely to result to an unacceptable impact on the safe operation of the SRN. To ensure activities associated with the construction phase (including proposed AIL movements) will not result in an adverse impact on the safe operation of the strategic road network National Highways will require the submission of a full Construction Traffic Management Plan for our review prior to the commencement of the development.

The National Grid 26 June 2023

Regarding planning application 23/1250/MOUT, there are no National Gas Transmission assets affected in this area.

Natural England 6 July 2023

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

South West Water 1 August 2023

I can confirm South West Water has no comment or concern.

EDDC District Ecologist - Will Dommett 23 August 2023

I currently submit a holding objection to the proposal until the requested information is submitted.

ODPM Circular 06/2005 states: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." It is not possible to properly consider the impacts of the proposals on priority and protected habitats and species, or designated sites, in absence of adequate survey information and suitable avoidance/mitigation/compensation measures.

In absence of this information, the proposal is not in accordance with Policies EN5, and Strategy 47 of the East Devon Local Plan 2013 to 2031.

EDDC District Ecologist - Will Dommett 4 October 2023

The applicant has submitted a revised ecological appraisal report which includes the results of an updated bat activity survey and provided a copy of the biodiversity net gain calculator which has addresses my previous comments regarding updating ecological surveys and submission of further information.

The outlined proposed ecological avoidance, mitigation, and enhancement measures (subject to the recommended conditions below), and indicative biodiversity net gain calculations are considered acceptable and proportionate.

Historic England 16 August 2023

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

POLICIES

Adopted Rockbeare Neighbourhood Plan (2018)

Policy No. Rock05 (Important Views and Vistas)

Adopted East Devon Local Plan (EDLP) 2013-2031 Policies

Strategy 3 (Sustainable Development)
Strategy 5B (Sustainable Transport)
Strategy 7 (Development in the Countryside)
Strategy 39 (Renewable and Low Carbon Energy Projects)
Strategy 38 (Sustainable Design and Construction)
Strategy 40 (Decentralised Energy Networks)
Strategy 47 (Nature Conservation and Geology)
Strategy 48 (Local Distinctiveness in the Built Environment)
Strategy 49 (The Historic Environment)
Strategy 46 (Landscape Conservation and Enhancement and AONBs)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
D3 (Trees and Development Sites)
TC2 (Accessibility of New Development)
TC4 (Footpaths, Bridleways and Cycleways)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)
TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)
EN5 (Wildlife Habitats and Features)
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)
EN8 (Significance of Heritage Assets and their setting)
EN9 (Development Affecting a Designated Heritage Asset)
EN13 (Development on High Quality Agricultural Land)
EN14 (Control of Pollution)
EN16 (Contaminated Land)
EN18 (Maintenance of Water Quality and Quantity)
EN21 (River and Coastal Flooding)
EN22 (Surface Run-Off Implications of New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

OFFICER REPORT

SITE LOCATION

The application site is located north of Long Lane within the Rockbeare Parish of East Devon. The site consists of an agricultural field of around 4.9ha in size. It is largely level with a slight slope down towards the northern boundary. There are no features within the site but the boundaries are marked by hedgerows interspersed with trees. The site is located on Long Lane, around 1.4km east of the main Exeter Airport building. The Exeter Airport Business Park is located around 800m to the west with the Future Skills Centre and Hampton by Hilton Hotel around 500m to the west. The closest development is at the Antiques and Harrier Court complex which is a home to a number of residential dwellings, business and industrial units and is located about 100m to the west. The site is

predominately surrounded by fields and open countryside and the Airport runway is north west of the site. The A30 trunk road is located about 150m to the south of the site and the nearest settlements are Rockbeare and Cranbrook to the north.

PLANNING HISTORY

- 16/2997/MOUT | Outline application with all matters reserved for the construction of a High-Voltage DC converter station and associated infrastructure | APPROVED (5 July 2017)
- 20/1361/MRES | Reserved matters application (access, appearance, landscaping, layout, and scale) for the construction of a converter station with associated equipment and plant pursuant to the outline planning permission 16/2997/MOUT including provision of main site accesses, internal circulation/parking, and landscaping. The full or partial discharge of conditions 1, 2, 3, 4, 5, 6 and 13 of the outline planning permission 16/2997/MOUT | APPROVED (25 Nov 2020)
- 21/1232/MRES | Reserved matters application (landscaping only) for the landscaping of the site in relation to the construction of a High-Voltage DC converter station with associated infrastructure pursuant to the outline planning permission 16/2997/MOUT. The discharge of condition 3 of the outline planning permission 16/2997/MOUT | APPROVED (14 July 2021)
- 23/0001/EIA | Screening Opinion for proposed converter station | ISSUED - NOT EIA DEVELOPMENT (14 March 2023)

APPLICATION

Outline planning permission with all matters reserved is sought for the erection of a High Voltage Direct Current (HVDC) Converter Station. This means that the scale, access, appearance, layout and landscaping ('the Reserved Matters') for the application site would be specified via future Reserved Matters Applications. Each of the 'Reserved Matters' is defined in Article 2 of the Development Management Procedure Order (2015).

The proposal forms part of a wider proposed interconnector which will allow the exchange and trading of up to 1250MV of electricity between France and Britain - also known as the FAB Link. As such, there are converter stations proposed in France and here in East Devon to convert High Voltage Alternating Current (HVAC) to High Voltage Direct Current (HVDC) and vice versa. The project will not make landfall in Alderney. The electricity is transmitted through cables either underground or on the sea bed. The subsea cables would come ashore at Budleigh Salterton and then be placed below ground for the route through East Devon to the proposed converter station and onto the Exeter Substation. The Council has issued an approval of an Application for a Lawful Development Certificate for a Proposed Development (CLOPUD) confirming that the underground cables and the ancillary works are 'permitted development' except for a small element of compound (ref. 16/2995/CPL).

The application is in outline with all matters reserved. A parameter plan (ref. 7729-0589-04) has been submitted as forming part of the proposal with numerous indicative plans and drawings showing how the site could be developed. The parameter plan shows:

1. The operational area of the development will not exceed 3.4ha.
2. A strategic landscape buffer area around the site boundaries of at least 10m in width.
3. The existing hedgerow and trees to be retained.
4. Two areas identified on the southern boundary for potential access points.
5. The total area of landscaping and surface water drainage would be at least 1.8ha.
6. Within the operational area, the maximum floor area of buildings will not exceed 9,750m sqm and up to 20m in height.
7. The maximum height of exterior plant/machinery/equipment in the operational area will not exceed 20m in height except for lighting conductors (up to 30m).

The converter station would have a one valve hall served by a cooling system, external plant and equipment in the form of 400kv transformers, switchgear and bus bars together with smaller buildings which will house controls systems as well as facilities for maintenance staff. The proposal would include land for a District Heating Module, AC Switchyard and Filter Area, car parking and associated infrastructure.

The proposals also include a number of improvements to Long Lane through the provision of passing places together with access points onto the site on the southern boundary.

Application 16/2997/MOUT for a HVDC converter station up to 1400MV with two valve halls on this site was approved by the Local Planning Authority in July 2017.

The converter station was screened for Environmental Impact Assessment (EIA) development in March 2023 where the authority concluded it was not EIA development - known as a negative screening opinion.

This outline application was supported by a 2023 Transport Assessment, 2023 LVIA, 2023 Preliminary Ecological Appraisal and 2023 Environmental Report with the following headings:

1. Landscape and Visual Impact
2. Ecology and Nature Conservation
3. Cultural Heritage
4. Air Quality
5. Noise and Vibration
6. Hydrology and Flood Risk
7. Geology, hydrogeology, ground conditions and contamination
8. Land use, Agriculture and Soils.

NEIGHBOUR CONSULTATION

One neutral comment has been received. This is summarised below:

- Information regarding traffic management along Long Lane
- Impact on road network and freight

Five objections have been received. This is summarised below:

- Concerns regarding road closures and access
- Impact on adjacent businesses
- Impact on road network and lack of alternative routes
- Cumulative impact with airport traffic causing issues on Long Lane
- Alternative construction routes via A30 or Silverdown Park
- Concerns with noise impact from transformers
- Development at Power Park and cumulative impact

PLANNING ASSESSMENT

The key considerations in the determination of this application are:

- A. The Policy Context and Principle of Development
- B. Landscape and Visual Impact
- C. Transport, Access and Movement
- D. Sustainability and Climate Change
- E. Biodiversity and Ecology
- F. Archaeology and Cultural Heritage

- G. Air Quality and Health
- H. Amenity, Noise and Vibration
- I. Flood Risk and Drainage
- J. Ground Conditions and Contamination
- K. Agricultural Land and Soils
- L. Design and Layout
- M. Arboricultural Impact
- N. Airport Safeguarding

A. THE POLICY CONTEXT AND PRINCIPLE OF DEVELOPMENT

Strategy 7 (Development in the Countryside) of the EDLP (2016) states that the countryside is defined as all those parts of the plan area that are outside the Built-up Area Boundaries. 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 where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

Strategy 39 (Renewable and Low Carbon Energy Projects) of the EDLP (2016) states that renewable or low-carbon energy projects in either domestic or commercial development will in principle be supported and encouraged subject to them following current best practice guidance and the adverse impacts on features of environmental and heritage sensitivity, including any cumulative landscape and visual impacts, being satisfactorily addressed.

In the 2023 National Planning Policy Framework (the NPPF), Paragraph 20 seeks to ensure, amongst other things, that plans make sufficient provision for energy infrastructure. Paragraph 152 advocates that the planning system should support a transition to a low carbon future. Paragraph 158 states that in the case of renewable or low carbon energy, there is no requirement to demonstrate the overall need for such development, and that applications should be approved if the impacts are, or can be made, acceptable.

The application seeks approval for a converter station with all matters reserved. The proposal would be located on green field land to the east of Harriers Court on Long Lane.

The application site lies outside of any Built-Up Area Boundary (BUAB) designated in the adopted Local Plan meaning that this site is considered to be located in open countryside as set out in Strategy 7. Strategy 7 also sets out that development in the countryside is resisted except where it is explicitly supported by a specific Local or Neighbourhood Plan policies and where that development would not harm the distinctive landscape, amenity and environmental qualities of the area in which it is located.

The site is located near to Exeter Airport and is located in part of the district whereby major development is proposed, approved and supported as identified in Strategy 9 (Major Development at East Devon's West End). It is stressed that the 'West End' is not a defined policy area but is a term that refers to the group of schemes highlighted within the policy. Strategy 9 does not include the provision of a converter station and the site is not allocated for any form of development. Furthermore, there are no policies in the Rockbeare Neighbourhood Plan (2018) which supports a converter station or development on this site. However, this is not a typical planning land use or type of development that would usually be specifically covered in a local or neighbourhood plan and relevant policies support the sustainable development, low carbon projects and protection of the landscape.

The NPPF (2023) sets out a presumption in favour of sustainable development and Paragraph 11d sets out that where there are no relevant policies or the policies are out-of-date, sustainable development should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the NPPF indicate development should be resisted. As noted above, there are considered to be no directly relevant policies and the

current local plan is considered to be out of date as it was adopted more than 5 years ago. The NPPF sets out that pursuing sustainable development involves meeting three overarching objectives (economic, social and environmental) which include building a strong and competitive economy, support strong and healthy communities and protecting and enhancing our built and natural environment. The environmental objective also seeks to mitigate and adapt to climate change, including moving to a low carbon economy.

The development would result in harm to the surrounding countryside however it would result in a biodiversity net gain, would be district heating (DH) ready, would support economic growth and would support the UK's movement to a lower carbon economy. The proposed development would overall be considered as 'sustainable development' as defined by Paragraph 8 of the NPPF. The NPPF also states that applications for renewable or low carbon energy should be approved if the impacts are, or can be made, acceptable. In this case and as set out later in this report, officers consider the mitigation measures would result in an acceptable development.

Low carbon energy projects are defined in the EDLP and NPPF as including technologies 'that can help reduce emissions (compared to conventional use of fossil fuels)'. Strategy 39 (Renewable and Low Carbon Energy Projects) supports renewable or low carbon energy projects in principle and the purpose of the converter station is to allow for the transfer of electricity between Britain and France. A key aim of the development is to replace high carbon fossil fuel generation in Britain with lower carbon nuclear generation from France and it is considered that this strategy offers some support for the overall principles of the development. However there is no guarantee that the electricity generated and transferred is from low carbon or renewable sources but in general the electricity network in France is lower carbon than the UK's. The electricity grid in France is dominated by nuclear power, which accounts for around 71% of electricity produced with renewables accounting for 21% and coal, oil and gas accounting for 8%.

Application 16/2997/MOUT was previously approved on this site for the construction of a 1400MW converter station. As this permission has now lapsed it is only given very limited weight. The associated Planning Committee Report outlined that the proposal was contrary to Strategy 7 and would result in harm to the landscape but the wider public benefits outweighed the harm. The proposed development under this application would be smaller in output and smaller in built form when compared to the approved station and therefore potential impacts would be similar or no worse than the previously approved application.

Britain does have existing interconnectors with some neighbouring countries such as the Viking Link (East Lindsey, Lincolnshire). However, there are further challenges for the British and European energy systems in terms of competitiveness, sustainability and security of supply. As such, there is governmental support both nationally and at a European level for greater electricity connection and government support is contained within various publications such as the Energy White Paper 2020. Prior to the withdrawal of the UK from the European Union, the FAB link interconnector was a Project of Common Interest (PCI) under the provisions of the EU TEN-E (Trans-European Networks for Energy) Regulations. The TEN-E Regulation established that PCIs were necessary to take forward EU energy networks policy and should be given the most rapid consideration in the permitting process that is legally possible. PCI's had national significance and planning considerations which weigh heavily in favour of the proposal despite conflicts with local plan policies. Since leaving the EU and the PCI framework, the importance of electricity interconnectors, and the public interest served by them, has been reaffirmed in UK Government policy and the support for them had been re-established with our European neighbours which continues to weigh heavily in favour of the proposal notwithstanding any conflict with local plan policies.

As part of the previous outline application, the applicant went through a site selection process, looking at the location, technical requirements, environmental considerations and land availability and this site was selected. The applicant went through the following site selection stages:

- 1) Stage 1 - Review of GB connection options to the National Grid.

- 2) Stages 2 and 3 - identification of site opportunities using environmental and land use criteria of a 5km radius of the Exeter sub-station. Seven sites were identified and a further site selection process was carried out looking at availability, landscape appraisal and abnormal load routes.
- 3) Stage 4 - a review of the Exeter study area to determine whether other sites may exist with less visual intrusion and better access to the road network which widened the study area.
- 4) Stage 5 - the shortlisted sites which were potentially available were further reviewed for technical requirements, environmental considerations and land availability. The identified six sites were narrowed down to three before deciding on the current site.

This process is considered to have been comprehensive and has reasonably identified the present site using the criteria. In terms of the requirements for the converter station, its location, the time available and the environmental constraints in the area, it is considered that the site selection is reasonable.

In terms of benefits to East Devon, the applicant has identified these as:

- 1) Direct and indirect employment during construction.
- 2) Direct and indirect employment during the operational phase with additional subcontractors for grounds maintenance and general services.
- 3) Highway improvements to Long Lane (Passing Places)
- 4) Payment of Business Rates to EDDC.
- 5) Direct employment of specialist work during the preparation of the project with local businesses.
- 6) The opportunity for local residents and businesses to benefit from reduced costs of electricity, increased resilience to the network and a contribution to low carbon energy targets.
- 7) Payments to local landowners for easement agreements which will boost spending in the local economy.

The main benefits can be seen as either direct or indirect employment opportunities during the construction and operational phases which is welcomed but nevertheless this is seen as a limited benefit compared to the size of the project. Further benefits include a biodiversity net gain and additional planting. The proposal would also be DH ready to market the heat to connect to the existing network.

Overall, the development would meet an essential need for additional electricity supply capacity, which is required in the national and public interest. However, the proposed development is considered to be contrary to Strategy 7 of the EDLP and there are no supporting policies within the Rockbeare Neighbourhood Plan. As previously noted, this is not a typical land use, there are no directly relevant local plan policies and there are material considerations which must be given weight in the decision making process. These include the need for the development, energy security and transition to lower carbon electricity as well as Strategy 39 which offers support in principle. The previously approved outline application (16/2997/MOUT) is also given limited weight. The NPPF also supports sustainable development and states that renewable or low carbon energy project should be approved if the impacts are, or can be made, acceptable. It is for the decision makers to decide what weight should be attached to all the material planning considerations and other issues identified further in this report when weighing up the harm and benefits.

B. LANDSCAPE AND VISUAL IMPACT

Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the EDLP (2016) states that development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty. Development will only be permitted

where it: 1. conserves and enhances the landscape character of the area; 2. does not undermine landscape quality; and 3. is appropriate to the economic, social and wellbeing of the area.

Policy D2 (Landscape Requirement) of the EDLP (2016) states that existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. Measures to ensure safe and convenient public access for all should be incorporated. Measures to ensure routine maintenance and long term management should be included. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

Policy No. Rock05 (Important Views and Vistas) of the Rockbeare Neighbourhood Plan (2018) sets out that there are important panoramas, vistas and views within Rockbeare that contribute to its rural character and the quality of the countryside. Development should not significantly compromise the following panoramas, vistas and views: E. View northwards from Long Lane

The applicant has provided a Landscape and Visual Impact Assessment (LVIA) within the Environmental Report. The 2023 LVIA sets out the relevant changes from the 2016 LVIA and responds to the Rockbeare Neighbourhood Plan which was adopted following the approval of the previous outline application.

The application site is located within the 3E Lowland Plains Landscape Character and is also within the Clyst Lowlands Farmlands Devon Character Area. The highest part of the site is in the south eastern corner (41.5m AOD) with the lowest part of the site in the north western corner (36.3m AOD). The wider Clyst Valley landscape is gently undulating in its character and with some local rises such as the land near Treasbeare Farm (50m AOD). In the much wider landscape there are a number of more prominent ridgelines that occupy higher land above the Clyst Valley.

The development would be located in the defined countryside where one of the principal policy aims is to protect the distinctive landscape, amenity and environmental qualities of our rural areas. The site is currently an arable field, surrounded by other fields with Long Lane along the southern boundary. The area whilst predominately countryside is not completely undeveloped with a small industrial estate close by to the west, a larger group of commercial/hotel/training buildings around 500m to the west, the A30 trunk road to the south, Exeter Airport's runway to the north west and a small scattering of farm buildings to the east. The settlements of Cranbrook and Rockbeare approximately 2km to the north.

As stated above, government advice recognises the importance of the countryside and this is reflected in Strategy 46. The site is not in a designated landscape but is around 3.5km from the East Devon AONB. Treasbeare House (Grade II) is located around 900m north west and Rockbeare Manor and Park and Garden is located about 900m to the east of the site.

The submitted LVIA includes a number of additional viewpoints as requested by officers including Cranbrook and Treasbeare Farm. The LVIA concluded that the proposal would impact residential visual amenity from Treasbeare Farm and any harm to Cranbrook would not be significant. Officers requested views from the East Devon AONB however updated views were not received.

The Council has reviewed the submitted LVIA and the findings are generally accepted. However EDDC Landscape Architect has outlined the following exceptions. For Viewpoint 2 Rockbeare Recreation Ground, the view is taken from lower lying land and the proposal would be more prominent than shown. The Officer recommended off-site planting to screen the proposal. For Viewpoint 3 Silver Lane at Higher Southwood Farm, the growth of new planting is considered to be faster than the typical growth rate of between 0.3 and 0.5m a year. The Landscape Architect considers that the screening

would take 30 years to reach the heights indicated. The applicant responded and stated that it would consider off-site planting subject to agreement with the Parish Council and landowner and that the height of planting is not unrealistic.

In terms of the impact of the development on the character and appearance of the area, it is considered that the converter station would result in harm to the appearance and character of the site itself and due to the scale and nature of the development, will have a significant impact on the locality of the site. The impacts of the converter station on the landscape will be during construction and remain afterwards during the operational phase. The scale of the development and the industrial appearance with significant elements of exterior equipment and plant would result in harm to the character of the local area which is countryside. The proposal would therefore be in conflict with Strategy 46. When compared against the previously approved development, the overall impact is considered to be similar or no greater and it is acknowledged that the station under this application would be smaller in footprint but not in overall height.

The proposal would also be in conflict with Policy No. Rock05 (Important Views and Vistas) of the Rockbeare Neighbourhood Plan (adopted 2018) and would result in harm to important view E.

It is acknowledged that from some viewpoints, the development could be seen in context with the existing development in the area and would be compatible with the industrial scale of development at the Airport, Skypark and the Logistics Park. The tallest building at the airport is 12m in height. It is also noted that the Power Park development (ref. 22/0914/LDO) has been approved around 500m to the west with the maximum height of building set at around 13m (52 AOD). However, the converter station site would be located east of any existing development along Long Lane. The existing commercial and industrial buildings are generally up to 2 storeys in height with a maximum height of 10m. The other existing development of a hotel, training facility and the airport business park are all significantly closer to the airport and in terms of scale and appearance, are more appropriate to their setting. By its very function, the converter station will have an unusual appearance and the large size will make it prominent and of a different character to the other developments which, in turn, would result in an adverse change to the countryside of the locality. The Skypark (located on the former airfield) and Logistics Park are also allocated development sites in the EDLP whereas the application site is not allocated for development.

In terms of longer views and the impact on the wider landscape, the development due to its size and height will have an impact on the wider area albeit less than the closer locality. As part of the previous application, Historic England stated that the impact on the setting of the Registered Park and Garden and Rockbeare Manor would be largely acceptable but considered mitigation would be beneficial. As part of this application, no objections were received from Historic England. It is from the wider area including views from the East Devon AONB, that the development would be seen more in the context of other existing and planned developments in the area although this would not be the case from all viewpoints. Due to the nature and scale of the development, the impact on the wider area would be moderately adverse.

The overall conclusion is that the impact of the development on the landscape would be negative and this would conflict with the aims of government and local policy. However, consideration needs to be given as to whether mitigation could suitably reduce this impact to a more acceptable level and Paragraph 158 of the NPPF states that in the case of renewable or low carbon energy, applications should be approved if the impacts are, or can be made, acceptable. The parameter plan submitted to set out the important principles to be approved at this stage includes the provision of a landscape buffer area around the periphery of the site of at least 10m in width. Existing trees on the north and west boundaries would be retained. There is no land beyond the site boundaries that is controlled by the applicant to allow further planting.

The overall strategic landscaping and design would be reviewed as part of any reserved matters applications. A suitable landscaping scheme would help integrate the development into the landscape

although this would take a number of years to become fully effective. An advanced planting condition is also proposed to ensure planting is delivered as early as possible. A sensitive design and the use of suitable materials could also help to reduce the impact of the development on the landscape and would have a more immediate effect. The applicants have noted, however, that it will be utilitarian in form and there will be few opportunities to positively influence the scale, design and appearance of the development. The mitigation proposed would therefore have a positive effect on reducing the impact of the development on the landscape, particularly from wider areas but nevertheless, this will only be partial mitigation and cannot significantly eliminate the impact on the landscape, particularly in the short and medium term and bearing in mind the design constraints identified by the applicant.

The scheme will give rise to major and significant adverse landscape and visual effects on receptors within and in the immediate vicinity of the site and lesser effects on a number of visual receptors particularly to the north and east of the site. It is accepted that the level of landscape and visual effects will be no greater than for the previously approved scheme and that mitigation is proposed to reduce the overall impact. However due to the nature, location, and scale and size of the development, there will remain an adverse impact on the landscape, particularly from areas in the locality of the site and the proposal would conflict with Strategy 46 as well as Policy No. Rock05 (Important Views and Vistas) of the Rockbeare Neighbourhood Plan 2018. When balancing the harm of the development against the public benefits and interest, it is considered that the public benefits and significance of the development nationally would on balance outweigh the harm to the character and appearance of the countryside. Additionally, it is considered that the mitigation proposed and secured via conditions would help to make the development acceptable.

C. TRANSPORT, ACCESS AND MOVEMENT

Strategy 5B (Sustainable Transport) of the EDLP (2016) states that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

Policy TC2 (Accessibility of New Development) of the EDLP (2016) 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.

Policy TC4 (Footpaths, Bridleways and Cycleways) of the EDLP (2016) states that development proposals will be required to include measures to provide, improve and extend facilities for pedestrians and cyclists commensurate with the scale of the proposal.

Policy TC7 (Adequacy of Road Network and Site Access) of the EDLP (2016) states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9 (Parking Provision in New Development) of the EDLP (2016) states that spaces will need to be provided for parking of cars and bicycles in new developments. All small scale and large scale major developments should include charging points for electric cars.

The site is located north of Long Lane which is linked to the B3184 (Exeter Airport Road) and the A30 trunk road. From the B3184 to the Future Skills Centre, Long Lane has undergone widening works to ease traffic and allow for larger vehicles. However Long Lane is still single carriageway in parts and from the Future Skills Centre to the application site, the road varies in width and relies on passing places. Exeter Airport and Business Park are served by bus services into Exeter City Centre every

20 minutes and services to Pinhoe Station, Exmouth and Budleigh Salterton. Bus stops are located at the Future Skills Centre (10 minute walk) and Exeter Airport (18 minute walk). The Airport and Business Park are also well connected by cycling routes to surrounding settlements and employment sites.

During the operational phase, the converter station will only employ up to 7 full time equivalent staff members and consequently there will be a negligible traffic demand at the site and only occasional van movements. National Highways and DCC Highways have not raised any concerns with traffic movements during the operational phase of the development.

The main traffic demands will be through the construction phase and the submitted Transport Assessment (TA) identifies that the construction period would be over 48 months and would generate per day an average of 155 two way vehicular movements, 40 of which would be HGVs, 4 of which would be vans and 111 of which would be cars. The number of daily HGV movements will peak at up to 85 two-way movements per day, whilst the maximum number of total daily movements (HGVs plus vans plus cars) will peak at up to 274 two way movements per day. The proposal would generate approximately up to 7 Abnormal Indivisible Loads (AIL) in total during the construction phase. This is similar to the previously approved application however it is now anticipated that the construction period would be 48 months rather than 34 months meaning that the impact on the local network would be for an additional 14 months.

The Converter transformers themselves would be brought to site from the nearest suitable port and will comprise of 7 Abnormal Indivisible Loads (AILs) as each transformer transport vehicle may be up to 5m wide and over 200 tonnes gross weight. No AIL movements are permitted to the site via the Strategic Road Network (SRN) without the necessary advance approvals from National Highways. The returning empty vehicles would not be AILs because they 'close-up' after unloading the transformers.

To deal with the increase in construction traffic, it is proposed to provide minor widening works to Long Lane to accommodate the AILs and passing places will be provided from the Future Skills Centre to the application site to allow construction HGVs to pass and move. Appendix 11 of the TA shows 7 potential passing places from the site to the Future Skills Centre with the final details and locations of these to be secured via conditions. As part of the previously approved application, passing places were proposed from the B3184 to the site however as noted above improvements to Long Lane have been completed to facilitate the Power Park Development.

DCC highways and National Highways have been consulted on the application and both have recommended approval subject to conditions. DCC Highways have recommended a CEMP to be secured via a condition and have stated that the mitigation provided would reduce the impact on the local highway as best as possible. National Highways are satisfied the traffic impact of the development is unlikely to result to an unacceptable impact on the safe operation of the SRN subject to the submission of a Construction Traffic Management Plan (CTMP). This would provide full details of any road closures, temporary traffic measures, and signage and AIL routes and would be secure via a condition.

It is acknowledged that the traffic generation during the construction phase is high however it is not forecasted to exceed that previously approved. The main change is the length of construction however improvements to Long Lane have now been completed. As DCC Highways and National Highways have recommended approval it would be unreasonable to refuse the application on this matter.

The development has resulted in letters of concern from neighbouring properties, businesses and the Environment Agency located around the Harriers Court/Antiques Complex. These concerns relate to access during the construction period and seeking assurances that any measures would not restrict access or prevent deliveries. These concerns have been reviewed by the applicant who emphasises that a highway mitigation scheme has been proposed to provide a safe and suitable access

arrangement. Details relating to traffic management and passing places would be reviewed as part of the CEMP and CTMP and the passing places would be left in situ following the construction which could help residents and business in the long term. The applicant is also clear that there is no intention or requirement to close Long Lane during the construction or operation of the converter station and vehicular access will be maintained to all businesses and property within Harrier Court. In any case, the applicant would work with local properties and businesses.

Access to the site is a reserved matter but it is known at this stage that up to two access points would be required through the southern boundary of the site. The LPA, given the smaller scale of the development is of the view that only one access point is required however a second construction access point is supported assuming that the hedgerow removed is re-planted. The parameter plan shows the broad areas for the access points which avoids trees although sections of the frontage hedge will need to be removed but this would be compensated for by additional planting around the site and the monitoring of potential species.

The illustrative layout shows that some parking will be provided on site to serve the operational demands of the site but it is noted that parking is a reserved matter and would be dealt with at a later date. Given that the site would employ up to 7 full time equivalent staff members, the level of car parking required is considered to be low. The LPA would also secure EV charging points as part of any reserved matters application.

Policy TC2 requires development to be located so as to be accessible by pedestrians, cyclists and public transport to minimise the need to travel by car. There are dedicated cycle routes in the area but they do stop short of the site (by about 700m) which would require cyclists to use Long Lane itself along part of its route. As noted above, the nearest bus route stops would be at the Future Skills Centre and Exeter Airport. Despite a bus stop being within walking/cycling distance of the site, the site is not particularly access by pedestrians and cyclists as there is no dedicated route. However, as the operational phase would only generate a small number of staff, it is considered that this issue is not accorded significant weight in the determination of the application.

In terms of transport, the proposed development is considered to be acceptable subject to a series of mitigation measures to be secured via conditions. The proposal is therefore in accordance with TC2, TC4 and TC7 of the EDLP.

D. SUSTAINABILITY AND CLIMATE CHANGE

Paragraph 152 of the NPPF (2023) states that the planning system should support the transition to a low carbon future in a changing climate. It should help places to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Strategy 38 (Sustainable Design and Construction) of the adopted Local Plan (2016) states that encouragement is given for proposals for new development and for refurbishment of, conversion or extensions to, existing buildings to demonstrate through a Design and Access Statement how:

- a) Sustainable design and construction methods will be incorporated, specifically, through the re-use of material derived from excavation and demolition, use of renewable energy technology, landform, layout, building orientation, massing, use of local materials and landscaping;
- b) The development will be resilient to the impacts of climate change;
- c) Potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction, are to be mitigated.
- d) Biodiversity improvements are to be incorporated. This could include measures such as integrated bat and owl boxes, native planting or green roofs.

Strategy 39 (Renewable and Low Carbon Energy Projects) of the adopted local plan (2016) states that renewable or low-carbon energy projects in either domestic or commercial development will in principle be supported and encouraged subject to them following current best practice guidance and the adverse impacts on features of environmental and heritage sensitivity, including any cumulative landscape and visual impacts, being satisfactorily addressed.

Strategy 40 (Decentralised Energy Networks) of the adopted Local Plan (2016) states that decentralised Energy Networks will be developed and brought forward. New development (either new build or conversion) with a floor space of at least 1,000m² or comprising ten or more dwellings should, where viable, connect to any existing, or proposed, Decentralised Energy Network in the locality to bring forward low and zero carbon energy supply and distribution.

The overall purpose of the interconnector to France is to transmit electricity to Britain and vice versa if necessary. The interconnector is also to be routed via waters near Alderney but does not make landfall to take advantage in the future of tidal electricity generation in the seas around the island. This should allow higher carbon electricity generation in Britain, in part, to be replaced by lower carbon nuclear generation from France, together with improved energy security. Interconnectors can therefore help with smoothing the variability of renewable generation across different areas and facilitate the connection and integration of renewables. The proposal as noted above is considered to be a low carbon project under the NPPF and Strategy 39 which is supported in principle.

In terms of sustainable design and construction, the detailed design of the station is a reserved matter and a condition shall be attached to the decision notice requiring the submission of a Sustainability Statement. The statement shall detail how the proposal and its design addresses the requirements of Strategy 38 and Strategy 40. The LPA has recommended that PV panels are included on the roof of the converter station to generate electricity.

The DC to AC conversion process at the converter station loses 0.5% of the energy transmitted in the form of waste heat. This 6.25MW of waste heat is produced at 45-50 degrees Celsius for 90% of the year and amounts to 55.2 GWh, sufficient to heat around 3,000 typical UK homes. Heat in the converter halls is generated by the water cooled inverter valves. Cooling water is supplied to the valves and the heated water is then circulated outside to fan cooled air radiators where the temperature is dropped before returning to the converter halls.

The proposed FAB Link project is a transmission scheme and not an energy generation scheme, although provision was made in the previously approved layout for the future export of waste heat to the existing district heat network. Condition 13 of the original outline consent required details to be submitted as part of the reserved matters application(s) to enable the future use of waste heat from the site in a decentralised heat network. As with the previously approved scheme, provision has been made within the illustrative proposals to enable the converter station to be 'DH ready' and details would be required as part of the reserved matters application(s) to enable the future use of waste heat from the site in a decentralised heat network. The applicant has confirmed that they agree to the principal of connecting to the DHN if it is financially viable to do so and as such conditions are proposed which aim to strike the balance between ensuring that all reasonable requirements to secure the use of the waste heat are pursued and also recognising that there may be constraints outside the reasonable control of the applicant such as technical issues or no reasonable offer to take the heat being received from other third parties. Whilst the condition does not guarantee delivery of the DHN connection it would not be reasonable to make this an absolute requirement through, for example, a legal agreement as the ability to deliver the connection is reliant on third party cooperation.

In terms of waste, it is acknowledged that there would be waste arising from the construction of the proposal and some from the operation. Waste arising from the development can be mitigated through the implementation of a Waste Strategy attached to any approval.

In terms of sustainability, the overall design of the building is a reserved matter however the proposal in principle is supported by Paragraph 154 of the NPPF (2023) and Strategy 39. The proposal would be DH ready subject to conditions in relation to further details and securing a connection.

E. BIODIVERSITY AND ECOLOGY

Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible. Paragraph 180 of the NPPF goes on to list principles that Local Authorities should apply when determining a planning application. It is stated within Paragraph 180(d) of the NPPF that opportunities to improve biodiversity in and around development should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Strategy 47 (Nature Conservation and Geology) of the EDLP (2016) states that all development proposals will need to:

1. Conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats.
2. Maximise opportunities for restoration, enhancement and connection of natural habitats.
3. Incorporate beneficial biodiversity conservation features.

Policy EN5 (Wildlife Habitats and Features) of the EDLP (2016) 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.

The closest designated site is the East Devon Pebblebed Heaths SPA/SAC/SSSI, located about 3.5 km to the south east of the site. There are also a number of non-statutory designated sites within 2 km of the site, the nearest being the Beautiport County Wildlife Site (ponds with amphibian interest) a short distance to the south (c.100m), Great Covert Unconfirmed Wildlife Site (UWS) to the south east and Exeter Airport Other Sites of Wildlife Interest (OSWI) to the north west.

A Preliminary Ecological Appraisal of the proposal has been completed and the 2023 Environmental Report concludes that the proposals will be unlikely to have direct impacts on any statutory or locally designated site for nature conservation. Natural England raised no objection to this planning application.

In terms of the local sites, it is considered that disturbance from noise, light and increased human activity would be unlikely but there could be some limited risk from contamination and air-borne pollutants. Mitigation during construction could be controlled through the requirement for a Construction and Environmental Management Plan (CEMP) and during operation, a plan detailing how fuels or other toxic materials would be dealt with including an emergency procedure.

In terms of hedgerows and trees, there are managed hedgerows around the site boundaries with a number of oak trees in the southern and western hedgerows. The main site is in arable production and has a low ecological interest. The parameter plan submitted shows that these boundary trees are to be retained with at least a 10m landscaping zone to protect their root protection area and the existing hedgerows are to be retained except to gain access through the southern boundary. The proposed development will not therefore have any significant impact on trees subject to a full tree survey secured via a condition.

Policy EN5 requires that where development is permitted on sites that are host to important wildlife habitats or features, mitigation will be required. In terms of protected species, mitigation is proposed for possible impacts on birds, bats, dormice and badgers to include:

Birds - records of 2 species of birds (house sparrow *Passer Domesticus* and skylark *Alauda arvensis*) were identified around the site. Clearance of vegetation outside the nesting and breeding season and, if this cannot be avoided, inspections by a qualified ecologist to ensure no nests are present and setting up exclusion zones if necessary. As mitigation additional planting is proposed.

Bats - The desk study identifies the presence of 11 species of bat within 5km of the proposed development site. The 2023 surveys confirmed that the southern boundary was the most important feature for bat activity. The proposals include the retention of hedgerows and trees. Additional surveys are required prior to works and temporary works and permanent operational lighting should be controlled to limit light spill. As mitigation additional planting is proposed.

Dormice - The presence of dormice is likely in the existing hedgerows and there are records of hazel dormice (*Muscardinus Avellanarius*) within 1.9km of the site. Any hedgerow removal needs to be done as a phased approach as set out in the Dormouse Conservation Handbook. Any area to be cleared should be inspected by a suitably qualified ecologist. Additional planting is proposed to mitigate the loss of hedgerow removal on Long Lane. Licence required if dormice are present on site.

Badgers - Evidence of the presence of badgers was confirmed with an active single hole sett. The sett is within a hedgerow proposed to be retained. The scheme design should be managed to avoid the need for construction works within 30m of the sett to avoid disturbance to any badgers using it. An additional badger survey is required and should additional setts be identified, a Natural England Licence will be needed.

Invertebrates - The desk study did not identify any new records of invertebrates within 2km of the proposed development site. The majority of hedgerows would be retained and additional planting proposed.

Reptiles - A record of great crested newts was identified 2.1km from the proposed development site. The proposal will not result in damage to any habitats likely to be of value to amphibians as it primarily affects arable ground.

Taken together it is recognised that for Badgers and Dormice, the proposed works could require a European Protected Species Licence from Natural England. In these circumstances the Local Planning Authority has a statutory duty under Regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species may be affected. The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations: The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application.

The three tests are:

- i. the activity must be for imperative reasons of overriding public interest or for public health and safety;
- ii. there must be no satisfactory alternative
- iii. favourable conservation status of the species must be maintained

In this case it is considered that the imperative reasons of overriding public interest can recognise the comprehensive nature of development that is proposed – that is the construction of a converter station, associated energy security and lower carbon electricity.

In considering whether there is a satisfactory alternative it is noted that the development is of local and national significance and the site was selected through a comprehensive site selection process. As explored already within the report, a converter station was previously approved on this site and changes have been made to reduce its overall impact.

To mitigate for the loss of habitats, significant additional (new) habitat is being created across the site to provide new and enhanced foraging opportunities. The full suite of mitigation will be brought together in an Ecological Mitigation Strategy to be secured via a condition. As part of the scheme the applicants has committed to provide a 10% Biodiversity net gain which can support habitat creation for the protected species and therefore further secure their ecological status on the site.

With appropriate conditions to secure details of the mitigation, it is considered that the ecological status of the protected species can be maintained in a favourable condition. On this basis (and as wildlife moves around) further up to date protected species surveys at subsequent reserved matters stages will also be required. These can be secured at the validation stage of such application using the validation checklist and there is no need for further conditions on this application.

Having regard to the above assessment, it is considered that the three tests can be met and that Natural England are likely to grant an EPS licence.

The District Council's Ecologist reviewed the application and initially submitted a holding objection due to the date of the bat surveys which were undertaken in 2016. The District Ecologist recommended that updated bat activity surveys were submitted. The applicant instructed additional Bat Surveys in August and September 2023 and the findings were reported to the District Ecologist. The District Ecologist reviewed and stated that the outlined proposed ecological avoidance, mitigation, and enhancement measures (subject to the recommended conditions), and indicative biodiversity net gain calculations are considered acceptable and proportionate.

The mitigation proposed as part of this application will need to be secured and this can reasonably be achieved through a suitably worded condition in the form of the requirement for the approval of an Ecological Mitigation Strategy based on the proposed mitigation in the Environmental Report. It is noted that due to the location of Exeter Airport, the provision of bird and bat boxes are not recommended as these would encourage birds and bats in close proximity to the airport.

Biodiversity Net Gain (BNG)

As part of this planning application, a biodiversity net gain of at least 10% is expected based on the most up to date metric. The current version of the metric is 4.0 and this version was used to calculate the BNG for this site.

The existing site is an intensively farmed arable field and based on the illustrative landscape scheme the BNG assessment metric indicates that the scheme will present a 46.52% increase in habitat units and an 88.49% increase in hedgerow units. This would be through the enhancement of hedgerows, and planting of suitable species rich grassland and scrub/shrub areas within the landscape design.

Whilst the final landscaping scheme would be secured as part of a reserved matters application and the BNG needs to be secured via a condition and then be evidenced in the subsequent reserved matters, it is considered that the application site would result in a BNG of at least 10%.

F. ARCHAEOLOGY AND CULTURAL HERITAGE

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty of the decision-maker where a proposed development would affect a listed building or its setting, stating: "In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority...shall 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."

Paragraph 195 of the NPPF requires that Local Planning Authorities identify and assess the particular significance of any heritage asset. Paragraph 199 requires that great weight is given to the conservation of designated heritage assets and this position is further supported by EDLP Strategy 49 (The Historic Environment) and Policies EN7 (Proposals Affecting Sites Which May Potentially Be of Archaeological Importance), EN8 (Significance Of Heritage Assets and Their Setting) and EN9 (Development Affecting A Designated Heritage Asset).

In terms of archaeology, Chapter 5 of the Environmental Report 2023 sets out that a programme of desk-based studies, geophysical survey and trial trenching has identified that the application site contains remains associated with the use of the airfield in WWII, also features associated with agricultural activity such as former field boundaries and extraction pits subsequently used as ponds.

As part of the previous outline application, geophysical surveys had identified an anomaly that may be indicative of the presence of an earlier field system on a different alignment to the current field system. The Historic Environment Team at Devon County Council at that time considered that the ground works associated with the construction of the converter station have the potential to expose and destroy any archaeological and artefactual deposits and consequently the submission of a programme of archaeological works to be carried out was requested.

Subsequent work was undertaken and a report submitted to the Historic Environment Team at DCC. This confirmed that there are no significant archaeological features on the site and the anomalies shown up on the original geophysical survey were more to do with changes in the properties of the topsoil rather than representing archaeological features cut into the subsoil. As part of this application, DCC's Historic Environmental Team made no comments with no further archaeological mitigation required.

In terms of designated heritage assets, the site is located 400m from Lower Southwood Cottage and Farmhouse Grade II Listed, 850m from Little Silver Grade II and the Nook Grade II, 950m from Treasbeare Farmhouse Grade II and 900m from Rockbeare Manor Grade II Park and Garden. Rockbeare Manor Grade I is approximately 1.5km to the east of the site.

- a. Lower Southwood Farmhouse and Cottage - a Grade II listed building located about 400m east of the site. This is the closest listed building to the site and an element of its significance is the predominantly agricultural setting. There would be views of the site from the listed building and agricultural land in between where the scale of the development would have some harmful impact on the setting albeit this would be slight due to the separation distance and the presence of other commercial buildings in the area (albeit further away and smaller in scale).
- b. Little Silver - a pair of Grade II listed cottages located about 850m to the north-east of the site. There would be views of the site from these properties which have an agricultural setting. As with Lower Southwood Farm, there would be some harmful impact on the setting but this would be slight due to the separation distance and some existing commercial development in the area.
- c. The Nook - a Grade II listed cottage located about 850m to the north-east of the site. The converter station would be visible from the site and the impact on the setting would be similar to Lower Southwood Farm and Little Silver.

- d. Treasbeare Farmhouse - a Grade II listed farmhouse located around 950m north west of the site. There would be views from the farmhouse to the site and farmland around the building is allocated for SANGS as part of the Cranbrook Plan DPD. There would be some harmful impact on the setting which is predominately agricultural but this would be limited due to the separation distance, presence of the airport and some existing commercial development in the area.
- e. Rockbeare Manor Registered Historic Park and Garden - a Grade II Historic Park and Garden located about 900m to the east of the site. The proposed converter station would be visible from some parts of the park but would be to a limited degree be seen with existing commercial buildings and the airport further to the west. As such, the application considered that there would result in a loss of significance from the change to the setting although was considered to be slight only. Historic England made no comments on the application but further work was undertaken as part of the approved outline application to satisfy the concerns Historic England made at the time.
- f. Rockbeare Manor - a Grade I listed Regency period country house located about 1.5 km to the north-east of the site. Also at the Manor there are other associated listed buildings and structures, listed of grade II* or II. The same conclusions on the park and gardens by Historic England are reached concerning the setting of the Manor.

There is also likely to be a very small loss of significance to other designated heritage assets located further afield including Lions Farm (Grade II), Farringdon House (Grade II) and Killerton House and its Registered Park and Garden (both Grade II*). In terms of Killerton House, there is a Setting Study which just includes the site within the setting study area. There are no key views of the site identified and seen with Cranbrook, the airport and commercial buildings in the locality, there would be no discernible loss of significance as a result of changes to the wider setting.

The setting of a designated heritage asset is an important element in the significance of these assets and accordingly the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special regard to the desirability of preserving the setting of listed buildings. Therefore, considerable importance and weight should be given to the preservation of setting when carrying out the balancing exercise in decision making. The NPPF identifies that where a development will have less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. However, even if the harm is less than substantial, the balancing exercise should not ignore the overarching statutory duty and the emphasis should be on avoiding harm either by designing it out or suitable mitigation. Due to the scale of the development within open countryside, it is acknowledged that there would be a loss of significance to a number of nearby designated heritage assets resulting in less than substantial harm. In terms of proposed mitigation, planting is proposed on the periphery of the site which will help integrate and screen the development into the landscape but this will only go so far and would be assessed as part of any reserved matters application and therefore consideration also needs to be given to the contribution that the asset's setting makes to its significance, the degree of harm and public benefits.

A converter station has previously been approved on this site which is a material consideration and EDDC's Conservation Team stated that "having regard to the reduced/smaller scale of the now proposed scheme it is likely that there will be no additional impact from the revised scheme and in fact any impact would actually either be the same or reduced". The 2023 Environmental Report submitted by the applicant states that "the effects on designated heritage assets represent less than substantial harm" and "the benefits to the public of the FAB Link interconnector...clearly outweigh the harm to any designated heritage assets".

In summary, the LPA recognises that there would be a loss of significance to several designated assets resulting in less than substantial harm and conflict with Strategy 49 and Policies EN7, EN8 and EN9. The proposal would include some mitigation however this would be limited and would not entirely screen the development. The public benefits of the scheme include energy security, a transition to low carbon electricity, employment, a biodiversity net gain and the station would be 'DH

ready'. Furthermore, this is a Project of Common Interest and is nationally significant in terms of energy with support from both the UK and French Governments. In balancing these considerations, the lack of an objection from Historic England and EDDC Conservation and the significant public benefits and the mitigation proposed would on balance outweigh the identified loss of significance through changes to the wider setting.

G. AIR QUALITY AND HEALTH

Paragraph 174 of the NPPF requires that the planning system should contribute to and enhance the natural and local environment by preventing new development from contributing to or being put at unacceptable risk from unacceptable levels of air pollution. This is reflected in Policy EN14 of the EDLP which does not support development that would result in unacceptable levels of pollution to the atmosphere.

Chapter 6 of the 2023 Environmental Report considers the implications of changes to the proposed converter station in relation to air quality and concludes that there will be no change in the effects previously identified during the construction and operational phases.

Air quality is mainly relevant during the construction phase from potential dust and particulates. In particular, the generation of dust through earthworks, construction and vehicular movements could be large but the assessment considers that the construction dust impacts will be medium due to the medium level of sensitivity of the surrounding area dominated more by commercial uses than residential. The District Council's Environmental Health Officer has recommended that the council secures a Construction and Environment Management Plan (CEMP) which will include air quality to ensure that the proposed mitigation measures are secured as part of the construction process and this condition is included in the recommended conditions within this report.

During the operational phase, the traffic to the site will be low and mitigation is not required to cover air quality as the impacts will be minimal.

Therefore the proposal is considered to be in accordance with Policy EN14 subject to conditions.

H. AMENITY, NOISE AND VIBRATION

Section 12 of the NPPF is clear that planning should be a means of finding ways to enhance and improve the places in which people live their lives. This means that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 185 of the NPPF requires that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

Policy EN14 of the EDLP protects against development that would cause unacceptable noise pollution.

Policy D1 of the EDLP sets that that development proposals should not adversely affect the amenity of occupiers of adjoining residential properties.

The nearest employment units are 80m to the west of the site which would be occupied by workers during the day. The closest neighbouring residential properties are approximately 215 from the site and are located within the Antiques complex. There is also existing noise from the A30, Exeter Airport Business Park and Exeter Airport.

An updated assessment of the impact of the development in terms of noise and vibration is set out in Chapter 7 of the 2023 Environmental Report. In terms of vibration it is considered that during construction the only potential vibration impact would be from piling works and due to the separation distance to the nearest noise sensitive receptors this is not likely to be significantly harmful subject to mitigation being considered in the CEMP. The plant associated with the operational phase would not generate sufficient levels of vibration to result significant harm.

Noise impacts may arise during construction activities and has therefore been assessed as part of the application submission. The Environmental Health Officer has therefore recommended a condition to require a CEMP to be agreed which will include noise and this is included in the recommended list of conditions included in this report.

During the operational phase the main noise sources would be from the converter hall, super grid transformers and the cooling plant relating the level and character of the noise on receptors. The assessments carried out indicate that the level will be well below the background level during the day. At night the level would not exceed the background level by up to a margin of between 2dB and 3dB. At this stage, the equipment specifications and design have not been finalised but possible mitigation could include acoustic enclosures for the super grid transformers and locating the cooling plant away from the nearest noise sensitive receptors. Accordingly, suitable noise conditions are imposed on any planning permission to require details of how the buildings and equipment will be designed and attenuated to control noise emissions to an agreed level together with monitoring of the station when operational.

The Environmental Health Officer has considered the application and raised no objections subject to conditions.

The proposed development as set out within the parameters plan would have a total height of up to 20m. The nearest residential dwellings would be approximately 215m to the west. The proposed development would be screened by existing and proposed landscaping and existing buildings. Given the proposed separation distances between existing dwellings and the proposed development, it is considered that the proposed development would not have a detrimental impact on the residential amenities of existing occupiers in relation overshadowing, loss of light or loss of outlook. It is acknowledge that the development may be visible from some surrounding dwellings but this alone would not be a reason to refuse the application. The detailed design of the building and impact on neighbouring properties would be assessed as part of any future reserved matters application.

In summary, the proposal is considered to be acceptable in terms of amenity, noise and disturbance and would be in accordance with Policies D1 and EN14.

I. FLOOD RISK AND DRAINAGE

Paragraph 159 of the NPPF states that inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at highest risk (whether existing or future). When determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Policy EN21 of the EDLP states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use will be permitted in areas subject to river and coastal flooding. Wherever possible, developments should be sited in Flood Zone 1. The policy sets out a sequential approach whereby if there is no reasonably available site in Flood Zone 1, only then will locating the development in Flood Zone 2 and Flood Zone 3 be considered.

Policy EN22 of the EDLP (2016) states that planning permission for new development will require that: 1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion. 2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development. 3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures. 4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications. 5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

The site is located within Flood Zone 1 where there is a very low risk of flooding. In relation to surface water run-off, there is additional allowance made for climate change - originally at 20%, more recently at 40% and during 2022 increased to 45% within East Devon. For this application, the 45% allowance has been used for the 2023 Assessment. As required for a development of this size, a Flood Risk Assessment (FRA) has been submitted as part of the application.

During the construction period, there may be impacts on surface water and ground water flooding which could change the natural hydrological characteristics of the site and there may be a temporary increase in surface runoff due to the low permeability of the construction area. Detailed proposals for the management of surface water and silt run-off from the site during construction of the development shall be secured via a condition to any approval.

A surface water drainage strategy has been submitted as part of the FRA. The NPPF and the local plan policies promote the use of sustainable drainage systems (SuDS) which provides a number of benefits and it should be the aim to discharge surface water as high up the hierarchy of drainage options as reasonably practical with the preferred option being into the ground to mimic natural drainage such as infiltration and natural features.

Infiltration tests done on site which established unacceptable infiltration rates and therefore it has been proposed to employ attenuation drainage techniques before discharging to ground. This would consist of a network of gullies, linear drainage channels and some areas of permeable construction to discharge into the onsite gravity surface water network which would then feed into an attenuation ditch (area of about 2000 sqm) close to the northern boundary of the site before discharging into a field to the north of the site.

The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who initially objected to the application and required additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered. The applicant submitted additional information including a positive drained area of 2.2713 ha and demonstrated that the outfall pipe from the attenuation is within the project ownership. DCC Flood Risk reviewed the application and removed their object subject to a pre-commencement condition.

The Environment Agency were consulted on the application and raised no in-principle objection to the proposal in terms of their statutory planning remit. South West Water have no comments or concern with the application.

Therefore, the application is considered to be acceptable in relation to flood risk and drainage and would comply with Policies EN21 and EN22 of the adopted Local Plan.

J. GROUND CONDITIONS AND CONTAMINATION

Policy EN16 (Contaminated Land) of the EDLP (2016) states that where it is anticipated that contamination may be present on or near to a development site, a contaminated land assessment will

be required. The assessment must be agreed with the Council and must: a) Identify and characterise the contamination; b) Identify the risks; and c) Identify remediation and/or mitigation measures. Where identified as necessary, the agreed measures must be taken to remediate the site prior to or during the development. Development on or in close proximity to active or former waste sites will only be permitted where it can be demonstrated that there will be no harm to future occupiers of the site from leachate or landfill gas or other waste arisings.

The site is underlain by Aylesbeare Mudstone group and the underlying bedrock is classified as a secondary B aquifer which may store and yield limited amounts of groundwater. There are no Groundwater Source Protection Zones (SPZ) within 2 km of the site and the Environment Agency records show there are four licenced groundwater abstractions within 1 km of the site, for agricultural purposes.

The proposal has been considered by the applicants for potential contamination from disturbance of the aquifer and mobilisation of existing contaminants during construction and their view is that this is considered unlikely due to the former land use and the characteristics of the underlying aquifer. The Environment Agency have no in-principle objection to the proposal and the Contaminated Land Officer has raised no concerns subject to an unexpected contamination condition. Therefore the proposal is considered to comply with Policy EN16.

K. AGRICULTURAL LAND AND SOILS

Paragraph 174 of The NPPF requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.

Policy EN13 of the EDLP which aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The site consists of arable agricultural land with the vast majority of the site being classified as Grade 3a in the Agricultural Land Classification (ALC). 0.17 ha of the site in the south western corner is Grade 3b. The "best and most versatile" grades are considered to be grades 1, 2 and 3a where the NPPF requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In addition, the planning system should contribute to and enhance the natural and local environment, including protecting and enhancing soils. Policy EN13 aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The proposed development would result in the permanent loss of this agricultural land starting at the construction stage. The development area would not cover the entire site with the operational area being up to 3.4ha. It is noted that a converter station has previously been approved on this site and the benefits and overriding need of the scheme are considered to justify the loss of the BMV agricultural land. Furthermore, it is highly unlikely that a development of comparable size could be sited within the search area without loss of the best and most versatile agricultural land. It is recognised that the soils on site are a valuable resource and it is recommended that any planning permission granted should have a condition to require a Soil Resources Plan as part of the CEMP. Therefore the proposal is considered to comply with Policy EN13.

L. DESIGN AND LAYOUT

Section 12 (Achieving well-designed places) of the NPPF (2023) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Strategy 48 (Local Distinctiveness in the Built Environment) of the EDLP (2016) states that local distinctiveness and the importance of local design standards in the development process will be of critical importance to ensure that East Devon's towns and villages retain their intrinsic physical built qualities. Where towns or villages are or have been despoiled we will seek to have qualities reinstated through good design. Use of local materials and local forms and styles will be essential to this distinctiveness.

Policy D1 (Design and Local Distinctiveness) of the EDLP (2016) states that in order to ensure that new development, including the refurbishment of existing buildings to include renewable energy, is of a high quality design and locally distinctive.

Policy D2 (Landscape Requirements) of the EDLP (2016) states existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

In terms of design, the appearance, layout and scale of the buildings and equipment is a reserved matter to be considered in detail at a later stage. However, to be able to properly assess the principle of the development and harm to the character and appearance of the area, some detail is required at the outline stage either in terms of indicative detail or through more mandatory elements such as parameter plans and details in the Design and Access Statement.

The parameter plan sets out that the operational area would be up to 3.4ha within the centre of the site surrounded by at least a 10m wide strategic landscape buffer zone, with two possible access points on the southern boundary. A maximum ground level is indicated together with a height restriction for buildings and equipment/plant/machinery of 20m and a maximum building floor area of 9,750m sqm. This would be slightly smaller than the previously approved application which had an operational area of up to 3.6ha and a maximum floor area of 11,000 sqm.

Various indicative drawings have been submitted to show how the development could be accommodated on site and the possible appearance and scale of the development. These would not, however, form part of any planning permission granted. This gives an indication of how the site could be developed and has assisted in the consideration of the planning issues. This shows that there is likely to be one value hall, exterior areas for equipment as well as other ancillary areas for access and parking.

The converter station would be utilitarian in form and there are few opportunities to positively influence the scale, design and appearance of the development. This means that screening the development with landscaping is crucial and any landscaping plans submitted must be to the highest standard possible.

As stated above, one way to help mitigate the visual impact of this development on the landscape is through appropriate and sensitive design. Whilst recognising that some elements of the development will be dictated through its function, nevertheless, there are some opportunities to achieve good

design and layout to minimise the impact of this development on the surroundings. The LPA recommends that the development is located closer to the western boundary, areas of hardstanding are reduced, the ancillary building is moved and only once access is proposed. These matters would be reviewed as part of the matters applications.

In summary, whilst acknowledging that the proposal would be utilitarian in form and would be located in open countryside, the LPA is of the view that improvements can be made to the design and layout as part of the reserved matters application which result in an acceptable development. The proposal would therefore accord with Strategy 48 and Policies D1 and D2.

M. ARBORICULTURAL IMPACT

The NPPF sets out in Paragraph 130 that planning decisions should be sympathetic to local character, including the landscape setting. Paragraph 131 acknowledges that trees make an important contribution to the character and quality of environments, and can also help mitigate and adapt to climate change.

Policy D3 (Trees and Development Sites) of the EDLP states that planning permission will be refused for development resulting in the loss or deterioration of ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of the development in that location clearly outweigh the loss. Furthermore, permission will only be granted for development where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction and that the council will seek to ensure that there is no net loss in the quality of trees or hedgerows resulting from an approved development.

The site is in agricultural use with trees located along the field boundaries. There are approximately 14 trees along the field boundaries as well as existing hedgerows. None of the existing trees are TPO protected and there are no veteran trees on or around the site.

As shown on the parameter plan, all existing trees are to be retained as part of the development. The vast majority of the existing hedgerows are to be retained except for the access points. As part of the Long Lane passing places, sections of the existing hedgerow would be removed and replaced to create the passing places. The Parameter Plan shows a Strategic Landscape Buffer around the site of at least 10m in width and the Illustrative Layout Plan proposed a mix of woodland planting, native shrubs and tree planting. Landscaping and planting is a reserved matter and opportunities to increase planting and trees will be reviewed. An advance planting condition would be attached to the decision to ensure the early delivery of landscaping to help reduce the overall impact of the development and to help mitigate and adapt to climate change.

The application was reviewed by EDDC Trees who have no in-principle objections to the proposal subject to a full BS 5837 survey including Arboricultural Impact Assessment (AIA), Tress Protection Plan (TPP) and Arboricultural Method Statement (AMS). A tree survey including AIA, TPP and AMS would be secured via a condition.

Whilst the loss of hedgerow is regrettable, nevertheless the existing trees and vast majority of hedgerows are to be retained and those on the boundaries will help screen the development. Therefore, officers consider that the proposal is acceptable in accordance with Policy D3.

N. AIRPORT SAFEGUARDING

Policy TC12 (Aerodrome Safeguarded Areas and Public Safety Zones) states that the outer boundary of the aerodrome safeguarded areas and the Public Safety Zones for Exeter International Airport are shown on the Proposals Map. Within these areas planning permission will not be granted for

development that would prejudice the safe operation of protected aerodromes or give rise to public safety concerns. Permission will not be granted for developments that will unduly prejudice future development or expansion programmes or potential at Exeter airport.

The site is located close to the Exeter Airport runway which has an Instrument Landing System (ILS) and Radar and a safeguarding assessment is required with any planning application. As part of the previous outline application, Exeter Airport raised concerns with the tall construction equipment and cranes which could impact on safeguarding and stated that the developer would require a Tall Equipment permit issued by Airfield Operations.

As part of this application, Exeter Airport initially placed a holding objection pending the submission of the required safeguarding assessments (Instrument Landing System (ILS), Navigational Aids (NAVAIDs) and Radar Technical Assessment). The applicant subsequently submitted further information and safeguarding assessments to the LPA except for an Instrument Flight Procedure (IFP) Assessment. Exeter Airport were consulted on these assessments and concluded that there will be an impact to the primary navigational aids that provide instrumented precision approach procedures. However, Exeter Airport stated that the impact is acceptable and subject to a condition requiring the production of the acceptable Technical Assessment. Therefore subject to a condition, the application would be in accordance with Policy TC12.

CONCLUSION

In conclusion, the proposed development of a converter station would be low carbon project and would help to meet an essential national need for additional electricity supply capacity. The proposal would be located in open countryside and the adverse effect on the landscape would be in conflict with Strategy 7 and 46 of the EDLP as well as Policy No. Rock05 (Important Views and Vistas) of the Rockbeare Neighbourhood Plan 2018.

Whilst the proposed development is not a typical land use and there are no directly relevant local plan policies, the proposed development is considered to be acceptable in terms of amenity, air quality, flood risk, arboriculture, ecology and transport subject to conditions. Furthermore, there are a number of material considerations which must be given weight in the decision making process. These include the need for the development, energy security and transition to lower carbon electricity as well as the support in principle offered by Strategy 39. The previously approved outline application (16/2997/MOUT) is also given limited weight as it has lapsed. The NPPF states that renewable or low carbon energy project should be approved if the impacts are, or can be made, acceptable. The mitigation proposed including a biodiversity net gain and passing places on Long Lane would help to make the development acceptable and it is considered that the development would result in no greater harm than the previously approved scheme.

In weighing up the benefits and harm of the development, it is considered that the overall benefits would outweigh the harm on balance and the application is recommended for approval subject to conditions.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Reserved Matters

Approval of the details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for the development shall be obtained from the Local Planning Authority in writing before the development is commenced. Development shall be carried out

in accordance with the approved details and any subsequent non material amendments as shall be approved in writing by the Local Planning Authority.

Reason: The application is in outline with all matters reserved. The approval of reserved matters applications will be necessary to allow development to progress.

2. Time period for submission

Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years 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 & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. List of Approved Plans

The development hereby permitted shall be undertaken in accordance with the parameters set out in the following plans which are hereby approved:

Converter Station Location/Site Plan - 7729-0454-09 A, received 21 June 2023
Parameters Plan - 7729-0587-04, received 20 June 2023

Reason: For the avoidance of doubt and in the interests of proper planning.

4. Surface Water Drainage

Prior to or as part of the Reserved Matters for layout, 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 Drainage Strategy Converter Station Layout Option 2 (Drawing No. JNY8091-24, Rev. B, dated. 24th May 2023).
- (b) Detailed proposals for the management of surface water and silt run-off 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) 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 scope of which shall have previously been agreed in writing with the LPA in consultation with The Lead Local Flood Authority. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor. The actual alignment of the ditch shall be provided.

The development shall not be brought into use until the works have been approved and implemented in accordance with the details under (a) - (e) 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.

5. Advance Planting

Prior to or as part of the first reserved matters application, a scheme of advance planting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the location, species and size of planting and a timetable for implementation. Planting shall take place in accordance with the agreed details and shall be retained for the lifetime of the development. If within a period of 10 years from the date planted, any planting undertaken pursuant to this condition dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with other(s) of similar size and species.

Reason - Details are required prior to the commencement of development to allow planting in key areas to become established earlier and provide a greater contribution to the setting and landscape mitigation that is proposed within the application in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan.

6. Finished Floor Levels

The details to be submitted as part of the reserved matters applications for layout and/or scale shall include finished floor levels for all buildings and finished ground levels in relation to a fixed datum, including heights of all plant and equipment above the ground level.

The development shall be constructed/installed in accordance with the approved details.

Reason: To ensure that adequate details are available during the determination of the reserved matters to assess the impact of the development on the area and landscape to accord with Strategy 46 (Landscape Conservation and Enhancement and AONB's) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.

7. Landscaping and Ecological Management Plan (LEMP)

A detailed Landscaping and Ecological Management Plan (LEMP) in accordance with the approved parameter plans shall be submitted alongside all reserved matters applications for landscaping and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a minimum 30-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and/or funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details for the lifetime of the development.

Reason: To ensure the approved implementation and maintenance details in the interests of mitigating the impact of the development on the landscape and biodiversity features and to comply with Strategy 46 (Landscape Conservation and Enhancement and AONB's), Strategy 47 (Nature Conservation and Geology) and Policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements), and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031.

8. Sustainability Statement

All reserved matters applications shall be accompanied by a Sustainability Statement detailing the sustainability credentials and environmental benefits and impacts of the proposal including details of how the proposal and its design addresses the requirements of Strategy 38 - Sustainable Design and Construction and Strategy 40 - Decentralised Energy Networks.

Development must be undertaken in accordance with the agreed details.

Reason: To secure a sustainable development in accordance in accordance with Strategy 38 (Sustainable Design and Construction) and Strategy 40 (Decentralised Energy Networks) of the East Devon Local Plan 2013-2031.

9. District Heat Network

As part of the reserved matters application(s) for layout, appearance and/or scale, the following details to enable the future use of waste heat from the site in a decentralised heat network shall be submitted:

- a. Site layout plan showing adequate space adjacent to each of the Valve Cooling Radiators (VCRs) to accommodate a heat exchanger of the same capacity as the VCR with space for associated pipework, pumping and controls to enable the offtake of heat into a low temperature heat network.
- b. Site layout plan showing the provision of a heat pipe corridor of no less than 2.5m in width from the space adjacent to each of the VCRs (identified in a. above) to the boundary of the site with the public highway.
- c. Process and instrumentation diagrams showing the provision for the future physical facilities for the use of waste heat (with control loops included) in a low temperature network together with pipework plans showing the provision for future pipe runs from the VCRs to the boundary of the site.
- d. An area on the site or on land adjacent to the site under the control of the applicant of not less than 15m by 10m to accommodate a building to house a commercial scale heat pump, unless evidence is submitted to and approved in writing by the local planning authority to demonstrate that the operational requirements of a converter station and space available on site do not allow this space to be provided and, for land adjacent to the site, that this is not available by reason of viability or land availability.

Prior to commencing the use of the converter station, the valve isolated tie-in stubs on the cooling circuit upstream and downstream of all the VCR's shall be provided in accordance with the details approved in writing by the local planning authority and the areas approved under a., b. and d. above shall be reserved for the approved use free of any structures or equipment for a period of 10 years from commencement of first use.

Reason: To facilitate the future use of waste heat from the site in the interests of sustainability, the efficient use of low carbon energy, and the reduction in emissions through the connection to the existing and proposed decentralised heat networks forming an important part of the UK's energy strategy and to accord with government advice and Strategies 11 (Integrated

Transport and Infrastructure Provision at East Devon's West End) and 40 (Decentralised Energy Networks) of the East Devon Local Plan 2013-2031.

10. Waste Audit Statement

All reserved matters applications shall be accompanied by Waste Audit Statement to ensure that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance.

Development must be undertaken in accordance with the agreed details.

Reason: To ensure waste generated by the construction and operational phases is in accordance with Policy W4 of the Devon Waste Plan which requires major development proposals to be accompanied by a Waste Audit Statement.

11. Tree Protection Measures

(a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full tree survey based on BS 5837 is required including arboricultural impact assessment, tree protection plans and arboricultural method statement for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority.

(b) The development shall be carried out in accordance with the approved details. The details 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.

(c) The AMS shall include details but not limited to any new above and below ground services, level changes and methods of construction / works proposed within the RPA of nearby trees.

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

(e) 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.

(f) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(g) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

(h) 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 ten years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031. The details are required prior to commencement as potential damage can occur to trees from the start of construction work.

12. Construction and Environment Management Plan (CEMP)

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 address at least the following matters:

- a. Air Quality
- b. Dust Control
- c. Water Quality
- d. Lighting
- e. Noise and Vibration
- f. Pollution Prevention and Control, including an emergency plan.
- g. Monitoring Arrangements.
- h. A detailed soil resources management plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:
 - o a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
 - o methods for stripping, stockpiling, re-spreading and ameliorating the soils.
 - o location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
 - o schedules of volumes for each material.
 - o 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.
 - o identification of person responsible for supervising soil management.
- i. Details of how construction activities generating Greenhouse gas emissions are undertaken efficiently in order to minimise emissions
- j. Measures to prevent discharge of soil/silt to adjacent watercourses
- k. Measures to ensure that features of biodiversity value are protected throughout the development, including the timing of works, protective measures, use of toolbox talks, Ecological Clerk of Works (ECoW), including when they should be present on site and licence requirements, and reporting and compliance of actions to the LPA.

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: Details are required prior to the start of development to ensure that adequate measures are in place from the outset to avoid or manage the risk of pollution or waste production during the course of the development works in accordance with Policy D1 (Design and Local Distinctiveness) and E14 (Control of Pollution in New Development) of the adopted East Devon Local Plan. Also 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) of the Adopted East Devon Local Plan 2013-2031.

13. Construction Traffic Management Plan (CTMP)

Prior to the commencement of the development hereby permitted, a full Construction Traffic Management Plan shall be submitted to and agreed in writing by the Local Planning Authority (in consultation with National Highways and DCC Highway Authority) 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 6:00pm 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;
- (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;
- (o) Details of the construction access and contractors' parking/compound:
 - o Where this shall be provided
 - o When this shall be provided
 - o Details of visibility splays
 - o How it will be surfaced and drained
 - o How the area will be remediated and
 - o It's finally intended use.

The development shall be carried out in accordance with the approved details and any subsequent amendments as shall be agreed in writing with the Local Planning Authority.

Reason: To ensure that adequate measures are put in place to manage construction traffic during the development in accordance with Policy D1 (Design and Local Distinctiveness) and E14 (Control of Pollution in New Development) of the adopted East Devon Local Plan.

14. Lighting Scheme

No development above slab level of the valve hall shall begin until a lighting scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme must comply with the requirements of the Institute of Light Professionals

guidance (ILP), including ILP Guidance Note 08/23, on the avoidance of light pollution and on nocturnal wildlife. The scheme must cover the impact of the lighting on the nearest sensitive receptors, including surrounding hedgerows and include the provision of any mitigation measures, including shielding, timers, colour temperature, and technical specifications to show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent nocturnal species using their territory, such as foraging and commuting habitat. 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.

Development shall take place in accordance with the approved details and no further external lighting shall be provided within the site unless in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: Details are required to ensure that adequate measures are in place to comply with Policy EN5 and Policy EN14 for the avoidance of light pollution, the avoidance of impacts on protected species, and to avoid light pollution being detrimental to the amenity of local residents.

15. Long Lane Highway Improvements

Prior to the commencement of the development hereby approved, including the highway improvements to Long Lane, details of the passing places, shall be submitted to and approved in writing by the Local Planning Authority. The details to be provided shall be based on the Converter Station Location/Site Plan - 7729-0454-09 A, received 21 June 2023 and shall include tree protection measures for any works within the Tree Protection Area of trees located adjacent to the proposed highway improvement works as well as details of any replacement planting proposals. The passing places shall be constructed and tree protection measures shall be carried out and completed in accordance with the approved details before any development is commenced, including construction and ground works, on the site for the converter station and the approved traffic management scheme shall be implemented during the highway improvement works to Long Lane.

Reason: To ensure that a suitable access is provided to the site for construction traffic to accord with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031. The details and provision of the road improvements are required before construction begins as Long Lane as existing is inadequate to accommodate the construction traffic required to carry out the development.

16. Dormouse Mitigation Licence

No works shall commence unless the Local Planning Authority has been provided with:

- a) a copy of the dormouse mitigation licence 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 with an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England; or
- b) the results of an up-to-date dormouse nest tube survey undertaken in accordance with the Dormouse Conservation Handbook (or any subsequently updated survey guidelines) that provides confidence in a negative assessment of dormouse presence on the site (including hedges along Long Lane) and confirms that no licence is required.

Reason - Details are required prior to the commencement of development to demonstrate how the favourable conservation of dormice will be maintained throughout the development 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.

17. Ecological Mitigation Strategy

No development shall commence on the site until an Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. This shall be based on the proposed mitigation measures outlined in the Preliminary Ecological Appraisal Report (update October 2023) and shall include details of future monitoring, compliance, and reporting.

The development shall be carried in accordance with the approved details.

Reason: To ensure that the impacts of the development on ecology/protected species is suitably mitigated for and to comply with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031. The EMS is required prior to commencement as some mitigation will be needed at the start of development.

18. Biodiversity Net Gain

No works shall commence on site without writing approval from the local planning authority confirming that the development is supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0). The development shall deliver at least a 10% biodiversity net gain (BNG) for all habitat types within the development boundary. It should include 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: This is prior to works commencing 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. Instrument Flight Procedure (IFP) Assessment

No development should take place until an Instrument Flight Procedure Assessment has been submitted to and approved in writing by the Local Planning Authority in consultation with the Airport Operator.

The development shall be carried in accordance with the approved details.

Reason: To ensure the development does not endanger the safe movement of aircraft or the operation of Exeter Airport through interference with aircraft instruments and procedures in accordance with Policy TC12 of the East Devon Local Plan 2013- 2031.

20. External Plant and Noise

No development relating to the erection of the converter station buildings or the installation of any external plant/equipment shall take place until details have been submitted to and approved in writing by the Local Planning Authority to demonstrate how the buildings will be designed and any external plant/equipment attenuated to control noise emissions. The converter station buildings shall be constructed and plant/equipment installed in accordance with the approved details.

The rating noise from the development shall not exceed a free-field level of 35 dB L_{Ar,Tr} or the background sound level, whichever is the greater, when measured or calculated at a distance of 1 m from the façade of the properties set out in the table identified below in accordance with BS 4142:2014. The background sound level at each residential property shall be taken as identified in the table 7.5 contained in Chapter 7 of the UK Converter Station Environmental Report, Rev 2 dated 29 May 2023. In addition to this, the free-field sound level when measured or calculated at a distance of 1 m from the façade of the properties set out in the table identified above shall not exceed a noise rating of NR25 (as provided in Table B.1 of BS 8233:2014) in the 63 Hz and 125 Hz octave bands.

Reason: To ensure that the use of the converter buildings and associated equipment/plant does not cause any unreasonable loss of amenity by reason of noise to nearby residential properties to accord with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013- 2031. These details are needed to be provided before the development is commenced as the approved details and attenuation will need to be built into the construction.

21. Sound Monitoring

The converter station shall not be brought into use for the transmission of electricity, until a scheme for monitoring sound emitted from the converter station has been submitted to and approved in writing by the local planning authority. The scheme shall detail:

- a. All off site noise sensitive properties and locations where readings will be taken from;
- b. Survey methodology; and
- c. Reporting procedures.

The approved sound monitoring scheme shall operate for 6 months from the converter station first being brought into use for the transmission of electricity and the results of the sound monitoring and details of any necessary mitigation measures shall be submitted to and approved in writing by the local planning authority in accordance with the reporting procedures. Any identified necessary mitigation measures shall be implemented within 6 months of the date of approval by the Local Planning Authority unless an alternative timetable is previously agreed.

Reason: To ensure that the use of the converter buildings and associated equipment/plant does not cause any unreasonable loss of amenity by reason of noise to nearby residential properties to accord with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013- 2031.

22. District Heat Network Marketing

Details of how the waste heat will be marketed to potential operators of a decentralised heat network and the process for agreeing the supply of waste heat to a potential operator shall be submitted to and approved in writing by the Local Planning Authority before the converter station hereby permitted is brought into use. The details of marketing approved above shall be implemented within one year of the commencement of the use of the converter station hereby permitted and shall continue with an annual report to be submitted to the local planning authority on the anniversaries of the commencement of the marketing for a period of 10 years to show the results of this marketing, to review the success of the marketing strategy and thereafter to implement any identified and agreed improvements to the marketing strategy.

Upon receipt and acceptance of a reasonable offer (to conform to the process approved above) to take waste heat by an operator of a decentralised heat network, the converter

station operator shall allow reasonable access to the site for the provision of the associated works and equipment.

Reason: To facilitate the future use of waste heat from the site in the interests of sustainability, the efficient use of low carbon energy, and the reduction in emissions through the connection to the existing and proposed decentralised heat networks forming an important part of the UK's energy strategy and to accord with government advice and Strategies 11 (Integrated Transport and Infrastructure Provision at East Devon's West End) and 40 (Decentralised Energy Networks) of the East Devon Local Plan 2013-2031.

23. Landscaping Replacement

The landscaping works approved as part of the reserved matters applications shall be undertaken in accordance with the approved scheme within 12 months of completion of development or during the next planting season following completion whichever is the sooner.

If within a period of 10 years from the date planted any tree, plant, grass area or shrub dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with other(s) of similar size and species by the developer.

If within a period of 10 years of the commencement of development, any part of any retained/translocated hedgerow dies or becomes diseased, it shall be replaced by the developer before the end of the next available planting season in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of enhancing and preserving the amenity of the area in accordance with Policy D2 (Landscape Requirements) of the East Devon Local Plan.

24. Retained Trees and Hedgerows

No existing tree or hedgerow shown as being retained on the parameters plans, (including any amendments as shall be agreed in writing by the Local Planning Authority), shall be felled, destroyed or wilfully damaged including any damage to root(s), without the prior written consent of the Local Planning Authority.

In addition there shall be no burning of materials where it could cause damage to any tree or tree group on the site or land adjoining.

Reason: To protect trees on the site in the interests of preserving and enhancing the amenity of the area in accordance with Policy D3 (Trees on Development Sites) of the adopted East Devon Local Plan 2013 - 2031.

25. Unexpected Contamination

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

Reason: To ensure that any contamination existing and exposed during the development is identified and remediate in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.

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.

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 Town

Reference 23/0630/FUL

Applicant Mrs B Parkyn

Location 22 Fore Street Sidmouth EX10 8AL

Proposal Demolition of the contemporary single storey rear extension of the shop and construction of 3 houses and the creation of 2 flats above the shop.



RECOMMENDATION: Refusal



		Committee Date: 24.10.2023
Sidmouth Town (Sidmouth)	23/0630/FUL	Target Date: 19.05.2023
Applicant:	Mrs B Parkyn	
Location:	22 Fore Street Sidmouth, EX10 8AL	
Proposal:	Demolition of the contemporary single storey rear extension of the shop and construction of 3 houses and the creation of 2 flats above the shop.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

Permission is sought for a redevelopment at 22 Fore Street, Sidmouth involving the demolition of the contemporary single storey rear extension of the hardware shop, construction of 3 new build three storey houses and the change of use of the storage above the shop to 2 maisonettes.

The key issue is one of principle in relation to flood risk, within this area of high flood risk (flood zones 2 and 3), and surrounds national guidance on the sequential test in relation to the introduction of three new build units of residential accommodation (classified in flood guidance as a 'more vulnerable use). Fewer than ten dwellings is 'non major' development for the purposes of flood assessment. The aim of policy and guidance in avoiding the introduction of 'more vulnerable' uses within areas of high flood risk, is to both minimise increased risk to life and to avoid unnecessary increased pressure on already overstretched emergency services. This is summarised in National Planning Policy Framework paragraph 162:

"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding".

A sequential test as part of a submitted Flood Risk Assessment (FRA) is therefore required to establish if this is the case.

The submitted FRA fails to adequately address the sequential test. As explained in more detail in the report below, no alternative available sites have been considered. It is for the Council as Local Planning Authority (LPA) - not the Environment Agency (EA) - to determine an appropriate area of search and to decide whether the sequential test has been passed. For the purposes of the sequential test, the Council has determined that the search area is all land at lower flood risk within the entire District.

The applicant was afforded the opportunity to update the FRA and address the sequential test to identify other 'reasonably available' sites which are allocated for residential in the local plan or are advertised as available on the open market. In updating the FRA, no attempt was made to address the sequential test. In circumstances whereby there is no evidence submitted to determine that the sequential test is met, the application cannot be supported. In such circumstances, guidance is clear that it is not necessary to go on to consider the exception test to show how flood risk will be managed and how that the sustainability benefits of the development to the community outweigh the flood risk. The application cannot therefore be supported on flood risk grounds.

While residential uses contribute to town centre vitality and viability, the proposal also involves the substantial loss of retail floorspace within the town, which is protected and, without sufficient justification, its loss, along with any loss of employment, is contrary to local plan strategies and policies seeking to resist the loss of retail and safeguard town centre vitality and viability. In circumstances whereby there is insufficient analysis of the impacts of the loss of retail on the town or any marketing exercise undertaken to establish retail demand, and balance against any benefits arising, the proposal is contrary to policy.

Notwithstanding the in-principle objection to the new build residential and loss of retail floorspace without justification, there would not be an in-principle objection to redevelopment *per se*. The site lies within Sidmouth Conservation Area (SCA), the original building fabric could benefit from refurbishment and the later single storey extension does little for the character of SCA. This is also acknowledged by the conservation officer. It is the significant flood risk issues surrounding the introduction of new build residential on the site, and the potentially harmful effect to the Town of the loss of retail floorspace which is contrary to policy and guidance and is not supported.

However, concerns also arise regarding the design of the development within SCA. The height, form, design and appearance of the planned redevelopment, with three storey dwellings proposed at the rear, having rear gardens slightly elevated above and presenting blank elevations at eye level onto the East Street link to Russell Street/ car park, fails to adequately address issues of scale, townscape and heritage character. Undesirable enclosure would arise which would be detrimental to the experience of local residents and pedestrians using the link and the development would fail to preserve or enhance the character of the Conservation Area.

The close relationship between the development and its neighbours also gives rise to loss of amenity, for reasons expanded on in the report below.

While additional residential accommodation can provide a wider community benefit in terms of meeting housing supply (particularly in circumstances whereby the Council is unable to provide a five year supply of deliverable housing land), and can contribute positively to town centre vitality and viability, for the reasons explained above, the flood risk and other concerns weigh strongly negatively, such that the harm arising very significantly outweighs any benefits in the balance of planning considerations.

Accordingly the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council
SUPPORT

Members would like to see the dwellings occupied as permanent residential properties rather than second or holiday homes in order to maintain the vitality of the Town centre.

Cllr Ian Barlow: I support the view of the town council on this but reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Sid Vale Association:

- An overdevelopment of the rear of the site with 3 storey houses.
- A more moderate appropriately designed and smaller 2 storey rear development would be more appropriate
- Archaeology - a 'written scheme of Investigation' should be provided before the application can be determined
- Retail Vitality - net loss of 520 sqm (5,596 sq ft) of retail space providing an important and unique service to local residents. Whilst the development will be replaced by a new much smaller 76 sqm (818 sq ft) retail space it is unlikely to be suitable to be a hardware shop. Sidmouth residents will be forced to drive to an out of town hardware shop which is not ideal to comply with Sustainability policies.
- Development will cause the loss of the extensive retail frontage to the side street, Russell Street
- Flood Risk - Government guidance indicates that there is a 'high risk' of 'surface water risk'.

Technical Consultations

Devon County Archaeologist

I refer to the above application and your recent consultation. The proposed development lies within the historic core of Sidmouth and in the rear garden of numbers 21 - 25 Fore Street - an area likely to contain archaeological deposits associated with the early settlement here such as rubbish pots or evidence of small-scale industrial activity. Despite the site containing a modern building, there is still the potential for the survival of truncated archaeological deposits surviving below the extant floor. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the early settlement in the town. 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/>.

Environment Agency

Environment Agency position

In the absence of an acceptable flood risk assessment (FRA) we object to this application. The submitted FRA fails to demonstrate that future occupants and users of the site would be safe from flooding over the lifetime of the development, with specific reference to the access/egress of the site. The reason for this position and more advice is provided below.

We note that this application is a resubmission of a similar proposal in 2019 on this site. Given the reasons for refusal on the previous application and in line with paragraphs 161-162 of the National Planning Practice Framework, we reiterate that the Sequential Test is applicable. In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case. Further detailed guidance on the Sequential Test is provided at the end of this letter.

Reason

The site is located within Flood Zone 2 and partially in Flood Zone 3, identified by Environment Agency Flood Maps as having a medium to high probability of flooding. The proposal would result in an addition five units of accommodation in this location.

We have reviewed the submitted Flood Risk Assessment (FRA) by Jubb Consulting Engineers Ltd. (ref: 22136-FRA01-v2, dated 07 March 2023). It fails to demonstrate that safe access and egress can be achieved during a flood event. The NPPF identifies that the risk at the end of the lifetime of the development should be used for the purposes of applying the Sequential Test (i.e. the flood risk in 100 years) and this applies to the provision of access/egress routes. Section 6 of the FRA fails to adequately demonstrate that residents could safely access and exit a building during the design flood event over the lifetime of the development and omits details of a proposed access/egress routes. The FRA also lacks a quantification of the risk through a hazard rating. As such, the risks to the access/egress route are not adequately assessed.

Overcoming our objection

The applicant should submit further information relating to the concerns raised within this letter. Specifically, this should include:

- o outlining the mechanisms of flooding from both fluvial and tidal sources, recognising the presence of any flood defences,
- o define a 'design flood' level for the site (specifically the access/egress route) for the end of lifetime stage (i.e. in 100 years) which can be related to existing ground levels and the proposed finished floor levels of the built development. Establishing the design flood level will also need to involve consideration of the impacts of climate change over the lifetime of the development,
- o Consideration of the safety of occupants 'seeking refuge' during a flood event.

We would request that, upon receipt of the revised FRA/additional information you re-consult us and consult those within your authority with an Emergency Planning remit to allow for them to assess the proposal in terms of safety.

Sequential test - advice to LPA

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- o Householder developments such as residential extensions, conservatories or loft conversions
- o Small non-residential extensions with a footprint of less than 250sqm
- o Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- o Applications for development on sites allocated in the development plan through the sequential test and:
 - o the proposed development is consistent with the use for which the site was allocated; and
 - o there have been no significant changes to the known level of flood risk to the site, now or in the future, which would have affected the outcome of the test.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the local planning authority, to determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability. You may also ask the applicant to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Further guidance on the area of search can be found in paragraphs 027-030 of the planning practice guidance [here](#).

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance: Flood risk and coastal change - GOV.UK (www.gov.uk).

Environment Agency

As our previous correspondence set out, we provide these additional comments regarding the email from David Gwilliam of Jubb consultants sent by Joseph Marchant of Cotext Logic Ltd. Dated 5th May 2023 which responds to our previous letter ref.: DC/2023/123184/01-L01.

Environment Agency position

We have reviewed the email submitted and advise that our previous position still stand - whilst the information submitted goes some way to addressing the concerns raised, the submitted Flood Risk Assessment (FRA) is still not acceptable in its current form. We therefore maintain our objection.

Advise and response to the submitted email

We note the contents of the email from Jubb consultants and advise that sections 6.1.5 to 6.1.10 of the FRA should be revised to include the statements provided within the email. In addition, a plan should be produced showing the intended access/egress routes during flood conditions so that fully informed decisions can be made. Whilst the FRA in its current form fails to adequately demonstrate this issue, we acknowledge that it includes evidence in various sections which give an indication of proximity of the site to the predicted areas at risk of flooding, including in 100 years' time (the lifetime of the development). As such, we consider that the FRA as submitted is somewhat open to interpretation, hence the reason for our objection. It is essential that such issues are adequately considered and communicated within the Flood Risk Assessment so that an informed decision can be made. Revising and/or appending the FRA to include the material issues included in the email from Jubb consultants would help clarify the issue for all parties including future users/residents should permission be granted.

As outlined in our previous letter, your authority will need to be content that the Flood Risk Sequential Test is satisfied. Upon receipt of any revised FRA or further information regarding flood risk, emergency access/egress or evacuation plans etc. please re-consult us, and we strongly recommend you consult with those in your authority who have a remit for Emergency Planning.

Environment Agency

Thank you for re-consulting us on this application.

Environment Agency position

Following review of the revised Flood Risk Assessment (ref.: 22136-FRA01-v4 by Jubb Consulting Engineers Ltd. Dated June 2023), we advise that sufficient information regarding the flood risks to the site has been submitted. We therefore remove our objection to the proposed development subject to the inclusion of a condition to secure the implementation of the flood risk assessment. Recommended wording for this condition and the reason for our position is provided below.

We take this opportunity to highlight that your authority will need to consider whether the proposal is acceptable in regards to the level of flood risk to the proposed access and egress which was highlighted as a particular issue in our initial letter. We recommend that you consult with those within your authority with an Emergency Planning remit on this matter.

Condition - Implementation of the Flood Risk Assessment

The development shall be carried out in accordance with the submitted flood risk assessment (ref.: 22136-FRA01-v4 by Jubb Consulting Engineers Ltd. Dated June 2023), and the mitigation measures it details.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason - To reduce the risk of flooding to the proposed development and future occupants.

Reason for position

We have reviewed the revised version (no.4) of the submitted Flood Risk Assessment (FRA) and conclude that it now complies with the requirements of site-specific FRAs as set out in the planning practice guidance. We are satisfied that the plan shown as Figure 6.10.0 in the FRA, when read in conjunction with the submissions as a whole, provides sufficient scope in this particular instance to allow the planning authority to make an informed decision regarding access/egress and whether users, occupiers, and the emergency services would potentially be placed at an unacceptable degree of danger especially given persons may not heed flood warnings that may be in place and/or who may choose to navigate flood water for access/egress reasons.

Flood warning and emergency response - advice to LPA

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out

these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. Planning practice guidance (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 167 of the NPPF and the guiding principles of the PPG.

Environmental Health

I have considered the application and note that this site is close to nearby residents who may be impacted during the construction process. 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. We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

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

The specific noise level of any fixed plant or equipment installed and operated on the site must be designed as part of a sound mitigation scheme to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

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

Conservation

CONSULTATION REPLY TO CENTRAL TEAM

PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION AREA

ADDRESS: 22 Fore Street, Sidmouth

GRADE: Unlisted APPLICATION NO: 23/0630/FUL

CONSERVATION AREA: Sidmouth - Town Centre & Seafront

PROPOSAL: Demolition of the contemporary single storey rear extension of the shop and construction of 3 houses and the creation of 2 flats above the shop.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

This site sits in the commercial heart of the Sidmouth Town Centre & Seafront Conservation Area and has grade II listed buildings nearby to the south and west. The application site forms the rear area to the hardware shop of 22 Fore Street.

The site is very prominent in this central area and has strong views looking South down Russell Street. The character of the area around the rear of the shop is open, with small random clusters of subservient dwellings mixed with low ridged commercial units. There are spaces and courtyards that were originally associated to these buildings that allow views over the buildings into the principle buildings along the main street and further to distant views of the landscape. It retains a sense of place through this permeability, hierarchy of building heights, along with materials and building styles that reflect the local vernacular.

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

A previous application under 19/0391/FUL for the 'Demolition of the rear part of shop and reconstruction with 7 no. two storey dwellings above' was refused.

This revised proposal seeks to address the reasons for refusal and now includes the construction of 3no.three storey houses and the creation of 2no. flats above the shop.

In terms of heritage, this issue relates to 'The design, scale and layout of the development by virtue of its poor relationship with the buildings on Fore Street, the wide span of the roof and the pastiche design of the elevations would be unsympathetic to the prevailing character of the Sidmouth Town Centre Conservation Area and the setting of an adjacent listed building. The proposal would therefore fail to conserve the character and appearance of the conservation area and the setting of a listed building and would be contrary to Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) of the adopted East Devon Local Plan 2013-2031 and Policy 7 (Local Distinctiveness) of the made Neighbourhood Plan for the Sid Valley 2018-2032'.

2no. flats above shop: there is no objection in principle from a heritage point of view to the use of the upper floors of the existing property as 2no. flats with access at first floor via steps to the rear and onto a terrace at second floor with timber screening. The changes to the rear elevation are minimal and subject to materials will make some visual improvements to the wider view;

3 houses: as noted before in previous comments the historic mapping of 1888-1890 does indicate some form of building in this area. How many storeys are unknown, however, research has identified that many of the buildings around this time were only 2 storey thatched cottages. Numbers 18 - 21 to the South of the site are surviving examples of this, minus the thatch and is reflected by them being grade II listed. Some buildings were then demolished and were replaced by the taller 3 storey brick shop/dwellings. This is pertinent to this area in particular.

The revised design is now 3no. three storey houses which are set back within the site and due to their height show some subservience to the principle buildings in Fore Street. In addition, some distance has been created between the houses and the rear of the properties on the High Street which helps to retain the external spaces and views. However, the associated car parking and refuse collection points to the front of the site detracts from the principal street view from the north. Historic mapping shows development along the northern boundary of the site.

The design itself is now contemporary, quite simple, but with gabled roofs, using red brick and slate roofing, see below, with plain glazing, mainly with a vertical emphasis, particularly on the north and west facing elevations. Whilst some of the materials maybe considered acceptable, it is considered that the roof to the dwellings should be natural slate rather than proposed fibre cement.

The submitted Design & Access Statement has little reference to the Conservation Area or nearby listed buildings and little justification or consideration of the impact of the development on the designated heritage assets. A Heritage Statement should have been submitted in line with para 194 of the NPPF. However, the design and materials are certainly an improvement on the previous applications and now show some understanding/ appreciation of the site.

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Additional Information received 9th August 2023:

A Heritage Statement has now been submitted and is a relatively detailed and comprehensive document. This certainly demonstrates that there is scope for improvement to the rear of 22 Fore Street, Sidmouth and that consideration should be given to the redevelopment of the site and the overall repairs and refurbishment of No. 22 itself to ensure its viable future use.

In addition, that the removal of the single storey rear extension will bring various benefits: not only for the proposed development, but allow access to the rear of the

properties on Fore Street, allowing a better use of the upper floors, open up the currently enclosed rear areas and re-instate and improve views from Russell Street. It is also noted that the frontage area along Russell Street cannot be developed for various reasons.

The benefits of the proposals are set out in Section 10 'In Summary' and I would agree that there is no objection in principle to the redevelopment of the site. Such benefits would undoubtedly include 'heritage' benefits comprising the longterm care, repairs and maintenance of No. 22 Fore Street, the proper re-use and viability of the upper floors and wider 'heritage' benefits to the surrounding area by the removal of the detrimental rear extension and subject to an acceptable scheme, overall improvement to the Sidmouth Town Centre & Seafront Conservation Area.

The Heritage Statement concentrates particularly on No. 22 Fore Street and the overall benefits of redevelopment and is rather less specific on the character, appearance and significance of the Conservation Area and how the site within the context of the Conservation Area is affected. In addition, how the site currently contributes to the Conservation Area and how an evaluation/appraisal of the site in this context resulted in the development of the submitted scheme and how this might then impact on the designated heritage asset or any further justification for the proposed development itself.

There is no objection in principle to the development from a heritage point of view, but there are still some concerns relating to the submitted scheme. The 3no. three storey houses which are set back within the site show some subservience to the buildings on the corner of Russell Street & Fore Street, but the ridge height should also be subservient to the principle buildings in Fore Street, including No. 22. Three storeys is therefore considered not to be acceptable and two storeys would be more appropriate. A site visit has been offered by the agent to consider the benefits of the scheme, but it is not considered necessary for a further site visit to be undertaken to appreciate the context of the site.

Any new development should make a positive contribution to local character and distinctiveness and result in a cohesive scheme which conserves or preserves the character, appearance and significance of the Conservation Area. As previously indicated, whilst the scheme is certainly an improvement on the previous applications and shows some understanding/ appreciation of the site, it is considered that the new housing element within the Conservation Area and the setting of the listed buildings to the south, does not enhance or better reveal its significance (NPPF para 206).

County Highway Authority

Observations:

The access is already established in this location and the proposed plans will facilitate enough space for off-carriageway parking and turning to remain. The proposed plan also shows acceptable parking bay areas and bin collection points. Though some trip generation will be expected from this site, I am happy that Sidmouth is sufficient to provide for local resources in order to facilitate non-car trips. I would encourage the provision of secure cycle storage to assist this mitigation. The location will be sensitive during the construction process if approved, therefore I

would also recommend the provision of a Construction and Environment Management Plan to also help mitigate any impact from this development.
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. 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.

2. 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.

Other Representations

12 representations have been received, 6 in support and 6 objecting. The letters of objection are summarised as:

- Insufficient parking provision. Does not comply with Policy TC9 - Parking Provision in New Development or DfT Local Transport Note 1/20, Table 11-1, which requires 1 parking space per bedroom. Also does not comply with DfT Local Transport Note 1/20, Table 11-1, which requires 1 parking space per bedroom
- The height, scale and mass of the proposed houses is not in keeping with the street-scene or Russell Street. They will be much taller than the surrounding properties. They will dominate the view South down Russell Street and should be re-designed to be more in keeping with the residential properties in Russell Street.
- The density of development is too high. A sensitive redevelopment of the existing single storey rear extension of the shop would be welcome.
- Building will compromise the efficiency of my Solar PV System housed on the south facing aspect of my business premises by reducing its contact with sunlight.
- 21 Fore Street – Will lose privacy to flat. The houses are to be sited so close they will dominate and look directly into our flat and limited outdoor space.
- It seems that our walls are to be made external and form the boundary between us and the block paved area leading to the back of their shop and stairs to the flat and block of houses, how are we to maintain them without being able to access it? We are also concerned about the excavation of foundations so close to our brick structure and keeping the integrity of our property, along with the noise and disruption of the construction work which could take several months and 5 new properties sited so close to us
- Development will be in contravention of the 1959 Rights to Light Act of Parliament as our property has enjoyed continuous, uninterrupted light for more than 20 years from the proposed developments direction, particularly in view of the height and dominant proximity to our property.
- How they will detach themselves from our listed building without damage.
- 20 Fore Street. Impact of the height (three storey) building over my bungalow joining the hard ware shop building next door.
- More noise from the three houses and two flats.

Comments in support are summarised as:

- The existing building is very unattractive and out of character with the town.
- It is an easy nesting group for seagulls and all the health hazards they bring
- To have much needed smaller houses and flats with parking in town would be I see only beneficial to the town's shops and business.
- The section next to Trump Court would significantly benefit from investment of the type detailed in the above application. Walking past Trump Court, the public route is poorly surveyed and the new houses will make a big improvement.
- Many empty properties and part used accommodation in the town, this proposal benefits residential and commercial tenants, by turning one large premises into several more affordable smaller units
- I support achieving greater emphasis on securing more first and second floor conversions.
- The application demonstrates the difficulty in maintaining the economic viability of larger stores in town.
- Sustaining an active primary retail frontage is of greater economic value to the town as a whole than maintaining large stores which could fall empty.

- A smaller retail unit will have a greater capacity to be sustained by the current nature of trading on the High Street and is also more affordable and therefore future proof.
- Mix of houses will be ideal for younger people in particular who wish to live in the town centre.
- In support of investment which improves the look of the town centre.

PLANNING HISTORY

Reference	Description	Decision	Date
78/C0352	EXTENSION TO PROVIDE A DISPLAY AREA AND CAR PARK.	Approval with conditions	15/03/1979
80/C0255	RETAIL SHOWROOM.	Approval with conditions	15/04/1980
85/P0432	Alteration to Shopfront.	Approval - standard time limit	12/04/1985
19/0391/FUL	Demolition of the rear part of shop and reconstruction with 7 no. two storey dwellings above	Refusal	

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 26 (Development at Sidmouth)
 Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)
 EN22 (Surface Run-Off Implications of New Development)
 Strategy 47 (Nature Conservation and Geology)
 Strategy 48 (Local Distinctiveness in the Built Environment)
 Strategy 50 (Infrastructure Delivery)
 D1 (Design and Local Distinctiveness)
 D2 (Landscape Requirements)
 E9 (Town Centre Vitality and Shopping Areas)
 E13 (Use of Upper Floors in Shopping Developments)
 EN5 (Wildlife Habitats and Features)
 EN8 (Significance of Heritage Assets and their setting)
 EN9 (Development Affecting a Designated Heritage Asset)
 EN10 (Conservation Areas)
 EN14 (Control of Pollution)
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
 EN21 (River and Coastal Flooding)
 EN22 (Surface Run-Off Implications of New Development)
 TC2 (Accessibility of New Development)
 TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Sid Valley Neighbourhood Plan (Made)

Policy 1 Sid Valley Development Principles
Policy 6 Infill Development, Extensions and Trees
Policy 7 Local Distinctiveness
Policy 9 Residential Development
Policy 16 New Retail and Commercial Development
Policy 21 A Safe Town

Government Planning Documents

NPPF (National Planning Policy Framework 2023)
National Planning Practice Guidance

Sidmouth Conservation Area

Sidmouth Interim Conservation Area Review

ANALYSIS

Site Location and Description

22 Fore Street is a mid-terrace retail hardware store fronting west onto Fore Street, with rear parking, servicing and access from Russell Street to the north. The land extends to the East abutting the lane linking Russell Street and East Street.

The existing building has three floors of accommodation within the original premises (second floor accommodation within the roof space) and a much later circa 1980's large 'L'-shaped single storey flat roofed structure extending from the rear of the main Fore Street premises. The application site area is given as 0.068 hectares/ 684 sqm in the application form and planning statement.

Adjacent to the later large flat-roofed single-storey addition which extends from the rear of the main Fore Street premises is the existing retail car park and servicing area, which currently includes an area of Council-owned land leased for extra parking. That area of land is excluded from the current application.

Around the site there are a number of residential properties, including flats above shops on the west side of the site and a block of purpose built flats to the east side (Trumps Court). There are a number of Listed Buildings within a small radius of the site but the nearest relevant to the development lies to the south at 20 Fore Street.

The site is within the main built-up area of the town, within the town centre Conservation Area and within the town centre shopping area. It is also primarily within flood zone 2, but the western site frontage, eastern edge of the development and garden area and northern entrance to the car park in flood zone 3.

Proposal

The development is described as: *Demolition of the contemporary single storey rear extension of the shop and construction of 3 houses and the creation of 2 flats above the shop.*

The proposal includes the following:

- Demolition of the later single storey flat roofed rear extension and the loss of that retail floorspace;
- Construction of a terrace of three 3-storey houses with rear gardens;
- The creation of 2 flats above the shop through a change of use of the upper floors incorporating a rear flat roof dormer extension and a new extension/ rear access for the 2 flats/ retained retail space, along with rear upper level external terrace amenity areas); and
- Revised/ relocated means of access and reduction/ rationalisation of the parking and servicing area for the new residential uses/ retail shop;

The planning statement advises:

- The internal area of the shop floorspace which is proposed to be demolished is 520 sqm;
- The retained area of the retail should be 76 sqm;
- The retained retail shop would have 1 parking space;

Each new dwelling unit would have:

- A gross internal floor area (GIFA) over three floors of 95.3sqm;
- 1 parking space each;
- A designated bin and recycling area;
- Small rear outdoor amenity area.

Proposed levels are:

- New houses FFL 5.6 AOD;
- New Gardens 5.6m AOD

Materials for the new build dwellings include:

- Red brickwork;
- Aluminium clad timber, dark grey windows and roof lights;
- Solid timber entrance doors; and
- Dark grey fibre cement roofing.

The converted flats, each over two floors, include:

- 1 bedroom;
- One unit has a GIFA of 67.2sqm;
- The other has a GIFA of 56.6 sqm;
- 1 parking space each.

The original premises would be retained and refurbished, with a change of use of the current ancillary retail storage on the upper floors to two units of accommodation (one-bed maisonettes). Parking would be rationalised, with one space for each of the

five dwellings and a further space for the retained retail shop. With the demolition of the large later single storey extension, a small rear extension would afford rear access to the shop and two flats. It is proposed to construct a terrace of three dwellings to the rear of the site running north-south.

The front elevations of the new build dwellings would face west, inwards towards the rear of the premises on Fore Street, and the rear would have an outlook eastwards and small rear gardens facing towards the East Street link and Trumps Court. Due to land levels, the gardens would be somewhat elevated above, and present a blank façade abutting this lane linking Russell Street and East Street.

ANALYSIS

The main issues are: the principle of development surrounding the Council's five year housing supply and key 'in principal' local plan and neighbourhood plan policies which support the provision of housing within the built up area of Sidmouth; flood risk; loss of retail/ employment; heritage; townscape character; highways; and the standards for future residential occupiers.

Principle of Development Including Five Year Housing Supply and Key 'In Principle' Policies Supporting the Provision of Housing Within the Built-Up Area of Sidmouth

(i) Five Year Housing Supply

The Council is presently unable to demonstrate a deliverable five year supply of housing land. In such circumstances, advice in Section 12 of the National Planning Policy Framework on housing supply and delivery, and in paragraph 11 on sustainable development is relevant.

Paragraph 11 of the National Planning Policy Framework advises:

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.

For the purposes of a deliverable supply of housing land, policies within the Local Plan important for decision making could be considered out of date. In such circumstances, under paragraph 11, permission should be granted unless there are clear reasons for refusing the development or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

However Footnote 7 of para 11 (i) of the NPPF states that the application of policies in the NPPF that protect areas at risk of flooding or coastal change can provide a strong reason for refusing development. The effect of this is that the 'tiled balance' in favour of development should not be applied in such areas.

The public benefits of the development include the provision of a small number of open market housing units to meet housing needs, and which would contribute towards the shortfall in housing supply and to town centre vitality and viability, which provides a small public benefit. There is also no in-principle objection to redevelopment *per se*, as there is a possibility redevelopment could conserve or enhance the setting of heritage assets and benefit local townscape.

However, as explained in the report below, the proposal, involving new build residential within an area of high flood risk clearly conflicts with the flood protection policies of the Local Plan and with national guidance on flood protection, and notwithstanding the shortfall in the five year supply of deliverable housing land, there are clear and compelling reasons to refuse the application in circumstances whereby the adverse effects of approving development include increased risk to life and increased burden on emergency services. In such circumstances, the proposals would conflict with the provisions of both the development plan and the Framework, read as a whole.

(ii) Key 'in principal' Local Plan and Neighbourhood Plan policies which support the provision of housing within the built up area of Sidmouth

The site is within the built-up area of Sidmouth where Strategy 6 of the Local Plan would apply. Within the boundaries, development will be permitted if:

1. *It would be compatible with the character of the site and its surroundings and in villages with the rural character of the settlement.*

NO - for reasons explained in more detail under the character and heritage sections below, the proposal has a detrimental impact on local character and fails to adequately address heritage matters including the requirement to preserve or enhance the character of the Conservation Area or the setting of Listed Buildings;

2. *It would not lead to unacceptable pressure on services and would not adversely affect risk of flooding or coastal erosion.*

NO – as will be expanded upon in the report below, residential use is a 'more vulnerable' use. The introduction of new build residential is contrary to policy and guidance within an area of high flood risk, would increase risk to life and

increase pressure on overstretched emergency services in a flood event, and has not been justified in this area of higher flood risk through a Sequential Test;

3. *It would not damage, and where practical, it will support promotion of wildlife, landscape, townscape or historic interests.*

NO – strong heritage concerns arise surrounding the scale and form of development towards the rear of the site on local townscape within the Conservation Area and on the experience of users of the East Street link. Issues, including the conservations officer's concerns, are expanded upon under the character and heritage sections below;

4. *It would not involve the loss of land of local amenity importance or of recreational value;*

YES – no loss of amenity land arises;

5. *It would not impair highway safety or traffic flows.*

YES – while development is increased and parking reduced, this is a comparatively sustainable location in the town centre and no undue highway safety concerns arise;

6. *It would not prejudice the development potential of an adjacent site.*

NO – in its current form, while the applicant has attempted to demonstrate the proposal would not prejudice the development of the adjacent Council-owned site (currently part of the present commercial retail use parking/servicing area), inappropriate development of the height, scale and siting proposed would overshadow and dominate the adjoining land and prejudice its redevelopment.

For the above reasons, the proposal is contrary to Strategy 6, there is clear and compelling evidence policies in the Framework that protect areas from flood risk provides a clear reason for refusing the development proposed and that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Strategy 26 - Development at Sidmouth advises “*the approach for Sidmouth will see limited housing development within the existing Built-up Area Boundary*”. This Strategy also promotes enhancement of the environment and promotion of business opportunities in the town centre, and the conservation, enhancement and sensitive management of the landscape and heritage of the area is viewed as critical.

Whilst this policy offers some in principle support for the development of housing in Sidmouth generally the proposal fails to provide a development of sufficient quality and appearance to meet the aims of this Strategy for the reasons explained in the report.

A previously refused application (Ref: 19/0391/FUL) included the replacement of the retail floorspace. This application proposes the significant loss of retail floorspace. There is c. 520 sqm of retail floorspace proposed to be lost, with the retained area of the retail shop being only 76 sqm. There will be a consequent potential loss of employment. There is no analysis provided of the impact of this on the town centre retailing vitality and viability, on the demand for small premises of this size, or overall, how the proposals would benefit retailing in the town centre. Issues are expanded upon in the retail section of the report

The absence of analysis of the impacts of the loss of retail weighs negatively in the planning balance and in the absence of adequate justification for the environmental impacts and substantial loss of retail floorspace, the proposal is contrary to the aims of strategy 26(3) in relation to aims for the promotion of business opportunities in the town centre.

In summary while the principal of residential development is supported by Local Plan policies the details of the scheme fail to meet the specific criteria such as flood risk, impact on the character of the area, heritage and loss of retail floorspace.

Flood risk

The application follows a refusal for the demolition of the rear part of shop and reconstruction with 7 no. two storey dwellings above Ref: 19/0391/FUL. This included a flood risk reason for refusal, concerns which have not been overcome and which remain.

From the topographical survey/ FRA, site levels are:

- Existing shop FFLs are between c. 5.20 – 5.30m AOD;
- To the north, levels along Russell Street fall gently from c. 5.4m AOD at the junction of Fore Street, to c. 5.0m AOD at the public car parking entrance;
- Levels of the public car park remain at c. 5.0m AOD to the northeast of the site, with levels falling from the existing building towards the car parking area;
- To the east of the site, levels in East Street fall from a level of c. 5.0m AOD adjacent to the existing car parking, southwards to a low point of c. 4.0m AOD adjacent to Trumps Court;
- Levels then rise gently as East Street continues to the south, reaching a level of c. 4.20m AOD towards the south east corner of the site, beyond which levels fall gently, then remain fairly constant towards the junction with the main part of East Street to the south.

The River Sid, an EA designated 'main river' runs c. 150m to the east of the site.

The EA Flood Map for Planning identifies the land is within flood zone 3 which means the land has a high probability of flooding from rivers and the sea. More detailed analysis of the map reveals the western edge (site frontage onto Fore Street), the northern edge (site access) and eastern edge (part of the new build residential and gardens) are within flood zone 3, with the majority of the remainder of the site (the central areas) within flood zone 2, medium risk of flooding.

The website advises the flood risk summary reports the highest risk from surface water within a 15 metre radius of this property (i.e. why it refers to flood zone 3, not flood zones 2 and 3). High risk means that this area has a chance of flooding of greater than 3.3% each year.

This information is suitable for identifying:

- which parts of towns or streets are at risk, or have the most risk
- the approximate extent and depth of flooding

It's likely to be reliable for a local area but not for identifying individual properties at risk.

As advised in paragraph 162 of the National Planning Policy Framework, the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. Government guidance on the sequential test in paragraph 024 of Planning Practice guidance advises on how the sequential test is to be applied to the location of development.

To summarise the advice in paragraph 024, where it is not possible to locate development in low-risk areas, the sequential test should go on to compare reasonably available sites within medium risk areas and then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas.

The FRA addresses the sequential test in what is considered to be a wholly inadequate way, advising:

5.3.3 EA flood mapping shows that a large portion of the surrounding area and especially the town centre of Sidmouth is deemed to be in Flood Zone 3. Consequently, there are limited alternative locations within the town centre area that would be considered to be at lower flood risk and therefore be more suitable.

5.3.4 As shown in Section 4.1, the site is well defended from tidal flooding, with the residual risk also considered low. No other source of flood risk is identified as posing a risk to the site.

5.3.5 It is therefore the sequential test is considered to be satisfied.

Not only is most of the land within the town centre at lower risk of flooding than the application site, the Council's position is that the search area for the sequential test is not just the built up area of Sidmouth, but the whole of the District. This includes all land allocated for residential use, such as the land at Cranbrook, and all reasonably available sites within the District at lower flood risk.

The Local Plan makes housing allocations, including windfalls, for approximately 18,250 new homes in the plan period, including provision for around 100 new homes in Sidmouth.

Sites in Sidmouth allocated for housing under Strategy 26 include:

a) Land at Current Council Office Site – Land for residential use is allocated for 50 homes, site ED02A.

b) Land at Current Manstone Depot – Land for residential use is allocated for 20 homes, site ED01).

c) Land at Port Royal Site – Land for residential use is allocated for 30 homes (site ED03 (this site will incorporate mixed use redevelopment to include housing and community, commercial, recreation and other uses).

The applicant has not undertaken the required assessment of local plan allocated sites and available alternative sites and therefore fails the sequential test.

Recent Rightmove searches (19.9.2023 & 24.9.22023) – brief and by no means exhaustive - show that currently, sites are advertised as available include:

Lower Tale, Payhembury, Honiton Land for sale rural development site with consent for three new homes in just under 3 acres Guide Price £600,000

Woodbury 6 new homes and 2 barn conversions Offers in Excess of £850,000

The Gardens Development Land, Phase 2, Blackhorse, Exeter, Devon Detailed planning permission for 5 large 3 and 4 bedroom luxury detached bungalows Guide Price £765,000

Development site for five houses, Southbrook Lane, Whimble, EX5 Offers in Region of £700,000

Sidmouth Sidmount Gardens, Sidmouth £800,000 bungalow with lapsed consent for a dwelling Offers in Excess of £800,000

Building Plot at the rear of The Olive Well, Cullompton with full planning for 8 apartments and a house £300,000

Single building plot Hulham Road, Exmouth, EX8 Guide Price £295,000

Land for sale Unique plot for a detached home, not far from the beach Townsend Road, Seaton Offers Over £200,000

Honiton Land for sale Individual building plot in over 1/5 acre £160,000

In relation to allocated sites and reasonably available sites, in the absence of any analysis by the applicant, the sequential test is not passed.

In circumstances whereby the sequential test is failed, it is not necessary to go on to consider the exception test. This would requires two additional elements to be satisfied (as set out in paragraph 164 of the National Planning Policy Framework)

before allowing development where suitable sites at lower risk of flooding are not available following application of the sequential test.

To comply, it would be necessary to demonstrate that the development will provide wider sustainability benefits to the community that outweigh flood risk and the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. The Government guidance is clear that the exception test is not a tool to justify development in flood risk areas when the sequential test has not been passed.

The application forms indicate drainage to the main sewer. This would not be acceptable due to increased flood risk and would be contrary to policy EN22 Surface Run-Off Implications of New Development. The FRA advises: “*a proposed drainage strategy will be designed to accommodate all surface water flows from the new development. This network will be designed to accommodate the 1 in 30-year event without flooding, with flow routes considered to prevent flooding onsite or downstream during exceedance rainfall events*”. It is not apparent how such a scheme can be practically designed with so little space not built on.

In conclusion, Government guidance requires and policy EN21 River and Coastal Flooding adopts the requirement for a sequential approach to consider whether new developments will be permitted in areas subject to flooding. Wherever possible development should be sited in Flood Zone 1 as defined in the East Devon District Council Strategic Flood Risk Assessment. Only if there is no reasonably available site in Flood Zone 1 in the rest of the District, will locating the development in Flood Zone 2 and then Flood Zone 3 be considered. In failing to address the sequential test, in addition to conflicting with policies EN21 and EN22, the proposal is contrary to national guidance in paragraph 162 of the NPPF and paragraph 024 of planning practice guidance.

Loss of Retail/ Employment

Strategy 26 - Development at Sidmouth (3) Town Centre focuses on development enhancing the environment and promoting business opportunities in the town centre. For reasons explained under ‘the principle’ section above, conflict with strategy 26(3) arises.

Policy E9 Town Centre Vitality and Shopping Areas advises the viability of town centres relies on their ability to be competitive, and the policy seeks to ensure this. Development will be permitted provided:

1. *The use would not undermine the shopping character, and visual amenity, vitality or viability of the town centre*

.NO. In circumstances whereby 520 sqm of retail floorspace is to be demolished, with a retained area of only 76 sqm, in the absence of a detailed assessment to demonstrate what impact the loss of retail would have on the vitality and viability of the town centre, it is not possible to conclude vitality and viability will not be adversely affected. While additional residential can benefit

town centre vitality and viability, matters would need to be weighed against any negative impacts of the loss of retail;

2. *The amenity interest of occupiers of adjoining properties is not adversely affected by reason of noise, smell or litter.*

No. Issues surrounding impacts on neighbouring amenity arise, addressed under amenity considerations below;

3. *It would not cause traffic problems.*

YES. While third party concerns have been expressed regarding the reduction in available parking and servicing, County highway engineers raise no objections and this is a sustainable location where other means of travel than the car are available.

4. *Permission for change of use will not be permitted unless it can be clearly demonstrated that there is no longer a need for such uses and that the building or site has been marketed for at least 12 months (and up to two years depending on market conditions) at a realistic price without interest.*

NO. No marketing has taken place and no assessment made of the impacts of the loss of retail on the vitality and viability of the town centre.

Strategy 32 Resisting Loss of Employment, Retail and Community Sites and Buildings seeks to ensure that local communities remain vibrant and viable and are able to meet the needs of residents by resisting the loss of retail uses.

Options for the retention of the site for its current or similar use should be fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in a locality. No evidence of analysis of retail impacts or marketing has been provided for consideration.

Under policy E13 Use of Upper Floors in Shopping Developments the District Council will permit the use of upper floors of premises in Town Centre Shopping Areas for residential use subject to:

1. *In the case of commercial or community development, no loss of self-contained or purpose built residential accommodation with all basic amenities. N/A.*

2. *The preservation of any existing separate access to floors above ground level and provision for storage of refuse.*

YES. There is currently no separate access to the upper floors. Comments on refuse storage are provided below.

3. *The viability of the retail use not being undermined.*

NO, for the reasons explained in detail in the report.

Any support for alternative residential use of the upper floors comes with a focus on that assisting the viability of the retail use, which should not be undermined. In this case while there is no objection in principle to residential use on the upper floors, the loss of the upper floor storage use (c. 115 sqm) associated with the business would be compounded by the loss of a substantial amount (over 500 sqm) of retail floorspace within the rear single-storey structure to be demolished.

While the case is put that this form of redevelopment will benefit the applicants in their quest to restructure the business with a more online-focused offer, with only c. 76 sqm remaining for retail/ storage, in the absence of adequate justification that there is demonstrable demand for this, and that the loss of over 600 sqm of retail floorspace/ storage will benefit town centre vitality and viability, the conclusion is that, on balance, the overall loss of retail floorspace to accommodate the new residential uses is unacceptable.

It is acknowledged that shopping habits are changing and there is likely to be a reduced need for retail space within high streets, however a 12 month marketing exercise and viability assessment would allow an informed decision to be made on this matter. It is also noted that changes to the Use Classes Order mean the type of commercial use that could take place within the site is very flexible and need not be retail.

Policies E9 and E13 also require no problems arise from litter and adequate refuse storage is provided. The plans show refuse arrangements for the five flats only. However, capacity exists within the site for refuse provision for the retail store.

Overall, the proposals conflict with strategies 26, and 32 and policies E9 and E13 of the adopted local plan.

Heritage (Conservation Area and Listed Building) Considerations

The initial absence of a heritage statement has since been addressed. Comments on it from the conservation officer are included in the consultations section above.

Policy EN10 states that development within Conservation Areas will only be permitted where it would preserve or enhance the appearance and character of the area.

Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 requires special attention is paid to the desirability of preserving or enhancing the character or appearance of that area

Section 66 of the Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall 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 site comprises no. 20 and land to the rear (east of) Fore Street and is visible from the north along Russell Street. The site is adjacent to and visible from the link to

East Street (to the east) in both directions, and is most prominent in views from the north, including from the Roxburgh public car park. The main viewpoints in which the development would have an impact would be views from the northern part of Russell Street looking south, views from the direction of Roxburgh car park and views from East Street looking north.

To the north corner of Fore Street and to the east beyond the site there are modern buildings up to three storeys in height and to the north is a two storey building. To the south is a single storey outbuilding. The immediate area is mixed in character and includes retail, commercial, parking and residential uses of varied architectural styles and appearance. Development extends rearwards from Fore Street, generally with a gradually reducing hierarchy, interspersed with spaces and courtyards that in places afford views over the buildings towards the rear of buildings on Fore Street. The area retains a sense of place through its hierarchy, permeability (in terms of views over buildings) and variety of building styles, many that reflect the local vernacular.

The proposed addition of a three storey terrace to replace the extension to the shop would be parallel to Fore Street and linear in form. While the principle of the layout has some rationale, three storeys would be excessive in height having regard to the hierarchy of buildings, would fail to be sufficiently subservient to the buildings on Fore Street and would significantly diminish the permeability of views from the East of the site towards the rear of Fore Street.

While there have been buildings on the site for as long as records show, most, if not all, would have been single or two storey. The three storey flats on the north and south sides of the public car park are replacements for more traditional two storey buildings. The proximity of the nearest of these, Trumps Court, gives rise to significant concerns about the relationship and the impacts of three storey development on the experience of users of the East Street link and on legibility and the character of the SCA.

The modern design of the dwellings, with overtly horizontal emphasis, contrasts starkly with the small scale of other buildings to the rear of Fore Street and the scale and appearance of what might be expected here, and what is considered to be of an appropriate scale here. The development is not respectful of its setting generally or the setting and character of the SCA.

The design of the buildings does not reflect the traditional local vernacular. Gables are perpendicular to the prevailing pattern of ridges running along Fore Street.

The southern edge of the site shares a boundary with a Listed Building at 22 Fore Street and its curtilage/ curtilage outbuilding. The proposed new building would have an unsympathetic relationship, dominate and detract from the setting of the heritage asset.

As advised by the conservation officer under the consultations section above, the submitted heritage statement concentrates more on the site and the overall benefits of redevelopment and is rather less specific on the character, appearance and significance of the Conservation Area and how the site, within the context of the

Conservation Area, is affected. Similarly the focus is not on how the development might impact on designated heritage assets, specifically Listed and curtilage Listed Buildings to the south.

While there is no objection in principle to redevelopment from a heritage perspective (and offers opportunities for enhancement), very strong concerns surround three storey development, which while set back, have an excessive ridge height which is not sufficiently subservient to the principle buildings in Fore Street, including No. 22, or its neighbours. Three storeys is therefore considered to be unacceptable and single or possibly very well designed slightly higher development might be achievable as more appropriate.

The height, form, design and appearance of the development fails to make a positive contribution to local character and distinctiveness, is not a well-considered or cohesive form of development, but rather is an overdevelopment, and overly-dominant development which fails to conserve or enhance the character, appearance and significance of the Conservation Area.

The new housing element within the Conservation Area pays insufficient regard to and fails to respect the setting of the Listed Buildings to the south, nor does it enhance or better reveal their significance, as LPAs are encouraged to ensure, under guidance in NPPF para 206.

In summary, the proposal is an overdevelopment, an incongruous and inappropriate form of development, overly dominant and insufficiently subservient to and respectful of established local character, hierarchy and heritage assets, and would fail to conserve or enhance the character and appearance of the Conservation Area or adjacent Listed Building, contrary to policies EN10 of the East Devon local plan and guidance in paragraph 206 of the NPPF.

Character of the area Detailed Design, Character and Townscape Considerations

Strategy 6 (Development Within Built-up Area Boundaries) requires, among other things, that development is compatible with the character of its site and its surroundings.

Policy D1 (Design and Local Distinctiveness), among other criteria, only permits proposals that respect the key characteristics of the area, requires that the scale, massing, height and materials of buildings relate well to their context and do not adversely affect the urban form, trees worthy of retention or the amenity of neighbouring occupiers.

Policy 7 (local distinctiveness) of the SVNP advises development proposals will be expected to have regard to the character of the immediate area and be designed to complement and enhance the local distinctiveness of the character of its immediate locality, reflecting the height, scale, massing, fenestration, materials, landscaping and density of buildings. Building heights should be in keeping with the context of neighbouring properties.

The context of the site is described under the heritage section above.

From an exclusively townscape perspective, the demolition of the later single storey rear extension, which makes little contribution to local townscape, would be acceptable in principle as part of an acceptable redevelopment (if addressing other issues of concern identified elsewhere in this report) and it is reiterated that there is no objection *per se* to a redevelopment in townscape terms.

The materials key for the terrace of three storey dwellings includes:

- 1 - Brickwork, red (spec to be conditioned)
- 2 - Slate roof
- 3 - Aluminium clad timber windows and rooflights, dark grey
- 4 - Aluminium sliding doors, dark grey
- 5 - Galvanised metal rainwater goods
- 6 - Solid timber entrance doors

And frosted glazing to many of the windows on the new build west elevations.

While there are other tall buildings in the vicinity, there is nothing higher than single storey in the vicinity of the site in the areas to the rear of the properties fronting Fore Street.

The new build dwellings proposed are unusually narrow only 3.7m wide and high, 9.74m to ridge above proposed FFL (an additional 0.4m above existing ground level within the site and 1m above existing street level adjacent to the south east corner of the site in the East Street link). This is an attempt to maximise the number of units on the site. The maximum overall height of the buildings above the street level along the East Street link would be 10.74m. Set back behind short gardens 4.2m from the rear elevations, the terrace would tower above street level along the East Street link. Matters would be compounded by the three storey development opposite, directly fronting the East Street link, creating a canyon-like effect for pedestrians and the residents of Trump Court when accessing their homes. With gables presented eastwards towards the road (in contrast with the majority of local buildings), and overtly horizontal emphasis, the form of development, compounded by how narrow and tall the buildings are, would be an incongruous and overly dominant form of development within the local townscape. Proposals are symptomatic of an overdevelopment.

The height, form, design and appearance of the development would fail to make a positive contribution to local townscape character and distinctiveness.

In summary, the proposal is an overdevelopment, an incongruous and inappropriate form of development, overly dominant and insufficiently subservient to and respectful of established local character, contrary to Strategy 6, and policy D1 of the East Devon local plan and policy 7 of the SVNP.

Amenity

Policy D1 requires that development proposals do not adversely affect the amenity of occupiers of adjoining residential properties. Policy 6 infill development, extensions

and trees of the Sid Valley Neighbourhood Plan (SVNP), requires development should be designed so as not to adversely impact on the amenities of its neighbours.

The ground floor kitchen/ dining, first floor living and second floor bedroom east-facing windows of the new build development would face towards Trumps Court at close quarters (c. 9.2m at the nearest point) but the existing flats do not have habitable room windows/ an outlook directly towards the site. Windows in Trump Court are off-set to the south and the buildings are not parallel, such that no undue loss of privacy would arise.

On the north side there is first floor residential accommodation on the opposite side of Russell Street which has windows facing towards the site. The separation between these windows and the blank gable end of the new dwellings is substantial and no loss of amenity would occur. No significant amenity issues arise in relation to the new additional access opposite this building in this town centre location.

To the west there are apartments above the shops fronting Fore Street (as well as the proposed flats themselves) containing windows facing east towards the new build residential on the site, with some roof terraces at upper level (and the proposed roof terraces at second floor level). The front elevations of the new dwellings would face towards these apartments with only an entrance door at ground level, a study window at first floor and a bedroom window at second floor providing direct inter-visibility.

Separation distances between existing rear and proposed front facades at first floor level is c. 12.8m at the nearest point. It is the same distance between the new build bedroom window and the nearest point to the flats' second floor terrace. No direct loss of privacy occurs at first floor level as the proposed flats only have an entrance door. Window to window distances are greater, c. 17.3m. Such separation is not inappropriate within a town centre setting.

It is though a much closer distance between the front of the new build and the adjacent property to the south, no. 21 Fore Street, with only c. 4.5m between the new build bedroom and study windows and the roof terrace opposite, and only c. average 9.1m window to window distance.

In an attempt to overcome the problem inherent in the siting of the buildings too close to existing properties, frosted glazing is proposed to many of the windows on the new build west elevations. However, while the larger window panes are frosted, the narrower panes are not – without which the rooms would be oppressive and have no outlook.

This level of inter-visibility and direct intrusion through overlooking would still give rise to an unacceptable loss of privacy and be harmful to the living conditions of neighbouring occupiers.

For the avoidance of doubt, frosting all the windows would resolve direct overlooking, but at such close quarters, there would still be a perception of being dominated and overlooked.

The introduction of second floor terraces for the flats would be a prominent feature in the Conservation Area, with 1.75m timber balcony screens proposed to prevent overlooking north-south which would be unduly prominent.

Concerns have been expressed about loss of daylight and impacts on solar panels. The balcony screens would overshadow open rear terrace amenity areas at lower level to the north. They would also overshadow the proposed terraces themselves, thereby negating some of their benefit for future residents.

The new build dwellings are close to neighbouring properties. Located to the south eastern edge of the site, while there would be overshadowing of existing properties to the west in the morning, this would not be until the sun had risen over Trumps Court (to the east), but being closer, will create additional overshadowing. This is not considered to give rise to undue loss of neighbouring amenity, primarily overshadowing the site itself.

However, in relation to issues of comprehensive development, and the requirement under strategy 6 not to prejudice neighbouring redevelopment potential, three storey development abutting the southern boundary of the land to the north would directly impact in terms of direct overshadowing and enclosure.

On the south side of the site there is a courtyard behind Nos. 20 & 21 Fore Street, both Listed Buildings, and a curtilage Listed rear outbuilding. Planning permission was granted for the conversion of the outbuilding to a one bed flat and construction of a brick wall and gate (Ref 21/0232/FUL) at 'Utopia' to the rear of 20 Fore Street, adjacent to the southern boundary of the application site. The outbuilding, is 'curtilage Listed' owing to its position within the curtilage of the principal Listed Building (no. 20) Fore Street. Any implications arising from the development on the amenity of future occupiers is a consideration (along with Listed Building setting issues).

The southernmost dwelling in the terrace would abut the boundary with the outbuilding and its intended garden area and at three storeys, would significantly dominate it. Given the siting and orientation, while some enclosure would arise, there would be no significant amenity issues arising from overlooking or overshadowing. This weighs slightly negatively in the planning balance.

In summary, the relationship between the new build residential, and existing (and proposed) accommodation to the west, results in an unacceptable level of overlooking and loss of privacy for existing and future occupiers, contrary to the aims of policy D1 to safeguard amenity.

Highways and Car Parking/ Servicing

A revised access is proposed further west along Russell Street as the existing access is on the Council-owned land part of the current car park, but not part of the current red line application. There are no highway objections from County Highways to this alternative additional means of access onto what is a narrow one way street.

The existing retail unit has rear Parking and off-street servicing. This area would be reduced and 1 of the 6 parking spaces allocated to the retail unit, the other 5 to each of the residential units. There would be rear access to the shop, but if rear servicing were to occur, this would involve use of the shared turning area and interfere with the residential turning/ manoeuvring space. Nevertheless, it would be possible to service the shop off street with a small van, at a small inconvenience to other residential parking users.

Despite concerns from third parties about the adequacy of the parking provision, there are no objections from County Highways. Policy TC9 suggests 1 parking space for 1-bed and 2 parking spaces for larger units, but is flexible in town centre locations with good public transport links.

The Council-owned plot and access, currently part of the premises, but not part of the application site, would remain and therefore still be potentially available for parking, so is not necessarily lost as a local facility.

Secure cycle/ scooter storage could be required by condition.

This is a comparatively sustainable location with access to public transport and accessible by other means than the car, including by bicycle. No conflicts with policies TC2 (Accessibility of New Development), TC7 (Adequacy of Road Network and Site Access) or TC9 (Parking Provision in New Development) arise.

Housing standards and the Amenity of Future Occupiers

The accommodation is assessed against the nationally prescribed housing standards. At 3.2m wide, the new build properties are extremely narrow, very unusually so.

New build

GF c. $3.2 \times 10.5 = 33.6$

FF c. $3.2 \times 9.5 = 30.4$

SF c. $3.2 \times 9.5 = 30.4$

Total c. 94.4 sqm

Bed 1 c. $3.2 \times 3.6 = 11.5$ sqm

Bed 2 c. $3.2 \times 3.6 = 11.5$ sqm

While there is no national housing standard for a 3-storey 2-bed 4 person dwelling, the standard for a 3-story 3-bed dwelling is 90 sqm, so provides a satisfactory internal standard. Double bedrooms meet the minimum 11.5 sqm.

The very narrow dwellings over three storeys is a contrived way of providing the accommodation and while meeting the internal standards, is symptomatic of an overdevelopment. It is not consistent with the positive aspects of local character within the Conservation Area, where the buildings are more traditionally distinct in form.

Flat conversion 1

FF (living) $11.6 \times 4.2 = 48.72$

SF (bed) average c. $4.6 \times 2.8 = 12.88$
Total = 61.6 sqm + bay and eaves storage

Flat 1 has single aspect living accommodation.

Flat conversion 2

FF (living) average c. $6.6 \times 3.8 = 35.08 + 1.3 \times 5 =$ Total = 41.58
SF (bed) average c. $3.1 \times 1.6 = 4.96 + 1.7 \times 2.7 = 4.59 + 1.2 \times 1.8 = 2.16$ Total = 11.71
Total = 53.29 + bay and eaves storage

Flat 2 has contrived odd-shaped living and (particularly) bedroom space as a result of the new stairs.

The national housing standard for a 2-storey 1-bed 2 person dwelling is 58 sqm, so flat 1 provides a satisfactory internal overall space standard and flat 2 is slightly sub-standard. Double bedrooms meet the minimum 11.5 sqm (although flat 2's bedroom is odd-shaped but can still accommodate a double bed).

Flat 1 meets the standard and flat 2 is sub-standard

Notwithstanding some of the shortcomings of the accommodation, nevertheless the proposed new build dwellings and flat conversions by and large have adequate internal standards, to meet the requirement for modern living and with a few exceptions, are generally consistent with the nationally prescribed space standards, and would provide an acceptable standard of internal amenity for future occupiers.

However, the need for frosted glazing to the rear windows to prevent overlooking, detracts from the outlook and quality of the accommodation provided. That frosted windows are necessary to avoid overlooking is indicative of an overdevelopment. It is questioned whether such development meets the expectations for modern living.

Other matters

Archaeology- the Historic Environment Service has identified potential for archaeological deposits to be revealed in the development works. In accordance with policy EN7 and paragraph 205 of the National Planning Policy Framework, a written scheme of investigation and programme of works could be secured through condition.

Local Needs Housing - The Town Council would like to see the dwellings occupied as permanent residential properties rather than second or holiday homes in order to maintain the vitality of the Town centre. However, the proposal is for open market dwellings.

Biodiversity - Biodiversity net gains could be secured by condition consistent with policy EN5 aims that where potential arises, positive opportunities for habitat creation will be encouraged through the development process.

Construction - If the development were permitted, there would be disruption to local residents and road users. Whilst this would be temporary, it would be reasonable to secure the implementation of a construction environment management plan (CEMP) to ensure that disruption is minimised should the application have been recommended for approval.

Non-planning third party rights matter - a gate is shown to potentially provide access across the forecourt of an adjacent private third party property. The planning statement advises this property is landlocked and the present owners have requested a potential access route. Any implementation would be subject to a civil agreement.

Adjacent Listed Building – third party concerns about how the development will be separated from the adjoining Listed Building are party wall matters addressed under other legislation.

Prejudicing the development potential of an adjacent site - Strategy 6 (6) requires development does not prejudice the development of an adjacent site. As referred to in the report above, while the applicant has attempted to demonstrate the proposal would not prejudice the development of the adjacent Council-owned site (which is currently part of the present commercial retail use parking/ servicing area, but is omitted from the current redevelopment plans), the land is directly to the north and the land would be dominated and overshadowed for much of the day by the three storey building abutting its southern boundary. For the above reasons, the proposal is contrary to Strategy 6 (6) of the local plan.

Habitats Regulation Assessment and Appropriate Assessment

The nature of this application and its location close to the 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 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 work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Summary/ Conclusions

Failure to pass the sequential test surrounding the introduction of new build residential development within an area designated as high flood risk, is terminal to the prospect of planning permission being granted.

In the absence of an assessment to demonstrate how the loss of over 600 sqm of retail floorspace / storage and leaving a residual c. 75 sqm combined retail/ storage does not adversely impact (and ideally would benefit) the vitality and viability of Sidmouth town centre, the proposal is not supported as contrary to policy.

Whilst additional residential accommodation can provide a wider community benefit in terms of meeting housing supply (particularly in circumstances whereby the Council is unable to provide a five year supply of deliverable housing land), and can contribute positively to town centre vitality and viability, the flood risk, retail impacts, heritage, townscape and other concerns identified, weigh strongly negatively. In such circumstances, the harm arising very significantly outweighs any benefits in the balance of planning considerations. The proposal is contrary to national guidance and to the development plan read as a whole.

Accordingly, the application is recommended for refusal

RECOMMENDATION

REFUSE for the following reasons:

1. The site lies within flood zones 2 and 3. The sequential approach to flood risk aims to steer new development to areas with the lowest probability of flooding and in this case there has been no assessment of allocated or reasonably available sites elsewhere in the District that are suitable for new dwellings and at a lower risk of flooding. The proposal therefore fails to satisfy the sequential test and is contrary to Policy EN21 (River and Coastal Flooding) and Strategy 6 (Development within Built-Up Area Boundaries) of the adopted East Devon Local Plan 2013-2031, paragraphs 159 and 162 of the National Planning Policy Framework (2023) and guidance in Planning Practice Guidance including paragraph 024.
2. The form, height, scale, layout and appearance of the development by virtue of its siting, design and poor relationship with the buildings on Fore Street and with the East Street link, would be an overdevelopment and an incongruous form of development, unsympathetic to the prevailing character of the Sidmouth Town Centre Conservation Area and the setting of an adjacent Listed Building and curtilage-Listed Building to the south. The proposal would therefore fail to preserve or enhance the character and appearance of the Conservation Area and the setting of a heritage asset. It has not been demonstrated that the proposal would not prejudice the development potential of adjacent land to the north. The proposal would be contrary to Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset), EN10 (Conservation Areas) and Strategy 6 (Development within Built-Up Area Boundaries) of the adopted East Devon Local Plan 2013-2031 and Policy 7 (Local Distinctiveness) of the made Neighbourhood Plan for the Sid Valley 2018-2032.

3. By virtue of the close proximity of the proposed new build dwellings relative to the windows and outdoor amenity areas of existing and proposed neighbouring properties, and the proposed new high level terraces within the conversion, the proposed development would result in unacceptable overlooking, overshadowing and loss of privacy, detrimental to the amenity of the existing and future occupiers of those properties. The proposal would therefore be contrary to Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and Policy 6 (Infill Development, Extensions and Trees) of the made Neighbourhood Plan for the Sid Valley 2018-2032.
4. In the absence of marketing to establish whether there is a need, and analysis of the impacts of the loss of commercial floorspace, options for the retention of the commercial floorspace have not been appropriately explored, it has not been demonstrated that the loss of the commercial floorspace would not undermine the shopping character, vitality or viability of the town centre or that aims surrounding the promotion of business opportunities have been met. Overall, the proposals conflict with strategies 26, and 32 and policies E9 and E13 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.

Plans relating to this application:

22014-PL100 REV B	Location Plan	22.03.23
22014-PL210 REV B	Proposed Block Plan	22.03.23
22014-PL211 REV A	Landscaping	22.03.23
22014-PL220 REV A	Proposed Floor Plans	22.03.23
22014-PL221 REV A	Proposed roof plans	22.03.23
22014-PL222 REV A	Proposed Floor Plans	22.03.23

22014-PL223 REV A	Proposed Combined Plans	22.03.23
22014-PL240 REV A	Proposed Elevation	22.03.23
22014-PL241 REV A	Proposed Elevation	22.03.23

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

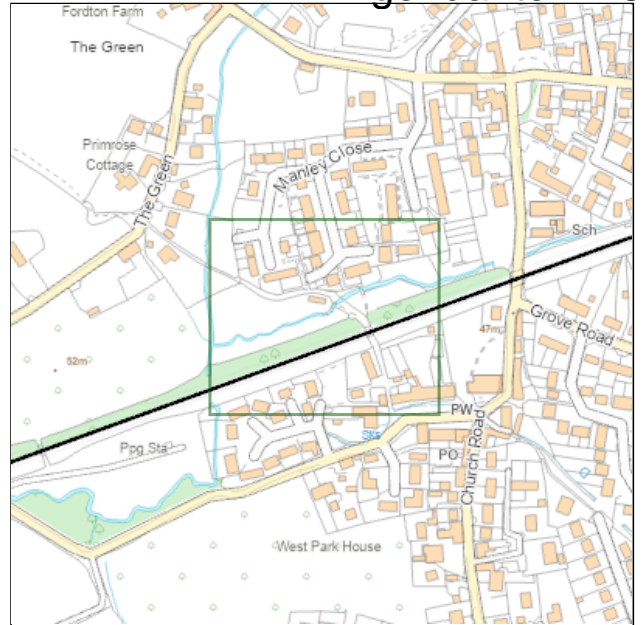
Ward Whimble And Rockbears

Reference 23/1147/FUL

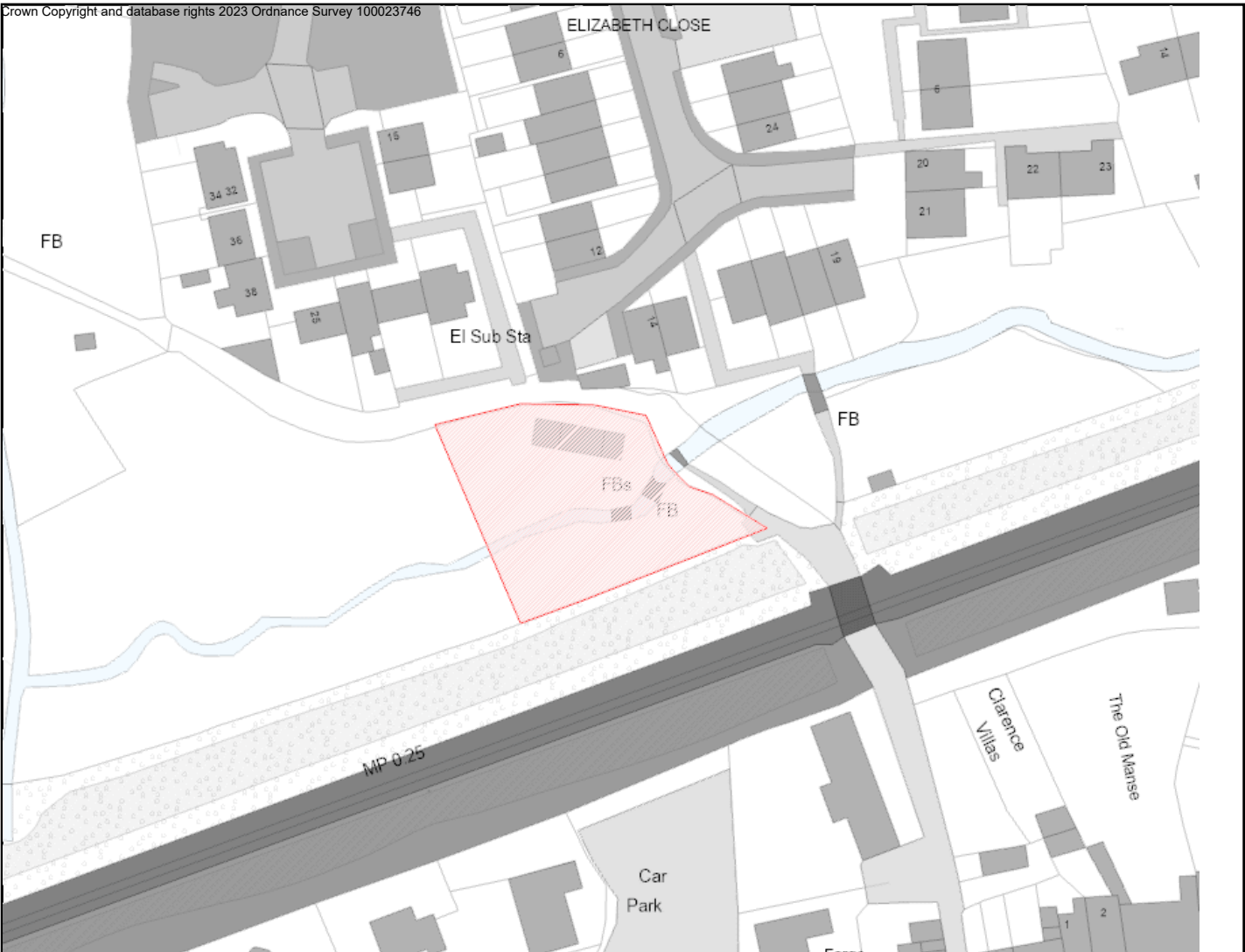
Applicant Ms & Mr V & C Kendrew & Pring

Location Land North Of Railway Whimble

Proposal Conversion of existing building from barn into dwelling.



RECOMMENDATION: Approval with conditions



		Committee Date: 24.10.2023
Whimble And Rockbeare (Whimble)	23/1147/FUL	Target Date: 03.08.2023
Applicant:	Ms & Mr V & C Kendrew & Pring	
Location:	Land North Of Railway Whimble	
Proposal:	Conversion of existing building from barn into dwelling.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Planning Committee because the Officer recommendation differs to the views of the Parish Council and Ward Member.

The application relates to a redundant agricultural building, situated in a plot of land on the western fringes of the village of Whimble. The southern area of the site is bisected by an ordinary watercourse and the western extent bounded by the Cranny Brook (classified as Main River by the EA).

To the east and north the site is bounded by a public footpath with a small, grassed park area and residential areas beyond. To the west is an adjacent property and associated gardens with an orchard beyond the Cranny Brook. To the south the site is bounded by the Exeter to Waterloo railway line.

The site covers an area of approximately 0.56 hectares, with the access road and proposed parking area to the southeast of the existing building, which is located in the northeast of the site. The remaining site is a meadow with some trees.

The current building has been at the site since around 1900 with its last known use being agricultural. The building is of solid brick construction with some open walls constructed of wood and tin.

Planning permission is sought for the conversion of the barn into a one bedroom dwelling. External changes to the building would include raising the height of the two mono pitched side wings, and that of the central section of the building. The proposal would utilise existing window and door openings on the front elevation, and would include the provision of a juliet balcony at first floor level. Vehicular access to the proposed dwelling would be via the existing track from The Square which leads to the site and which is a designated public right of way.

The proposal must be determined in accordance with the relevant Local Plan Policies and also the National Planning Policy Framework (NPPF). The latter of those states that Councils are required to maintain a five year housing land supply. At the current time, East Devon doesn't have a 5 year housing land supply, so the presumption in favour of sustainable development in the NPPF applies. This means that the fact that the site is located in the countryside and outside of a Built-Up Area Boundary (BUAB), and within the Green Wedge, as defined by the East Devon Local Plan, cannot reasonably be a reason to refuse planning permission. Instead, the main test in determining this application relates to whether the adverse impacts of granting planning permission for the conversion of the building to a residential dwelling would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Policy D8 (Re-use of Rural Buildings Outside of Settlements) of the Local Plan lends support to the proposal, as it is considered that the key criteria within that policy are met by the application. Additional weight is added to that by virtue of the services provided within Whimple are such that the village is considered to be a sustainable location. Consequently, the principle of the development is considered to be acceptable, when the Council's lack of five year housing land supply is considered.

Concerns have been raised about the access to the site, which would be along a public right of way. However, the section of the path which would be used to access the site is already used to access the field in which the building is located. With that in mind, the County Highway Authority and County Rights of Way Departments have not raised an objection to the proposal.

Much of the site is located in a flood zone designated by the Environment Agency. Policy EN21 (River and Coastal Flooding) of the Local Plan states that a sequential approach will be taken to considering developments, but excludes minor developments and changes of use. Therefore, as the proposal is a change of use, it is considered that the development need not be the subject of sequential testing.

However, the proposal would introduce a more vulnerable use into the building where its future occupiers are likely to be at a greater risk from flooding. Therefore, it is necessary to carefully assess the submitted Flood Risk Assessment (FRA) to ensure that appropriate flood resistance and resilience measures are incorporated into the building, and that a safe access and entry point could be provided during a flood event. This can be achieved through conditions.

Additionally, the overall footprint of the building would not be increased and neither would there be any increase in hard standing or roof space that would have the potential to increase surface water run off or affect the flood risk of the surrounding area.

Given these factors, it is considered that the development is acceptable in terms of flood risk.

In terms of other key planning matters, it is considered that the proposal is acceptable in terms of:

- **Its visual impact upon the area,**
- **The impact of the proposal on residential amenity,**
- **The impact on trees,**
- **Implications for wildlife and,**
- **Habitat mitigation (as an upfront payment of £196.81 and a S111 agreement has been submitted).**

Given the above, it is considered that, on balance, this proposal is acceptable. It would make a small contribution to the Council's five year housing land supply, and complies with relevant policy within both the Local Plan and the NPPF. Therefore, there are no grounds to refuse the application, so it is recommended that this application is approved.

CONSULTATIONS

Clerk To Whimble Parish Council

Whimble Parish Council planning committee doesn't meeting until Monday 7 August so we will consider the revised application then and provide comments. Thanks

Clerk To Whimble Parish Council

The council wishes to object to this application on the following grounds:

There are significant issues with the footpath having vehicle access - it is a very busy footpath, used regularly by school children and is not suitable for vehicle access (apart from emergency vehicles and those properties who have designated vehicle access). Council understands that the footpath is already being used by construction traffic and public safety concerns are being raised by local residents.

The area is also susceptible to flooding and in recent months has been impassable due to flood water.

Furthermore, there is confusion over the address on the application and local residents have not been informed of the application as EDDC failed to display the appropriate public notices.

Whimble Parish/Town Council

The Council RESOLVED that it has no objections to this application providing that a safety plan is in place for pedestrian safety on the footpath, prior to the construction work commencing. If East Devon District Council is minded to approve the application that public safety is paramount in relation to the footpath.

Whimble Parish/Town Council

Whilst I sent across comments that the council had no objections to this application, they disagreed with this minute at the meeting a couple of days ago and asked that it be revised as follows:

The Council RESOLVED that if East Devon District Council is minded to approve the application that public safety is paramount in relation to the footpath, and that a safety plan should be requests and be in place, prior to the construction work commencing.

Please can you pass this to the relevant planning officer. WPC want to make it clear that their previous objection still stands.

Whimble And Rockbeare - Cllr Todd Olive

I object to this application on the following grounds:

1. The site is located in a functional flood plain and is regularly inundated, and as such is totally inappropriate for residential development.
2. The site is accessed via a public footpath in regular use which is unsuitable for residential access, let alone construction traffic. Its adjacency to a recreation area also poses material safety risks should access to this area be shared with regular unsegregated vehicular use.
3. The site falls outside the village development boundary; beyond just policy lines, redevelopment of the site would involve an incursion of residential development into otherwise-open and unspoiled green space beyond the natural boundaries of the village formed by trees and the railway line, and as such comprises creeping encroachment on surrounding countryside clearly contrary to the objectives of the NPPF (and particularly the environmental pillar of sustainable development) and EDDC Local Plan Strategy 7.

Further comments from Cllr Todd Olive 11/10/23

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined with regard to the policies of the local development plan, unless material considerations indicate otherwise. In the case of this application, I believe it is agreed that the proposal does **not** comply with the strict provisions of the development plan, in particular Strategy 7 (Development in the Countryside) where the proposal falls outside the designated Built Up Area Boundary of Whimble. As such, the question is whether material considerations – principally national policy set out in the NPPF – do indeed indicate otherwise.

In this regard, as EDDC is unable to demonstrate a five-year housing land supply, paragraph 11(d) of the NPPF applies, requiring the application of the tilted balance test – that is, for the application to be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. Critically, this is not a test of whether any **one** benefit outweighs said benefits, but a question of cumulative adverse impacts against the sum of benefits. It is the identification of benefits and drawbacks, and determination of their weights, where I disagree with officers' recommendations.

Taking the benefits first, the application has two clear benefits: provision of one windfall dwelling in the midst of EDDC's inability to demonstrate a five-year housing land supply, and re-use of an existing building.

Firstly, it is unequivocal that the provision of a dwelling where previously one did not exist is a benefit of the proposal and should be afforded substantial weight in the balance test.

Secondly, I agree with officer comments that the proposal comprises re-use of an agricultural building outside of an existing settlement. However, I am not aware of any evidence regarding whether the site as existing forms part of an agricultural enterprise and therefore whether there would be any adverse impacts on the viability of said enterprise requiring replacement buildings, this issue being an unequivocal requirement of East Devon Local Plan policy D8 (Re-use of Rural Buildings Outside of Settlements) – and as such I am not clear that it *has* been demonstrated that the proposal does comply with policy D8. I would therefore suggest that this benefit cannot be afforded more than limited weight.

Indeed, and moving on to the adverse impacts of the scheme, where officer comments respond to concern regarding highways impacts by suggesting that the scale of trip generation by the proposal would be minimal – on account of resulting residential traffic being of comparable frequency to that of the land in its existing agricultural use – it would seem to me that the same critical evidence regarding the extent and intensity of the building's extant agricultural use is missing. If we are to say, as the officer recommendation reads, that the proposal complies with policy D8 in full, and thus does not affect existing agricultural activities, then it would seem to me that we cannot also say that the extent of traffic currently using the site for agricultural purposes is comparable to the minimum four trips or more a day that we might expect from residential use. It also seems to me that we cannot rely solely on the lack of objection from Devon's Highways/PRoW teams to effectively dismiss this point – residents' and the Parish Council's concerns are valid, based on local knowledge and experience, and must be taken into account. Vehicular access is via a narrow, unadapted, poorly-maintained track, which is a frequently-used public footpath, providing a major link between the village shop and a large number of dwellings at Chard Avenue, Elizabeth Close, and Manley Close, as well as access to the village's Scout Hut and to Parish-owned public space earmarked for the installation of a new children's play area. In my view, this should be taken as an adverse impact of the proposal with moderate weight on account of its potential impacts on an important public footpath – particularly during the construction phase – which would also represent conflict with East Devon Local Plan policy TC7 (Adequacy of Road Network and Site Access). To be clear, I am not suggesting that this stands as a reason for refusal on its own merits – but rather that it should be taken as part of a broader portfolio of drawbacks to be weighed against the benefits.

Moving on, then, to impacts on landscape, countryside, and similar points – I agree with officers that, again, these cannot stand as reasons for refusal on their own merits as a result of the engagement of paragraph 11(d) of the NPPF.

However, it is not disputed that the proposal **will** conflict with Strategy 7 of the East Devon Local Plan. The proposal **would** lead to the creation of a dwelling outside of the Built Up Area Boundary. Referring to landscape and visual impacts, the building in question lies outside a number of extant visual barriers intervening between Whimple itself and the broader countryside, comprising the railway line and existing vegetation which broadly follows the edge of the Built Up Area Boundary, and would

lead to the transformation – indeed, domestication – of an agricultural field into a residential garden. This is a clear drawback of the proposal that should be taken into account in the tilted balance test. Recognising that these impacts are to some extent mitigated by the site's proximity to village services, I would argue that conflict with Strategy 7 should be afforded moderate weight against the proposal, while further limited weight against the proposal should be attributed to landscape impacts.

Finally, there is the issue of flood risk. It is not disputed by any party that the site is located within various EA flood zone designations, nor that a watercourse runs in close proximity to the barn in question with an additional watercourse designated by the EA as a Main River – indeed, the applicant has proposed significant flood resilience measures, including substantial raising of finished floor levels. My own knowledge of the site and broader area East of 'The Green' and outside of the village boundary is that flooding from these watercourses is a recurring and significant issue, and it should not be taken lightly.

The resilience measures proposed do not change the fact that this proposal would lead to the introduction of a use classed as 'More Vulnerable' by the NPPF, which is categorically **not** permitted in Flood Zone 3b by national policy, and is only permitted in Flood Zone 3a following the application and passing of the so-called 'Exception Test' – though caveats that this test should not be levied against applications for change of use such as this. East Devon Local Plan policy EN21 (River and Coastal Flooding) has broadly similar provisions. Where this test is not to be applied, policy requirements are that the proposal is 'flood resilient' – ensuring the safety of its occupants for the lifetime of the development. While I appreciate that officers' assessment is that the proposal does comply with these requirements, this does not alter the reality that this proposal is for the introduction of a vulnerable residential use into the flood plain. That is clearly contrary to the objectives of both the National Planning Policy Framework and the East Devon Local Plan, and it should weigh substantially against the proposal – particularly where we need only look to the news every month for regular examples of catastrophic extreme flood events exacerbated by the ongoing Climate Crisis.

To summarise my view, therefore:

- In favour of the proposal sits:
 - provision of an additional dwelling in the absence of a five-year housing supply, with substantial weight, and
 - re-use of an existing building, with limited weight.
- Against the proposal are:
 - highways impacts, with moderate weight,
 - residential development in the countryside, with moderate weight,
 - impacts on landscape, with limited weight, and
 - flood risk, with substantial weight.

It is therefore my view, on the basis of my knowledge as Ward Member and indeed as a resident in the village, comments from local residents and the Parish Council derived from substantial lived experience, and reflecting the above analysis, that the adverse impacts of the proposal do, cumulatively, significantly and demonstrably outweigh the benefits of the proposal - and that as such the presumption in favour of sustainable development set out at paragraph 11 of the NPPF, and triggered by EDDC's lack of a five-year housing supply, does not apply. As a result, and going

back to section 38(6) of the 2004 PCPA, the proposal both does not comply with the provisions of the local development plan, and material considerations – that being the provisions of the National Planning Policy Framework – do not indicate that the application should be otherwise determined. As such, I would ask that Committee vote to refuse the application.

County Highway Authority

I have visited the site in question and reviewed the planning application documents.

It is appreciated that there are historical recommendations of refusal from the County Highway Authority, (CHA) for similar projects on this site, however I must assess the merit of this current application standalone with our current best practice guidance, Manual for Streets 1 and 2, our current best practice, taken into account modern vehicle braking and better tarmac materials.

The lane does not belong to and is not maintained by Devon County Council, (DCC).

I have also consulted DCC's Public Rights of Way (PROW) team, who do not hold any objections to this application, with many situations of vehicles crossing or utilising un-adopted accesses or tracks with PROW use, across Devon.

The site currently has an established agricultural access and I do not believe the presence on a substituted dwelling will create an un-acceptable trip generation intensification.

The Design and Access statement, includes the net gain of lighting, visibility maintenance and drainage works of benefit to vehicles and non-motorised users (NMU's) alike. I would recommend the provision of a Construction and Environment Management Plan (CEMP) to help mitigate and monitor the effects of construction upon the wider local highway network, which is maintained by DCC, as HMPE, Highway Maintained at Public Expense.

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;

Environment Agency

Depending on whether a FRA has been submitted for this application, which I would strongly suggest to allow for an assessment to be completed, our position is outlined below;

Environment Agency Position

Thank you for your consultation in respect of this planning application. As you are aware, we no longer provide bespoke advice on consultations for change of use.

Please find attached our standard planning advice note and supporting Flood Risk Assessment checklist, which will allow you to determine the suitability of the application with regard to flood risk.

If your Authority is minded to refuse any such applications on flood risk grounds please notify us. If refusal of permission is appealed by the applicant we would be happy to support you at appeal.

Additionally, the applicant may like to request Product 4 data, which is a suite of supporting documents outlining the flood risk for an area. This is free. This can be requested from us by contacting: DCISEnquiries@environment-agency.gov.uk

Please reconsult us if there are any additional changes to this application.

EDDC Trees

In principle I have no overall objection to the proposal. The proposal is likely to require the removal of one Sycamore which currently overhangs the eastern section of the barn and is likely to lead to pressure to prune the larger multi stemmed Sycamore. However, appropriate pruning is not considered an issue.

The following condition is recommended:

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 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. The development shall be carried out in accordance with the approved details.

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

EDDC District Ecologist - Will Dommett

I have reviewed the report and although the survey was undertaken technically outside of the optimal survey period (May-August), the weather conditions were still suitable for bats to be active and the building is unlikely to be used as a breeding roost. The general recommendations in the report are also considered suitable. Therefore, I would accept the results of the survey.

I would have liked to have seen the survey supported by an updated daytime visual inspection prior to the survey but I should have made that clear. I would also recommend that an integrated bat box and bird brick be provided in the converted building as an ecological enhancement.

William Dommett MSc MCIEEM
District Ecologist
East Devon District Council

Other Representations

A total of 44 third party representations have been received. Of those, 21 are objecting to the proposal, whilst 23 are in support of the application.

The key points made in the objections are:

- Flood risk.
- Narrow and unsafe access road.
- The site is next to a playground.
- Inadequate sewage system in Whimple.
- Conflict with users of the footpath.

The key points made in support of the proposal are:

- Bringing the building and land back into use.
- Would not be detrimental to the surrounding area.
- It is a well thought out conversion.
- It will improve the safety of the area.

- Re-use of a building.
- The Flood Risk Assessment is robust.
- The access is already used by vehicles.

PLANNING HISTORY

Reference	Description	Decision	Date
81/P0949	Erection Of Dwelling.	Refusal	14.07.1981
83/P1613	New Dwelling.	Refusal	22.11.1983
84/P1874	Conversion Of Barn To Dwelling.	Refusal	12.02.1985

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

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

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents NPPF (National Planning Policy Framework 2021)

Site Location and Description

The proposed development site is located on the western fringes of the village of Whimple. The southern area of the site is bisected by an ordinary watercourse and the western extent bounded by the Cranny Brook (classified as Main River by the EA).

To the east and north the site is bounded by a public footpath with a small, grassed park area and the residential areas of Manley Close and Elizabeth Close beyond. To the west is an adjacent property and associated gardens with an orchard beyond the Cranny Brook that bounds the site. To the south the site is bounded by the Exeter to Waterloo railway line.

The site covers an area of approximately 0.56 hectares, with the access road and proposed parking area to the southeast of the existing building, which is located in the northeast of the site, adjacent to an existing public footpath. The remaining grounds are predominantly occupied by meadow and a number of trees.

The current building has been at the site since circa 1900 with the last known use of the building agricultural. The building itself is of solid brick construction with some open walls constructed of wood and tin.

Planning History:

Planning permission was refused in 1985 (ref 84/P1874) for the conversion of barn to dwelling for the following reasons:

1. "The conversion of the barn to a dwelling would be contrary to the provisions of the County Structure Plan because, in the opinion of the Local Planning Authority, the barn is not worthy of retention and in order to provide acceptable modern living accommodation the barn's conversion to a dwelling would give rise to a major extension and reconstruction."
2. "The site lies in an area beyond that which the Local Planning Authority consider to be acceptable for additional development and is not well related to the existing village, and its development would be contrary to the provisions of the County Structure Plan."
3. "The lane leading to the site is totally inadequate to serve residential development because of its restricted width and unmade state. The lane leading to the site is a public footpath and traffic generated by the development of the site would be a hazard to users of this footpath)."

Proposed Development:

Planning permission is sought for the conversion of the barn into a one bedroom dwelling. The ground floor of the building would contain a kitchen, living room, dining room, bathroom and utility. The first floor of the building would contain a bedroom. External changes to building include raising the height of the two mono pitched side wings of the building, and that of the central section of the building. The proposal would utilise existing window and door openings on the front elevation and would include the provision of a Juliet balcony at first floor level. New windows and doors are proposed to serve the lounge, dining room and bathroom on the ground floor.

Gross internal floor area is indicated to be 66 sq m

Vehicular access to the proposed dwelling would be via the existing track from The Square which leads to the site and which is a designated public right of way.

ANALYSIS

The main issues to consider in determining this application are in terms of the following:

- Policy Context
- Five Year Housing Land Supply
- Principle of Development
- Sustainability and Accessibility
- Green Wedge
- Flood Risk
- Impact on Character and Appearance of the Area
- The impact on residential amenity
- The impact on highway safety and the safety of users of the PROW
- Ecological Impacts
- Arboricultural Impacts
- Appropriate Assessment

Policy Context:

The Policy Position:

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. There is no neighbourhood plan for Whimple.

Five Year Housing Land Supply:

The Council is required under the NPPF to maintain a 5 year housing land supply. Annual monitoring of the housing supply position revealed that as of September 2022, the Council is unable to demonstrate a 5 year housing land supply position with supply standing at 4.68 years (currently under review which is likely to result in a lower figure).

The consequences of not having a 5 year housing land supply means that the presumption in favour of sustainable development in the NPPF applies and that planning permission should be granted unless:

- I. the application of policies in the NPPF that protect areas or assets of particular importance such as AONB's, SSSI's, Heritage Coast, Heritage Assets, areas at risk of flooding or coastal change etc. 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 the NPPF taken as a whole.

As such, the fact that the site is located in the countryside and outside of a Built-Up Area Boundary (BUAB), and within the Green Wedge identified (Local Plan Strategy 8) as defined by the East Devon Local Plan, cannot reasonably be a reason to refuse planning permission. Instead, the main test in determining this application relates to whether the adverse impacts of granting planning permission for the conversion of the building to a residential dwelling would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Principle of Development:

National Planning Policy Framework:

Paragraph 80 of the NPPF lists development that would re-use redundant or disused buildings and enhance its immediate setting as appropriate development in the countryside.

East Devon Local Plan:

In planning terms, the site is located outside of the BUAB of Whimple, as defined by the East Devon Local Plan. In such locations, development is only permitted under the provisions of Strategy 7 (Development in the Countryside) where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development, and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

There is support for the principle of the conversion of the building to a dwelling under the provisions of Policy D8 (Re-use of Rural Buildings Outside of Settlements) of the East Devon Local Plan. This policy supports the re-use or conversion of buildings in the countryside, outside of Built-up Area Boundaries, subject to the following criteria, which will be discussed in later sections of the report as follows:

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

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

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

The policy states that for residential proposals it must be established that:

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

Sustainability and Accessibility:

The criteria within Policies D8 and TC2 (Accessibility of New Development), requires development to be located close to a range of accessible services and facilities, in order to meet the everyday needs of residents, so as to reduce the need to travel by car. The application site is located in very close proximity to the BUAB of Whimble, a settlement that is considered to be sustainable and suitable for additional residential growth, on account of the range of services and facilities that are available. Facilities within Whimble include a public house, a primary school, a shop, a church and a train station. Given the proximity of the site to these services and facilities, and the site's connectivity with them, it is considered that the site is in a very sustainable location where everyday services, facilities and public transport within the village would be readily accessible on foot and bicycle. This weighs in favour of the proposal in terms of sustainability and accessibility.

Green Wedge:

The application site is within the Green Wedge defined by Strategy 8 (Development in Green Wedges) of the Local Plan. This strategy states that development within green wedges 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". Given the comments raised above, and taking into account that the site is not located close to any settlement other than Whimble, it is considered that the proposal is acceptable under Strategy 8 of the Local Plan. This

is due to the distance between Whimble and any other settlement being such that permitted the dwelling would not result in coalescence with any other settlement. Furthermore, the site is located immediately adjacent to the BUAB of Whimble. Consequently, the development cannot be considered to be sporadic, and it would not alter or harm the individual identity of Whimble as a settlement in its own right.

Flood Risk:

The Environment Agency online Flood Map shows the site is within a combination of Flood Zone 3 and Flood Zone 2. Whilst the site is predominantly within Flood Zone 3, the barn itself is located at a slightly higher elevation and partially within Flood Zone 2, and the vehicular and pedestrian (both to the west and south) access to the site passes through an area of Flood Zone 3 before reaching an extent within Flood Zone 1 immediately to the north of the building. From the flood risk assessment that has been provided, it is understood that the flood source is predominantly fluvial and as a result of flood flows exceeding culvert capacity, due to the presence of an 'inadequate brick culvert' (Whimble CDA May 2015), which conveys the Cranny Brook (and the converged unnamed ordinary watercourse) under the railway.

Review of mapping produced by the EA for Surface Water flood risk indicates that the extents of surface water flood risk are slightly reduced over the Flood Zone 3 extents (and further away from the building) and that the site is at 'low' risk (0.1% to 1% Annual Probability) with depths of 300-900mm towards the southwest of the site.

Policy EN21 (River and Coastal Flooding) of the East Devon Local Plan states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use (minor development includes non-residential extensions with a footprint of less than 250 square metres, development that does not increase the size of the building or householder development unless it would create a separate dwelling) will be permitted in areas subject to river and coastal flooding.

This follows the guidance contained within the NPPF, where, at paragraph 168, it states that applications for some minor development and changes of use should not be subject to the sequential or exception tests, but should still meet the requirements for site-specific flood risk assessments set out in footnote 55. Footnote 56 sets out the types of development that do not need to be the subject of the sequential test which includes householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.

It is, therefore, accepted that the proposed residential dwelling need not be the subject of sequential testing as the proposal seeks a change of use of the building from agricultural to residential. The proposal would, however, introduce a more vulnerable use into the building where its future occupiers are likely to be at a greater risk from flooding. Therefore, it is necessary to carefully assess the submitted flood risk assessment to ensure that appropriate flood resistance and resilience measures are incorporated into the building, and that a safe access and entry point could be provided during a flood event.

The FRA highlights that the site does not benefit from any defences or is within a Flood Warning or Flood Alert area. The FRA advises that if certainty could be achieved regarding the provision of a future culvert and flood improvement scheme, then utilisation of the existing floor level of the building at 44.58mAOD would provide sufficient freeboard (850mm) for the 1 in 100 year plus 39% climate change event. The FRA also states that in the event that the culvert is not constructed or completed then FFL's would have to be raised by 900mm. The Officer position on this is that, as a Council, we cannot guarantee or even control the implementation of any future culvert works and, therefore, the FFL's of the building would have to be based on the worst case scenario (i.e. raised 900 mm above existing). The proposal, therefore, includes raising the FFL of the building by 320mm from 44.58 to 44.90m AOD which would be sufficient against the designed flood level in Q100+39cc of 44.79m AOD whilst providing a positive 110mm freeboard. In addition, the proposed dwelling includes an upstairs bedroom area which could be used as a safe refuge in the event of a flood.

The FRA also demonstrates that, in the event of a flood, there is potential for the land surrounding the buildings to be inundated for a period of time, including the vehicular access from the Square. However, safe, dry land (Flood Zone 1) can be accessed on foot from the northern boundary of the site, adjacent to the building via the public footpath and into Elizabeth Close beyond with the public highway approximately 14 metres to the north. Vehicular access by emergency vehicles will still be viable for the 1 in 100 year event. In more extreme events, the maximum flood depth at the parking area could exceed 300mm and, in such circumstances, emergency access would be required via Elizabeth Close, approximately 14 metres to the north.

The FRA concludes that, whilst the raised FFL is likely to mitigate the flood risk greatly, any entrance areas or storage buildings at grade level should incorporate sensible measures with the ground floor wall and floor treatments. This can include the installation of plasterboard horizontally and the use of flood resilient flooring, to minimise the potential impact of a flood event, and aid the recovery of the property after a flood. Services such as electricity and air conditioning/vents, should be raised above the potential flood level (1 in 1000 year/1 in 100 year plus CC event) and outlets should be set as high as is reasonably practical.

The FRA suggests that a Flood Management Plan should be developed for the building with all owners made aware of the content and actions required and the plan available to tenants/guests/visitors on request.

Whilst the proposal does include raising the height of the building to provide a more usable living space with greater headroom, the overall footprint of the building would not be increased and neither would there be any increase in hardstanding or roof space that would have the potential to increase surface water run off or affect the flood risk of the surrounding area.

It is within the gift of the Local Planning Authority to withdraw permitted development rights where it is considered reasonably necessary. In this instance, given the matters discussed above, it is clear that some permitted development rights could lead to an increase flood risk; in particular those relating to the construction of outbuildings, extensions to the building, the installation of hardstanding, or the installation of some

renewable energy structures (such as standalone solar panels). Therefore, in the event that this application is approved, it is considered reasonable to remove those permitted development rights by condition. Doing so will enable the Council to retain control of such developments to ensure that any works of that nature are undertaken in such a way that they do not have a detrimental impact on flood risk to the occupiers of the dwelling in question or any other land or property within the vicinity of the site.

Seeking details of the proposed bridge prior to its installation will enable the Council to ensure that the bridge would not result in an increased flood risk.

Having regard for the above, it is considered that subject to the imposition of the aforementioned condition, and a conditions which require the finished floor levels of the building to be raised to the suggested 44.90 AOD, the incorporation of the flood resilience and resistance measures contained within the FRA and the submission of a Flood Management Plan, it is considered that the proposed development is acceptable in flood risk terms.

Impact on Character and Appearance of the Area:

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

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Policy D8 requires:

- The new use to be sympathetic to, and will enhance the rural setting and character of the building and surrounding area.
- The building to be structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and any alterations protect or enhance the character of the building and its setting;
- The form, bulk and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials;

The application is accompanied by a Structural Survey which has been prepared by a suitably qualified structural consultant. The report concludes that the existing structure is suitable for conversion to a habitable dwelling, retaining much of the fabric and appearance of the existing building with only limited intervention on the existing structure. It is, therefore, accepted that the building is structurally sound and capable of conversion to a residential dwelling.

The proposal does, however, include raising the height of the roofs of the two side wings of the building by 1.0 metre and the central section by 800mm.

The aforementioned withdrawal of permitted development rights for alterations to the building, in addition to withdrawing rights for the erection of outbuildings, the installation of hardstanding, the construction of means of enclosure and some other development, will enable the Council to retain full control of the appearance of the building and the site. This will ensure that its appearance will remain suitable for the location and the existing character of the site.

Furthermore, it is considered reasonable to impose a condition to seek details of the proposed materials to be used. Whilst some detail is provided on the application form, this is considered to be insufficient, given the importance of retaining the character of the building in this location. Receiving details of the materials will enable the Council to ensure that the materials used are suitable, in order to retain the character and appearance of the building.

There are some trees and hedges near site boundaries with views towards the site from the public domain. They provide screening of the building. However, as the alterations to the building would not result in a significant increase in its size or height, and with the above conditions in place, it is considered that the works to the building would not have a detrimental impact on the character and appearance of the building or views of it from the public domain.

Consequently, it is considered that the proposal can be undertaken without having a detrimental impact on the character and appearance of the area. Therefore, the proposal would accord with the provisions of Local Plan Policies D1 and D8, and is acceptable in this regard.

Residential amenity:

The building occupies a site well distanced from the nearest neighbouring properties on Manley Close, whose rear gardens face towards the building. Therefore, it is considered that introducing a residential use to the building would not give rise to any significant amenity concerns.

Careful attention has been given to the position of first floor windows within the proposal, so that they would face directly into the application site, and away from neighbouring properties. Such measures will avoid overlooking and loss of privacy.

Given these factors, it is considered that the alterations to the building, and the raising of its height, would not give rise to any amenity harm.

The internal floor area of the proposed dwelling will exceed the minimum standards for a 1 bed 2 storey dwelling set out in the Nationally Described Space Standards. There will be adequate natural light to habitable rooms and a large external amenity area. As such the level of amenity for future occupiers will be acceptable

Highway Safety:

Policy TC7 (Adequacy of Road Network and Site Access) of the Local Plan states that planning permission for new development will not be granted if the proposed access,

or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9 (Parking Provision in New Development) of the Local Plan states that spaces will need to be provided for parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.

The site is accessed via an unregistered shared vehicular road which leads to The Square, a designated C classified road. The shared access is also designated as a private footway from Elizabeth Close to The Square and leads to the Whimple Footpath 12 which is a Public Right of Way. There is potential for conflict between users of the pedestrians and vehicles in parts of the access. However, it is acknowledged that there is an existing vehicular entrance into the site and that a previous agricultural use of the site would have generated traffic movements on this route. Furthermore, the narrow nature of the road leading to the site is such that vehicle speeds are likely to be low.

Considerable local concern has been expressed regarding the potential for conflict between vehicular traffic and pedestrians using the footpath and the children's playground, which is located opposite the site. The views of the County Highway Authority and the Public Rights of Way Officer have, therefore, been sought. They have provided the following response:

"It is appreciated that there are historical recommendations of refusal from the County Highway Authority, (CHA) for similar projects on this site, however I must assess the merit of this current application standalone with our current best practice guidance, Manual for Streets 1 and 2, our current best practice, taken into account modern vehicle braking and better tarmac materials. The lane does not belong and is not maintained by Devon County Council, (DCC). I have also consulted DCC's Public Rights of Way (PROW) team, who do not hold any objections to this application, with many situations of vehicles crossing or utilising un-adopted accesses or tracks with PROW use, across Devon.

The site currently has an established agricultural access and I do not believe the presence on a substituted dwelling will create an un-acceptable trip generation intensification. The Design and Access statement, includes the net gain of lighting, visibility maintenance and drainage works of benefit to vehicles and non-motorised users (NMU's) alike. I would recommend the provision of a Construction and Environment Management Plan (CEMP) to help mitigate and monitor the effects of construction upon the wider local highway network, which is maintained by DCC, as HMPE, Highway Maintained at Public Expense."

Whilst local concern about the conflict between vehicular traffic and pedestrians is noted, it is also noteworthy that neither the CHA nor the PROW officer have raised concerns regarding the proposal. This is on the basis that the site currently has an agricultural access, such that traffic generation between the existing use and the proposed residential use is unlikely to worsen the situation in highway safety terms.

Therefore, it is considered that it would not be possible to reasonably justify refusal of planning permission on the grounds of highway safety.

Ecological Impact:

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. Where development is permitted on such sites, mitigation will be required to reduce the negative impacts and, where this is not possible, adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

Redundant agricultural buildings have the potential to host many species of wildlife. Therefore, this matter requires careful consideration. In this instance, Bats are the key species of concern. Consequently a Bat Emergence Survey has been supplied. The submitted survey concludes that no mitigation is required, and that the works can take place with negligible risk to any roosting bats.

The Council's Ecologist has assessed the Bat Emergence Survey and has confirmed that the report is suitable, and that he accepts the results of the survey. However, the Council's Ecologist has recommended that an integrated bat box and bird brick is provided in the building, by way of an ecological enhancement. This is considered to be a reasonable request, and can be sought by a condition.

Given the above, it is considered that the proposal acceptable in terms of its impact on wildlife and, therefore, complies with the provisions of Local Plan Policy E5.

Arboricultural impact:

As mentioned above, there are some trees close to the site. However, the Council's Arboricultural Officer has highlighted that one Sycamore may need to be removed, as it currently overhangs the eastern section of the barn, which is likely to lead to pressure to prune the tree. However, the Arboricultural Officer has not raised any concerns about the potential for pruning of that tree, or to the overall principle of the development from an arboricultural perspective.

The Arboricultural Officer has recommended the imposition of a condition to seek details of a Tree Protection Plan and an Arboricultural Method Statement. Given that the trees on the site boundary form an important part of the screening of the site, this condition is considered reasonable.

Given the above comments, and with the above-mentioned condition in place, it is considered that the proposal can be undertaken in accordance with Policies D1

(Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the Local Plan.

Appropriate Assessment:

The nature of this application, and its location close to the Pebblebed Heaths, which have 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.

With the above in mind, this application was submitted with a S111 agreement at an upfront payment of £196.81. Consequently, it is considered that this application is acceptable in terms of the impacts on the protected landscapes in the Exe Estuary and on the Pebblebed Heaths being sufficiently mitigated.

Parish Council comments.

The comments of Whimble Parish Council have been considered in the report above, with the exception of their comment relating to whether a site notice was displayed for this application. In this regard, the Local Planning Authority (LPA) records show that a site notice relating to this application was displayed on 26th June 2023. Additionally, the application was also advertised in the Midweek Herald paper on 23rd June 2023, and notification letters were sent to a number of properties situated close to the site on 8th June 2023. Further notification letters were then sent, with reference to amended plans received by the LPA, on 14th July 2023; those letters were also sent to persons who had submitted comments in response to the initial consultation.

Given the above, it is considered that the LPA has advertised the application adequately.

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.

Notwithstanding historic refusals for residential conversion on this site, this proposal to re-use a redundant rural building is supported by both national and local planning policies. The proposal would represent a sustainable form of development which would re-use a redundant rural building in a manner that is sympathetic to the character and appearance of the building and its surroundings.

Whilst located outside of the built-up area boundary of Whimple, the site is located in close proximity to residential properties, and is within a short walking and cycling distance from the services, facilities and public transport that the village offers. This makes the site sustainable in accessibility terms.

Whilst local concern about the conflict between residential traffic and pedestrians using the public footpath is understood, the site already benefits from an existing access where an agricultural use is likely to generate a similar amount of traffic to that proposed. Therefore, it would be difficult to sustain an objection on safety grounds, especially given the lack of objection from the County Highway Authority and the County Rights of Way Team.

The building and site is located within an area at highest risk of flooding. However, the flood risk assessment demonstrates that raising the finished floor levels of the building, combined with incorporating flood resilience and resistance measures into the conversion, would ensure that future occupiers of the building would not be at an unacceptable risk and, furthermore, that the proposal would not result in additional flood risk outside of the site.

The proposal is acceptable in term of its impact on residential amenity and would provide biodiversity gain through the addition of ecological enhancement measures which can be controlled through condition.

In the absence of a five year housing land supply, 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. Accordingly, it is recommended that the application is approved.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Prior to the first occupation of the dwelling hereby approved, the finished ground floor levels of the converted building shall be raised to 44.90AOD, and the other

flood resilience and resistance measures contained within section 6.5 of the Flood Risk Assessment (produced by Clarkebond, reference E05964/FRA) shall be installed. Furthermore, prior to the first occupation of the dwelling, a Flood Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The flood mitigation measures shall be retained and maintained for the lifetime of the development. The Flood Management Plan shall be adhered to at all times.

(Reason - In order to mitigate against the risk of flood impacts to the occupiers of the dwelling, in accordance with Policy EN21 (River and Coastal Flooding) of the 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 shall be undertaken within the Schedule 2 Part 1 Classes A, B, C, D, E, F, G or H 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, or area of hard standing, without first obtaining the written consent of the Local Planning Authority.

(Reason - To ensure that the Local Planning Authority retains control of such additions which, in some circumstances, could be detrimental to the character and appearance of the building and area, or to the amenities of adjoining occupiers, or their installation/construction could increase the flood risk to occupiers of the dwelling hereby approved or to other residents in the vicinity of the site, and to accord with the provisions of Policies D1 (Design and Local Distinctiveness), EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031.)

5. 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 modification), no fences, gates or walls shall be erected within the curtilage of the dwelling hereby approved, without first obtaining the written consent of the Local Planning Authority.

(Reason - To retain the open character of the site, and to ensure that any methods of enclosure used do not result in an increased the flood risk to occupiers of the dwelling hereby approved or to other residents in the vicinity of the site, and to accord with the provisions of Policies D1 (Design and Local Distinctiveness), EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031.)

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within the Schedule 2 Part 14 Classes A, B, C, D, E, F, G, H or I for the installation of solar equipment, ground source heat pumps, water source heat pumps, air source heat pumps, flues for heat and power purposes or wind turbines on, or

within the curtilage of, the dwelling hereby approved, without first obtaining the written consent of the Local Planning Authority.

(Reason - To ensure that the Local Planning Authority retains control of such additions which, in some circumstances, could be detrimental to the character and appearance of the building and area, or to the amenities of adjoining occupiers, or their installation/construction could increase the flood risk to occupiers of the dwelling hereby approved or to other residents in the vicinity of the site, and to accord with the provisions of Policies D1 (Design and Local Distinctiveness), EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031.)

7. Prior to the installation of any new door or window, or the commencement of works to raise the height of any part of the building, details of the external materials and finishes to be used and, where so required by the Local Planning Authority, samples of such materials and finishes, 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 Policies D1 (Design and Local Distinctiveness) and D8 (Re-use of Rural Buildings Outside of Settlements) of the Adopted East Devon Local Plan 2013-2031.)

8. 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 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. The development shall be carried out in accordance with the approved details.

(Reason - To ensure retention and protection of trees on the site during and after construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the East Devon Local Plan 2013-2031). This needs to be a pre-commencement condition to ensure the trees are protected from the onset of works.

9. Prior to the first occupation of the dwelling hereby approved, details of a bat box and bird brick to be provided on the building shall be submitted to, and approved in writing by, the Local Planning Authority. These shall be installed in accordance with the approved details prior to the first occupation of the dwelling.

(Reason - To provide an ecological enhancement in accordance with the provisions of Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031).

10. Prior to its installation, details of the footbridge shown on drawing number 2136 BP R1 shall be submitted to, and approved in writing by, the Local Planning

Authority. The works shall be undertaken in accordance with the approved details.

(Reason - To ensure that the bridge is not detrimental to the character and appearance of the area or increases the flood risk to occupiers of the dwelling hereby approved or to other residents in the vicinity of the site, and to accord with the provisions of Policies D1 (Design and Local Distinctiveness), EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031.)

11. The development hereby approved shall be undertaken in accordance with the recommendations of the Bat Survey Report, dated September 2023, produced by LRP Ecology.

(Reason - To ensure that Bats are not harmed during the conversion of the building to a dwelling, in accordance with the provisions of Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031).

12. Prior to commencement of the development hereby approved, the Planning Authority shall have received and approved in writing 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.

The development shall be carried out in accordance with the approved details.

(Reason - To ensure that the works are undertaken in such a way that they are not detrimental to the amenity of the occupiers of existing dwellings, or harmful to other users of the access to the site, in accordance with the provisions of Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution), TC4 (Footpaths, Bridleways and Cycleways) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013 - 2031). This needs to be a pre-commencement condition to ensure the impacts of development are controlled from the onset of works.

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:

	Flood Risk Assessment	08.06.23
Drg-2136 A R1: Elevations/Floor	Proposed Combined Plans	07.06.23
	Location Plan	06.06.23
Drg-2136 BP R1	Block Plan	06.06.23
bat survey report (sept 2023)	Additional Information	11.09.23

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

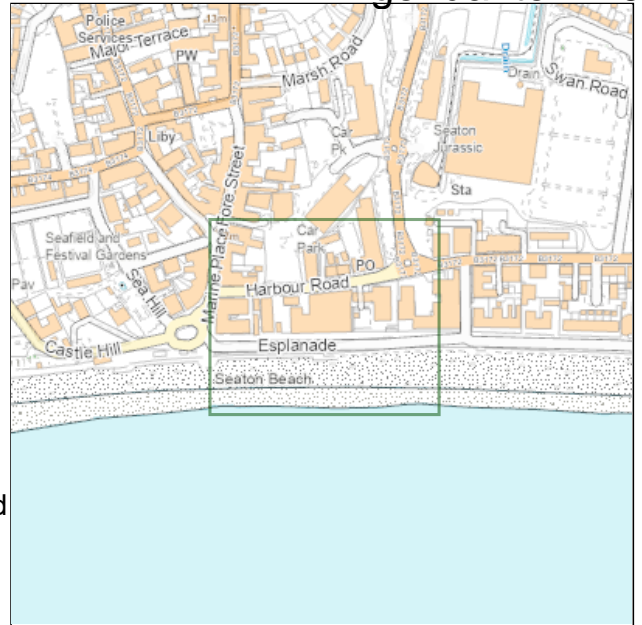
Ward Seaton

Reference 23/1442/VAR

Applicant Mr Erwin Davis

Location Fosse Way Court Seaton EX12 2LP

Proposal Variation of condition 4 b) (working hours) of application 14/0187/MFUL (Refurbishment and extension of existing apartment blocks (inc. additional levels) and construction of new link apartment block to provide an additional 30 no residential apartments and additional parking provision) to read: no construction or demolition works shall be carried out, or deliveries received outside of the following hours: 7:30 am to 5:30 pm Monday to Friday and 8 am to 1 pm on Saturdays and not on Sundays and public holidays.



RECOMMENDATION: Refusal



		Committee Date: 24.10.2023
Seaton (Seaton)	23/1442/VAR	Target Date: 16.10.2023
Applicant:	Mr Erwin Davis	
Location:	Fosse Way Court Seaton	
Proposal:	Variation of condition 4 b) (working hours) of application 14/0187/MFUL (Refurbishment and extension of existing apartment blocks (inc. additional levels) and construction of new link apartment block to provide an additional 30 no residential apartments and additional parking provision) to read: no construction or demolition works shall be carried out, or deliveries received outside of the following hours: 7:30 am to 5:30 pm Monday to Friday and 8 am to 1 pm on Saturdays and not on Sundays and public holidays.	

RECOMMENDATION: Refuse

EXECUTIVE SUMMARY

The application is before committee because the officer recommendation differs from that of the Town Council and where, as a variation to a Major application, the variation application itself is also treated as such.

The application seeks to vary the construction working hours relating to planning permission granted under application 14/0187/MFUL and controlled by condition 4 on that application. Members are advised that development has been commenced and work is ongoing.

The application site occupies a prominent location to the north side of the Esplanade on Seaton seafront. The permission granted under application 14/0187/MFUL allowed for the extension and alteration of existing residential apartment blocks and the construction of a link block to provide an additional 30 no. residential apartments. The site is surrounded by existing residential development to its east and west sides and on the opposite side of Harbour road to the north.

The current construction working hours are controlled by condition 4 on the original application to: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays.

The variation sought seeks to bring forward construction to start at 7.30 am and finish at 5.30pm Monday to Friday.

Whilst the requested change, on the face of it, could be considered to be relatively minor in its extent, it would allow construction to take place earlier in the morning with the potential to disturb sleep and/or affect amenity at a time when there is a reasonable expectation that noisy activity would not be taking place.

The applicant has provided little in the way of justification/need for the proposed change but where objections and complaints have been received relating to the proposal and where work outside the permitted hours has already occurred. The Environmental Health Officer has, in their response, referenced such complaints and the proximity of sensitive receptors who may be impacted from noise during the construction process. As such, they have recommended that the current construction working hour's restrictions are maintained and on this basis it is recommended that this application to allow a variation to those hours is refused and that the construction working hours imposed by condition 4 are enforced.

CONSULTATIONS

Local Consultations

Parish/Town Council

Seaton Town Council have no objections to this application.

Technical Consultations

County Highway Authority

Observations:

The County Highway Authority (CHA) has reviewed this planning application and visited the site.

We are content that the changes in operating hours will not greatly impact the local highway network and free-flow of traffic.

Therefore the CHA has no objections to raise.

Recommendation:

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

Officer authorised to sign on behalf of the County Council

Environmental Health

I have considered the variation of condition 4 and I note the applicant's comments. However, looking at the site history a number of noise complaints have been made to Environmental Health. These noise complaints all detail a breach of the CEMP with

work starting as early as 06:30am on one occasion. This site is close to a high number of sensitive receptors on three fronts who may be impacted from noise during the construction process. Taking the close proximity of these sensitive receptors into consideration together with the historical noise complaints, I recommend that the construction working hours remains the same being - 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays.

Other Representations

3 no. representations have been received raising objections to the application. Not all of the objections raised are relevant to the current application but all are summarised below:

- The change in working hours will mean being woken earlier by construction noise and where the impact of 9 hours of construction noise is already having an impact;
- Impact of construction, that has already been going on since January 2022, is causing noise, dirt, upheaval and parking issues;
- Any variation to construction working hours will affect health particularly with no knowledge of when completion can be expected;
- The porta cabins on site are close to bedroom windows and the noise from workers clocking in disturbing sleep;
- Construction workers on the forecourt of Fosse Way Court restrict access to the buildings by mobility scooters etc.
- Construction work has occurred on Sundays which is outside the condition restrictions and on occasions there has been work on site without any site management/foreman present;

PLANNING HISTORY

Reference	Description	Decision	Date
14/0187/MFUL	Refurbishment and extension of existing apartment blocks (inc additional levels) and construction of new link apartment block to provide an additional 30 no residential apartments and additional parking provision	Approval with conditions	18.12.2014

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
 Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

Strategy 25 (Development at Seaton)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

Fosse Way Court is a prominent building on Seaton seafront which fronts the Esplanade to the south. To the rear of the site, the building is bound by Harbour Road and a number of commercial units.

The existing building is made up of three distinct elements, these being a seven storey block consisting of a shop and stores on the ground floor and six levels of apartments above. The middle element is a covered parking area behind the Moridunum. The third element is a four storey block comprising part car parking and stores on the ground floor and three levels of apartments above.

The site including the car parking is generally accessed off Harbour Road, with limited pedestrian access off the footway (the Moridunum) adjacent the Esplanade. The main access to the commercial and residential areas is via the western elevation.

The site is within a flood zone 2 and 3 and is within a ground water vulnerable zone. The Seaton Conservation Area boundary runs immediately adjacent the western boundary and the designated Town Centre Shopping Area forms part of the rear boundary along Harbour Road as far as Kings Court.

The site is currently being developed to provide additional apartments in accordance with the permission that this application seeks to vary.

Background

Planning permission was granted in December 2014 for the refurbishment and extension of the existing apartment block (including additional level) and construction of a new link apartment block together with associated additional parking provision (14/0187/MFUL refer). In total the development sought to provide an additional 30 no. apartments.

The application form for the current application states that work commenced on the development on 1st December 2017. However it is understood that only limited works were undertaken at the time in order to commence the development and only more recently has larger scale construction work been undertaken.

Proposed Development

The condition to which the application relates reads:

“The following shall be adhered to at all times:

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

Reason: To protect the amenity of local residents from smoke, noise and dust in accordance with Policy D1 (Design and Local Distinctiveness) and Policy EN15 (Control of Pollution) of the East Devon Local Plan.)”

The application seeks to vary part b) of the condition so as to vary the construction working hours, the requested revision would read as follows, with the remainder of the condition (apart from part b) unchanged):

“The following shall be adhered to at all times:

- a. There shall be no burning of any kind on site during construction, demolition or site preparation works.*
- b. No construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 7.30am to 5.30pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays.*
- c. Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance.*
- d. No high frequency audible reversing alarms shall be permitted to be used on any vehicle working on the site.*

Reason: To protect the amenity of local residents from smoke, noise and dust in accordance with Policy D1 (Design and Local Distinctiveness) and Policy EN15 (Control of Pollution) of the East Devon Local Plan.)”

It should be noted that condition 5 on the original application (14/0187/MFUL) required submission and approval of a Construction and Environmental Management Plan (CEMP) and that the approved details for this indicated construction working hours to be 8 am to 5 pm. This being the case and in the event that the variation to the condition were to be agree a revised CEMP would also need to be submitted to reflect this change.

It is further advised that, in the event that members are minded to approve the proposed change, that any approval would represent a fresh grant of planning permission. As the original application was subject to a s.106 legal agreement a deed of variation to that agreement would be required to reference any new permission.

ANALYSIS

As set out above, the reason for the condition was, amongst other things, to protect the amenity of local residents. The condition was suggested by the Council's Environmental Health Team at the time with the construction working hours reflecting those set out in the Council's adopted 'Construction Sites Code of Practice'. These hours in turn reflect standard construction working hours which are designed to protect the amenity of nearby residents from, amongst other things, the impact of construction noise.

The application seeks to extend these hours by half an hour in the morning and correspondingly reduce working hours by half an hour in the evening. The applicant has provided the following in response to a request for information on the reason for the proposed change:

"We currently operate from 8.00am to 6.00pm, Monday through Friday. However, considering the interests of local residents and businesses, we propose to adjust our operating hours. We believe a change to the hours would cause less disruption, making it more aligned with typical construction industry schedules. Our proposition is to shift the working hours from the current 6.00pm end time to an earlier closure at 5.30pm. We anticipate that this change, especially during the holiday period, will be beneficial for the surrounding community. Additionally, we propose to start our working day earlier, at 7.30am, to give our workforce ample time to prepare for their daily tasks. We believe these modifications will result in a more efficient construction phase for the development."

They have also subsequently suggested that the change in construction working hours would give rise to the following benefits:

- During winter months the extra half-hour would allow the most to be made of available daylight, ensuring that the project stays on schedule
- The additional half-hour would allow deliveries to be made to the site before the full workday begins leading to fewer disruptions during the core working hours, allowing for a more efficient use of time and resources.
- During summer months extending the working hours slightly would enable the project to be completed more quickly, thereby reducing the overall duration of construction noise and disruption.

The applicant has also suggested that the extra half-hour would be used responsibly, focusing on less noisy activities and deliveries to reduce the impact on sensitive receptors.

The issue for consideration in relation to this application is the potential amenity impact arising from the proposed application, primarily on the living conditions of local residents. The highways authority has confirmed it has no objection to the proposed variation and in this regard it is not considered that varying the construction working hours would adversely impact on highway safety.

The applicant's comments and reasons for requesting the variation are noted and it is acknowledged that some additional daylight construction time may be gained during winter months. However any limited benefits in this regard would need to be balanced against any harm arising from the earlier start. The willingness to look to restrict activity

(during the extra half hour in the morning) to 'less noisy activities and deliveries' is acknowledged, however, it is considered that restricting work to certain activities during this period would be difficult to enforce and that deliveries themselves could give rise to harmful noise impacts. It is unclear how the proposed shift in the working day, bringing it forward by half an hour, would benefit the local community and the proposal seeks to shift the work pattern rather than extend the work hours, as such it is unclear what benefit this would bring in efficiencies and time saving for the majority of the year.

On the other hand, it is noted that a number of objections have been received from local residents to the application and that complaints were also received prior to the submission of the application and relating to the hours of construction. The Environmental Health officer has also referred to noise complaints relating to the construction working hours and recommends that the current restrictions remain.

Policy D1 (Design and Local Distinctiveness) of the Local Plan looks to ensure that development proposals do not '*adversely affect the amenity of adjoining residential properties*'. More specifically, Policy EN14 (Control of Pollution) of the Local Plan states that permission will not be granted for development that would result in unacceptable levels, of amongst other things, noise either to residents or the wider environment.

The aforementioned policies reflect guidance in the National Planning Policy Framework (at paras. 174 and 185) which similarly see to prevent existing development being adversely impacted from a range of environmental factors including noise pollution.

The National Planning Practice Guidance contains advice on noise and how this should be considered in relation to planning. In relation to the question of 'How can planning address the adverse effects of noise sources, including where the 'agent of change' needs to put mitigation in place?' it includes as one of the potential mitigation measures,

'... using planning conditions/obligations to restrict activities allowed on the site at certain times.' Paragraph: 010 Reference ID: 30-010-20190722

The use of conditions are therefore recognised as a valid means of seeking to protect amenity.

In this case, the issue is the timing of when such noise impacts could occur and where outside of the current restrictions i.e. before 08.00 hours local residents have a reasonable expectation not to be disturbed by construction work. As mentioned above, the current hours are standard construction working hours which have been established as providing a reasonable time period for construction work to take place within but also providing periods outside of these, early morning and evening, where local residents can expect not to be disturbed by such activity. In the case of the application site, this is surrounded by residential properties in close proximity on three sides and where representations received would indicate that residents have and are being disturbed by work outside the current working hour restrictions. Given the

evident and potential impact of the proposed change and where limited justification or benefit and no information on the length of the development phase has been provided, it is considered that there is no basis to support the proposed variation. On this basis, it is recommended that the application to vary the construction working hours is refused and the current restrictions are maintained.

RECOMMENDATION

REFUSE for the following reason:

1. The construction working hours imposed by condition 4 on application 14/0187/MFUL reflect standard construction working hours in residential areas and are designed to ensure the amenity of nearby occupiers are not adversely affected by activities associated with, or impacts from construction work. The proposal to change these hours and in particular the proposal to permit construction work from 07.30 hours Monday to Friday would give rise to potential impacts, particularly noise, on local residents at a time when this could disturb sleep and where there is a reasonable expectation that such activity will not be taking place. The proposal is therefore contrary to policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031 which seek to protect the amenity of adjoin occupiers and prevent unacceptable levels of noise to local residents as well as guidance in the National Planning Policy Framework and associated Planning Practice Guidance.

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

None

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