

Agenda for Planning Committee Tuesday, 21st November, 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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Honiton
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Venue: Council Chamber, Blackdown House, Honiton

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(or group number 01395 517546)

Issued: Friday, 10 November 2023; Reissued: Friday, 17 November 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, 14 November 2023 up until 12 noon on Friday, 17 November 2023 by leaving a message on 01395 517525 or emailing planningpublicspeaking@eastdevon.gov.uk.

Speaking on non-planning application items

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

1 Speakers' list and revised running order for the applications

Speakers' list removed.

2 Minutes of the previous meeting (Pages 4 - 9)

Minutes of the Planning Committee meeting held on 24 October 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 10 - 24)

Update from the Development Manager

Applications for Determination

8 22/2838/MOUT (Major) WOODBURY & LYMPSTONE (Pages 25 - 67)

Land to South Broadway, Woodbury.

9 23/1657/FUL (Minor) SIDMOUTH TOWN (APPLICATION WITHDRAWN) (Pages 68 - 85)

Sidmouth Drill Hall, The Esplanade, Sidmouth, EX10 8BE.

(This planning application has been withdrawn and will not be considered at the meeting)

10 23/1120/FUL (Minor) BUDLEIGH & RALEIGH (Pages 86 - 109)

Lily Farm Vineyard, Dalditch Lane, Budleigh Salterton, EX9 7AH.

11 23/1522/FUL (Minor) OTTERY ST MARY (Pages 110 - 123)

Long Range Park, Whimple, EX5 2QT.

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

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

[Decision making and equalities](#)

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

EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 24 October 2023****Attendance list at end of document**

The meeting started at 10.17 am and ended at 4.30 pm. The Chair adjourned the meeting for lunch at 1.45 pm and reconvened at 2.15 pm. A brief adjournment also took place at 12.30 pm and reconvened at 12.45 pm.

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

72 Minutes of the previous meeting

The minutes of the Planning Committee held on 26 September 2023 were confirmed as a true record.

73 Declarations of interest

Minute 78. 22/1973/MOUT (Major) OTTERY ST MARY

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 advised lobbying in respect of this application.

Minute 84. 22/2838/MOUT (Major) WOODBURY & LYMPSTONE

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 advised lobbying in respect of this application.

Non-Committee Members

Minute 78. 22/1973/MOUT (Major) OTTERY ST MARY

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Bethany Collins, Peter Faithfull, Vicky Johns and Devon County Councillor Jess Bailey advised lobbying in respect of this application.

Minute 81. 23/0851/FUL (Minor) BUDLEIGH AND RALEIGH.

Councillor Geoff Jung, Affects Non-registerable Interest, Member of Pebblebed Heath Nature Reserve.

Minute 82. 23/0852/FUL (Minor) BUDLEIGH AND RALEIGH.

Councillor Geoff Jung, Affects Non-registerable Interest, Member of Pebblebed Heath Nature Reserve.

Minute 83. 23/0868/FUL (Minor) BUDLEIGH AND RALEIGH.

Councillor Geoff Jung, Affects Non-registerable Interest, Member of Pebblebed Heath Nature Reserve.

74 Matters of urgency

There were none.

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

There were none.

76 **Planning appeal statistics**

The Committee noted the planning appeals statistics report setting out the appeal decisions, of which both had been dismissed. The Development Manager drew Members attention to the current appeals in progress, paying attention to two Inquiries. The first related to a solar farm at land at Marsh Green Farm in which Members noted the Inquiry had now closed and a decision was awaited. The second appeal related to the installation of a battery energy storage system at Pound Road BESS, Hawkchurch and Members noted that the Inquiry had been adjourned, reconvening at the end of October 2023 for two further days.

77 **Housing Monitoring Update to year ending 31 March 2023**

The report provided a summary of house building monitoring information to the year ending 31 March 2023 and updated Members on the current five-year housing land supply position.

RESOLVED:

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

78 **22/1973/MOUT (Major) OTTERY ST MARY**

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.

RESOLVED:

Refused contrary to officer recommendation.

Members considered that the proposed development would have an overwhelming impact on the character and appearance of the area and would result on the loss of grade II agricultural land and was contrary to Strategy 7 (Development in the Countryside); Policy D1 (Design and Distinctiveness); Strategy 46 (Landscape Conservation Enhancement); Policy EN13 (Development on High Quality Agricultural Land) and NP1 (Development in the Countryside) of the Ottery St Mary Neighbourhood Plan.

The Development Manager advised that there is currently no mechanism submitted to secure the necessary delivery of affordable housing, open space and healthcare provision and a contribution towards mitigation measures to inspect of the East Devon

Pebblebed Heaths Special Area of Conservation and as such this should be a further reason for refusal.

79 **23/0727/MOUT (Major) WEST HILL AND AYLESBEARE**

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.

RESOLVED:

1. The Appropriate Assessment be adopted.
2. Approve as per officer recommendation, subject to:
 - i. The inclusion of an additional condition requiring the provision of a footpath to the adjacent land.
 - ii. The completion of a S106 agreement to ensure that the footpath is made available for use by members of the general public (to prevent the creation of a ransom strip).
 - iii. A slight change to the wording of Condition 1 to read:
Application for approval of all the reserved matter shall be made to the Local Planning Authority before the expiration of one year from the date of this permission.

80 **22/2669/MFUL (Major) EXMOUTH HALSDON**

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.

RESOLVED:

Approved with conditions as per officer recommendation plus an extra condition requiring the provision and agreement of a Construction Management Plan to include details of the route for construction traffic.

81 **23/0851/FUL (Minor) BUDLEIGH AND RALEIGH**

Applicant:

Mr Neil Harris (East Devon District Council).

Location:

Bicton Common, Yettington Model Airfield Car Park, Grid Reference SY 03771 86378

Proposal:

Installation of new tarmac entrance, layout changes, vehicle barriers and alterations to boundary treatments.

RESOLVED:

Approved with conditions as per officer recommendation.

82 **23/0852/FUL (Minor) BUDLEIGH AND RALEIGH**

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.

RESOLVED:

Approved with conditions as per officer recommendation.

83 **23/0868/FUL (Minor) BUDLEIGH AND RALEIGH**

Applicant:

Mr Neil Harris (East Devon District Council).

Location:

Wheathill Plantation Car Park, East Budleigh, Grid Reference SY 04062 84763.

Proposal:

Improvements to the car park. The improvements include provision of a new tarmac entrance, layout changes within the existing car park extents, expansion of the car park area to the southern side, the provision of new signage, vehicular barriers and boundary treatments in the form of logs, wooden posts or earth bunds.

RESOLVED:

Approved with conditions as per officer recommendation.

84 **22/2838/MOUT (Major) WOODBURY AND LYMPSTONE**

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).

RESOLVED:

Deferred to allows officers to consult further with the Environment Agency and South West Water to obtain comments about whether they are concerned with the increased pollution of the Exe Estuary and whether they raise any objections to the proposal.

85 **23/1250/MOUT (Major) WHIMPLE AND ROCKBEARE**

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.

RESOLVED:

Approved with conditions as per officer recommendation but with condition requiring details of bridges removed.

86 **23/1147/FUL (Minor) WHIMPLE AND ROCKBEARE**

Applicant:

Ms & Mr V & C Kendrew & Pring.

Location:

Land north of Railway, Whimple.

Proposal:

Conversion of existing building from barn into dwelling.

RESOLVED:

Approved with conditions as per officer recommendation.

87 **23/1442/VAR (Other) SEATON**

Applicant:

Mr Erwin Davis.

Location:

Fosse Way Court, Seaton, EX12 2LP.

Proposal:

Variation of Condition 4b (working hours) of application 14/0187/MFUL (Refurbishment and extension of existing apartment blocks (including additional levels) and construction of new link apartment block to provide an additional 30 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: 7:30am to 5:30pm Monday to Friday and 8:00am to 1:00pm on Saturdays and not on Sundays and public holidays.

RESOLVED:

Refused as per officer recommendation.

Attendance List

Councillors present (for some or all the meeting)

B Bailey
I Barlow
C Brown
J Brown
S Gazzard
A Hall
M Howe
Y Levine
S Smith
D Wilson
E Wragg (Chair)

Councillors also present (for some or all the meeting)

J Bailey
B Collins
R Collins
T Dumper
P Faithfull
V Johns
G Jung
T Olive

Officers in attendance:

Wendy Ormsby, Development Manager
Damian Hunter, Planning Solicitor
Wendy Harris, Democratic Services Officer
Liam Fisher, Senior Planning Officer

Councillor apologies:

A Bruce
S Chamberlain
J Heath
H Riddell
E Rylance

Chairman

Date:

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

Ref: 23/0891/FUL **Date Received** 05.10.2023
Appellant: Johanna Leonard
Appeal Site: 6 Ash Grove Exmouth EX8 3BN
Proposal: Retention of porch to front of dwelling.
Planning APP/U1105/D/23/3330810
Inspectorate Ref:

Ref: 23/1451/FUL **Date Received** 13.10.2023
Appellant: John Shiel
Appeal Site: Seagull House 1 Morton Crescent Exmouth EX8 1BE
Proposal: Extension to front entrance and render existing boundary wall.
Planning APP/U1105/W/23/3331313
Inspectorate Ref:

Ref: 23/0615/VAR **Date Received** 16.10.2023
Appellant: Mr Gary Burns (Serenity Leisure Parks Ltd)
Appeal Site: Salcombe Regis Camping And Caravan Park Salcombe Regis Sidmouth EX10 0JH
Proposal: Variation of condition no. 3 (Shop with residential accommodation to replace existing) of application 87/P0699 ; the building should be used solely for the permitted purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.
Planning APP/U1105/W/23/3331385
Inspectorate Ref:

Ref: 23/1352/FUL **Date Received** 18.10.2023
Appellant: Mr Bruce Bailey
Appeal Site: 13 Mount Pleasant Avenue Exmouth EX8 4QG
Proposal: To install wooden featheredge board corner fence along boundaries adjacent to Mount Pleasant Avenue and Swiss Close. [Retrospective]
Planning APP/U1105/D/23/3331532
Inspectorate Ref:

Ref: 23/1477/FUL **Date Received** 23.10.2023
Appellant: Mrs Charlotte Macadam
Appeal Site: Parmiters Combyne Axminster EX13 8TE
Proposal: Change of use of land to residential garden.
Planning APP/U1105/W/23/3331844
Inspectorate Ref:

Ref: 22/1377/FUL **Date Received** 24.10.2023
Appellant: Mr & Mrs D Branker
Appeal Site: Site Of Spillers Cottage Shute EX13 7QG
Proposal: Construction of a dwelling (retrospective) for occupation while the dwelling permitted under reference 21/0535/VAR is constructed, after which the first dwelling will be demolished
Planning APP/U1105/W/23/3331872
Inspectorate Ref:

Ref: 23/1111/OUT **Date Received** 01.11.2023
Appellant: Mr A Watts
Appeal Site: Land Adjacent 1 Ball Knapp Dunkeswell Honiton EX14 4QQ
Proposal: Outline application with all matters reserved for the erection of one dwelling
Planning APP/U1105/W/23/3332359
Inspectorate Ref:

Ref: 22/2582/FUL **Date Received** 01.11.2023
Appellant: Mr Justin Werb
Appeal Site: Barnards (land Adjoining) Harepath Hill Seaton EX12 2TF
Proposal: Erection of one dwelling and associated works.
Planning APP/U1105/W/23/3332347
Inspectorate Ref:

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

Ref: 22/0173/FUL **Appeal Ref:** 23/00003/REF
Appellant: Ms Susan Wakley-Stoyle
Appeal Site: Brake View Rockbeare Hill Rockbeare EX5 2EZ
Proposal: Erection of a replacement two storey 4-bed detached dwelling.
Decision: **Appeal Dismissed** **Date:** 09.10.2023
Procedure: Written representations
Remarks: Delegated refusal, tree amenity reasons upheld (EDLP Policy D3). Partial award of costs awarded against the Council due to incorrect reason for refusal given on decision notice.
BVPI 204: **Yes**
Planning APP/U1105/W/23/3315663
Inspectorate Ref:

Ref: 22/0767/FUL **Appeal Ref:** 23/00022/REF
Appellant: Mr Anthony Whale
Appeal Site: 5 Meadow View Longmeadow Road Lypstone EX8 5LH
Proposal: Demolition of the front garden wall and construction of a paved hard standing driveway (retrospective)
Decision: **Appeal Allowed** **Date:** 12.10.2023
(no conditions)
Procedure: Written representations
Remarks: Delegated refusal, conservation and highway safety reasons overruled (EDLP Policies D1, EN10 & TC7 and Lypstone NP Policy CA24).
The application was refused on the basis of the impact of the proposal on the extended conservation area for Lypstone and highway safety. The Inspector considered that as the proposed extended conservation area had not been formally designated, the site was not considered to be within such an area for the purposes of the statutory duty in relation to conservation areas. Given the considerable distance of the site from the designated Lypstone conservation area, the Inspector also considered that it was not necessary to assess the effects of the proposed development on its significance. The Inspector concluded that the character and appearance of the host property and its surroundings would be preserved and the proposal would therefore comply with Policy D1 of the Local Plan.
Having regard to highway safety, the Inspector concluded that the proposed development would not introduce additional risk of danger to users of Longmeadow Road and as such, complies with Policy TC7 of the Local Plan.
BVPI 204: **Yes**
Planning APP/U1105/D/23/3324450
Inspectorate Ref:

Ref: 22/2031/RES **Appeal Ref:** 23/00004/REF
Appellant: Mr and Mrs Thomas
Appeal Site: 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.
Decision: **Appeal Dismissed** **Date:** 25.10.2023
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons upheld (EDLP Policy D1 and OSM & WH Neighbourhood Plan Policy NP2).
BVPI 204: **Yes**
Planning APP/U1105/W/23/3316374
Inspectorate Ref:

Ref: 22/0990/MFUL **Appeal Ref:** 23/00015/REF
Appellant: Low Carbon Alliance
Appeal Site: 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, substation, fencing, ancillary development and associated development; and temporary change of use of land for construction compound (off site).
Decision: **Appeal Allowed** **Date:** 30.10.2023
(with conditions)
Procedure: Inquiry
Remarks: Officer recommendation to approve, Committee refusal. Landscape, heritage, flooding and best and most versatile land reasons overruled (EDLP Policies EN9, EN13 & EN22 and Strategies 39 & 46).

Application for a partial award of costs against the Council refused.

In advance of the Inquiry the Council agreed in the Statement of Common Ground not to contend its reason for refusal relating to agricultural land. Furthermore, it was clarified that flooding impacts were not disputed by the Council in the Decision Notice but rather the opportunities or steps to improve flood risk impacts.

The Inspector found that the proposal would have a material adverse effect on the character and appearance of the local landscape, predominantly within the site itself, but also accounting for wider views and the subsequent contribution the site makes to the local area as a valued landscape, which carried significant weight.

The Inspector also considered that there would be some limited harm to a non-designated archaeological asset. There would be temporary erosion of local amenity from disruption, noise and construction activity and these were significant adverse implications to factor relative to the advice of the Framework.

The Inspector considered that the benefits of the proposal were material considerations which outweighed the harm. When weighed in the planning balance the magnitude of the combined benefits was considerable when balanced against the harms.

The Inspector concluded that taking account of all of the matters raised, the overall benefits of the development substantially outweighed the harms it would cause.

BVPI 204:
Planning
Inspectorate Ref:

Yes
APP/U1105/W/23/3320714

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: 22/1836/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: 22/2389/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: 22/2120/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

App.No: 22/2802/AGR
Appeal Ref: APP/U1105/W/23/3325082
Appellant: Mr Justin Lacey
Address: Land At Woodhouse Fields Lyme Road Uplyme
Proposal; General purpose forestry building
Start Date: 11 October 2023

Procedure:
Written Reps

Questionnaire Due Date: 18 October 2023
Statement Due Date: 15 November 2023

App.No: 23/0298/FUL
Appeal Ref: APP/U1105/W/23/3330631
Appellant: F W S Carter & Son
Address: Greendale Farm Shop NHS Drive Through Vaccination
Centre Sidmouth Road Farringdon Devon
Proposal; Retention of NHS Vaccination Centre and associated car park
Start Date: 13 October 2023

Procedure:
Hearing

Questionnaire Due Date: 20 October 2023
Statement Due Date: 17 November 2023
Hearing Date: 9 January 2024

App.No: 23/0027/CPL
Appeal Ref: APP/U1105/X/23/3330294
Appellant: Mr Gary Burns
Address: 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.
Start Date: 17 October 2023

Procedure:
Hearing

Questionnaire Due Date: 31 October 2023
Statement Due Date: 28 November 2023
Hearing Date: To be confirmed

App.No: 23/0401/OUT
Appeal Ref: APP/U1105/W/23/3325280
Appellant: Philip Jordan
Address: Exton Lodge Mill Lane Exton EX3 0PJ
Proposal; Outline proposal for a single dwelling with all matters reserved other than access
Start Date: 18 October 2023
Procedure:
Written Reps.
Questionnaire Due Date: 25 October 2023
Statement Due Date: 22 November 2023

App.No: 22/0975/MFUL
Appeal Ref: APP/U1105/W/23/3330735
Appellant: Eagle One MMLL Limited
Address: 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
Start Date: 19 October 2023
Procedure:
Hearing
Questionnaire Due Date: 26 October 2023
Statement Due Date: 23 November 2023
Hearing Date: 21 February 2024

App.No: 22/0781/FUL
Appeal Ref: APP/U1105/W/23/3325946
Appellant: Mr Alan Marriott
Address: Mundys Farm West Down Lane Exmouth EX8 2RH
Proposal; Retention of a replacement shed.
Start Date: 23 October 2023
Procedure:
Written Reps.
Questionnaire Due Date: 30 October 2023
Statement Due Date: 27 November 2023

App.No: 22/0074/FUL
Appeal Ref: APP/U1105/W/23/3321677
Appellant: Penelope Jane Cook
Address: Country West Trading Estate Tytherleigh Axminster EX13 7BE
Proposal; Construction of 5 no. dwellings, means of access and associated works
Start Date: 26 October 2023
Procedure:
Written Reps.
Questionnaire Due Date: 2 November 2023
Statement Due Date: 30 November 2023

App.No: 22/0686/MFUL
Appeal Ref: APP/U1105/W/23/3323252
Appellant: Mr Troy Stuart
Address: Hill Barton Business Park Sidmouth Road Clyst St Mary
Proposal; Change of use of land for the purposes of parking, associated with the existing operations at Hill Barton Business Park, for a temporary period of 3 years (retrospective application)
Start Date: 26 October 2023
Procedure:
Written Reps.
Questionnaire Due Date: 2 November 2023
Statement Due Date: 30 November 2023

App.No: 22/2779/PIP
Appeal Ref: APP/U1105/W/23/3326363
Appellant: Mr Tony Bowden
Address: Land at Down Close Newton Poppleford
Proposal; Permission in principle application for the construction of up to nine no. dwellings (1 no. minimum, 9 no. maximum).
Start Date: 30 October 2023
Procedure:
Questionnaire Due Date: 6 November 2023
Statement Due Date: 4 December 2023

App.No: 23/0402/FUL
Appeal Ref: APP/U1105/W/23/3326357
Appellant: Mr K Mooney
Address: Land Lying to the south of Rull Barton Rull Lane Whimble
Proposal; Construction of dwelling and associated works
Start Date: 1 November 2023
Procedure:
Written Reps.
Questionnaire Due Date: 8 November 2023
Statement Due Date: 6 December 2023

App.No: 23/1352/FUL
Appeal Ref: APP/U1105/D/23/3331532
Appellant: Mr Bruce Bailey
Address: 13 Mount Pleasant Avenue Exmouth EX8 4QG
Proposal; To install wooden featheredge board corner fence along boundaries adjacent to Mount Pleasant Avenue and Swiss Close. [Retrospective]
Start Date: 1 November 2023
Procedure:
Householder
Questionnaire Due Date: 8 November 2023

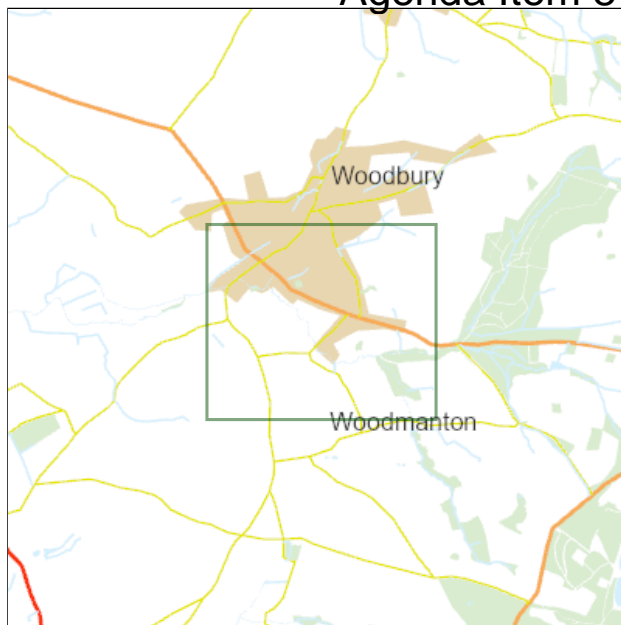
Ward Woodbury And Lympstone

Reference 22/2838/MOUT

Applicant Hayes Grange LLP

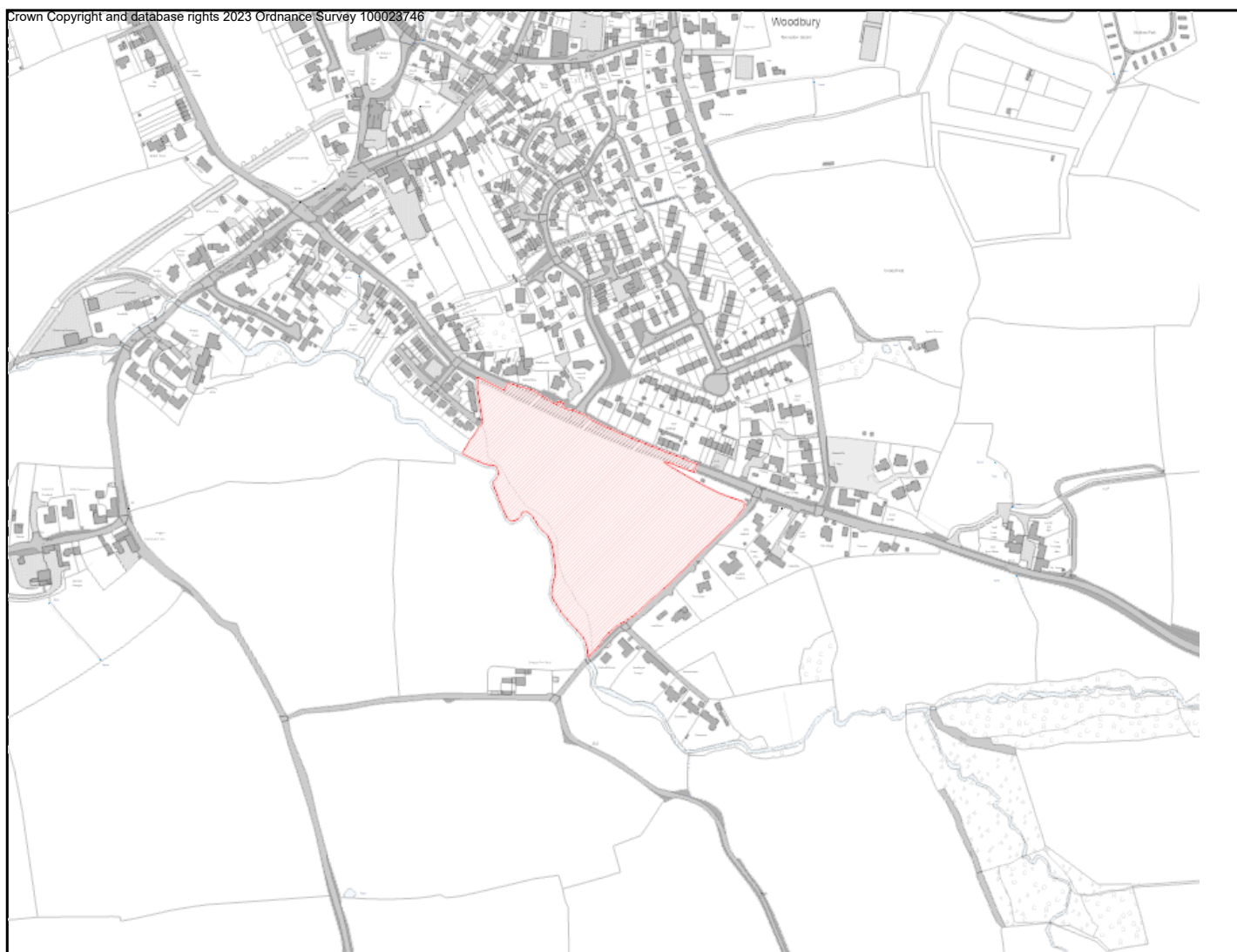
Location Land To South Broadway Woodbury

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



		Committee Date: 21.11.2023
Woodbury And Lympstone (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**

UPDATE

This application was deferred at the Planning Committee on 24th October 2023 to enable officers to re-consult South West Water and the Environment Agency regarding the capacity of the Woodbury Pumping Station and whether the proposed development could be accommodated without increased risk of pollution from the outfall of the pumping station into the Exe Estuary which is a European Protected Site.

These consultations have been undertaken, however at the time of writing this update, no responses have been received. A verbal update will be given to Members at the meeting of the outcome of the re-consultation exercise, however if no comments have been received, it may be beneficial to defer consideration of the application until the December meeting.

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 Lymington – 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 hedgerbanks 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 site's 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.

- g) 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

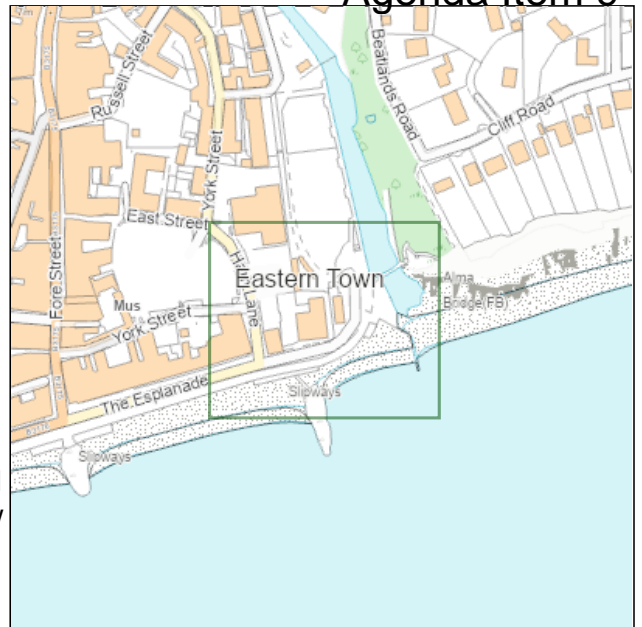
Ward Sidmouth Town

Reference 23/1657/FUL

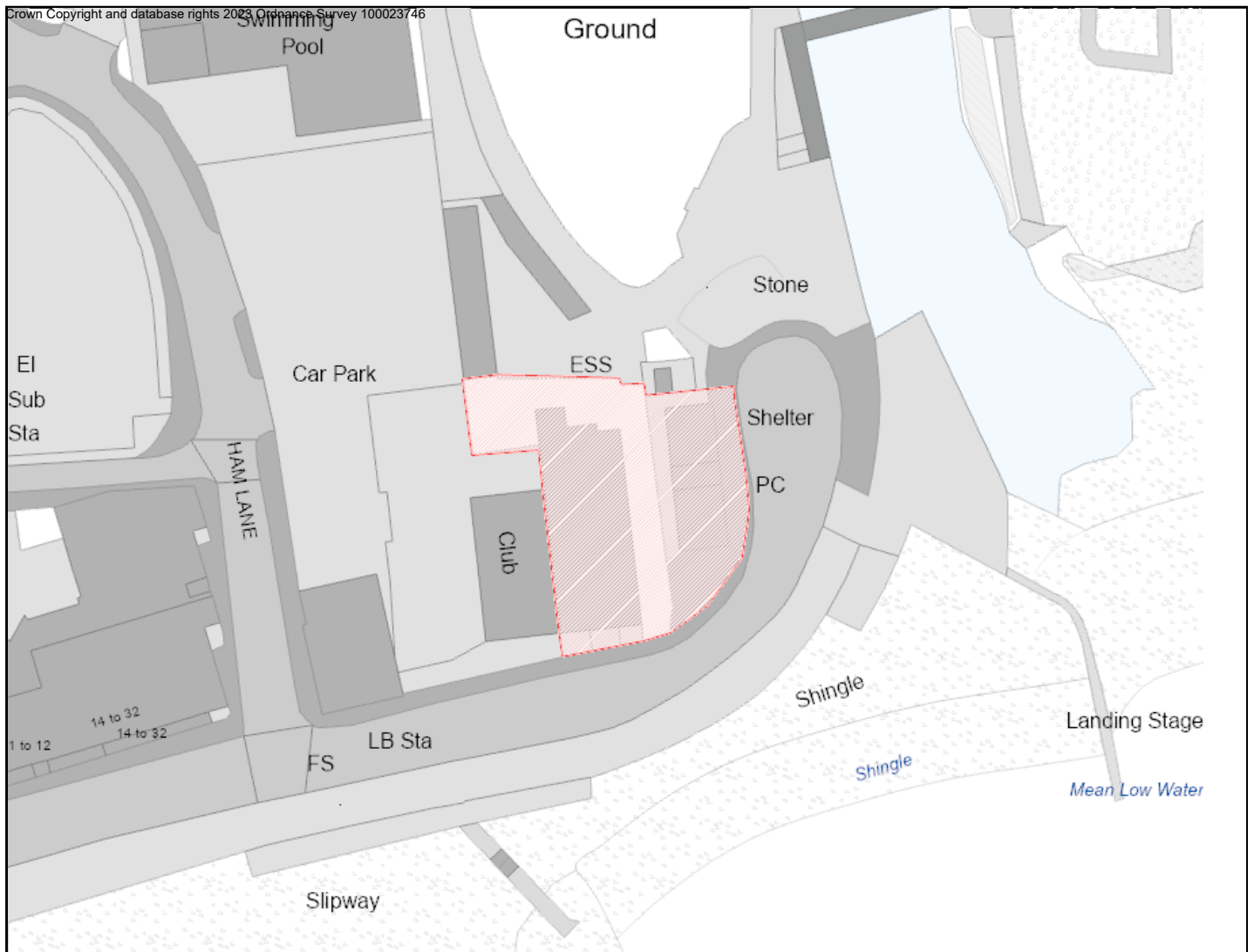
Applicant Mr Mitch Tonks

Location Sidmouth Drill Hall The Esplanade Sidmouth EX10 8BE

Proposal Conversion of hall to restaurant and bar (Use class E and sui generis, previously A3/A4), demolition of rear elevation and public toilet block and replacement with restaurant/ bar extension and a new public toilet block, external terrace to form seating area and addition of new flue.



RECOMMENDATION: Approval with conditions



		Committee Date: 21.11.2023
Sidmouth Town (Sidmouth)	23/1657/FUL	Target Date: 02.10.2023
Applicant:	Mr Mitch Tonks	
Location:	Sidmouth Drill Hall The Esplanade	
Proposal:	Conversion of hall to restaurant and bar (Use class E and sui generis, previously A3/A4), demolition of rear elevation and public toilet block and replacement with restaurant/ bar extension and a new public toilet block, external terrace to form seating area and addition of new flue.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The Drill Hall is located on a prominent position at the eastern end of Sidmouth Esplanade. The front elevation is a gable end and retains a rendered finish with the side elevations constructed in brick with a cement render coat.

The application site is located entirely within the Sidmouth Town Centre Conservation Area and the historic OS maps from 1890 annotate the building as a 'Drill Hall'. Subsequent to its construction in 1895 the building was predominantly used as a drilling hall until 1959 when the Sidmouth Branch of the Territorial Army adopted the site as their headquarters.

The freehold of the Drill Hall was transferred to EDDC from Wessex Reserve Forces and Cadet Association in 2012. The adjacent toilet block is also currently owned by the Local Authority.

The application seeks consent for the change of use of the Drill Hall to a restaurant and the demolition and replacement of the public toilets with additional dining space. A pair of replacement toilets are proposed within a standalone building to the rear of the extension. This would have a single ply membrane mono-pitch roof and dark clad walls.

With regards to the principle of development, the Eastern Town and Port Royal area of Sidmouth is identified for redevelopment as a mixed Use Allocation through the provisions of Strategy 26 (Development at Sidmouth) for residential use incorporating community, commercial, recreation and other uses.

There are also a number of policies within the Sid-Valley Neighbourhood Plan

that support redevelopment of the Eastern Town. Use of the site as a seafood restaurant also meets underlying objectives of the Neighbourhood Plan to ensure that development reflects the Town's maritime heritage.

The replacement toilet block would reduce the number of toilets on offer at the application site and this has prompted concerns from a number of third parties. However, it is clear from the findings of the Public Toilet Review which went before Cabinet 12th May 2021 that it is not viable for the Local Authority to retain ownership and operate the existing toilets. As such, in line with the existing block's 'Category B' designation, the replacement of the existing toilets, albeit with a reduced number, complies with EDDC's Toilet Strategy.

Owing to its historic interest, the Drill Hall is considered to be a non-designated heritage asset. With regards to the overall impact of the proposals on the significance of the Drill Hall and Wider Conservation Area, the works are considered to enhance the appearance of the building and the setting of the surrounding conservation area. This position is reflected in comments from the LPA's Conservation Officer.

Subject to compliance with conditions suggested by the LPA's Environmental Health Team, the application would have an acceptable impact on the amenity of adjacent land uses.

Due to the sites position within Flood Zone 3a a Site Specific Flood Risk Assessment has been submitted to the LPA and Environment Agency and found acceptable.

A submitted Ecological Appraisal has identified the loss of two night roosts and a birds nest. Recommendations within the report include various enhancements to the existing bat roost within the basement and provision of bird boxes to mitigate the loss of habitat.

The application has also been reviewed by the County Highway Authority who raise no objections.

Overall, removal of the public seating adjacent to the existing toilet block is attributed some harm within the planning balance. However, having regard to all the material planning issues raised, it is considered that the heritage and economic benefits of the proposal significantly outweigh this harm. It is therefore the position of officers that the application is acceptable subject to conditions listed below.

CONSULTATIONS

Technical Consultations

Environmental Health

Approval subject to conditions regarding noise and cooking odours.

Police Architectural Liaison Officer - Kris Calderhead

No objections. Advice given with regards to how CCTV and external lighting should be installed at the site to prevent crime and anti-social behaviour.

Conservation

In summary the works as proposed go towards retaining the special interest of the non-designated heritage asset, whilst enhancing the character and appearance of the conservation area, satisfying para.203 and 206 of NPPF and Policies EN8 and EN9 of the New East Devon Local Plan (2013-2031).

Recommend approval subject to conditions

Environment Agency

In the absence of an acceptable flood risk assessment (FRA) we object to this application. The reason for this position and advice is provided below.

As this proposal appears to not constitute a 'true' change of use, it is our view that the application would be subject to the flood risk Sequential Test. Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

County Highway Authority

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

Local Consultations

Parish/Town Council

DEFER: To allow interested parties to attend the next meeting in person at Woolcombe House.

SUPPORT:

Note: Although Members supported the application on the basis that the proposals were an improvement on what currently existed on site, they were disappointed at the design. As per comments in The Sid Valley Neighbourhood Plan for Eastern Town 'Any development should be designed and constructed to a high standard and needs to take account of views to and from the surrounding hills'. Members felt that this was a missed opportunity to provide an exceptional building which would take

advantage of the views of the World Heritage Site and be a credit to Sidmouth whilst acknowledging the restrictions of retaining the older building. They regretted the lack of a balcony and supported the views of the public who felt that two unisex toilets were not sufficient or desirable. Like the public, they were sorry that there was no provision of a public shelter and warned that the Beach Management Plan might result in the loss of views of the sea from the restaurant because of raising the sea wall.

SUPPORT:

Note: Although Members supported the application on the basis that the proposals were an improvement on what currently existed on site, they were disappointed at the design. As per comments in The Sid Valley Neighbourhood Plan for Eastern Town 'Any development should be designed and constructed to a high standard and needs to take account of views to and from the surrounding hills'. Members felt that this was a missed opportunity to provide an exceptional building which would take advantage of the views of the World Heritage Site and be a credit to Sidmouth whilst acknowledging the restrictions of retaining the older building. They regretted the lack of a balcony and supported the views of the public who felt that two unisex toilets were not sufficient or desirable. Like the public, they were sorry that there was no provision of a public shelter and warned that the Beach Management Plan might result in the loss of views of the sea from the restaurant because of raising the sea wall.

Other Representations

24 comments have been received, consisting of 15 objections, 7 in support and 2 neutral.

Those objecting have expressed concerns over the following;

- Negative impact on views to Port Royal.
- Loss of the shelters and seating.
- Replacement of toilet block with two cubicles is insufficient.
- Loss of recreation land.
- Lack of cycle storage.

Those in support have made the following points;

- Re-development of the site is much needed.
- Recognise the importance of the hospitality sector.
- Creation of jobs.
- Development shall enhance the eastern end of the Esplanade.
- Shall help decrease anti-social behaviour at the shelters.

PLANNING HISTORY

19/1775/FUL – Conversion of hall to restaurant (A3 use), creation of new balcony, replacement of rear extension with new rear extension, external terrace to form seating area. APPROVED with conditions at Planning Committee 04.02.20

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

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)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 38 (Sustainable Design and Construction)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

EN10 (Conservation Areas)

EN21 (River and Coastal Flooding) 19/1775/FUL

E20 (Provision of Visitor Attractions)

TC10 (Rear Servicing of Shopping/Commercial Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

Sid Valley Neighbourhood Plan

Policy 1 (Sid Valley Development Principles)

Policy 2 (Views)

Policy 7 (Local Distinctiveness)

Policy 16 (New Retail and Commercial Development)

Policy 20 (Protection and Enhancement of Community Facilities and Assets)

Policy 22 (Eastern Town Redevelopment)

Policy 23 (Eastern Town access)

Policy 24 (Eastern Town Maritime Heritage)

Policy 25 (Eastern Town Community Assets)

Site Location and Description

The Drill Hall is located on a prominent position at the eastern end of Sidmouth Esplanade. The front elevation has a distinctive gable end and retains a rendered finish with the side elevations constructed in brick and a cement render coat. The roof is natural slate on timber rafters and purlins supported by hammerhead trusses with metal tie rods with some clay ridge tiles remaining.

To the east are the public toilets, a single storey building constructed of render and slate. The eastern roof pitch is supported by a series of brick piers which subdivide areas of public seating with outlook towards Salcombe Hill Cliff.

The application site is located entirely within the Sidmouth Town Centre Conservation Area and the historic OS maps dating back to 1890 annotate the building as a 'Drill Hall'. Subsequent to its construction in 1895 the building was predominantly used as a drilling hall until 1959 when the Sidmouth Branch of the Territorial Army adopted the site as their headquarters.

The freehold of the Drill Hall was transferred to EDDC from Wessex Reserve Forces and Cadet Association in 2012. The adjacent toilet block is also currently owned by the Local Authority.

Proposed Development

The application seeks consent for the change of use of the Drill Hall to a restaurant and the demolition and replacement of the public toilets with additional dining space. External dining space is proposed forward of the dining room extension.

The exterior of the Drill Hall would be finished in off-white painted render and repairs made to the slate roof. All existing openings are to be retained and replaced with aluminium frames, ground floor windows on the principal elevation shall have side hung timber shutters.

The extension would utilise a slate pitched roof, similar to the form of the Drill Hall. The exterior walls shall be clad in dark vertical boarding with openings encased in dark aluminium. A single storey linking structure would connect the extension to the Drill Hall. This would have a single ply membrane roof and also clad to match the extension.

A pair of replacement toilets are proposed within a standalone building to the rear of the extension. This would have a single ply membrane mono-pitch roof and dark clad walls. The outside dining area would be decked and enclosed with a low brick wall and a series of flowerbeds.

Principle of Development

The building lies within the built up area boundary of Sidmouth and the Town Centre Conservation Area. Strategy 32 of the Local Plan states that changes of use from community uses should be fully explored, for at least 12 months, with a requirement that there should firstly be marketing of other community uses.

The Drill Hall has been empty for a number of years. The Hall was marketed extensively in 2018, with a tender process being undertaken. No community uses came forward, however a number of commercial uses expressed interest. These included proposals to demolish the building.

It is considered that the current proposal, which retains the structure of the building and allows for public commercial use of the building, bringing public benefits including employment and reopening the building to be enjoyed by the public, meets the criteria of Strategy 32.

The site also forms part of a Mixed Use Allocation under Strategy 26 (Development at Sidmouth) and footnote 14.3, d) of the Local Plan for residential use incorporating community, commercial, recreation and other uses.

As the application proposes the re-use of an existing building of historic note (see below) the proposal complies with Strategy 26 in terms of proposing a community/commercial facility on the site.

With regards to the Sid Valley Neighbourhood Plan, there are a number of relevant Policies including the following:

Policy 16 (New Retail and Commercial Development) which supports new retail and commercial facilities with the Town Centre where of a suitable design, accessible by a variety of transport types and would not harm the amenity of neighbours. Whilst the site is not within the Town Centre, the proposal has support through Local Plan policy 26 that the Neighbourhood Plan does not seek to depart from. In addition, the proposal is accessible by a range of transport types .

Policy 20 (Protection and Enhancement of Community Facilities and Assets) is similar to Strategy 32 of the Local Plan in terms of seeking their protection unless there is no reasonable prospect and subject to acceptable other impacts. As the building has been vacant and marketed, the proposal is considered to comply with this policy. The existing toilet block is not listed as a community facility.

Policy 22 (Eastern Town Redevelopment) covers the application site stating that proposals should comply with all Neighbourhood Plan Policies and have regard to its location within Flood Zone 3. The justification to the Policy states that survey results for the application site showed that most respondents wanted sailing and fishing based activities to reflect Sidmouth's coastal heritage. The proposal is considered to achieve this despite forming only part of the wider allocation for a mix of uses.

Policy 23 (Eastern Town Access) states that any development of the Eastern Town will be expected to demonstrate via an access strategy linkages with the town centre. As the proposal is for a change of use/conversion of an existing building, it will continue to benefit from the existing linkages and no new linkages are necessary.

Policy 24 (Eastern Town Maritime Heritage) encourages sea-based activities in this area. The proposal complies with this through provision of a fish-based restaurant.

Policy 25 (Eastern Town Community Assets) states that redevelopment of the Eastern part of the town should retain the public toilets, swimming pool, and Ham recreation ground and provide catering space. As the existing toilet block is being replaced rather than retained, the proposal is broadly compliant with this policy.

In summary therefore, the proposal is considered to be acceptable in principle in accordance with relevant Local Plan and Neighbourhood Plan Policies as it is proposing to retain an existing building in community/commercial use with a fish restaurant that reflects the Neighbourhood Plan policies for proposals to reflect the area's coastal and fishing heritage.

Replacement of the Public Toilets

Removal of the existing toilet block has prompted a number of comments from members of the public who have expressed concern over the reduced number of toilets and removal of the covered seating area.

East Devon District Council put forward proposals about the future of public toilet services. A Public Toilet Review was put forward to residents, town and parish councils, businesses and others in July 2021 until October 2021.

The findings of the consultation went before Cabinet for debate on 1st December 2021. The strategy has been published on the Local Authority's website and categorises the Sidmouth Port Royal toilets as 'Category B', and as a result, EDDC would no longer provide the public toilets. The definition of what constitutes Category B toilets is provided below;

'Still important locally, but less well used or where there are multiple toilets in close proximity (according to proximity maps and 4/8 minute walking zones). If a toilet has been listed as suggested category B it means we would look at other options for the use of the site. At sites identified as category B, we could consider marketing a lease opportunity for a different offer such as a café, to include a publicly accessible toilet, or market the asset for sale, depending on the options for each particular site. Town or parish councils wouldn't be precluded from bidding for these sites, but we believe category B sites offer good potential for an alternative use and therefore would attract a commercial value. These uses may in some instances still include a publicly accessible toilet operated by a third party.'

Rockfish have come forward to lease the site and within a draft tenancy agreement with EDDC it is stated that two units of publicly accessible toilets shall be provided and maintained at the site. The tenancy agreement stipulates that opening hours of the toilets shall reflect EDDC's own provision in the locality, being: open 7 days per week from 8am until at least 10pm in the summer and 8am until 7pm in the winter.

Whilst it is accepted that the replacement toilet block reduces the number of toilets on offer, it is clear from the findings of the Public Toilet Review that went to Cabinet 12th May 2021 that it is not viable for the Local Authority to retain ownership and operate the existing toilets. As such, in line with the existing block's 'Category B' designation, the replacement of the existing toilets complies with EDDC's Toilet Strategy.

The Sid-Valley Neighbourhood Plan lists a number of aims for the Eastern Town on page 56 and Aim No.7 states that facilities for public toilets should be retained. However the existing block is not protected by any special designation nor is their replacement explicitly prevented through planning policy. As such, the proposed replacement of the toilets in context of the redevelopment of this part of the Eastern Town is considered to comply with Neighbourhood Plan Policy 25 (Eastern Town Community Assets) and the overarching aim with regards to the Eastern Town/ Port Royal Regeneration.

Impact on Significance of Heritage Assets

Despite the Drill Hall's cultural importance to Sidmouth Town, the building has been significantly altered overtime which has eroded various original internal and external features. Previous correspondence with Heritage England, regarding the heritage value that can be attributed to the Drill Hall state that the building '*cannot be said to possess special architectural or historical interest in the national context*' and therefore is not listed. This position is also reflected within comments received on the current application by the Local Authority's Conservation Officer.

However, whilst the Drill Hall is not deemed worthy of listing, its historic value warrants local listing and is therefore classified as a non-designated heritage asset. As a result, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset, in accordance with paragraph 203 of the National Planning Policy Framework.

It is evident from third party comments, a number of which have been submitted by local residents, that the Drill Hall has a level of emotional value for those with fond memories of the building during days along the Esplanade. A number of comments, who have sought to highlight the heritage significance of the hall, have expressed concerns with regards to the design of the proposals visual impact on the Drill Hall.

Firstly, it is acknowledged that the Drill Hall is a prominent building at the end of The Esplanade and contributes to the historic interest of the conservation area. However, owing to a lack of maintenance over the years and weathering as a result of its seafront location, the building's appearance has declined overtime which has impacted its contribution to the setting of the Conservation Area.

With regards to the impact of the proposals on the Drill Hall, the scale of harm on the integral features of the building is considered low. The submitted drawings seek to respect the form of the existing building and key internal features, including the significant scissor trusses within the principal hall. The external envelope of the Drill Hall would be wrapped in a layer of thermal insulation with a render coating to protect the historic fabric of the building from further erosion and decay.

The single storey dining room extension poses some potential harm to the significance of the conservation area. Notwithstanding this, the additional dinning space will be accommodated in a subservient extension with a steep pitched roof to mimic the form of the Drill Hall. A single storey linking structure is also proposed between the two. Whilst the majority of the existing openings are to be replaced with aluminium casements, the three windows along the Drill Hall's eastern elevation are to be replaced with five aluminium openings and a door, all with side hung shutters.

Furthermore, the existing pair of brick walls that border the southern boundary would be retained albeit painted in Rockfish's colours of off-white and light blue for their logo. A new wall would enclose the external dining area and, subsequent to discussions between the Environment Agency and applicant, has been raised for flood mitigation purposes. A new flue is proposed on the western roof pitch.

With regards to the overall impact of the proposals on the significance of the Drill Hall and Wider Conservation Area, the works are considered to enhance the appearance of the non-designated heritage asset and in turn the historic and architectural interest of the surrounding conservation area. This position is reflected in comments from the LPA's Conservation Officer.

As a result, whilst comments from third parties are duly acknowledged, it is the position of officers that the proposals meet the provisions of Policies EN8 (Significance of Heritage Assets and their Setting) and EN10 (Conservation Areas) of the New East Devon Local Plan (2013-2031) whilst satisfying paragraphs 203 and 206 of the NPPF.

Impact on Character and Appearance of the Area

The visual impact of the development on the character of the Drill Hall and wider Conservation area has already been addressed in the previous section of the report. As such, the various conclusions drawn shall not be repeated.

Notwithstanding this, the application site is located at the end of the Esplanade in a prominent location. The Drill Hall is visible from public vantage points along the seafront, the Ham Recreation area to the north, Alma Bridge and Salcombe Hill Cliff and therefore the proposals, most notably the demolition and replacement of the toilet block, would have a degree of visual impact on the immediate area.

However, the proposed scale and form of the extension would be subservient to the Drill Hall and be constructed of materials appropriate to its seafront location and converted to a use which would reflect the Town's maritime heritage. The existing toilet block is of limited architectural merit and therefore its removal and replacement with the proposed extension and smaller toilet block is of little concern.

Whilst the enhancement to the setting and long term maintenance of the Drill Hall has already been covered, the proposed restaurant use of the building would also provide benefits to the character of the area. Occupation of the site by Rockfish presents an opportunity to enhance the vitality of the Port Royal Area. This would be particularly evident during summer months where the external decking area is likely to be occupied by diners, making a positive contribution to the ambiance of the area whilst providing natural surveillance of the seafront.

Overall, the proposals are considered to meet the provisions of Strategy 46 (Landscape Conservation and Enhancement and AONB) and Policy D1 (Design and Local Distinctiveness) of the Local Plan. The Neighbourhood Plan identifies the eastern end of the Esplanade as a Key View from York Terrace along the seafront towards Salcombe Hill Cliff. Notwithstanding this, for the reasons already given above, the visual impact of the alterations to the Drill Hall and the proposed would not obscure or cause any harm to this key view.

Impact on Neighbouring Amenity

Use of the site as a restaurant requires the installation of extraction and ventilation systems. Both elements have the potential to impact adjacent land uses. The immediate area is characterised by commercial uses with the nearest residential properties being located at Trinity Court.

The application is supported by manufacturer details of an Electrostatic Precipitator (ESP) Filter Unit, an extraction air filtration unit to serve the restaurants kitchen. However, further details are required in order to demonstrate that the treatment of cooking odours would be satisfactory. Further details regarding a mitigation strategy regarding noise emitted from any fixed plant and the extraction system would need to be submitted. The LPA's Environmental Health Team are satisfied that such information can be secured via planning condition. The proposals are therefore considered to meet the provisions of Policy D1 (Design and Local Distinctiveness) and Policy (Control of Pollution) of the East Devon Local Plan.

Flooding

The application site is located within Flood Zone 3a and therefore has a high probability (1% or greater annual probability) of river flooding from the River Sid. The application is supported by a Site Specific Flood Risk Assessment prepared by AWP.

The National Planning Policy Framework and Planning Practice Guidance states that the Sequential Test must be satisfied in order for development to be considered acceptable. The approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding.

Footnote 56 of the NPPF states that certain minor development is exempt from the Sequential Test. However, none of the exemptions are considered to apply to the development proposals. Notwithstanding this, the East End and the Drill Hall site are earmarked for mixed use redevelopment at paragraph 14.3 d), as depicted at ED03, which is the preamble for Strategy 26 (Development at Sidmouth) of the East Devon Local Plan. Additionally, redevelopment of the Eastern Town is also addressed within the Sid-Valley Neighbourhood Plan at Policy 22 (Eastern Town Redevelopment).

As the site has been allocated for development and has therefore already been subject to the sequential test at the plan making stage and therefore does not need to be applied again as per paragraph 027 of the PPG.

Having applied the Sequential Test, the Exception Test must also be considered. However, the site falls within Flood Zone 3a and therefore classified as 'less vulnerable' as per Table 2 at paragraph 079 of the PPG, the development is exempt from the Exception Test.

With regards to ensuring the development would be safe with regards to flood risk, the perimeter wall has been extended to span between the existing wall and external dining area to provide a consistent level of protection across the front edge of the development. All access doors and access points onto the decking shall be fitted with flood gates of equivalent height to the wall. Further flood resilience measures shall be incorporated internally, including waterproof plasterboard and raised electrics.

The internal ground floor level would be elevated above the highest flood levels, however, potential flooding via wave action require the implementation of a Flood Warning Evacuation Plan to ensure that the restaurant is vacated and closed in advance of any wave action overtopping the Esplanade.

The amended Site Specific Flood Risk Assessment and Numerical Modelling Report are considered to have addressed the Environment Agency's objection. The development is therefore considered to meet the provisions of Policy EN21 (River and Coastal Flooding) of the Local Plan.

Drainage

Currently runoff is captured within an existing underground drainage network. The private system discharges into the South West Water combined sewer system just north of the Drill Hall.

Ecology

The application is supported by an Ecological Appraisal prepared by Richard Green Ecology. The conversion of the Drill Hall would result in the loss of two lesser horseshoe night roosts located within the upstairs eaves cupboards and under stairs cupboard. Mitigation for the loss of the night roost is suggested via retaining and enhancing the Drill Hall Basement. At Paragraph 4.2.3 of the Ecological Appraisal a number of key features are identified;

- Retaining access to the basement via gaps above doors on the northern elevation.
- Internal doors within the basement that allow access and additional alcoves to provide additional roosting conditions.
- Baffles suspended from the ceiling to reduce air flow.
- Additional crevices in the form of squeeze boxes to increase roosting opportunities for crevice dwelling bats.

Removal of the toilet block would have no impact on nesting birds. However, conversion of the Drill Hall would result in the loss of a bird nesting site. As such, it is recommended that four woodcrete bird boxes be installed at eaves level on the northern elevation of the Drill Hall.

The recommendations within the Ecological Appraisal would be secured via planning condition to ensure that development meets the provisions of Policy EN5 (Wildlife and Habitats) of the Local Plan.

Highways

In terms of parking provision, the application site is located near the town centre and 50 metres away from East Street car park and slightly further afield, Russell Street Car Park and Riverside Car Park. There are also Bus stops at Station Road, Cypress Terrace and Salcombe Road. As such, the absence of dedicated parking is not a concern for the LPA, and this position is reflected in comments received from the County Highway Authority.

A third Party comment has been received expressing concerns that the pavement immediately south of the Drill Hall, on the northern side of the Esplanade, is being reduced in width. Whilst it is accepted that the footprint of the proposed extension and the wall enclosing the external dining area would exceed the width of the existing toilet block, it is considered that the footpath would remain at an acceptable width and continue to exceed the width of the footpath immediately south of the application site. In the absence of an objection from the County Highway Authority, the application should not be refused on highway safety grounds.

Conclusions

It is the position of officers that the proposed conversion and extension of the Drill Hall is in accordance with many of the key objectives of the Sid-Valley Neighbourhood Plan that seek redevelopment and regeneration of the Eastern Town. Occupation of the site by Rockfish and their offering of seasonal and sustainable seafood is considered appropriate to Sidmouth's seafront heritage.

Furthermore, the anticipated increase in footfall to the site is considered to enhance the vitality of the eastern end of the Esplanade. In turn, the development would enhance the viability of the immediate area for existing and future businesses. The application form also indicates that 30 full-time and 20 part-time would be created. The anticipated economic benefits are considered to weigh in favour of the scheme.

The proposed physical alterations to the Drill Hall are deemed acceptable and sympathetic to the building's architectural and historical significance and ensure its long term maintenance. The proposed single storey extension is also considered acceptable with regards to its impact on the principal building and wider character and appearance of the area.

Whilst comments from the Town Council with regards to the design of the build and lack of an easterly facing balcony are acknowledged, it is the position of officers that the submitted design is acceptable. Owing to the site's position on the seafront, easterly views are available of Salcombe Cliff which potentially haven't been made full advantage of in the current scheme. However, there are a number of easterly

facing windows and outdoor tables that would have an outlook towards the east. Furthermore, the provision of a balcony could likely require a larger extension which could potentially pose issues with regards to impact on the setting of the Drill Hall and wider character of the area.

A number of third parties have also expressed concern and disappointment over the loss of the public benches that face Alma Bridge and Salcombe Hill Cliff. It is evident from third party comments and from observations noted on multiple officer site visits, that these are a popular feature of the eastern end of the Esplanade and are frequently used by locals and tourists. However, owing to other public seating available along the seafront and at the Ham Recreation Ground, their removal would not cause undue harm to the provision of public seating within the area nor are they protected through planning policy.

Notwithstanding this, removal of the seating is attributed some harm within the planning balance. However, having regard to all the material planning issues raised it is considered that the heritage and economic benefits of the proposal significantly outweigh this harm. It is therefore the position of officers that the application is acceptable subject to the conditions listed below.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Samples of the proposed external materials and details regarding the colour of the render and paint to be used on the external walls of the Drill Hall and enclosure of the decking areas shall be submitted to and be approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved details before the building is occupied.
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the historic character of the building and appearance of the Budleigh Salterton Conservation Area in accordance with Policy EN10 - Conservation Areas of the Adopted East Devon Local Plan 2013-2031.)

4. The development hereby approved shall be carried out in accordance with the recommendations of the Flood Risk Assessment prepared by Awcock Ward Partnership submitted to the Local Planning Authority on 25.10.23.

(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).

5. Development shall be carried out in accordance with the recommendations and mitigation measures in the Ecological Impact Assessment prepared by Richard Green Ecology dated 13.07.23.

(Reason - In the interests of wildlife protection in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.).

6. 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 (Control of Pollution) of the East Local Plan 2013-2031 for the avoidance of light pollution.)

7. The use hereby permitted shall not commence until a detailed proposal for the treatment of cooking odours (more than just the ESP) has been submitted to and approved in writing by the Local Planning Authority. Details shall include any prefilters, grease traps, mesh or fabric filters and/or activated carbon units intended to be installed, and the proposed method of dispersing residual odours, flue specifications and discharge heights. The development shall be carried out in accordance with the approved details. There shall be no restrictions to the flue at the point of exit. The equipment shall be installed prior to the use commencing, maintained in accordance with the manufacturer's instructions and operated at all times when the kitchen is in use.

(Reason: To avoid odours detrimental to the amenities of local residents in accordance with Policy EN14 - Control of Pollution of the East Devon Local Plan.)

8. The specific noise level of any fixed plant or equipment installed and operated on the site including the extraction system 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 avoid odours detrimental to the amenities of local residents in accordance with Policy EN14 - Control of Pollution of the East Devon Local Plan.)

NOTE FOR APPLICANT

Informative: Confirmation - CIL Liable

This Informative confirms that this development is liable to a CIL charge.

Any queries regarding CIL please email cil@eastdevon.gov.uk.

Informative:

In accordance with the 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:

1446-PL221 Rev D	Proposed Floor Plans	25.10.23
1446-PL223 Rev C: South	Proposed Elevation	25.10.23
1446-PL224 Rev D: North	Proposed Elevation	25.10.23
1446-PL225 Rev D: East	Proposed Elevation	25.10.23
1446-PL226 Rev D: East/West	Proposed Elevation	25.10.23
1446-PL201 Rev B: & Block Plan	Location Plan	28.07.23

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, 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.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality 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.

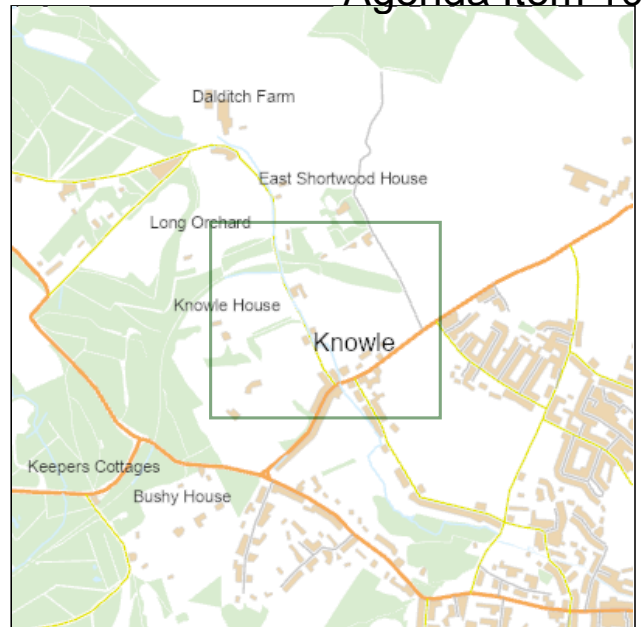
Ward Budleigh And Raleigh

Reference 23/1120/FUL

Applicant Mr William Pratt

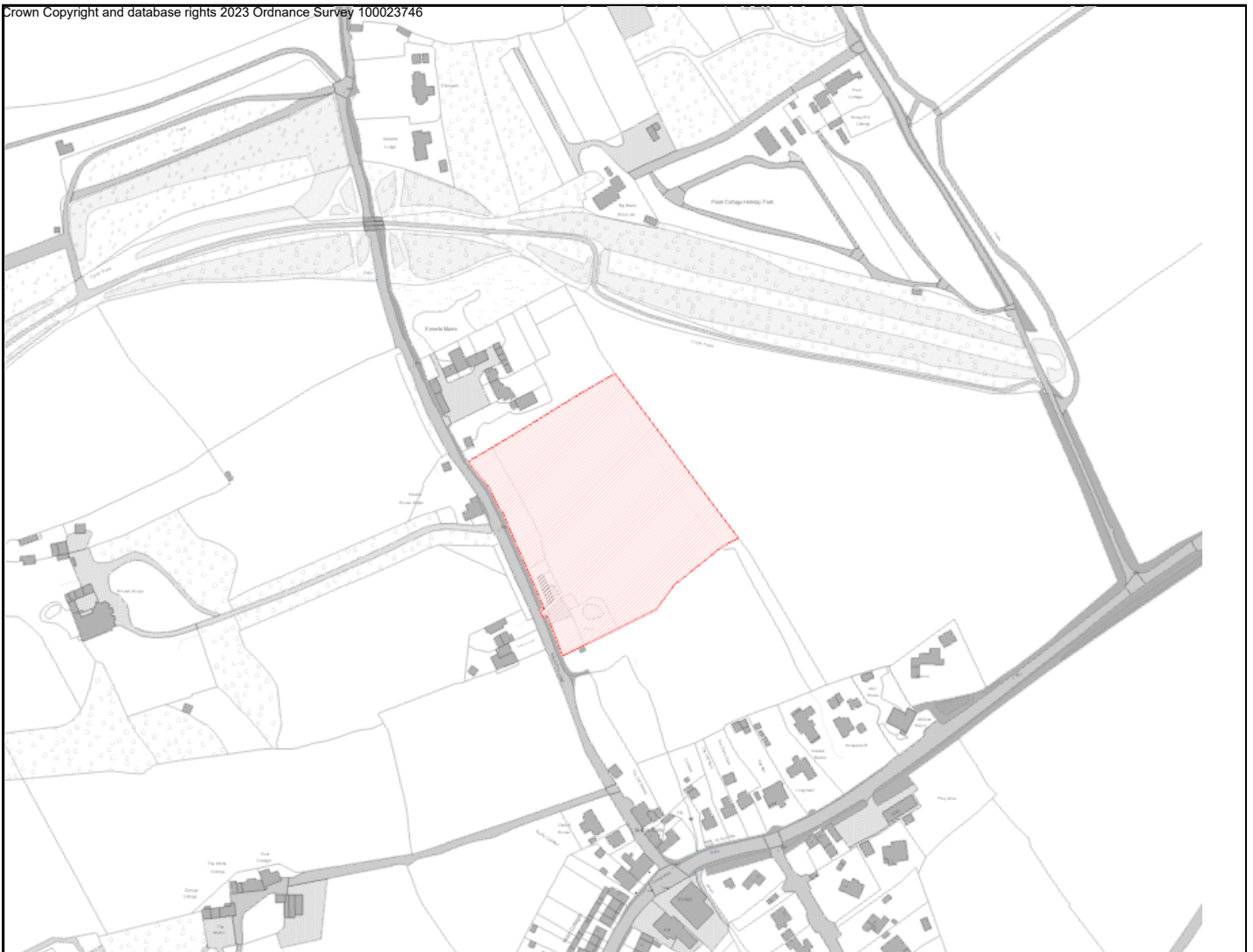
Location Lily Farm Vineyard Dalditch Lane Budleigh
Salterton EX9 7AH

Proposal Erection of a single storey managers
accommodation and single storey side
extension to Vineyard premises.



RECOMMENDATION: Refusal

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		Committee Date: 21.11.2023
Budleigh And Raleigh (Budleigh Salterton)	23/1120/FUL	Target Date: 09.08.2023
Applicant:	Mr William Pratt	
Location:	Lily Farm Vineyard Dalditch Lane	
Proposal:	Erection of a single storey manager's accommodation and single storey side extension to Vineyard premises.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before the Committee as the officer recommendation differs to that of the commenting ward member.

The site comprises a family-run vineyard, approximately 1.5 hectares (3.7 acres) in area, located approximately 100 metres to the north west of the Built-up Area Boundary of Budleigh Salterton at Knowle village. The site partially occupies steeply sloping land that falls from east to west, the lower portion of which is located within flood zones 2 and 3 where there is a medium and high risk of flooding, respectively. The site is also located within the designated East Devon Area of Outstanding Natural Beauty (AONB).

The application seeks planning permission for the construction of a single storey four-bedroom manager/rural worker's dwelling on the site. The details show horizontal timber clad walls and a double monopitch roof with a Sedum finish.

It follows the refusal of a previous application in 2016, and subsequent dismissal at appeal the following year, of a larger two storey dwelling on the site that was submitted by the applicant's parents. Whilst they presently continue to operate the business, with increasing assistance from the applicant, the proposal essentially forms part of a succession plan for the 'next generation' management of the vineyard. To this end, the dwelling would be intended to accommodate the applicant and his young family, who are currently resident in Exeter.

The previous application was refused on grounds relating to the failure of the proposal to satisfy the functional and financial tests for rural workers' dwellings set out in adopted Local Plan Policy H4 in addition to the detrimental impact of the development upon the rural landscape character and landscape and scenic

beauty of the AONB. These grounds were supported by the appeal Inspector.

The current submission seeks to demonstrate changes in circumstances since 2016/17 that are now thought to demonstrate both the essential functional requirement for a permanent dwelling on the site and that the vineyard viably generates a level of profit that is sufficient to provide an acceptable return for an agricultural worker.

Whilst it is accepted that the proposal would now largely satisfy the financial test of Policy H4, there remain concerns as to the extent to which it would meet the functional test and, more particularly, some of the previous appeal Inspector's findings.

A key element of the applicant's case is focused upon the intended development of a winery (for which planning permission has been granted) that would enable wine production on site as opposed to the current situation where the grapes are transported elsewhere and processed before the final product is brought back to the site. However, without the security of a permanent on-site presence that a dwelling would provide, this is unlikely to be realised.

Indeed, these are argued as representing two of a number of special circumstances justifying the requirement for the development; the others being the running of the vineyard itself and the expansion of both home delivery and cafe opening hours that a dwelling would facilitate.

However, security concerns do not, in themselves, justify a new dwelling. Furthermore, there is no evidence that there is, or has been, a specific threat to the security of the vineyard or, in line with the appeal Inspector's findings, that ways in which it may be improved or steps that could be taken to consider the better use of technical solutions have been explored during the ensuing years.

Moreover, it is not accepted that the operation of a home delivery service, or expanded shop and cafe hours or wine tasting tours, would meet any essential need to be resident on site. In addition, a calculation of activities at the vineyard, and the associated 'man days' labour that they generate, provided by the applicant show that more than half of these relate to wine transfer/labelling, business administration and the running of tours and wine tasting events and the running of the shop; none of which involve the type of viticultural activity that justify a permanent presence on site.

As such, the proposal also fails the qualifying test of occupancy of Policy H4 since less than one full-time equivalent worker is shown to be required to be employed in such activity.

On this basis, the proposal would also fail to meet the requirements of the exception test for flood risk owing to absence of any wider sustainability community benefits to outweigh the risk of flooding or any flood risk assessment that demonstrates the safety of the development without increasing flood risk elsewhere or reducing flood risk overall.

In addition, whilst likely to result in a less harmful impact upon the rural landscape character and landscape and scenic beauty of the AONB than the previous scheme, this would not outweigh the above objections when weighed in the overall planning balance.

The proposal also fails to mitigate its impacts on the protected habitats of the Exe Estuary and Pebblebed Heaths arising from recreational impacts on these areas from occupation of the proposed dwelling.

In the absence of sufficient justification for the proposal, and on account of its location, it would also represent an unsustainable form of development that would be mainly reliant upon private car for access to services and facilities.

Refusal is therefore recommended on the basis of these main grounds.

CONSULTATIONS

Local Consultations

Parish/Town Council

This Council supports the single storey extension to the vineyard premises which is in line with Policy EC1 of the Budleigh Salterton Neighbourhood Plan.

However, Members were unable to support the proposal for Manager's accommodation feeling it is over-development of the site.

The proposed residential development is outside the Built-Up Area Boundary (Settlement Boundary) and Members did not feel there was sufficient evidence to making an exception in this particular case.

In summary the proposal is against Policies H2, H4 and NE1 of the Budleigh Salterton Neighbourhood Plan.

Budleigh and Raleigh - Cllr Charlotte Fitzgerald

I am writing in support of the application 23/1120/FUL Lily Farm Vineyard Dalditch Lane.

Lily Valley Vineyard is an important local business with an impressive industry track record in a highly-specialised and fast-evolving industry. Since the application in 2016, great care has been taken to ensure that, with sympathetic planning, the next generation will be able to move onto the site to continue managing the farm whilst minimising harm to the landscape, and indeed potentially contributing positively to it, through considered and sustainable design. For the applicant, moving permanently onsite is a pre-requisite for the success of the next growth stage of the business. I would urge the council to prioritise the sustainability of this farm by enabling the younger generation of family, who have already apparently invested much into supporting the parents get the business to this stage and developed expertise of their own, to take over the business whilst bringing up their own family on the farm.

In particular I would draw attention to the following Strategies in the ELDP supported by this application:

S3: Sustainable Development,

d) Encouraging sustainable economic development, including securing jobs.

The planned business expansion, which is apparently dependent on the success of this proposal, would safeguard existing jobs and lead to new ones as the business expands.

e) Taking a long-term view of our activities: I believe the application meets the requirement of the NPPF definition of sustainability as, 'Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.'

This proposal would enable a young family of five with deep connections to the area to move into the area and continue to raise the next generation on the family farm.

S4: Balanced communities

c) Getting more age-balanced communities 'which includes younger families'. I note that in terms of age groups, Budleigh & Raleigh has one of the more imbalanced (toward the elderly) communities in the district, according to the last census.

S7: Developments in open countryside. Here I firstly refer to the Budleigh Salterton Neighbourhood Plan H4: BAUB which makes provision for developments outside the parish Built-Up Area Boundary if they are 'able to demonstrate that the development conserves and enhances the EDAONB and demonstrate an exceptional need which could not be accommodated outside the EDAONB.' This application demonstrates just such an exceptional need: the business is of a nature that demands the proprietor be on-site or within 'sight and sound' at all times; furthermore there is no suitable alternative, affordable accommodation within that area.

In addition, the EDLP S7 specifies that 'Development in the countryside will only be permitted in accordance with a specific local or Neighbour Plan policy that explicitly permit such development 'and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located'. The view of the vineyard from the surrounding area is distinctive and attractive, so due care and consideration to the design is necessary. Since the 2016 application for manager's accommodation was refused, it is clear that great care has been taken in the amended manager's accommodation plans to ensure that in the new, much more modestly-scaled, proposed building is appropriately situated and designed to have minimal visual impact, being built into the sloping vineyard site. The green sedum roof and larch cladding would help the building to further blend into the landscape. Thanks to these far-reaching design amendments, the proposed plan now meets the brief of avoiding harm to the distinctive landscape.

S28: Sustaining and Diversifying Rural Enterprises

E5 Small Scale Economic Development in Rural Areas.

'Small scale economic development or expansion of existing businesses designed to provide jobs for local people will be permitted where:'

3. If on a Greenfield site, shall be well-related in scale and form and in sustainability terms to the village and surrounding area.'

Criteria are apparently met.

S38 Sustainable Design and Construction

I note the plans include provision for renewable energy sources and use of local, sustainable materials, as well as a green roof.

These are my current views and I reserve the right to alter them based on new evidence.

Technical Consultations

None received.

Other Representations

20 representations of objection, 5 representations of support (including one on behalf of Wines of Great Britain, the industry body of the English and Welsh wine sector) and 1 'neutral' representation have been received.

Summary of Grounds of Objection

- Location of dwelling, within open countryside outside of the BuAB of Budleigh Salterton, has not changed from the previous application and appeal.
- Contrary to the local and neighbourhood plans, which aim to control development in the countryside and protect the character and appearance of the AONB.
- Figures do not add up and future proposals for income are optimistic for what is a small vineyard with no room to expand.
- Application states that the proposal safeguards existing employment; what paid employment has there been?
- Further harm to the character and landscape and scenic beauty of the AONB, which is subject to the highest level of protection and is an essential ecological and recreational resource used by walkers, cyclists and horse riders, contrary to Local Plan Strategy 46.
- There has been no issue with security in the area.
- Flood risk area not a good place to site more toilets as flooding could potentially cause sewer problems.
- There is no valid reason, sufficient justification, functional requirement or special circumstances demonstrated to justify living on site; contrary to Local Plan Policy H4.
- Houses are available for sale or rent within a reasonable commuting and walking distance.
- Dalditch Lane already has traffic volume, access and parking and visibility issues and is unsuitable for additional commercial traffic.
- Unclear as to whether a 3 or 4 bedroom dwelling is proposed.
- Precedent for further house building on the site should the vineyard not be a viable business in the longer term.
- Only difference from 2016 is a slightly greater crop yield and profit; it remains a small family-run vineyard, limited by size, and not considered large enough to be anything more than a hobby.
- Overdevelopment of a small site and no more than a desire to build a family home.

- Economic downturn likely to reduce demand for wine sales, relative to supermarket prices.
- Permission previously granted for the winery; however, owners chose to expand the cafe and wine tasting areas.
- No need to live on site in view of the security technology now available.
- It has been proven over the past 20 years that it is possible to run the vineyard without living on site.
- Dwelling would impact the capacity for growing vines in the future, which would seem counterproductive.
- Development of the vineyard and provision of a dwelling are not interdependent, as previously concluded by the appeal Inspector.
- Proposal depends heavily on the plans for expansion being successful; if not, site would be left with a valuable piece of land with a residential property thereon.
- Vineyard site is within an area at risk of flooding; new development may be both at risk of being flooded itself and/or increase the risk of flooding in that immediate vicinity.

Summary of Grounds of Support

- Enablement of building of a winery, additional security and more time to manage the vineyard and make wine to aid the takeover and growth of the business are all factors that support the functional need for the dwelling.
- Vineyards make a positive contribute to local tourism and the proposed business buildings include improving accessible facilities for visitors; allowing the proposals and therefore supporting the continuance and growth of this family business would in turn contribute to the local economy.
- Would allow the family to better manage on-site wine sales, tours and tastings as well as vineyard management and unlock future wine production, securing the future of the business.
- The British wine sector contributes significantly to the rural economy and is growing with employment forecast to grow by over 50% by 2025.
- Local business that is a valuable asset to the town, also as a tourist destination, with a clear and succinct succession plan in place to ensure that it is not lost and to realise its potential.
- A single storey dwelling built into the slope with a grass covered roof and effective screening that is unlikely to be visible and would therefore result in, at worst, a neutral effect on the AONB.
- Buying local wine enables carbon footprint to be reduced and a local business to be supported.
- Development would be an attractive and well-designed addition that would enhance the environment around the town.
- Creation of local jobs, if the vineyard were to be enabled to maximise its potential, would be of huge benefit to the local community.

Summary of 'Neutral' Comments

- Careful and considered approach to design compared to the previous application; single storey and burying the rear of the dwelling into the hillside.
- However, struggle to understand why a 4 bedroom property, whose rental value would be near the entire revenue of the vineyard, is required.

PLANNING HISTORY

Reference	Description	Decision	Date
18/0205/FUL	Extension to existing vineyard premises and construction of new equipment/storage barn	Approval with conditions	22.05.2018
16/0839/FUL	Construction of manager's accommodation and extension	Refusal	02.11.2016

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)
Strategy 7 (Development in the Countryside)
Strategy 43 (Open Space Standards)
Strategy 38 (Sustainable Design and Construction)
Strategy 46 (Landscape Conservation and Enhancement and AONBs)
Strategy 47 (Nature Conservation and Geology)
Strategy 50 (Infrastructure Delivery)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
D7 (Agricultural Buildings and Development)
EN9 (Development Affecting a Designated Heritage Asset)
EN13 (Development on High Quality Agricultural Land)
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)
H4 (Dwellings for Persons Employed in Rural Businesses)
E5 (Small Scale Economic Development in Rural Areas)
TC2 (Accessibility of New Development)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

Made Budleigh Salterton Neighbourhood Plan 2017-2031 Policies

H4 (Built-up Area Boundary)
NE1 (Conservation of the Natural Environment)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

ANALYSIS

Site Location and Description

The site comprises a family-run vineyard that occupies approximately 1.5 hectares (3.7 acres) of land within open countryside on the eastern side of Dalditch Lane. Parts of the southern boundary of the site are around 100 metres outside of the nearest part of the built-up area boundary (BuAB) of Budleigh Salterton as defined in both the adopted East Devon Local Plan and made Budleigh Salterton Neighbourhood Plan.

The premises, aside from the rows of vines, comprises an ancillary single storey monopitch-roofed timber building that backs onto, and runs parallel with, the western road frontage boundary with Dalditch Lane. This structure houses a cafe, kitchen, warehouse and toilets.

Permission was granted in May 2018 (application 18/0205/FUL refers) for the construction of an extension to the northern end of this building to accommodate a winery. However, this has yet to be constructed.

A second single storey timber building of gabled form with a fully pitched roof comprising profiled metal sheeting, oriented at right angles to the northern end of this building but detached from it, contains a tool shed and a larger space used for storage and wine tasting. This formed a second element of the approved 2018 scheme.

The site and surrounding area form part of the designated East Devon Area of Outstanding Natural Beauty (AONB).

The vineyard is served by a vehicular access from Dalditch Lane positioned to the south of, and immediately alongside, the southern end of the existing building. To the south of this access is a small vehicle parking area for customers and visitors to the premises.

It occupies land within a localised valley landform with the present building and the lower western portion located in an area that is within flood zones 2 and 3. To the northeast, the land rises steeply. The majority of the vines are grown on this elevated hillside.

The vineyard is largely bordered by established hedges beyond which, to the southeast and northeast, are agricultural fields. A small residential complex (Knowle Mews) closely borders the site to the northwest. Although there exist other residential properties in the vicinity of the site on the opposite side of Dalditch Lane to the west, the character of the area is that of open countryside which, although close to the edge of the built-up area of Budleigh Salterton at Knowle Village, forms the immediate setting of the vineyard.

Background

Full planning permission was sought in 2016 (application 16/0839/FUL refers) for the construction of manager's accommodation, in the form of a two-storey rural worker's dwelling, together with an extension to the ancillary building on the site.

The application was refused, following a referral to the then Development Management Committee in November 2016, on the following grounds:

1. The proposed development would be tantamount to the creation of a new dwelling in an unsustainable location in the open countryside for which there is no demonstrated functional need and where the business does not appear to have been planned on a sound financial basis being unable to demonstrate a profit in the event that staff costs or an owners salary is accounted for. Furthermore, the size of the proposed dwelling is not considered commensurate with the scale of the claimed functional need. The proposal is, therefore, considered unacceptable as it would be contrary to Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the Adopted East Devon Local Plan 2013-2031 and paragraph 55 of the National Planning Policy Framework.

2. The application site is located within open countryside designated as Area of Outstanding Natural Beauty outside of the Built-up Area Boundary for Budleigh Salterton, as defined in the adopted New East Devon Local Plan 2013-2031, in an area that has the highest status of protection in landscape policy terms and where great weight should be given to the control of development in order to protect its rural landscape character and landscape and scenic beauty. The proposed development would be located beyond the existing limits of the built-up area of the town with consequent significant visual harm to its character and appearance arising from the physical presence, built form, size and massing, and the domestic paraphernalia associated with an unjustified dwelling. As a consequence, the proposal would not accord with the development plan or amount to sustainable development and would therefore be contrary to the provisions of Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031 and policy contained within the National Planning Policy Framework.

A subsequent appeal against the decision was dismissed in October 2017 following an informal hearing.

Among the appeal Inspector's key findings were the following:

1. The dwelling would result in a harmful impact that would undermine the landscape quality of the AONB, failing to preserve its character and appearance and natural and scenic beauty. The character of the site and the built form would be very different from the undeveloped attributes of the site. The substantial structure would intrude into the open hillside, creating a pocket of suburban development. It would be the most noticeable element standing out from the hillside and would not be integrated with any existing buildings.

2. The appellant, living within 5 minutes' drive of the vineyard, was close enough to the site so as to be able to manage the crop during difficult weather conditions. In this regard, there was no critical difference to living on the site. It was not clear that weather conditions in the area were so localised or so frequent that living 5 minutes away was inadequate to deal with issues through additional inspections during the night and early in the morning. Efforts made in this regard, since establishing the vineyard, indicated that it was possible to adequately react to most adversities owing to weather conditions.

3. The need for an office from which to undertake administrative duties, whilst a benefit, did not rely upon living on site. The organising of deliveries and pickers at harvest time and dealing with members of the public could be done during the normal working day and does not essentially require on-site accommodation.
4. Although preferable and more convenient to live on site, no clear essential business need to do so for functional reasons had been demonstrated.
5. Whilst successful when based solely upon sales, the net profit of between £6,500 and £7,500 made during 2014-2015 meant, having regard to the relevant test under Local Plan Policy H4, that the business was not commercially viable. Whilst savings would be possible from being able to live on site, these would fail to increase profits to the extent that it would pay the wages of the then two full-time workers (the appellant and his wife).
6. Although it was recognised that the extensions to the vineyard buildings would enable significant savings, since it would facilitate wine-making on site rather than transporting grapes for processing elsewhere, and there were opportunities to enhance the potential for visitor attractions, including wine tastings, refreshments and sales from the public, these did not relate directly to having a dwelling on site. Moreover, such improvements were based upon predictions as opposed to current activity or past performance. They therefore carried limited weight.
7. Overall, it was not considered that a dwelling was essential in order to realise improvements in the profitability of the business or to significantly improve operational matters. Special circumstances to justify the dwelling had not been demonstrated.

Proposed Development

The current proposal principally represents a renewed attempt to secure permission for a manager's dwelling at the vineyard.

It would comprise what is described within the submitted design and access statement as a 'low carbon' four-bedroom dwelling of single storey form, incorporating a split level monopitch roof, that would be set into the hillside with additional planting introduced so as to minimise any visual impact.

The submitted details show the dwelling to be broadly arranged around three sides of an external patio area. On plan, the main core of the building would extend north-south and would measure 20.5 metres in length by 5.5 metres in width. A smaller monopitch-roofed wing, measuring 7.5 metres by 4 metres and accommodating two of the bedrooms, would extend off the western side of this principal element at the southern end whilst a flat-roofed addition would be incorporated off of the northern end of the same elevation; this housing an entrance hallway and a plant room to house a battery to store energy from a 5.6 kW solar p.v. array that would be added to the main monopitch roof. No part of the building is envisaged as being higher than 2.4 metres above existing ground level.

Externally, the building would exhibit horizontal timber cladding to the walls (colour to be confirmed) with green Sedum/wild flower roofs. A roof lantern over the entrance hallway would also be added. In addition, a proposed wood burning stove would be served by a stainless steel flue within the main part of the roof.

The proposals also include a small extension to the western end of the existing tool shed/storage/wine tasting building to provide a further store and a disabled-accessible toilet. This would be designed as a straightforward continuation of the wall and roof of the present building.

Additional screening in the form of hedge planting, to extend west from a point adjacent to the southwestern corner of the dwelling to a point to the rear of the tool shed/storage/wine tasting building, is also proposed.

Further elements of the scheme include the installation of an electric vehicle charging point and the provision of a timber cycle shelter with a storage rack just inside the site entrance.

Considerations/Assessment

The proposal falls to be assessed having regard to the following material considerations that are discussed in turn.

Principle of Development including Functional and Financial Tests

As stated, the site is located outside of the BuAB of Budleigh Salterton, as well as any other site-specific allocation shown on the Proposals Map that forms part of the adopted Local Plan. In policy terms therefore, it forms part of the countryside within which the provisions of Strategy 7 (Development in the Countryside) apply. These only permit development where it would be in accordance with a specific local or neighbourhood plan policy and where it would not harm the area's distinctive landscape, amenity and environmental qualities, including, among other things, local landscape character and public views that form part of the same.

However, Policy H4 (Dwellings for Persons Employed in Rural Business) allows for the development of dwellings in the countryside for agricultural or forestry workers, or people otherwise employed in rural businesses or activities, subject to certain criteria being fully satisfied. These are set out and discussed in full below.

These reflect guidance set out within the National Planning Policy Framework (NPPF) which, at paragraph 80, states that the development of isolated homes in the countryside should be avoided unless, among other exceptions, there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

The Policy H4 criteria are considered as follows:

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

The vineyard has been operated by the applicant's parents for the past 20 years and, with their advancing years, they are unable to continue to do so as they have done during this period. The applicant changed jobs around 20 months ago and reduced working hours so as to be able to dedicate more time to involvement in the family business with a view to making the full transition to taking over its running. In order to make this work financially viable, it is intended to grow and make wine at the vineyard (i.e. instead of the product being made elsewhere and transported back to Lily Farm) with the aim of increasing sales and, in time, offering employment.

To these ends, it is claimed that the need to be able to live at the site is essential. The applicant and his family, including three young children, currently live in Exeter.

Whilst the previous refusal of permission for a manager's dwelling is recognised, it is argued that changes in the business and the wider economic climate since that time would now justify a different stance being taken; not least owing to the development of the tool shed/storage/wine tasting building and the doubling of wine sales since 2016/17.

The claimed functional need to live permanently at the vineyard set out within the applicant's Planning, Design and Access Statement (PDAS) is summarised in point form as follows:

- The growing season through spring/summer and autumn requires a full-time worker for vineyard husbandry to tend, trim and tuck in vines, adjust wires and protect fruit (including hand spraying for disease/pest control and clearing leaves) and pruning, clearing out, bowing over and renewal of vineyard infrastructure ahead of the next season
- Spraying is carried out at short notice and can only be done in the early hours or late evenings to enable pest control from wasps
- During significant changes in temperature it is necessary to regularly check conditions in the warehouse for both temperature and humidity and take action if adjustment is required
- The inability to live on site affects the efficiency of the business and has held it back in being a barrier to longer opening times for the shop/cafe, guided tours and wine tasting
- The aspiration is to make single quality vineyard wines at the vineyard. However, the value of the product is such that there needs to be certainty that there are suitable conditions and facilities to ensure adequate levels of oversight throughout the wine-making process as well as security to safeguard fermenting tanks that further add to on-site stock.
- The present range of security measures, including an alarm system and C.C.T.V., boundary and electric fencing to deter animals and a weather station to monitor temperature, are primarily reactive. There remains a risk that significant damage and theft can occur before anyone gets to the site. This is reflected in far higher business insurance premiums, in the absence of an on-site presence, than those for a dwelling
- The best deterrent would therefore be to live at the vineyard, which would enable timely action to be taken

- Taken in combination therefore, the running of the vineyard, expansion of home delivery and on-site cafe opening hours, the ability to make the wine on site and monitor it and security requirements justify a permanent on-site presence

Fundamentally, the position that is set out by the applicant is that the development of the winery on site is largely dependent upon whether it will be possible to establish a permanent residential presence; i.e. a manager's dwelling.

To this end, it is argued that Policy H4 does not state that the functional need has to exist on the basis of current activity on the holding; moreover, that it is unlikely that any business would invest in new equipment and buildings that it cannot fully utilise.

Although the first of these points is acknowledged, it follows that any claimed functional requirement for a permanent dwelling (i.e. as opposed to a temporary dwelling) must be based upon existing activity of the holding, whether it be agricultural, forestry or, as in this case, viticultural. Without this, any such proposal must be regarded as failing to meet policy requirements from the outset.

The option of a temporary dwelling, in the form of a mobile home, is also discounted for a number of reasons. First, it is claimed that any insistence that a temporary dwelling is necessary to 'unlock' the development of the winery ahead of any acceptance of functional need would significantly stifle development of the business. Secondly, a temporary dwelling, aside from not exhibiting the 'green' credentials offered by the proposed dwelling (i.e. a 'green' roof and sustainable energy generation), would have a greater visual impact upon the AONB. Thirdly, the future removal of any temporary dwelling to enable any permanent dwelling to be constructed would be disruptive to the applicant's children's education. Finally, it would represent an unsustainable use of resources, including cost, to invest in a temporary dwelling for a family of five, only for it to be removed in a few years.

However, these factors are not considered to carry significant weight in the assessment of the proposal against this criterion of Policy H4.

The requirement for rural worker's dwelling proposals to satisfy both the functional and financial tests is long-established. It is not acceptable for one of the tests to be met without the other. Both tests have to be met. Indeed, there are doubtless many examples of rural-based businesses whose financial viability is beyond question but where there would be unlikely to be the demonstrable essential need to be living on site that is required by policy.

Moreover, it is not clear as to why and how a temporary dwelling would have a stifling effect upon the development of the business.

It is also not understood how a temporary dwelling would be likely to result in a more detrimental visual impact upon the rural landscape character or appearance of landscape or scenic beauty of the AONB than the permanent dwelling proposed, as is claimed. Furthermore, although the loss of the 'green' roof and low carbon energy generation measures would represent some loss, there is no explicit policy requirement for single dwelling proposals such as this to incorporate such measures. As such, this weighs as neutral in the overall planning balance.

It is also, again, an established principle of consideration of rural worker's dwelling proposals that it is the requirements of the business/enterprise, as opposed to the personal circumstances of the applicant, that should underpin them. Indeed, Policy H4 expressly states that "the size of the proposed dwelling (should be) commensurate with the scale of the established functional need".

Equally, the scenario where a temporary dwelling is first provided to facilitate the opportunity to seek to demonstrate that a genuine functional need to live on site exists before any permanent dwelling is considered is by no means unusual. Although such proposals are invariably more prevalent in situations where the rural business concerned has yet to be established or fully developed, the policy also applies in regard to cases where the need is unproven.

Fundamentally, this is thought to represent, and remain, the position at Lily Farm Vineyard.

In addition, in regard to the various strands of the applicant's case set out above, there are a number of further points/issues of concern.

First, in terms of site/winery security, which is cited as one of the main drivers for the need for the proposed dwelling, there remains no clear evidence as to any specific security issues that the vineyard has been subject to over the past years. Indeed, as has been referenced previously, the preamble to Policy H4 states that security concerns will not, on their own, be sufficient to justify a new dwelling.

Whilst it is accepted that this is not the sole, or possibly even the main, reason that is being argued as contributing towards the special circumstances needed in order to demonstrate an essential functional requirement to live on site, it is nevertheless thought to be of significance.

In his findings, the appeal Inspector stated that "there may be ways in which security could be improved without needing to live on site and it is not clear what steps have been taken to consider the better use of technical solutions". Reference has been made in the applicant's PDAS to the ongoing use of a range of security measures, including C.C.T.V. and an alarm, together with boundary and electric fencing and a weather station to monitor temperature. However, it would appear that these measures were in place in 2016/17 at the time of the previous application/appeal. There is no evidence as to what, if any, further 'technical solutions' have been employed or even investigated.

The range of activities and tasks involved with the running of the vineyard itself are also referenced in the PDAS as contributing towards a demonstrable essential functional need for the proposed dwelling. These are supplemented by a spreadsheet that sets out a calculation of the man hours involved in these. This is based upon the Wine G.B. Entry Guide Handbook.

This approach produces a calculation of 261 days, equating to 1.1 full time equivalent (FTE) workers. (It is slightly less than that set out on a separate

spreadsheet, based on diarised activities prepared by the applicant's father, the hours within which equate to 292 days or 1.3 FTEs.)

However, a summary table on the first of these shows that 158 of the 261 days are taken up by activities described as 'tours, tasting and shop', 'business admin' and 'wine transfer/labelling' with the remaining 103 hours occupied by the 'vineyard'.

It is not considered that the first three of these groups of activities amounts to a viticultural need that would justify a requirement for a permanent on-site presence. None are directly related to the operation or management of the vineyard itself nor to any other activity that might qualify as contributing toward the establishment of any demonstrable essential need for a dwelling that would meet with this criterion of Policy H4.

Although it is recognised that the levels of income from wine tasting events and vineyard tours, shop sales and other sources comprises a relatively minor proportion of the overall business income, it is apparent that a substantial proportion of the calculated man hours is derived from non-agricultural activity.

In the circumstances therefore, it cannot be considered that an essential functional need for a permanent presence on site to meet the requirements of the operation of the vineyard itself has been adequately demonstrated.

Moreover, the expansion of home delivery and on-site cafe opening hours, cited within the PDAS as the third of the specific circumstances described as justifying the need for a dwelling, would not, again, be sufficient to justify the need to live on site.

The fourth of the circumstances described by the applicant, namely the making of wine on site, would, in itself, represent an activity/operation that might justify a permanent on-site presence. However, owing to the various factors set out above that are thought to weigh in favour of the conclusion that the functional test has not been satisfied, it is not accepted that weight can be given to this in the overall balance of conclusions in relation to this criterion of Policy H4.

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

The business has clearly been operational for well in excess of three years. Furthermore, an income and expenditure account for the 2022-23 financial year, ending 5th April 2023, that has been provided with the application shows a net profit of almost £24k. for that year.

Set within a broader time context, a graph illustrating annual revenue growth during the past ten years that has also been provided indicates that this has approximately tripled during this period. However, aside from the income and expenditure accounts from 2014 and 2015 to which the appeal Inspector referred in his decision in relation to the 2016 proposal (which have also been supplied with the current application), there is no evidence that the graph reflects audited accounts.

Notwithstanding, it is accepted that the latest year's accounts do provide evidence as to the viability of the business and that the profit return is sufficient to cover a rural worker's salary.

In terms of future operational viability, it is not necessarily the case that all of the planned financial benefits that the applicant has identified rely upon the ability to be able to live on site. Furthermore, some of these are predictions as opposed to relating to current activity or past performance, which dilutes the level of weight that may be given to them; a criticism that the appeal Inspector levelled in his assessment as to the financial viability of the business in 2017.

However, there is no evidence to suggest that the combination of investment in the enterprise and subsequent growth in wine sales over the past few years that has been demonstrated would not be maintained going forward.

As such, and relative to the situation at the time of the previous dwelling application and appeal, it is accepted that the financial viability of the vineyard has been demonstrated for the purposes of Policy H4 and therefore that the financial test that it applies is satisfied. Moreover, it is accepted that a sufficient level of the profit generated is, importantly, is a result of wine production processes and sales, which represents agricultural activity that may be considered in justifying a need for a permanent on-site presence, and not the non-agricultural activity - such as the cafe, vineyard tours and wine tasting events - which does not.

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

The application relates to the construction of a permanent dwelling. As such, this criterion is not relevant to the assessment of the proposal.

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

As explained above in relation to criterion 1, much of the activity referenced in connection with the business is outside of that regarded as justifying a need for a full-time presence on site. The number of FTE workers calculated as being required to fulfil relevant viticultural duties for the purposes of applying the qualifying test of occupancy therefore falls below 1, thereby failing to meet this criterion.

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

The vineyard is of comparatively modest area as an operational holding and there are no other buildings within it that might be suitable for conversion to meet any

demonstrable essential need for a dwelling were it accepted that such a need existed.

For the same reason, there has been no sale of any dwellings or buildings suitable for conversion.

Furthermore, since the applicant's case centres upon the claimed functional need only being capable of being satisfied through the provision of a dwelling on site (i.e. within 'sight and sound'), as opposed to 'within a nearby location or settlement', this criterion is essentially irrelevant for the purposes of assessment of the proposal.

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

There is no evidence to suggest that the attachment of an agricultural occupancy condition to any permission granted would not be acceptable to the applicant.

As a matter of principle, therefore, the lack of a demonstrable functional requirement for a permanent on-site presence and the failure to meet the qualifying test of occupancy set out within Policy H4 are considered to weigh significantly against the proposed dwelling.

Flood Risk

Based upon information that is available to the Council it would appear that at least part of the proposed dwelling would be constructed within flood zone 2.

Indeed, even if it were established that its intended siting were just outside of flood zone 2, access to it would still be across land that is within both flood zones 2 and 3.

The position of the applicant, however, is that the siting of the dwelling is outside of both of these zones. As such, no flood risk assessment has been provided with the application.

Paragraph 159 of the NPPF requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) and stipulates that, where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 161 requires that a sequential, risk-based approach to the location of development should be applied, taking into account all sources of flood risk and the current and future impacts of climate change, so as to avoid, where possible, flood risk to people and property. This should be achieved, and any residual risk managed, by, among other things, application of the sequential test and then, if necessary, the exception test.

Paragraph 162 states that 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.

Paragraph 163 advises that, if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification. The proposal in this case, involving a residential dwelling, falls within the category of 'more vulnerable' development.

Paragraph 164 states that the application of the exception test should be informed by a site-specific flood risk assessment (FRA). To pass the exception test it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk and that it will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be permitted (para. 165).

Paragraph 167 states that development should only be allowed in areas of flood risk where, among other things: within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons for preference for a different location; the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; any residual risk can be safely managed, and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The provisions of Local Plan Policy EN21 (River and Coastal Flooding) reflect this guidance in as much as they require that a sequential approach is taken in consideration as to the acceptance or otherwise of development in areas subject to river and coastal flooding. Wherever possible, developments should be sited in flood zone 1. Only if there are no reasonably available sites in flood zone 1 will locating it within flood zone 2, and then flood zone 3, be considered. The flood vulnerability of proposed development will be taken into account. If, after following this sequential approach, acceptable sites cannot be found and the development is necessary for wider sustainable development reasons, development may be permitted if the criteria meet those of NPPF paragraph 164 in application of the exception test.

In this case, irrespective of whether the proposed dwelling itself would be located within flood zone 2, it is necessary to apply the sequential test on account of access to it being necessarily through zones of medium and high probability flood risk.

In this regard there is an acceptance, in recognition of the limited area of the holding, that there is no alternative siting for the proposed dwelling that would be capable of being accessed via land that is within the lowest flood risk (i.e. flood zone 1). Indeed, even aside from this, it would be difficult to position the development where it would be outside of flood zones 2 and 3 without it occupying elevated land where its

landscape visual impact upon this part of the AONB would be likely to be more evident.

In such circumstances, it is accepted that there would be no lower risk sites suitable for the development to which it could alternatively be steered. It would therefore be appropriate to consider the need for the exception test.

The national Planning Practice Guidance (PPG) advises that the exception test is required for development within flood zone 3.

However, in the absence of sufficient evidence that the proposed development would meet the requirements of Policy H4 for the reasons set out above, it cannot be concluded that it would provide the wider sustainability benefits to the community to outweigh the flood risk that are required in order to pass the exception test.

Furthermore, in the absence of the submission of a flood risk assessment, it cannot be concluded either that the development would be safe for its lifetime, taking into account the vulnerability of the prospective occupiers, without increasing flood risk elsewhere or reducing flood risk overall.

Impact upon Character and Appearance of AONB

Paragraph 176 of the NPPF confers upon AONBs, and other designated landscapes, the highest status of protection in relation to the conservation and enhancement of their landscape and scenic beauty and states that great weight should be given to these objectives in the control of development.

This is largely reflected in the provisions of Local Plan Strategy 46 (Landscape Conservation and Enhancement and AONBs) which also apply great weight to conserving and enhancing the natural beauty of AONBs and requires that development be carried out in a manner that is consistent with these objectives.

In his assessment of the previous appeal scheme, the Inspector highlighted the raised position of the dwelling in relation to the road (Dalditch Lane) as well as the sensitivity of the site's location beyond the outskirts of the built-up area. In addition, despite recognising the presence of the screening provided by the roadside hedge when travelling along Dalditch Lane, he found that glimpses of the dwelling would still be possible from the road and when passing the entrance. Furthermore, even with supplementary landscaping being introduced, he noted that it would be noticeable from existing dwellings on either side of the site to the east of Dalditch Lane.

There is an acknowledgment that the reduction in the height of the building, coupled with an improved design and appearance (mainly owing to the palette of wall and roof finishes) that would appear more sympathetic with the rural character of the setting of the site and the vineyard, would be likely to result in a markedly reduced impact upon the surrounding landscape in comparison with that scheme. However, it is maintained that very similar glimpsed views of the dwelling would remain available, more especially during the winter months when vegetative cover within the roadside hedge would be absent.

Although it is accepted that the level of harm to the surrounding AONB landscape would, as a result, also be reduced, this needs to be weighed into the overall planning balance alongside the other material considerations, relating to the need for the dwelling and flood risk, which are discussed above.

In this regard, whilst it is possible that, in the event that the scheme were otherwise thought to be acceptable having regard to these issues, this would outweigh the identified level of harm to the AONB, the view that they are not means that the development must once again be regarded as representing an unjustified incursion into the designated landscape that would fail to conserve or enhance its landscape and scenic beauty.

Objection is therefore again raised to the proposal on such grounds.

Habitat Regulations Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and 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 Pebblebed Heaths and Exe Estuary 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. However, the financial contribution has not been secured in this case. 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, it cannot be concluded that this proposal will not give rise to likely significant effects.

Conclusion

Whilst there is no objection to the proposed modest extension to the tool shed/storage/wine tasting building, the failure of the proposed dwelling to meet an essential functional need to permanently house a manager/worker at the vineyard is considered to weigh significantly against this element of the scheme. The proposal therefore fails this key test of Local Plan Policy H4.

Furthermore, in the absence of a flood risk assessment, the development is not considered to provide for wider community sustainability benefits, or that it would be safe for its lifetime without increasing flood risk elsewhere and reducing flood risk generally, such that the exception test would be passed. The development would therefore fail to comply with Local Plan Policy EN21.

In these circumstances, it is also not thought that the more limited harm to the AONB landscape that would result, relative to the previous dwelling proposal for the site, can be regarded as weighing sufficiently in favour of the development as to outweigh

this and the above policy and flood risk objections. There would therefore also be conflict with Local Plan Strategy 46 and, more generically, the provisions of Policy D1 (Design and Local Distinctiveness).

The application does not propose to deliver mitigation to address the recreational impacts of occupants of the proposed dwelling on the nearby protected habitats of the Exe Estuary and Pebblebed Heaths and thus it would be likely to have a significant effect on these habitats such that the application should also be refused on these grounds.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be REFUSED for the following reasons:
 1. The site occupies a location within the open countryside outside of the Built-up Area Boundary of any established settlement or site-specific allocation set out in the adopted East Devon Local Plan 2013-2031. Within such areas, there is a presumption against new build residential development unless there is a proven and essential functional requirement for a rural worker to live permanently at or near their place of work in the countryside. On the basis of the information submitted, the Local Planning Authority is not satisfied that it has been adequately demonstrated that there exists an essential need for the proposed dwelling to facilitate the functional requirements of the viticultural enterprise that is operated from Lily Farm Vineyard. The proposal would therefore constitute unjustified residential development within the open countryside in an unsustainable location remote from services and facilities. As a consequence, it would be contrary to the provisions of Strategy 7 (Development in the Countryside), Policy H4 (Dwellings for Persons Employed in Rural Businesses), Strategy 5B (Sustainable Transport) and Policy TC2 (Accessibility of New Development) of the adopted Local Plan, Policy H4 (Built-up Area Boundary) of the made Budleigh Salterton Neighbourhood Plan 2017-2031 and the guidance set out in paragraph 80 of the National Planning Policy Framework (2023).
 2. In the absence of a proven essential functional need or other policy justification for the manager's dwelling the development, by reason of its location in the open countryside, distanced from essential services and facilities required for daily living and where options for alternative modes of transport are limited, would constitute an unsustainable form of development with reliance upon the use of the motor vehicle to access such services and facilities to meet the everyday needs of residents. As such, the proposal would be contrary to the provisions of Strategies 5B (Sustainable Transport) and 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031 as well as guidance set out in the National Planning Policy Framework (2023).
 3. In the absence of any other material considerations weighing in favour of the proposal, the Local Planning Authority is of the opinion that the development would represent an unjustified incursion into open countryside that forms part of

the designated East Devon Area of Outstanding Natural Beauty (AONB) in which the site is located. This area has the highest status of protection in relation to the conservation and enhancement of its landscape and scenic beauty where great weight should be given to the control of development in order to ensure that these objectives are upheld. The proposed dwelling would, by reason of its physical presence and associated domestic paraphernalia, result in visual harm to the character and appearance of this part of the AONB landscape. As such, it would be contrary to the provisions of Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031, Policy NE1 (Conservation of the Natural Environment) of the made Budleigh Salterton Neighbourhood Plan 2017-2031 and guidance set out in the National Planning Policy Framework (2023).

4. The application site is located in flood zones 2 and 3 where there is, respectively, a medium and higher probability of flood risk. Whilst it is accepted, following application of the sequential test for flood risk, that suitable alternative sites at lower risk of flooding would not be available or suitable to accommodate the proposed development, in the absence of any proven essential functional need for the proposed dwelling it cannot be concluded that the development would satisfy the exception test insofar as it has not been demonstrated that it would provide wider sustainability benefits to the community that would outweigh flood risk. Furthermore, it has not been demonstrated that the development would be safe for its lifetime, taking account of the vulnerability of its prospective users, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. The proposal therefore fails the exception test and would, as such, be contrary to the provisions of Policy EN21 (River and Coastal Flooding) of the adopted East Devon Local Plan 2013-2031 as well as guidance set out in the National Planning Policy Framework (2023) and national Planning Practice Guidance.
5. No mechanism has been provided to secure a contribution towards measures to mitigate the effects of recreational use of the East Devon Pebblebed Heaths and Exe Estuary Special Areas of Conservation and Special Protection Areas by residents of the proposed development. Without such a mechanism the proposal would be likely to have a significant effect when considered in combination with other developments in the area on the protected habitats and is considered to conflict with the Conservation of Habitats and Species Regulations 2017. In addition the proposal is considered to be contrary to guidance in the National Planning Policy Framework 2021 and to Strategies 47 (Nature Conservation and Geology) and 50 (Infrastructure Delivery) of the East Devon Local Plan 2013-2031.

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

	Location Plan		14.06.23
LFV.04.23.01	Proposed Plans	Combined	23.05.23
LFV.04.23.03	Proposed Plans	Combined	23.05.23
LFV.04.23.04	Combined Plans		23.05.23

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

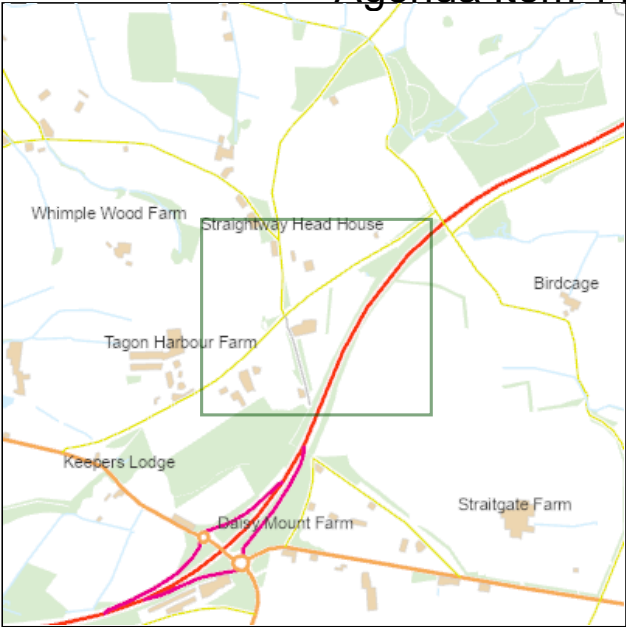
Ward Ottery St Mary

Reference 23/1522/FUL

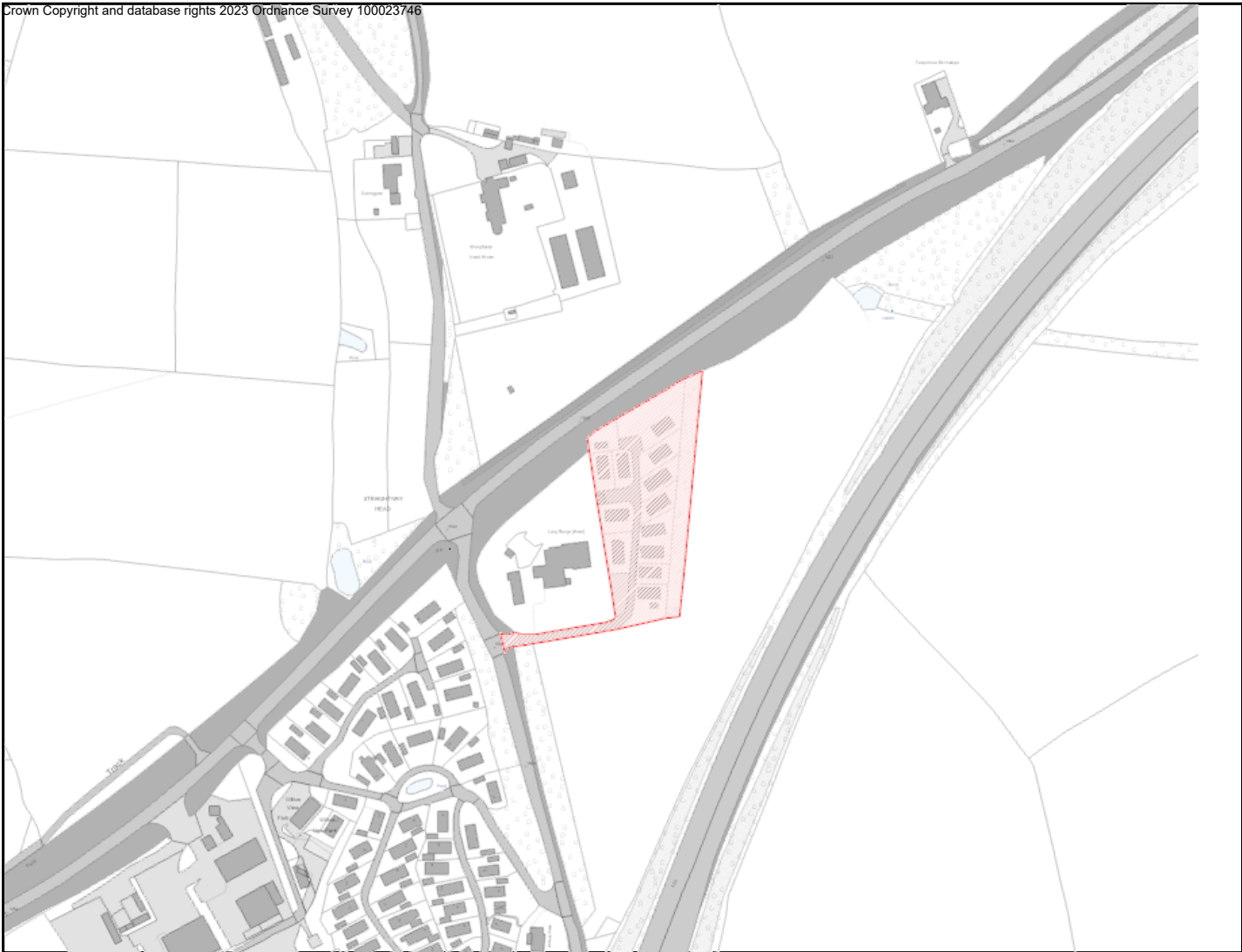
Applicant Mr D Squires

Location Long Range Park Whimble Devon EX5 2QT

Proposal Stationing of 5no additional holiday lodges



RECOMMENDATION: Approval with conditions



		Committee Date: 21.11.2023
Ottery St Mary (Ottery St Mary)	23/1522/FUL	Target Date: 14.09.2023
Applicant:	Mr D Squires	
Location:	Long Range Park Whimble	
Proposal:	Stationing of 5no additional holiday lodges	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before the Planning Committee owing to a difference of opinion between officers and the commenting ward member.

Long Range Park comprises a relatively recently established mobile home park, comprising 12 holiday accommodation lodges, located within the open countryside to the south of the former A30 Trunk road near to Straightway Head. Neither the site nor the surrounding area form part of any designated landscape.

The application proposal involves the addition of a further 5 units within the existing park area. This would utilise spaces between existing lodges as opposed to any expansion beyond its present boundaries into surrounding countryside.

The provisions of Local Plan Policy E19 (Holiday Accommodation Parks) allow for the extension of existing sites (outside of designated landscape areas) subject to specified criteria. In this case, it is accepted that these would be satisfied.

The objections to the proposal raised by the town council and ward member on the basis that the number of units would extend beyond twelve that were expressly conditioned under the original planning permission for the establishment of the park are acknowledged. However, the reason for this was stated as being 'in the interest of visual amenity' and not in recognition of any specific policy restraint upon numbers.

Given the policy support for expansion set out above together with the view that the additional units proposed would not result in any harm or detriment to visual amenity, not least owing to the level of screening provided by established hedges and trees around the site, it is not thought that objection to the principle of the development could be substantiated.

It is also not considered, given the control that would be available to the Council to require the submission of evidence to demonstrate that the capacity of the present system for dealing with foul drainage or, if necessary, an alternative means of so doing, that concerns raised about the capacity of the existing non-mains drainage system to accommodate additional foul flows from the extra units proposed could reasonably be sustained.

Approval is therefore recommended subject to conditions to restrict occupancy of the additional lodges to holiday accommodation purposes only, in line with similar conditions attached to the previous permissions for the existing 12 units, and to ensure the implementation of measures for the protection of hedges and trees along the site boundaries set out in an arboricultural report accompanying the application. A further condition relating to the submission of details as to the means of foul drainage disposal (both existing and, if required, proposed) is also recommended.

CONSULTATIONS

Local Consultations

Parish/Town Council

Town Council Comments:

- a) The Town Council does not support this application on the following basis; Condition 8 in the original application 10/2338/FUL states that no more than 12 units shall be stationed on the application site at any time. This current application will increase the number of units by nearly 50%.
- b) Concerns regarding sewage. Information contained with the original application stated that expected flow from each unit was estimated at approximately 360 litres. The current application states a flow of approximately 150 litres per unit.

Ottery St Mary - Cllr Vicky Johns

This planning application falls within my parish and I object to this application as the original application 10/2338/FUL states at condition 8 - 'not more than 12 caravans/mobile homes shall be stationed on the application site at any time', this condition has not been removed and in my opinion should not be due to the constraints of the site. The application states they will be using the existing sewage system but they have neglected to put the environmental permit number on the application, as requested. There are also doubts over the amount of sewage the system can take without the exact figures being shown.

These are my views with the information in front me I withhold my right to change my views if other information comes to light.

Technical Consultations

EDDC Trees

No objection subject to condition re. implementation of tree/hedge protection measures (Full consultation response at end of report)

Other Representations

One representation advising 'no objection' to the proposal has been received.

RELEVANT PLANNING HISTORY

12/2444/VAR - Variation of conditions 2 and 7 of 10/2338/FUL to allow independent occupation of holiday accommodation and alternative access arrangements (Full). Approved 13/12/12.

10/2338/FUL - Change of use from agricultural land for the stationing of twelve holiday lodges (Full). Approved 25/2/11.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

E19 (Holiday Accommodation Parks)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies

NP1 (Development in the Countryside)

NP2 (Sensitive, High Quality Design)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

ANALYSIS

Site Location and Description

The Long Range Caravan Park at Straightway Head is an existing but relatively new facility, comprising 12 holiday lodges, laid out in 2012. The site is located in the open countryside outside of the built-up area boundary of any recognised settlement and is positioned to the east of a residential property known as Long Range (the former Long Range Hotel). The northern boundary of the park is parallel with the adjacent former A30 Trunk road.

The principal vehicular access to the park is shared with that of Long Range, albeit the park itself is served by a separate driveway that extends alongside the southern

boundary of the curtilage of Long Range. Its northern boundary with the former A30 takes the form of a grass verge and bank. The site is set away from the main 'new' A30 which is situated to the south of the site and at a lower level.

Neither the site nor the surrounding area are the subject of any landscape designations or other material constraints.

Background

Planning permission was granted in 2010 (application 10/2338/FUL refers) for the change of use of agricultural land to the east of the former Long Range Hotel for the stationing of twelve holiday lodges. Each lodge measures 12.0 metres in length by 6.0 metres in width with a height of 3.0 metres (all measurements approx.). These fall within the definition of a caravan, as set out in the 1968 Caravans Act (as amended). One of the main factors underpinning the grant of permission was the benefits of the additional tourist accommodation to the local economy.

The twelve lodges proposed are laid out around a T-shaped access road with parking associated with each unit. The site was conditioned so that the lodges/mobile homes should only be occupied as holiday accommodation under the supervision and management of the owners or occupiers of the Long Range Hotel.

In 2012 application (ref. 12/2444/VAR) was made for the variation of two conditions (nos. 2 and 7) of planning permission 10/2338/FUL. Condition 2 restricted the use of the lodges for holiday accommodation purposes and also tied the management of the site to the owners/occupiers of the Long Range Hotel. The variation to the condition that was sought involved the release of this tie to enable the caravan park to be operated entirely separately from the hotel.

The rewording of the condition was considered acceptable and as a result condition 2 was amended to read as follows:

'The mobile homes hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. A register (including names and main home addresses) of all occupiers of the holiday units shall be collated and maintained by the owners or manager of the site, and this information shall be available at all reasonable times on request by the Local Planning Authority.

(Reason - To ensure that the cabins/chalets hereby permitted are used for holiday purposes only and are not used as a separate dwelling in this open countryside location where new development is restricted in accordance with national and local planning policy and policies TO3 (Tourism Development in Rural Areas) and TO4 (Touring Parks and Camping Sites) of the Devon Structure Plan and Policies D1 (Design and Local Distinctiveness), S5 (Countryside Protection), and TO4 (Caravan, Chalet and Camping Sites) of the East Devon Local Plan.)'

Both permissions carried a condition expressly restricting the number of caravans/mobile homes to be stationed within the application site to 12; the stated reason for the condition being 'in the interest of visual amenity' and to comply with then Policies D1 (Design and Local Distinctiveness) and TO4 (Caravan, Chalet and Camping Sites) of the adopted Local Plan in force at the time.

Proposed Development

The current application seeks permission for the stationing of an additional five holiday lodges within the park.

These would comprise four twin units and one single unit. One of the twin units and the single unit (plots 15 and 16) would be positioned adjacent to the northern boundary to either side of the end of the internal road that serves the park. A further twin unit (plot 14) would be positioned to the west of a small number of parking spaces nearby, while the remaining two (plots 13 and 17) would be stationed adjacent to further parking areas to either side of the road at the southern end of the park.

Considerations/Assessment

The proposal falls to be assessed having regard to the following material issues that are discussed in turn.

Principle of Development

As stated, the park occupies a location within the countryside outside of any Built-up Area Boundary or site-specific allocation shown on the Proposals Map that forms part of the adopted Local Plan. As such, the provisions of Local Plan Strategy 7 (Development in the Countryside) are engaged. These only permit development where it is in accordance with a specific local or neighbourhood plan policy that explicitly permits it and where it would not harm the area's distinctive landscape, amenity and environmental qualities, including land form, settlement patterns and important natural and manmade features and public views that contribute to the distinctive character of the local landscape.

Strategy 33 of the Local Plan supports high quality tourism within the District that promotes a year-round industry that is responsive to changing visitor demands. It requires that tourism growth should be sustainable and should not damage the District's natural assets but aim to attract new tourism-related businesses that can complement the area's high quality environment.

More specifically, Policy E19 (Holiday Accommodation Parks) is a criteria-based policy that permits proposals for new sites as well as extensions of existing sites.

The proposal is assessed against the relevant criteria as follows.

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

The existing park and units are well contained within, and screened by, existing established hedges and trees on all sides. As such, they are barely visible in wider landscape views from outside the site. Moreover, the proposed additional caravans/lodges would be positioned among and adjacent to existing plots and be contained within the present complex. Their provision would not involve any enlargement of the overall area of the park into the surrounding open countryside.

In this context, it is not considered that their addition/introduction to the park would result in any adverse or detrimental impact upon the character or appearance of the landscape or, therefore, that further landscaping/visual screening would be required to mitigate against any such impacts.

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

Although the park is not within especially close proximity of Ottery St. Mary, West Hill or Whimble, the nearest established settlements to the site, it is nevertheless near to Willow View Park, a residential park home site a short distance to the west, together with a number of other residential properties and business/commercial premises nearby.

Taken in the wider planning balance against the favourable assessment of the proposal against the other Policy E19 criteria, it is not felt that any argument as to the failure to comply with this criterion would weigh against the development.

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

As stated above, the proposal would not involve a physical expansion of the area of the present caravan/lodge site and, as such, the accommodation of the additional five units proposed would not encroach onto any surrounding agricultural land.

As such, and taken together with the fact that the park site itself is occupied by the units themselves, their associated gardens and parking spaces, with the additional units intended to occupy 'overspill' areas within the site that are currently put to no use, it is accepted that this criterion would be satisfied.

4. They will be provided with adequate services and utilities

Services and utilities are already provided within the park to serve the existing 12 caravans/lodges. There are not therefore considered to be any constraints in this regard.

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

The park is served by a shared private driveway off of Straightway Head Road. Although now essentially a cul de sac, prior to the construction of the new A30 Trunk road it was part of a 'B' class highway that connected the 'old' A30 with the B3174 and Ottery St. Mary and West Hill. Furthermore, it has served the former Long Range Hotel and the existing caravan/lodge site without any known issues or problems. Indeed, aside from its closure to through traffic, the levels of traffic generation would have been further reduced as a result of the closure of the hotel and its reversion to a single dwelling.

The road is therefore more than adequate to accommodate the increase in vehicle movements that would be generated by the addition of five further units to the park.

When considered against this policy overall, therefore, it is thought that the proposal is acceptable in principle.

Although the town council and commenting ward member have highlighted, in their respective comments, the limit of 12 caravans/mobile homes within the site imposed by conditions attached to both the original 2011 permission and the subsequent variation approved in 2012, it is not thought that this itself necessarily justifies resistance to the addition of further units; more particularly when the factors set out above are considered in the planning balance.

These conditions were imposed solely 'in the interests of visual amenity' and not owing to any specific limitation upon numbers of units required by policy. However, as identified above, the addition of the five units proposed would not involve any physical expansion of the existing park area or adversely impact the visual amenity, character or appearance of either the site itself or the surrounding open countryside. It is not considered therefore that any insistence that the 12 units originally applied for, and approved, should represent the extent of the use permitted within the site could reasonably be justified; more especially in view of the absence of any conflict with Policy E19 as demonstrated above.

Drainage

The concerns expressed by the town council and commenting ward member regarding the capacity of the septic tank that serves the park and the estimated total foul flows per day from each of the five additional lodges proposed (150 litres), when compared with those from the twelve lodges originally approved (360 litres) in 2010, are acknowledged.

On this matter, the agent representing the applicant has advised that the estimate of foul flows set out in the foul drainage assessment (FDA) that accompanies the current application has been derived from the current version of British Water's table of loadings for sewage treatment systems, a copy of which has been supplied.

Whilst it is assumed that this would have represented the same source for the calculations undertaken in 2010 (as required by guidance notes forming part of the FDA form), it is not clear as to why the updated flow rate differs so markedly from the original.

However, it is noted that the figures within the British Water table of loadings supplied by the agent are based upon foul flows on a per person/activity/day basis. Whilst it is not known for certain, it is highly possible that the figures specified in 2010 were based upon daily estimated total flows for each of the lodges as opposed to estimated daily flows per person. Indeed, these would reflect average occupancy by between 2 and 3 persons, which would seem realistic.

Nevertheless, it is advised that the existing septic tank has capacity to serve the proposed additional units.

However, no evidence has been provided that demonstrates that this is the case. It is therefore recommended that a condition be attached to any permission granted

requiring the submission for approval of details of this existing system together with evidence that it would be of sufficient capacity to accommodate the increase in foul flows that would result from the addition of the extra lodges that are proposed. In the event that it is considered that this has not been adequately demonstrated, the submission of details of alternative means of discharging foul drainage can be secured by the same condition.

By such means, the Authority would retain control over future drainage arrangements, for which it is considered that there would be an appropriate solution.

In such circumstances, it is not thought that an objection on grounds relating to the inadequacy of drainage provision for the development could reasonably be supported.

Overall therefore it is also accepted, subject to this condition, that the scheme would meet with the objectives of Local Plan policies EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and EN22 (Surface Water Run-Off Implications of New Development).

Impact on Trees

A combined document containing an arboricultural impact assessment (AIA), tree protection plan (TPP) and arboricultural method statement (AMS) also forms part of the application particulars.

This proposes that tree and hedge protection measures, in the form of braced Heras fencing, be installed along the entirety of the length of the northern boundary of the park adjacent to the two additional lodges proposed within this part of the site (plots 15 and 16), this comprising a mixed native species hedge together with an Oak categorised as a B2 specimen of good quality. Installation of protective fencing is also proposed alongside a group of mixed native species trees, forming part of the hedge along the western boundary, adjacent to plot 14 in addition to stems further south along the same boundary adjacent to plot 13. Further Heras fencing would also be placed alongside a category B1 Oak tree positioned on the southern park boundary adjacent to plot 17 with a short run of fencing also to be installed to the north of the same plot in order to protect a mixed native species group of trees within part of the eastern site boundary.

Since the submission of the application, work has taken place to cut back part of the hedge along the northern boundary so as to create space for the proposed single unit lodge on plot 16. This has prompted the serving of a tree preservation order (no. 23/0043/TPO) on the individual Oak trees on the northern and southern boundaries as well as the entirety of the eastern boundary of the park.

Notwithstanding, there are no objections to the works set out in the combined AIA/TPP/AMS document subject to a condition to ensure their proper implementation and monitoring during the course of development in line with the consultation comments of the Council's Arboricultural Officers.

The development would therefore satisfy the requirements of Local Plan Policy D3 (Trees and Development Sites).

Habitat Regulations Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation 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 the designation. 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.

Conclusion

Although the objections to the proposal raised by the town council and ward member are acknowledged, it is thought that the combination of compliance with the provisions of Local Plan Policy E19 and lack of harm to the character or appearance of the locality that would result from the introduction of five additional lodges to the park would weigh in favour of the development.

Additionally, based upon the evidence provided it is not considered that objection could be substantiated on the ground that the existing non-mains drainage system is inadequate for dealing with the additional foul flows that would be generated by the extra units.

A condition could be attached to the grant of permission to require the submission for approval of details of the septic tank system and its capacity should Members consider it necessary so as to provide further reassurance on this issue.

The impacts of the proposed development on protected habitats has been considered under the appropriate assessment and due to the secured mitigation it is concluded that it would not give rise to likely significant effects.

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 mobile homes hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. A register (including names and main home addresses) of all occupiers of the holiday units shall be collated and maintained by the owners or manager of the site, and this information shall be available at all reasonable times on request by the Local Planning Authority.
(Reason - To ensure that the lodges hereby permitted are used for holiday purposes only and are not used as separate dwellings in this open countryside location where new development is restricted in accordance with Strategy 7 (Development in the Countryside) and Policy E19 (Holiday Accommodation Parks) of the adopted East Devon Local Plan 2013-2023 and guidance as set out in the National Planning Policy Framework (2023).)
4. Prior to commencement of any works on site (including demolition), the tree and hedge protection measures (including site monitoring and supervision) shall be carried out as detailed within the Tree Protection Plan and Arboricultural Method Statement dated 13th July 2023 prepared by Advanced Arboriculture. All works shall adhere to the principles embodied in B.S. 5837:2012 and shall remain in place until all works are completed; no changes shall be made without first gaining written approval from the Local Planning Authority.
 - a) No operations shall be undertaken on site in connection with the development hereby approved (including any tree or hedge felling, tree or hedge 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 burning shall take place in a position where flames could extend to within 5 metres of any part of any tree or hedge to be retained.
 - c) 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.
 - d) 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.

e) 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.

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

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

5. None of the additional lodges hereby permitted shall be stationed within the site until details of the existing means of disposal of foul drainage, together with evidence to demonstrate that there is adequate capacity within the system to accommodate the additional foul flows that would result from the development, have been submitted to and approved in writing by the Local Planning Authority. In the event that this cannot be demonstrated to the satisfaction of the Local Planning Authority, details as to an alternative means of foul drainage disposal shall be submitted to and approved in writing by the Local Planning Authority. The approved alternative scheme shall be carried out in accordance with the approved details before any of the approved additional lodges are first occupied.

(Reason - In the interests of avoiding pollution of the environment in accordance with the requirements of Policy EN14 (Control of Pollution) and EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

JOB 2259	Proposed Site Plan	19.07.23
	Location Plan	13.07.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

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

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

APPENDIX – Technical Consultations - Full consultation comments

EDDC Trees

Please see comments below. Due to concerns over tree and ground works on site the team will be making a tree preservation order on a number of trees to ensure appropriate long-term management.

It is noted that works on site including the removal of T3 (Apple, U category), and cutting back of H1 (mixed Sycamore, Oak Hazel, C category) has already taken place. Furthermore, grounds works are currently being undertaken within the RPA of H1 and T2 (Oak, B2 category described as having 'future potential'). The works have damaged and exposed roots to both T2 and H1. Furthermore recent pruning has taken place to A1(mixed species of Beech, Ash Scots Pine, C2 - stated as historically topped stems) which is of poor arboricultural practice and does not meet any current British Standards.

In theory, the proposal could be acceptable as hard standing is already in situ for the majority of plots (bar plot 16, for which a no dig concrete base is recommended). However, the proximity of new holiday lodges at plots 17 and 13 is likely to result in pressure to prune or remove nearby trees (T1, Oak) and G1 (Cypress, C2) due to safety concerns, debris fall and shading. In the long-term as T2 grows this will cause similar issues. It is noted that plot 17 has been set back so that it is outside of the crown spread of T1 to try to limit these issues.

However, overall no objection is raised subject to the making of a tree preservation order to ensure the trees on site are appropriately managed and to prevent further poor works that are evident. All ground works currently taking place need to stop immediately to prevent further damage occurring.

I recommend the following condition be put in place to ensure the retained trees are afforded protection during construction.

a) Prior to commencement of any works on site (including demolition), the Tree Protection measures including site monitoring and supervision shall be carried out as detailed within the Tree Protection Plan and Arboricultural Method Statement submitted by Advanced Arboriculture 13th July 2023. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority.

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 burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

d) 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.

e) 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.

f) 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.

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

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