

**Agenda for Planning Committee
Tuesday, 19th December, 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
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
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Venue: Council Chamber, Blackdown House, Honiton

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(or group number 01395 517546)

Issued: Friday, 8 December 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 12 December 2023 up until 12 noon on Friday 15 December 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 - 7)

Minutes of the Planning Committee meeting held on 21 November 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 8 - 21)

Update from the Development Manager

Applications for Determination

8 **23/1153/FUL (Minor) OTTERY ST MARY** (Pages 22 - 37)

Sunny Corner, Hind Street, Ottery St Mary, EX11 1BW.

9 **22/1893/FUL (Minor) WOODBURY & LYMPSTONE** (Pages 38 - 79)

NHS Vaccination Centre, Greendale Business Park, Woodbury Salterton, EX5 1EW.

10 **23/1659/FUL (Minor) EXMOUTH HALSDON** (Pages 80 - 90)

2 Seymour Road, Exmouth, EX8 3JG.

11 **23/1472/FUL (Minor) EXMOUTH WITHYCOMBE RALEIGH** (Pages 91 - 99)

18 Colleton Way, Exmouth, EX8 3PX.

12 **23/1278/FUL (Minor) YARTY** (Pages 100 - 112)

Dennings Down, Smallridge, EX13 7JN.

13 **23/1997/FUL (Minor) YARTY** (Pages 113 - 126)

Land and building south east of Courshay Springs, Hawkchurch.

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 21 November 2023****Attendance list at end of document**

The meeting started at 10.15 am and ended at 2.00 pm. During the meeting there were brief adjournments at 11.40 am reconvening at 11.50 am and 1.22 pm reconvening at 1.29 pm.

88 Minutes of the previous meeting

The minutes of the Planning Committee held on 24 October 2023 were confirmed as a true record subject to an amendment to the wording of the resolution to minute 84 planning application 22/2838/MOUT – Land to South Broadway.

RESOLVED:

Deferred to allow 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 the wider area and whether they raise any objections to the proposal.

89 Declarations of interest

Minute 93. 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 Councillors Colin Brown, Jenny Brown and Yehudi Levine advised lobbying in respect of this application.

Minute 94. 23/1120/FUL (Minor) BUDLEIGH & RALEIGH

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

90 Matters of urgency

There were none.

91 Confidential/exempt item(s)

There were none.

92 Planning appeal statistics

The Committee noted the planning appeals statistics report setting out the appeal decisions.

The Development Manager drew Members attention to an appeal that had been dismissed for planning application 22/0173/FUL – Brake View, Rockbeare Hill, Rockbeare. Members noted that although the appeal had been dismissed there had been partial award of costs awarded against the council due to an error being recorded on the decision notice.

The Development Manager also drew Members attention to the appeal decision relating to the proposed solar farm at Marsh Green. The application was dismissed for reasons that were in line with the officer's recommendations to the committee. A costs claim against the Council was dismissed noting that the Council had dropped two reasons for refusal early in the process and officers had worked proactively and cooperatively throughout the application and appeal. The Council had not acted unreasonably.

93 **22/2838/MOUT (Major) WOODBURY & 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 off-site highway works (all matters reserved except for access).

RESOLVED:

1. The Habitat Regulations Appropriate Assessment be adopted.
2. Approve as per officer recommendations subject to a legal agreement and subject to the following additional conditions:
 1. Prior to first occupation of any of the residential units hereby approved, the off-site highway works indicated on drawing number BW 2 -L H C -00-XX-D R -U D -0104 received on 11th January 2023, which shall have first been the subject of a successful 278 highway agreement, shall be fully implemented and capable of use. The off-site highway works shall thereafter be retained and maintained for such purposes at all times.
(Reason: To ensure that the off-site highway works are fully implemented and mitigate impact that the proposal would have on the highway network in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)
 2. The first reserved matters application for details of the layout of the proposed development shall include provision of two bus stops (posts and road markings) either side of the road on the B3179 adjacent to the site, unless it can be demonstrated that the service provider would not support this infrastructure, and shall be provided and be capable of use prior to first occupation of any of the residential units hereby approved.
(Reason: To ensure that bus stops are provided in close proximity to the site, should they be required by the service provider, to provide occupiers with a choice of modes of transport accordance with Strategy 5B – (Sustainable Transport) and Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)
 3. In advance of the first reserved matters application in each phase, an on-site scheme shall have been designed and agreed in writing by the Local Planning Authority for the appropriate management of foul sewage arising from that phase. This shall include details regarding network capacity and propose measures as necessary to ensure that the network as a whole is not overloaded as a result of development in that phase.

For the avoidance of doubt the scheme shall demonstrate that it has had regard to peak flows within the downstream (off-site) network and shall include full design details of the proposed measures, how they will address capacity issues, details of the environmental impacts of those measures as well as a timetable for their implementation.

The development shall only be undertaken in accordance with the agreed details.

(Reason – To ensure that foul sewerage from the development is appropriately managed and that there is adequate capacity for the volume of waste arising, in the interests of residential amenity of downstream properties and in accordance with Policies D1 (Design and Local Distinctiveness) EN14 (Control of Pollution) and EN19 (Adequacy of foul sewers and adequacy of sewage treatment) of the adopted East Devon Local Plan 2013 – 2031.)

4. Notwithstanding the details provided, prior to the first reserved matters application relating to layout, details of a controlled means of pedestrian crossing of the B3179 adjacent to the application site shall be submitted to the Local Planning Authority and considered in consultation with Devon County Highways Department. The means of pedestrian crossing as approved shall be implemented and be capable of use prior to first occupation of any of the residential units on site.

(Reason: To ensure that there is a safe means of crossing the main road through the village for occupiers of the proposed development in accordance with Policies TC2 (Accessibility of New Development) and TC4 (Footpaths, Bridleways and Cycleways) of the East Devon Local Plan.

Condition 3 above is to be agreed in consultation with the Ward Member.

94 **23/1120/FUL (Minor) BUDLEIGH & RALEIGH**

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.

RESOLVED:

1. The Habitat Regulations Appropriate Assessment be adopted.
2. Refused as per officer recommendation but with reason 5 (Habitat Regulations) omitted.

95 **23/1522/FUL (Minor) OTTERY ST MARY**

Applicant:

Mr D Squires.

Location:

Long Range Park, Whimble.

Proposal:

Stationing of five additional holiday lodges.

RESOLVED:

1. The Habitat Regulations Appropriate Assessment be adopted.
2. Approved with conditions as per officer recommendation.

Attendance List

Councillors present:

B Bailey
I Barlow
C Brown
J Brown
S Chamberlain (Vice-Chair)
S Gazzard
A Hall
J Heath
M Howe
Y Levine
E Rylance
S Smith
E Wragg (Chair)

Councillors also present (for some or all the meeting)

R Collins
P Faithfull

Officers in attendance:

Wendy Ormsby, Development Manager
Damian Hunter, Planning Solicitor
Gavin Spiller, Principal Planning Officer (West)
Nigel Barrett, Senior Planning Officer
Wendy Harris, Democratic Services Officer

Councillor apologies:

A Bruce
H Riddell
D Wilson

Chairman

Date:

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

Ref: 22/2801/FUL **Date Received** 16.11.2023
Appellant: Mr and Mrs Peter Tyldesley
Appeal Site: 1 Cowley Barton Cottages Cowley Exeter EX5 5EL
Proposal: First floor extension above existing single storey element
Planning APP/U1105/W/23/3333333
Inspectorate Ref:

Ref: 23/1822/FUL **Date Received** 20.11.2023
Appellant: Janette Grant
Appeal Site: 21 Marpool Hill Exmouth Devon EX8 2LJ
Proposal: Formation of new access and associated development
Planning APP/U1105/W/23/3333553
Inspectorate Ref:

Ref: 23/0017/CPE **Date Received** 23.11.2023
Appellant: Mr Paul Sparks
Appeal Site: Barn Close Combe Raleigh Honiton EX14 4SG
Proposal: Certificate of existing lawful development to confirm material
start to planning ref. 02/P0677 and breach of condition 3
(landscaping details).
Planning APP/U1105/X/23/3333743
Inspectorate Ref:

Ref: 23/1496/FUL **Date Received** 23.11.2023
Appellant: Mr Paul Sparks
Appeal Site: Barn Close Kennels Combe Raleigh Devon EX14 4SG
Proposal: Change of use from kennels to 3no. dwellings including
associated works and parking.
Planning APP/U1105/W/23/3333745
Inspectorate Ref:

Ref: 23/1224/FUL **Date Received** 23.11.2023
Appellant: Mrs Elaine Paget
Appeal Site: The Barn Annexe 2 Lower Court Cottages Fluxton Ottery St
Mary EX11 1RL
Proposal: Subdivision of 2 Lower Court Cottages, with creation of
vehicular access and parking to serve new independent
property
Planning APP/U1105/W/23/3333794
Inspectorate Ref:

Ref: 22/1782/FUL **Date Received** 27.11.2023
Appellant: Mr & Mrs Paul and Sarah Howes
Appeal Site: Land And Outbuilding at North Star Ottery Street Otterton
Proposal: Conversion of 2no. barns into an MOT testing centre with associated office and waiting room; new hard surface parking area, 2no. EV charging points, turning circle and sales vehicle parking
Planning Inspectorate Ref: APP/U1105/W/23/3333929

Ref: 22/0349/OUT **Date Received** 29.11.2023
Appellant: Mr & Mrs Reeves
Appeal Site: Kilmore House Poltimore Exeter EX4 0AT
Proposal: Outline application for an exception site comprising of 4 affordable houses and 2 open market houses
Planning Inspectorate Ref: APP/U1105/W/23/3334118

Ref: 23/0556/FUL **Date Received** 30.11.2023
Appellant: Mr M Glanvill
Appeal Site: Land North of Martin Gate Sidmouth Road Aylesbeare
Proposal: Change of use of land from agricultural use to storage (within Use Class B8) for the siting of up to 40 storage containers
Planning Inspectorate Ref: APP/U1105/W/23/3334199

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

Ref: 22/1622/FUL **Appeal Ref:** 23/00012/REF
Appellant: Mr Mark And Mrs Lisa Clouter
Appeal Site: Kings Arms Farm Nags Head Road Gittisham Devon EX14
3AP
Proposal: Construction of a two storey 18-unit residential home for
vulnerable people.
Decision: **Appeal Dismissed** **Date:** 07.11.2023
Procedure: Written representations
Remarks: Officer recommendation to refuse, Committee refusal,
amenity and flood risk reasons upheld (EDLP Policies D1 &
EN21, Strategy 7).
BVPI 204: **Yes**
Planning APP/U1105/W/23/3319921
Inspectorate Ref:

Ref: 23/0665/FUL **Appeal Ref:** 23/00027/HH
Appellant: Mr Tim Prince
Appeal Site: 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.
Decision: **Appeal Dismissed** **Date:** 09.11.2023
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons upheld (EDLP Policy D1
and Exmouth NP Policy EB2).
BVPI 204: **Yes**
Planning APP/U1105/D/23/3325341
Inspectorate Ref:

Ref: 22/0912/FUL **Appeal Ref:** 22/00052/HH
Appellant: Mr John Lomax
Appeal Site: The Workshop Longmeadow Road Lympstone EX8 5LF
Proposal: Addition of first floor with alteration to fenestration.
Decision: **Appeal Dismissed** **Date:** 14.11.2023
Procedure: Written representations
Remarks: Delegated refusal, amenity and green wedge reasons upheld
(EDLP Policy D1 and Lympstone NP Policies CA2 & 3).
BVPI 204: **Yes**
Planning APP/U1105/D/22/3307801
Inspectorate Ref:

Ref: 21/3275/FUL **Appeal Ref:** 22/00047/COND
Appellant: Mr & Mrs Jenny & Richard Wiggins
Appeal Site: 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.
Decision: **Appeal Withdrawn** **Date:** 16.11.2023

BVPI 204: **No**
Planning APP/U1105/W/22/3306620
Inspectorate Ref:

Ref: 23/1352/FUL **Appeal Ref:** 23/00044/HH
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)
Decision: **Appeal Allowed** **Date:** 30.11.2023
(with conditions)
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons overruled (EDLP Policy D1 and Exmouth NP Policy EB2).
The Inspector noted that there are a number of similar fencing enclosures in the area, including on similar corner plots. The Inspector also observed a number of circumstances where gardens and boundary enclosures appear to have been replaced by off-street parking spaces to the front of properties, together with numerous examples of hedging which has grown above the low level boundary walls to the front of properties to provide enclosures to roadside boundaries. In this context, the principle of alterations to the front boundary of the property and to provide for a means of enclosure are consistent with the surroundings to the appeal site.
The Inspector concluded that the fence is not overly high or visually dominant and does not appear unduly prominent or out of place within the street scene. As such, the appeal proposal does not harm the character or the appearance of the area and is therefore in accordance with Policy D1 of the East Devon Local Plan and Policy EB2 of the Exmouth Neighbourhood Plan.
BVPI 204: **Yes**
Planning APP/U1105/D/23/3331532
Inspectorate Ref:

East Devon District Council List of Appeals in Progress

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

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

App.No: 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: 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 MMLIII 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
Questionnaire Due Date: 6 November 2023
Statement Due Date: 4 December 2023
Procedure:

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
Questionnaire Due Date: 8 November 2023
Statement Due Date: 6 December 2023
Procedure:
Written Reps.

App.No: 22/2533/MOUT
Appeal Ref: APP/U1105/W/23/3322776
Appellant: Morrish Homes & Messrs Compton, Stephenson, Olliff & Sanders
Address: Land North of Oak Road West Hill EX11 1SJ
Proposal; Outline application for the erection of 23no. dwellings with all matters reserved save for formation of vehicular and pedestrian access.
Start Date: 13 November 2023
Questionnaire Due Date: 20 November 2023
Statement Due Date: 18 December 2023
Hearing Date: To be confirmed
Procedure:
Hearing

App.No: 22/0974/FUL
Appeal Ref: APP/U1105/W/23/3327489
Appellant: Mr Andrew Rennie
Address: 11 Mill Lane Branscombe Devon EX12 3DS
Proposal; Retrospective planning application for the installation of one 7KW Air Source Heat Pump (ASHP).
Start Date: 14 November 2023
Procedure:
Written Reps.
Questionnaire Due Date: 21 November 2023
Statement Due Date: 19 December 2023

App.No: 22/2485/FUL
Appeal Ref: APP/U1105/W/23/3326441
Appellant: Mr and Mrs Browne
Address: Stables And Sand School adj. Willowmead Toby Lane Woodbury Salterton
Proposal; Change of use from stable to self-build dwelling including associated works and parking.
Start Date: 15 November 2023
Procedure:
Written Reps.
Questionnaire Due Date: 22 November 2023
Statement Due Date: 20 December 2023

App.No: 22/2353/FUL
Appeal Ref: APP/U1105/W/23/3326573
Appellant: Mr & Mrs J Taylor - Bashford
Address: Land Adjoining 12 The Copse Exmouth Devon EX8 4EY
Proposal; Erection of a two storey 3-bed detached dwelling.
Start Date: 15 November 2023
Procedure:
Written Reps.
Questionnaire Due Date: 22 November 2023
Statement Due Date: 20 December 2023

App.No: 23/0891/FUL
Appeal Ref: APP/U1105/D/23/3330810
Appellant: Johanna Leonard
Address: 6 Ash Grove Exmouth EX8 3BN
Proposal; Retention of porch to front of dwelling.
Start Date: 16 November 2023
Procedure:
Written Reps.
Questionnaire Due Date: 23 November 2023

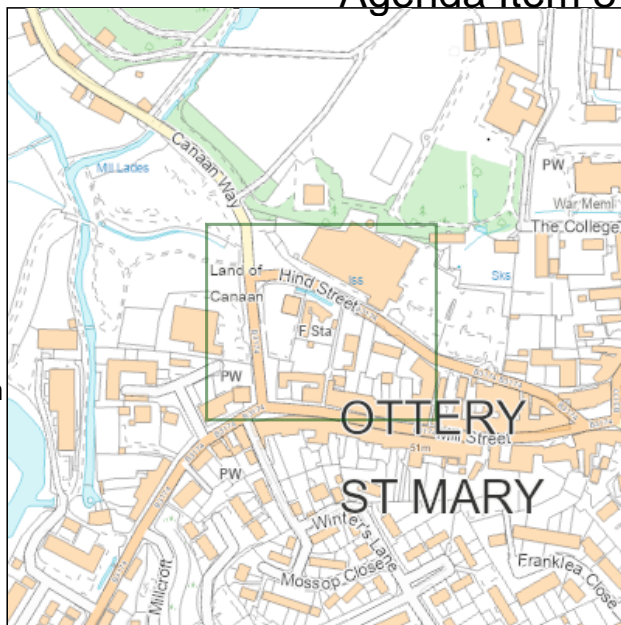
Ward Ottery St Mary

Reference 23/1153/FUL

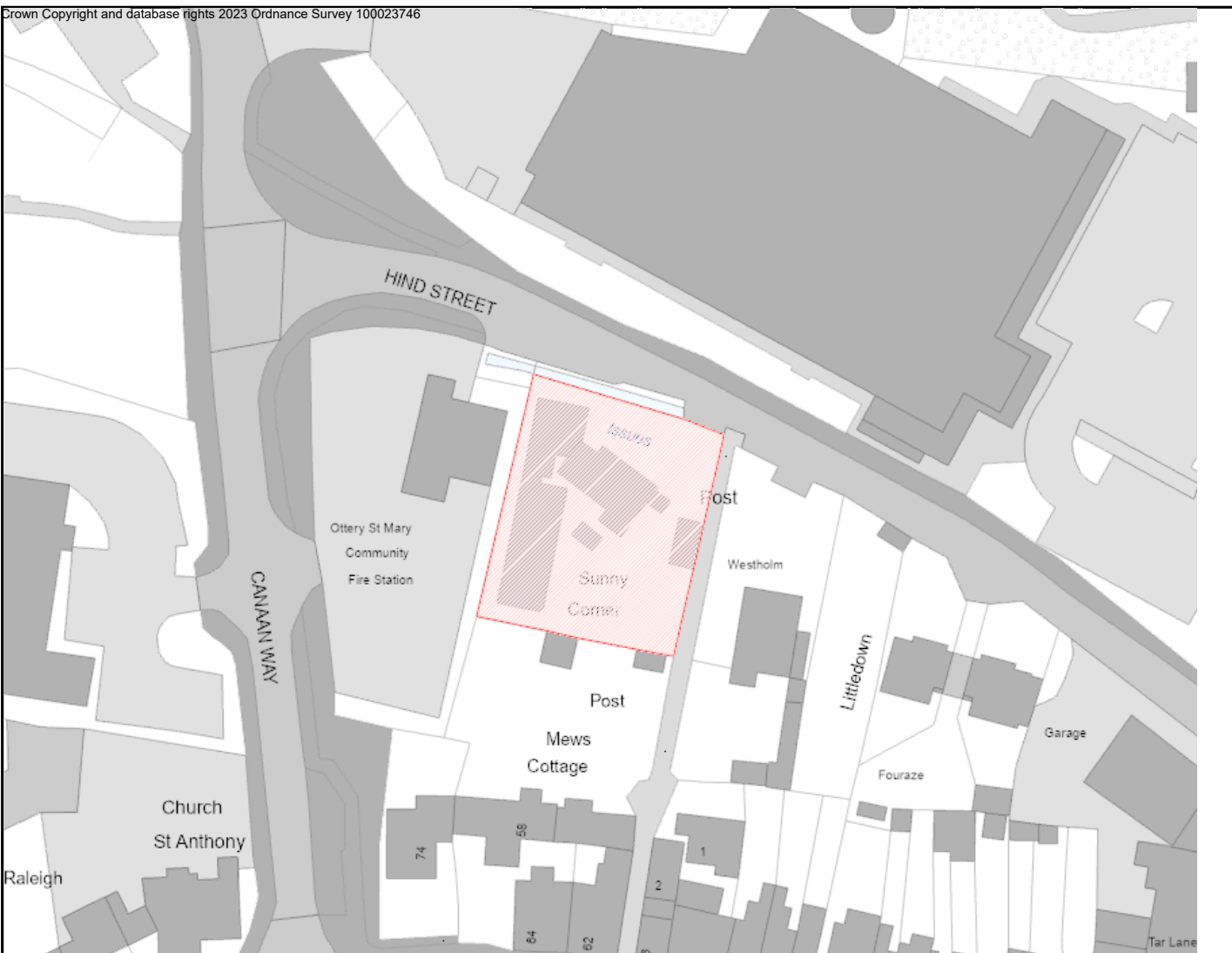
Applicant Mr Tim Johnson (Ottery St Mary Dental Practice)

Location Sunny Corner Hind Street Ottery St Mary Devon EX11 1BW

Proposal Extension to existing dental practice on the east elevation incorporating alteration amendment.



RECOMMENDATION: Approval with conditions



		Committee Date: 19.12.2023
Ottery St Mary (Ottery St Mary)	23/1153/FUL	Target Date: 07.08.2023
Applicant:	Mr Tim Johnson (Ottery St Mary Dental Practice)	
Location:	Sunny Corner Hind Street	
Proposal:	Extension to existing dental practice on the east elevation incorporating alteration amendment.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

Permission is sought for a further extension to an existing dental practice, Sunny Corner, at Hind Street, Ottery St Mary, bordering the boundary with Piccadilly Lane.

A previously approved extension is currently at an advanced stage of construction, and this would further extend the building along the eastern boundary of the site.

There is limited parking, only for clients with mobility disabilities, but this is a sustainable town centre location close to car parking available for staff and visitors.

In providing expanded dental services, improving access to health services and creating jobs within a sustainable town centre location, the further expansion is supported as a matter of principle.

A key issue surrounds flood risk, the site being located within Flood Zones 2 and 3 which is defined by the Planning Practice Guidance (PPG) as being areas at risk of river and sea flooding. The application is supported by a Flood Risk Assessment (FRA).

Policy and guidance advise a sequential approach will be taken in considering whether development will be permitted in areas subject to flooding.

Based on Annex 3 of the National Planning Policy Framework, the flood risk vulnerability classification for the dental practice is considered to be 'Less Vulnerable'. Being less than 250 sqm, a minor non-residential extension is exempt from the sequential test and exception tests.

As a commercial rather than residential use, flood events are dealt with by evacuation in advance of the flood. The property should be part of the Environment Agency's Flood Warning Service as this will enable the early evacuation of the building. Flood resilience measures are proposed, to be secured by condition.

The site lies within the Conservation Area for Ottery St Mary. There are no Listed Buildings immediately surrounding the site. Policy and guidance aim to ensure proposals preserve or enhance the character of Conservation Areas.

The application has been revised from a mono pitch roof to a flat roof. This addresses both visibility within the Conservation Area adjacent to a historic footway, thereby preserving the character of the Conservation Area and footway and amenity concerns in relation to both neighbouring occupiers to the east across Piccadilly Lane, and pedestrian users of Piccadilly Lane. No undue heritage or amenity impacts arise.

In summary, expanded dental services will provide a wider community benefit and can contribute positively towards employment and town centre vitality and viability in this sustainable location, which weighs positively in the planning balance. For the reasons explained above, the flood risk and other concerns weigh neutrally or marginally negatively, such that any limited harm arising is significantly outweighed by the benefits in the balance of planning considerations.

Accordingly, the application is recommended for approval.

CONSULTATIONS

Technical Consultations

Conservation

Holding response

The information provided is very limited and does not have a design and access statement nor heritage statement that takes into account the impact on the conservation area or listed buildings.

At present the application is contrary to NPPF 194

PROVISIONAL RECOMMENDATION - PROPOSAL UNACCEPTABLE

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

Environment Agency

The proposed development appears to constitute a non-residential extension, sized less than 250m². As such this should be considered under our National Flood Risk Standing Advice. The northern boundary of the whole site is adjacent to the main river 'Furze Brook'. The proposed extension to the dental practice is located approximately 17m away from the main river and as such is unlikely to impact our ability to access and maintain the watercourse. We therefore have no objections but recommend that you consider the detail of the proposal (e.g. Finished Floor levels, resistance and resilience measures) against the flood risk standing advice.

Local Consultations

Ottery St. Mary Town Council

A resident spoke to object against the application.

Town Council Comments:

- The Town Council does not support this application based on the following;
- Adverse effect on the conservation area
- Insufficient information and evidence to support the application
- Adverse impact on the neighbouring property Westholme
- Lack of updated flood report
- Lack of parking spaces - previous applications mention 10 spaces
- Clarification not provided for the number of extra staff and hours of opening
- Height of building not clearly stated
- Use of materials not stated
- Loss of green space
- Contrary to Neighbourhood Plan 2013-2031 D1,D2 and EN10
- No rain water harvesting
- Impingement on one of the oldest footpaths in Ottery ' Piccadilly Lane
- 2 x Rowan Ash trees have not been planted as per condition of App 17/1672/VAR
- In each of the previous applications, the Delegated Officer has commented on the amenity of nearby neighbours

Ottery St Mary - Cllr Bethany Collins

I object to this planning application on the following grounds:

The development goes against Strategy 3 Sustainable Development which states that 'development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape.' This extension, originally on a residential plot, increases the footprint of the building substantially and would result in a loss of light to neighbouring properties, such as Westholme. It would also impact the character of the historic Piccadilly Lane.

This extension also goes against the 'interest of amenity and to preserve and enhance the character and appearance of the conservation area' in policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) and EN10 (Conservation Areas of the East Devon Local Plan 2013-2031).

Furthermore, elements of previous planning applications have not yet been enacted and the increase in the footprint of the building, and the increase in patients and staff, would make these near impossible. The existing approval indicates room for 10 cars and a turning area which has not yet been implemented. As well as this, previous landscaping plans have also not been undertaken, despite being a condition of application 17/1672/VAR which states 'two mountain ash trees are proposed which in turn will grow into attractive features for the townscape....subject to these being planted the proposal is accepted.'

These are my views based on the information currently available to me. I reserve the right to alter my comments if further information comes to light.

Ottery St Mary - Cllr Vicky Johns

As the ward member I object to this application due to the large increase in the footprint of the building, when the original application went through it was stated that it would stay the same size as the original bungalow's footprint, since then it has already increased in size. The new application would have a detrimental impact on the neighbouring properties and although I appreciate the need for more dentistry we cannot allow that as the cost of the neighbouring properties. The previous applications have stated that there is parking for patients but this is not the case and patients need to park elsewhere when visiting, the existing dental surgery stipulates the space for 10 cars and a turning circle - this is not currently in place and the increase in development size (and consequently patient numbers and additional employees) would mean the surgery has insufficient capacity to service the surgery. The existing dental surgery plans stipulate a landscaping plan which is not evident. In application 17/1672/VAR it states 'two mountain ash trees are proposed which in turn will grow into attractive features for the townscape....subject to these being planted the proposal is accepted.' As far as I can tell these have yet to be planted. Piccadilly Lane is a significant part of Ottery history with photos of this lane used to represent Ottery St Mary on several local websites however if the extension were to go ahead it would alter and change a historically important area for ever. Allowing the proposed development to proceed would not only contradict the historical character of the area but also result in the irreversible alteration of its importance and heritage. This extension goes against the 'interest of amenity and to preserve and enhance the character and appearance of the conservation area' in accordance with policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) and EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031).

Inaccurate and Incorrect Plans. The plans for the east elevation have been drawn incorrectly and not to scale. The fence height of 8 feet, as depicted in the plans, does not align with the existing fence, which is only 6 feet high. This discrepancy raises concerns about the accuracy and reliability of the proposed plans and does not therefore depict the massing of the proposed development correctly.

The existing building on the east Elevation was built on the furthest side of Westholme's property boundary so as not to impact Westholme. It is believed that this was one of the considerations the current planning was accepted. It should be recognised this was a residential plot with a single bungalow structure before being over developed.

These are my views with the information I have in front of me however I reserve the right to change my opinion if further information comes to light.

Other Representations

One objection to the original scheme from the immediate neighbouring occupier on the following grounds:

- The application submitted is very basic on information.
- Drawings are inaccurate as they fail to show any immediate context in either plan, section, or elevation.
- Loss of amenity: Significant increase in the height of the new wall. Would lead to an overshadowing effect, causing a loss of natural light.
- Contrary to the principles set out in the Neighbourhood Plan 'Protects the amenity of neighbouring properties' and that 'Development of higher density which is clearly out of keeping with the established 'urban grain' can be detrimental to the appearance and character of an established area.
- Overdevelopment: Out of scale and character with the surrounding area. The extension is too large and dense compared to existing residential buildings and would have a devastating impact on site lines both through Piccadilly Lane and from Westholme.
- Would introduce additional noise and disruption, in addition to the construction phase.
- Support economic development but it must be fitting of the environment and setting.
- Environmental impact: Concerns about the environmental impact of the extension including the destruction of a green space and insufficient consideration of sustainability measures and damage the roots of another large tree (magnolia tree).
- The approval for the existing dental surgery stipulates the space for 10 cars and a turning circle - this is not currently in place and the increase in development size (and consequently patient numbers and additional employees) would mean the surgery has insufficient capacity to service the surgery.
- Landscaping plan is not evident. Application 17/1672/VAR states 'two mountain ash trees are proposed. These have not been planted.
- Piccadilly Lane is a significant part of Ottery history. If the extension were to go ahead it would alter and change a historically important area for ever.
- Would not only contradict the historical character of the area but also result in the irreversible alteration of its importance and heritage.
- Inaccurate and Incorrect Plans. The plans for the east elevation have been drawn incorrectly and not to scale. The fence height of 8 feet, as depicted in

the plans, does not align with the existing fence, which is only 6 feet high. Does not therefore depict the massing of the proposed development correctly.

- This was a residential plot with a single bungalow structure before being over developed.
- Potential increase in traffic and parking congestion. The increase in patient and staff vehicles would exacerbate the existing problem, leading to further inconvenience for the residents.

PLANNING HISTORY

Reference	Description	Decision	Date
23/0028/FUL	Single storey link extension	Approved	16/3/23
20/0498/FUL	Extension to existing dental practice, forming link between two buildings.	Approved	2/6/20
17/1672/VAR	Variation of condition 2 (plans condition) of planning permission 16/1518/FUL (construction of single storey rear extension)	Approved	5/10/17
16/2985/FUL	Retention and alteration of garage for use associated with dentists' surgery (Full)	Approved	10/2/17
16/1518/FUL	Construction of single storey rear extension (revisions to planning permission 15/0220/FUL)	Approved	26/10/16
15/0220/FUL	Construction of single storey extension	Approved	29/7/15
13/1701/FUL	Change of use from dwelling to dental practice	Approved	19/9/13
10/0087/FUL	Demolition of bungalow and construction of new dental practice building.	Approved	15/6/2010

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)
 Strategy 3 (Sustainable Development)
 Strategy 6 (Development within Built-up Area Boundaries)
 Strategy 24 (Development at Ottery St Mary)
 D1 (Design and Local Distinctiveness)
 D2 (Landscape Requirements)
 E2 (Employment Generating Development in Built-Up Areas)
 E9 (Town Centre Vitality and Shopping Areas)
 EN8 (Significance of Heritage Assets and their setting)
 EN9 (Development Affecting a Designated Heritage Asset)
 EN10 (Conservation Areas)

EN21 (River and Coastal Flooding)
Policy TC2 (Accessibility of New Development)
Policy TC7 (Adequacy of Road Network and Site Access)
Policy TC9 (Parking Provision in New Development)

Made Ottery St Mary and West Hill Neighbourhood 2017-2013 Policies

NP2 (Sensitive High Quality Design)
NP22 (Ottery St. Mary Conservation Area)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)
National Planning Practice Guidance

Site Location and Description

The site comprises the premises of the Ottery St. Mary Dental Practice, located on the southern side of Hind Street opposite the Sainsbury's supermarket within the town's designated Conservation Area. The site is also within flood zones 2 and 3.

The premises, which were originally formed from the conversion and adaptation of a bungalow formerly known as Sunny Corner, have since been significantly extended to the west and east.

Ottery St. Mary Fire Station is the immediate neighbour to the west. On the opposite side of Hind Street to the north is Sainsbury's. Residential properties are located to the east and south. Westholm, a detached property to the east is the most immediate neighbour and is separated from the site by Piccadilly Lane, a narrow, historic pedestrian public right of way.

There is a small parking/ turning area to the front of the site accessed off Hind Street with parking for two cars.

Proposed Development

The proposal seeks permission for a further eastern extension to the existing dental practice on Hind Street, Ottery St Mary. The planned mono pitch roof has been revised to a flat roof.

The proposed extension would provide two further surgery rooms and a staff room, bringing the total surgery rooms within the building to 9 (7 existing surgery rooms). The applicant has stated that this will help obviate the practice waiting list and assist with general practice training.

The submitted details of the extension, measuring c. 12.8m x 6.4m would add a further c. 82 square metres of floor space to the premises, and now incorporates a flat roof and walls finished in white painted render to match the other white rendered extensions. The elevation facing inwards into the site would comprise largely glazing set within dark grey frames, again matching the other extensions. The height of the

flat roof is c. 2.8m above internal site ground level. The level in Piccadilly Lane is c. 0.5m higher, such that only circa 0.5m of the extension would be visible above the 1.8m fence.

No change is proposed to the small parking/ turning area to the front of the surgery.

Considerations and Assessment

The main issues are considered to be the principle of the development, design and character considerations including heritage impacts, amenity impacts, highways/ parking issues and flood risk considerations.

Principle of Development

Strategy 1 – (Spatial Strategy for Development in East Devon) advises the Local Plan will set out how development in smaller towns, villages and rural areas will be geared to meeting local needs.

Strategy 24 - Development at Ottery St Mary promotes Ottery St Mary as a focus for development which meets local needs and makes the town a more vibrant centre. Proposals should be consistent with the strategy which includes the village as a focus for jobs and providing employment opportunities and support for health providers to meet their accommodation needs. In expanding much-needed dental services, the proposal fulfils the aims of strategies 1 and 24 , including to support job creation and assist health providers in meeting local needs.

Policy E2 - Employment Generating Development in Built-Up Areas supports the expansion of existing businesses which meet the following criteria in full:

- 1. Where practical it is accessible by pedestrians, cyclists and public transport – as a sustainable rural village the site is accessible.*
- 2. It would not generate traffic of a type or amount inappropriate for the character of access roads or require improvements that would damage the character of those roads - the roads can accommodate dental surgery traffic.*
- 3. It would not harm the character or setting of local settlements or the amenity of nearby residents - The development would not give rise to amenity harm, addressed in detail in the relevant section of the report below.*
- 4. It would not harm any site of nature conservation value or archaeological importance or any building of architectural or historic interest - The development would not give rise to harm to heritage assets, addressed in detail in the relevant section of the report below.*
- 5. It would blend into the landscape and/or townscape in terms of design, siting and materials - The development would not give rise to harm to townscape, addressed in detail in the relevant section of the report below.*

It is recognised that there is a shortage of dentists and that a town centre location is a sustainable one.

The proposal accords with strategies 1 and 24 and policy E2 and there is no objection to the principle of development.

The site has seen a number of extensions since the original conversion of the bungalow into the current dental practice and the townscape, heritage, amenity and parking issues arising out of this further proposed extension are considered in detail in the report below.

Design and Character Considerations, including Heritage Impacts

The site lies within the Conservation Area for Ottery St Mary. There are no Listed Buildings immediately surrounding the site. The designated heritage assets in the vicinity are those in Silver Street, Raleigh House, Donnithornes, Wardens House and College house. The designated Town Centre Area (Policy E9) lies to the north and east of the site.

Policies EN8 seeks to safeguard heritage assets, and policy EN10 states that development within Conservation Areas or outside the area where it would affect views in or out of the area will only be permitted where it would preserve or enhance the appearance and character of the area. Policy EN9 seeks to protect designated heritage assets, of which there are none locally affected. However, the Piccadilly Lane footpath is a historic route and could be classed a non-designated heritage asset.

Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area.

Policy D1 (Design and Local Distinctiveness), among other criteria, only permits proposals that respect the key characteristics of the area, requires that the scale, massing, height, and materials of buildings relate well to their context and do not adversely affect the urban form, trees worthy of retention or the amenity of neighbouring occupiers.

Like the Local Plan policies, Neighbourhood Plan policies NP2 (Sensitive High Quality Design) and NP22 (Ottery St. Mary Conservation Area) similarly seek to safeguard townscape and heritage assets.

Originating through the conversion of a white rendered/ grey tiled pitched roofed residential bungalow, and subsequently incrementally extended by more modern mono pitched render, timber and glazed elevations, the external appearance of the dental practice building is a mixture of styles, unified by consistent pale painted rendered walls.

Like the other later modern additions, the extension now proposed originally also had a mono pitch roof form, but following concerns about impacts, has been revised to a flat roof. This is primarily to reduce the impacts on the adjacent historic footpath, within the Conservation Area, and on the residential amenity of occupiers in the dwelling beyond the footpath to the east.

The revision is successful in reducing the visibility of the structure in the street scene and on the historic Piccadilly Lane footpath to the east.

The original bungalow was of little architectural merit but set back from the street and within a generous plot, was recessive and unobtrusive within the Conservation Area. With the more modern later additions, the dental practice has a greater public presence and visibility within the local street scene. However, this does not necessarily translate to a detrimental impact.

The current proposal will extend the built form along the eastern boundary to the south east corner of the site. There is an existing close boarded fence along Piccadilly Lane which successfully screens the majority of the site from public views, such that the upper parts only of the extensions are and would be visible from the path above the boundary.

The conservation officer originally commented that the information provided was very limited and did not have a design and access statement/ heritage statement to take into account the impact on the Conservation Area or Listed Buildings. Contrary to Paragraph 194 of the NPPF. A Heritage Statement was requested and subsequently submitted. No further comments have been received from the conservation officer to date and Members will be updated at the meeting if received.

Having regard to the Council's duty to ensure proposals conserve or enhance the Conservation Area, it is considered the proposal as revised, of which only a limited part would be visible over the boundary fence, has no significant detrimental impact on heritage assets, namely Listed Buildings (which are too remote to be impacted) and the character of the Conservation Area, including on Piccadilly Lane footpath, which is considered to be of local importance and historic value.

While not enhancing, the extension preserves the character of the heritage assets. Accordingly, no policy concerns arise with regard to policies EN10 and D1 and NP22 or the provisions of the NPPF.

Amenity of neighbouring occupiers

Policy D1- Design and Local Distinctiveness aims to ensure developments do not adversely affect the amenity of adjoining residential occupiers.

This application for a further extension has been revised to overcome objections from the nearest neighbouring occupier at Westholme to the east across Piccadilly Lane, and now includes a flat roof as opposed to mono-pitch roofs. This further extension in the south east corner of the site would adjoin an existing extension approved in March 2023 and which was under construction at the time of the site visit. That extension, with mono pitch roofs, is more prominent in the street scene, extending higher above the boundary fence. However, it is offset to the north of Westholme, unlike the proposed extension, which is directly opposite Westholme.

Westholme is a detached dwelling with double gables and double bay windows, the front aspect of which faces towards Piccadilly Lane and the eastern boundary fence of the application site. Westholme has a low brick boundary wall fronting Piccadilly Lane. The land level within the application site is lower than the level of Piccadilly Lane, such that the flat roof extension would be circa 2.3m above the level of Piccadilly lane, some 0.5m higher than the top of the boundary fence (circa 1.8m).

For comparison, the lowest part of the mono pitch extension to which this would be attached, is the same height as the flat roof but circa 1.1m higher to the apex. Westholme has a small front garden circa 5.5m deep. The distance between the front door and the boundary of the application site is approximately 7m. Piccadilly Lane is circa 1.5m wide, but narrower in places, the width constrained intermittently by low level bollard lighting.

Westholme has its principal garden to the south. The distances involved and relationship is such that a further circa 0.5m of development visible above the boundary fence will not unduly impact on the outlook or amenities of neighbouring occupiers.

Under policy TC4 - Footpaths, Bridleways and Cycleways requires, development which would reduce the convenience or attractiveness of an existing footpath will not be permitted unless an acceptable alternative route is provided.

The amenities of users of the public footpath would not be unduly compromised by the additional 0.5m increase in height above the existing boundary fence or the attractiveness of the route unduly impacted. In such circumstances, no conflict with policies D1 or TC4 arise.

Highways/ Parking

Policy TC2 - Accessibility of New Development advises new development should be located so as to be accessible by pedestrians, cyclists and public transport so as to minimise the need to travel by car. Adequate provision for persons with reduced mobility is also a consideration.

Policy TC7 - Adequacy of Road Network and Site Access advises new development will not be granted if the traffic generated by the development would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9 - Parking Provision in New Development advises in town centres where there is access to public car parks and/or on-street parking, lower levels of parking and in exceptional cases where there are also very good public transport links, car parking spaces may not be deemed necessary.

The site has a small forecourt parking/ turning area accessed off Hind Street. The capacity is unaffected by the proposed development and on-going building works, with space for two disability accessible parking bays. The applicant has confirmed that:

“ The demarcation lines have been recently installed following significant progress to the ongoing works. We have continued to ensure sufficient provisions for 2 disabled parking spaces which has been communicated to patients through the building staff. The staff park offsite or arrive by public transport”.

This is a town centre location with car parking nearby, where staff and patients arriving by car can park. It is important to retain the parking provision for people with mobility difficulties.

County Highways raise no objections and notwithstanding the additional space will increase the capacity of the dental practice and therefore number of visitors, this is a sustainable location, accessible by public transport, with nearby car parks for staff and patients and parking provision on site for those patients with mobility disabilities. In such circumstances no conflict arises with the aims of Policy TC9.

Flood Risk

The site is located within Flood Zones 2 and 3 which is defined by the Planning Practice Guidance (PPG) as being areas at risk of river and sea flooding. The application is supported by a Flood Risk Assessment (FRA).

The Council's approach to flood risk is set out within Policy EN21 River and Coastal Flooding. This states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use (minor development includes non-residential extensions) will be permitted in areas subject to river and coastal flooding.

Based on Annex 3 of the National Planning Policy Framework, the flood risk vulnerability classification for the dental practice could be categorised as either 'More Vulnerable' or 'Less Vulnerable' depending on whether it is considered a 'health service' or a 'professional service'.

For the purposes of determining whether a sequential and exception test is necessary in this instance, the proposal, less than 250 sqm, can be classified as minor development and a non-residential extension. The new building is to be treated as an extension being adjoined to the existing building with an interconnecting door. As such, the development as proposed would be exempt from requiring the application of the sequential test.

As a 'Less Vulnerable' development, it is suitable within Flood Zone 3a. As a 'More Vulnerable' development it is suitable subject to an 'Exception Test' being passed. As the dental practice is an existing development that was granted planning permission for a change of use from residential (classified as 'More Vulnerable') in 2013 it is assumed that the dental practice has been classified as 'Less Vulnerable' and is suitable in Flood Zone 3a.

As the development is a 'Minor Extension' of the existing building, the Finished Floor Level will be no lower than at present (47.41mAOD). Now the building is allocated for commercial rather than residential use, flood events are dealt with by evacuation in advance of the flood. However, there may be circumstances where emergency evacuation is essential (e.g., swiftness of the flood event occurring). The predicted 1 in 100-year event (1.0% annual probability) in 2098 would flood the car park to a maximum depth of approximately 400mm and hence the property will be readily accessible by emergency service vehicles (which can function at 900mm depth). The

property should be part of the Environment Agency's Flood Warning Service as this will enable the early evacuation of the building.

The Flood Risk Assessment (FRA) advises the extension would increase the gross floor area by 82 square metres which, as the site is defended for the 1 in 100 year (1%) year event, will have a negligible effect on flood storage in the catchment. The site also retains an overland flood route on the western boundary of the site. On this basis, the development should have a negligible effect on the flood risk to other properties in the area. Surface water drainage will be via main sewer.

The following flood resilience proposals are recommended in the FRA, to be secured by condition:

Solid floors - constructed of concrete and floor coverings such as clay or quarry tiles, which can be easily washed down in the event of a flood.

Wall finishes – any plasterboard if used to be laid horizontally rather than vertically to reduce the quantity of stripping out required after a flood event.

Electrical systems - all electrical sockets and fuse boxes located at least 450mm above the finished ground floor level and that all wiring is in the void space in the ceiling.

Raised Appliances and their electrical sockets - appliances, attached to the wall, their electrical sockets are at least 450mm off the floor and are fed from electrical circuits located in the ceiling.

On this basis, subject to a condition requiring compliance in accordance with the submitted FRA, no concerns arise regarding policy EN21.

Other matters

There was a query as to the timing of previously approved landscaping. The applicant has confirmed that the 2 rowan trees required as a condition imposed on planning permission 17/1672/VAR have now been planted.

References have been made to inaccurate plans. This is accounted for by the fact the drawings are based on the land levels within the site and the land level on Piccadilly Lane is higher than the ground level within the site.

RECOMMENDATION

APPROVE subject to the following conditions:

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those of the existing building.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the existing building in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

4. The development hereby permitted shall be carried out in accordance with the measures for mitigating the effects of flooding set out in the Flood Risk Assessment Reference P71/FRA (v3.1) dated 10 October 2023 by GWD Consulting Engineers. Thereafter those measures shall be retained and maintained.
(Reason - To ensure that the risks and effects of flooding are appropriately managed in the interests of safety in accordance with the provisions of Policy EN21 - River and Coastal Flooding of the adopted East Devon Local Plan 2013 - 2031.)

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

Plans relating to this application:

23/SC02A	Proposed Combined Plans	11.10.23
	Location Plan	12.06.23
	Block Plan	30.05.23

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.

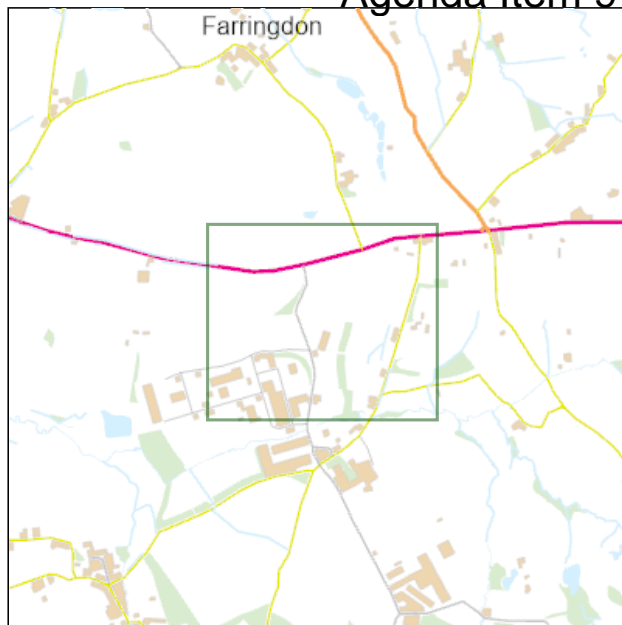
Ward Woodbury And Lymptone

Reference 22/1893/FUL

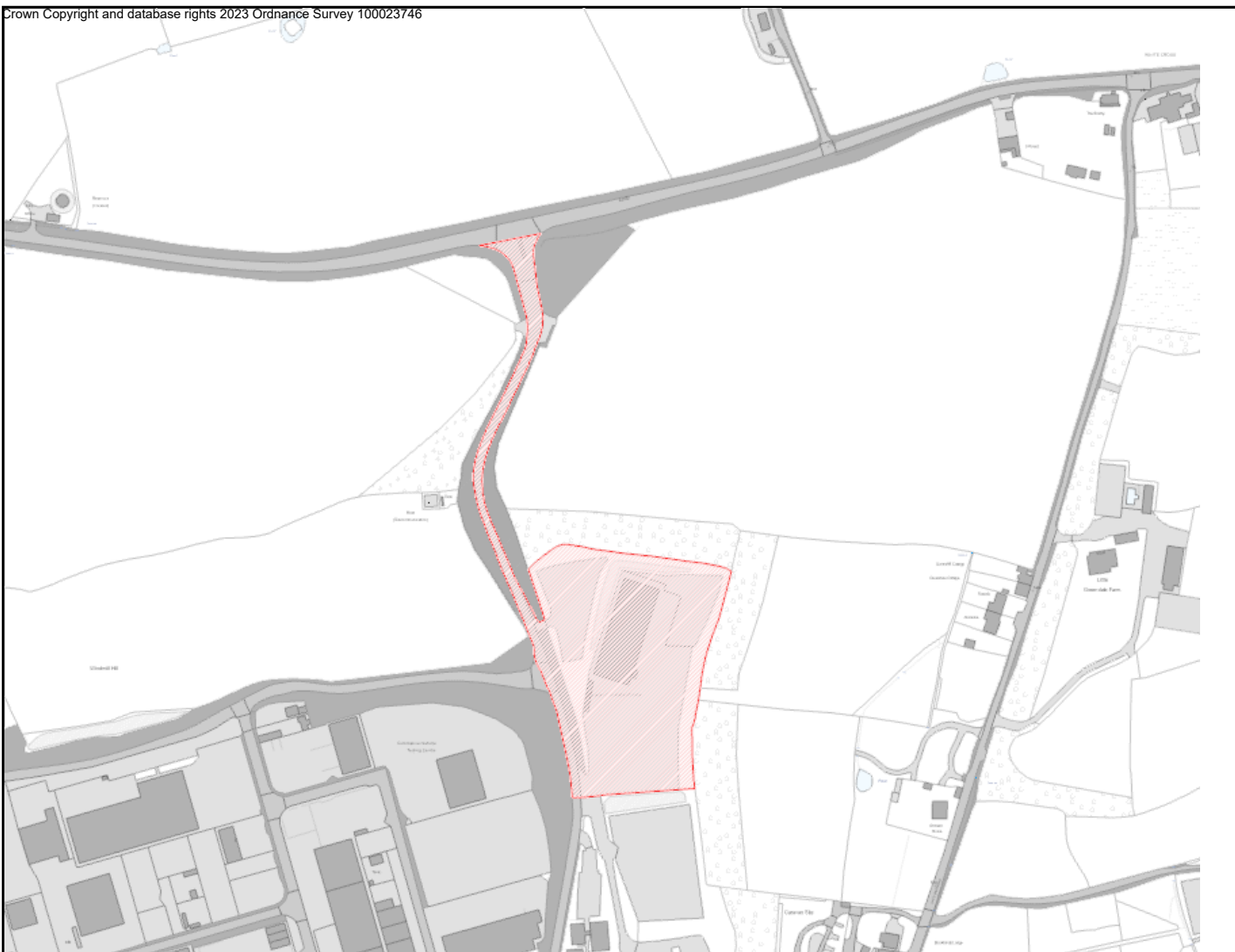
Applicant Mr Paul James (FWS Carter & Sons Ltd)

Location NHS Vaccination Centre Greendale Business Park Woodbury Salterton Exeter EX5 1EW

Proposal Temporary permission (use class E) to permanent permission NHS walk in centre (use class E) (Ci, ii,iii, D, E,F,G), B2, B8 commercial, business and services including ancillary parking.



RECOMMENDATION: Refusal



		Committee Date: 19.12.2023
Woodbury And Lympstone (Woodbury)	22/1893/FUL	Target Date: 21.10.2022
Applicant:	Mr Paul James (FWS Carter & Sons Ltd)	
Location:	NHS Vaccination Centre Greendale Business Park	
Proposal:	Temporary permission (use class E) to permanent permission NHS walk in centre (use class E) (Ci, ii,iii, D, E,F,G), B2, B8 commercial, business and services including ancillary parking.	

RECOMMENDATION: REFUSAL

EXECUTIVE SUMMARY

This application is before members of the Planning Committee because the officer recommendation differs from that of a ward councillor.

The starting point for determining this application is that it is for the retention of a site and building in the countryside that was originally constructed under permitted development rights. The building has a temporary permission and has only been approved by the Council alongside the permitted development right on the basis of exceptional circumstances at the time to aid in dealing with the global pandemic to fight Covid 19 with the intention of its removal by the end of December 2023. Members should note that the building is not currently in use by the NHS but by an unauthorised commercial user.

The fact that the building and site are already in use for a temporary basis is not considered to be relevant to the determination of this application because when originally constructed under permitted development, the Council could give no consideration to the location of the building, its siting and how it would be considered against Local Plan policies, the principle of development, the accessibility and sustainability of the site, its landscape and visual impact, surface water run-off and management, highway safety and any other relevant material considerations.

Development of the application site has led to the outward expansion of the business park into the countryside and outside of the extent of authorised uses of Greendale Business Park which is not supported by either the Local Plan or the Adopted Villages Plan. The application is considered to be contrary to strategy 7 and policy E7 of the Local Plan which indicate that the principle of

development in this location would harm the clear strategic intentions of the Local Plan which is not to permit the outward expansion of Greendale Business Park.

In the absence of policy support for the principle of development, the application is considered to be a departure from the Local Plan. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Strategically, Greendale Business Park is identified within the Local Plan as a substantial stand-alone employment site which is different from the smaller and medium scale sites of East Devon and not deemed appropriate for expansion on account of its unsustainable location and to limit further landscape impact.

The location of the application site at Greendale Business Park away from settlements means that whether used by the NHS or commercial uses, people are likely to access the site via private car which promotes a pattern of transport that would not be considered to represent a form of sustainable development conflicting with Local Plan policies and the NPPF which seek to encourage promoting and securing sustainable modes of travel and transport. In land use terms the proposal is not considered to represent a sustainable form of development from an environmental perspective which weighs further against the proposal within the overall planning balance.

The landscape impact arising from the outward expansion of the business park into the countryside and the visual impact of the building is considered to be a further environmental concern which weighs against the proposal within the overall planning balance.

The support from the Council's Economic Development Officer is caveated by the fact that it is acknowledged that there is no specific policy within the Local Plan which outlines the conditions to which 'non-small scale' economic development in rural areas will be supported or refused. The economic benefits to be derived from retention of the building, its use by the NHS and other commercial uses are not considered to outweigh the proposal's policy conflict and the Council's strategic approach to development and the outward expansion at Greendale Business Park.

On balance, having regard for the above, whilst the proposal does not result in harm to residential amenity or highway safety, it isn't considered that there are sufficient material considerations that have been presented which justifies a departure from the Local Plan. This proposal represents an unjustified and unsustainable form of development which has led to the outward expansion of Greendale Business Park beyond its extent of authorised uses which is visually intrusive and encroaches into the open countryside to the detriment of the rural landscape character and appearance of the area. This harm coupled with the conflict with the Local Plan's strategic and plan-led approach towards the outward expansion of the business park contained within the East Devon Villages Plan and its wider sustainability objectives is considered to outweigh the social and economic benefits that would be derived from the fact that the

NHS may require the building in the future event of a COVID surge or through permanent use of the building by other commercial uses. The proposal is considered to be contrary to the provisions of Strategy 1, 5B, 7, 46 and policies D1, E7, EN22 and TC2 of the Local Plan. The application is therefore recommended for refusal.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung -
26/06/2023

I have viewed the further documents for the planning application for 22/1893/FUL to change from temporary permission (use class E) to permanent permission for a NHS walk in centre (use class E) (Ci, ii, iii, D, E,F,G), B2, B8 commercial, business and services including ancillary parking at the NHS Vaccination Centre Greendale Business Park Woodbury Salterton

According to the latest correspondence from the NHS they have a lease on the Greendale farm shop drive through centre which did not successfully obtain retrospective planning permission plus they have a lease at the Covid walk in centre at Greendale Business Park, which they say they cannot use.

At the planning meeting to discuss the farm shop drive through centre application it was stated that although planning was not granted the use can continue for the time being in view of the temporary requirements of the NHS and enforcement will follow in due course, or the applicants can appeal the decision and therefore the use can continue until the appeal has concluded.

The correspondence from the NHS also says that the permission for the walk in Greendale Business Park vaccination centre ceased on 31/12/22. It also states that permission for the building to stay in situ finishes at the end of the year 2023 and has nil use to the NHS.

There are a number of points regarding the location of this facility.

The site was previously applied for and refused, and unsuccessfully appealed to the government planning inspectorate and resulted in a high court judgement with substantial costs to the applicant.

The site is outside the agreed Employment Area for Greendale and therefore the application is to be considered in the open countryside. It does not comply to the EDDC local Plan nor the EDDC villages plan.

According to the Government there are no further plans (at present) to continue Covid Vaccinations beyond the recent age related and most vulnerable, and communication with Woodbury surgery is suggesting that a booster jab may be an option at the time of the standard age-related flu jab in the autumn but awaiting a final decision from the Government.

Therefore, taking all the factors into consideration I cannot support the application. However, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung

15/09/2022

I have viewed the documents for planning application for 22/1893/FUL for the temporary permission (use class E) to change to permanent permission for the NHS walk in centre (use class E) (Ci, ii, iii, D, E,F,G), B2, B8 commercial, business and services including ancillary parking at NHS Vaccination Centre Greendale Business Park Woodbury Salterton.

This building was built under Government Emergency Powers, during the Covid Emergency, which did not require the local planning authority to approve. The location for this building is outside the employment area for Greendale Business Park and therefore the location is considered built in the 'open countryside'

Therefore, this application is against a number of East Devon local plan policies. Also, a previous retrospective planning application was refused at this location and was refused, was not supported by a Government planning inspector and the appeal to the High Court by the applicant was also refused, and the area was required to be returned to agricultural use.

I therefore cannot support the building to become permanent, and the structure, compounds and carpark need to be removed to be returned to agricultural use. However, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Ben Ingham

21.02.2023

I write to recommend this planning application for approval.

I note:

This site was filled in previously, then reversed, let's not do that again...

With the right screening, I think the existing would be acceptable

Access to this site has proved of high calibre

We need to support sustainable employment at every opportunity

Parish/Town Council

28/06/2023

Woodbury Parish Council supports this application for the permanent permission for a NHS walk in centre. If and when the NHS does not require this facility then it should be removed as it is outside the employment boundary for Greendale and in open Countryside. Ancillary parking should only be for the use of the NHS / walk in centre and not used for car storage. Remove ancillary parking and associated work upon this facility not being used by the NHS.

Technical Consultations

EDDC Landscape Architect:

24/11/2023

Summary:

Having reviewed the submitted LVIA it is considered that in a number of areas the level of landscape effects are understated and that even with proposed mitigation significant adverse effects remain in respect of changes to landform, landscape patterns/ site character and landscape policies/ strategies resulting in unacceptable landscape and visual harm.

DCC Flood Risk Management Team

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

The applicant has not provided any information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems.

Economic Development Officer

ECONOMIC DEVELOPMENT TEAM RESPONSE

Reference: 22/1893/FUL

Description: Temporary permission (use class E) to permanent permission NHS walk in centre (use class E) (Ci, ii,iii, D, E,F,G), B2, B8 commercial, business and services including ancillary parking.

Location: NHS Vaccination Centre Greendale Business Park Woodbury Salterton Exeter EX5 1EW

Date: 15 November 2022

Recommendation: Approve

Initial Comments

We acknowledge the applicant's proposal for permanent permission to be granted for a 1.95ha site currently used as an NHS walk in centre. The applicant has confirmed that the permission sought would enable the continuation of the site to be used as a vaccination centre once the current temporary permission expires on 31st December 2022. The applicant is seeking permission for the site to be used for employment uses once the site is no longer required by the NHS.

Local Plan Policy

There is no specific policy within the Local Plan which outlines the conditions to which extensions to Greendale Business Park for employment purposes will be supported or refused. Policy E7 outlines the conditions to which extensions to existing employment sites will be supported or refused, however E7 clearly states clearly that the policy does not apply to Greendale Business Park.

Policy E5 of the Local Plan outlines the conditions to which small scale economic development in rural areas will be supported or refused, however there is no definition of what is regarded as 'small scale', 'large scale' or otherwise.

Assuming the applicant site is regarded as small scale, policy E5 states that small scale economic development will be permitted where it involves the conversion of existing buildings. This permission is dependent upon a variety of other (non-economic) criteria being met, including transport, ecological and historical factors. We acknowledge the comment provided by the Highway Authority (3 October 2022) stating no objection to the proposed development. Assuming there is no detrimental impact arising from the other specified factors, and the applicant site is regarded as small scale, the proposed development appears to be compliant with policy E5.

If the applicant site is not regarded as small scale, there is no specific policy within the Local Plan which outlines the conditions to which 'non-small scale' economic development in rural areas will be supported or refused.

Employment Need

The need for additional employment development is becoming increasingly clear. Since the beginning of the current Local Plan period in 2013, East Devon has commendably met 97% of its housing target of 950 homes per year. If the Local Plan Strategy 31 target (of 1 hectare of employment land for each 250 homes proposed) is applied to all homes built and all employment land delivered in East Devon, only 63% of this employment space target is currently being met. We have fallen significantly behind (37%) in the delivery of new employment space compared to new homes across our district.

The need to increase the supply of employment space is therefore essential, given the worsening imbalance between the delivery of employment space lagging so far behind that of residential development throughout the current Local Plan period. If unchecked, this trend will inevitably result in East Devon residents having to travel further and further for employment opportunities, increasing outward commuting and carbon emissions whilst impeding efforts to encourage settlement self-containment and to tackle our worsening old age dependency ratio.

Economic Inactivity

Employment provision not keeping pace with new housing delivery in East Devon throughout the current Local Plan period has had a disproportionate effect on younger residents, many of whom leave the district to find adequate employment opportunities elsewhere. Evidence from the Onward think tank shows that where 2.6% of UK undergraduates study in Devon, only 1.6% of UK under-30s with a degree live in Devon, implying a significant brain drain .

Compounding this loss of younger workers from the district is the dramatic increase we have seen in older, typically retired residents who depend on the working age population - a working age population that is shrinking. ONS data shows that out of over 330 local authority areas, East Devon currently has the third highest proportion of retired people in the UK and the very highest proportion of residents of 90+ years of age . East Devon also has one of the highest levels of economic inactivity in the country . To be clear, this situation is worsening. In order to maintain a functioning local economy in decades to come, we are compelled to support the delivery of valuable employment opportunities when they arise.

Conclusion

Due to the particularly challenging economic prospects facing East Devon and the positive economic benefits this employment space would unlock, we strongly encourage any delivery of this application to include the development of the employment provision proposed. We would therefore actively recommend that this proposal is approved.

County Highway Authority

This establishment has been used since 2020 with no direct recorded collisions within the junction of Greendale from our recorded collision record (currently January 2017 - December 2021).

The vehicular trip generation has already been established along with the current uptake of the regular bus service. I do not envisage the trip generation being in excess of the current extent with either the NHS as is or of a similar use to that of the rest of Greendale Business Park.

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

Environmental Health

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

Other Representations

One letter of objection has been received at the time of writing this report raising concerns which can be summarised as:

- The application does not comply with the Local Plan
- The Greenhouse Gas Assessment does not include the planting of trees
- No overriding material considerations have been presented.

PLANNING HISTORY

There is an extensive planning history for this site however, the most relevant applications to the proposal to which this application relates are:

21/2123/COU- Continued use of Greendale Vaccination Centre by the NHS until 31st December 2022- Approved 04.02.2022 subject to the following condition:

The building shall be used as a vaccination/NHS centre only in relation to the Covid19 pandemic and the use of the building hereby approved shall cease on 31st December 2022 unless amended by a further grant of planning permission. The temporary building and all the resulting materials shall be removed from the land and the land restored to its former condition by 31st December 2023 unless varied by a further grant of planning permission.

(Reason - The use of the building and its siting are acceptable in exceptional circumstances to aid in dealing with the global pandemic to fight Covid 19, the use of the site and building are contrary to Strategy 7 (Development in the Countryside) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan being outside the defined developable area of Greendale Business Park as defined by the Villages Plan DPD and the building would have a detrimental impact on the character and appearance of the surroundings.)

21/3049/FUL- External lighting scheme- Approved 04.02.2022 subject to the following condition:

Use of the lighting hereby permitted shall cease on 31st December 2022 unless amended by a further grant of planning permission. The lights, and all associated materials/equipment, shall be removed from the land and the land restored to its former condition by 31st December 2023, unless varied by a further grant of planning permission.

(Reason - The lighting is acceptable in exceptional circumstances to enable the safe use of the vaccination centre to aid in dealing with the fight against the global Covid-19 pandemic. There is no justification for the retention of the lighting beyond the period for which the vaccination centre has planning permission, given the location of the site outside any built-up area defined in the East Devon Local Plan and outside the defined developable area of Greendale Business Park as defined by the Villages Plan DPD. Without the need to illuminate the vaccination centre, the lights may have a detrimental impact on the character and appearance of the surroundings which would be contrary to Strategy 7 (Development in the Countryside) and Policy D1 (Design and Local Distinctiveness) of the Local Plan).

15/2592/MOUT - Hybrid application for detailed planning permission for extension to compound 33A and attenuation pond and warehouse, office building and hardstanding to compound 39 and outline planning permission for B1/B2/B8 units (access to be determined). Refused 07/07/2016 for the following reasons:

1. The proposed development, by virtue of its scale and extension beyond the built form of Greendale Business Park and outside of any recognised development boundary is within the open countryside where new development is strictly controlled. As no other policy within the Local Plan facilitates such development, the proposal represents sprawling development in the countryside in conflict with the spatial approach to accommodate industrial development within defined settlements as identified within the Local

Plan. It is not considered that there are material circumstances to outweigh the adverse impacts of further industrial development in this location. As such the proposal is contrary to Strategy 7 - Development in the Countryside, Policy E4 (Rural Diversification), Policy E5 (Small Scale Economic Development in Rural Areas), Policy E7 (Extensions to Existing Employment Sites) of the Adopted East Devon Local Plan 2013-2031 as well as the guidance contained within the National Planning Policy Framework.

2. Insufficient information has been provided to justify that the proposal would not result in a loss of amenity to the occupiers of near-by dwellings by virtue of noise and, potentially, light pollution. Therefore, the proposal is considered to be contrary to Policy D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan, as well as guidance contained within the National Planning Policy Framework.
3. Insufficient information has been provided to demonstrate that the development proposed would have an acceptable visual impact on the landscape. Therefore the proposal is contrary to Strategy 7 - Development in the Countryside and Policies D1 - Design and Local Distinctiveness, D2 - Landscape Requirements and D3 - Trees on Development Sites of the Adopted East Devon Local Plan and the guidance contained within the National Planning Policy Framework.

16/2597/FUL - Land At Greendale Business Park Woodbury Salterton EX5 1EW -Change of use of the site to a storage yard, including the erection of warehouse, office building, fencing and associated works (retrospective application). Refused - 22/03/2017 for the following reasons:

1. The proposed development, by virtue of its scale and extension beyond the built form of Greendale Business Park and outside of any recognised development boundary is within the open countryside where new development is strictly controlled. As no other policy within the Local Plan facilitates such development, the proposal represents sprawling development in the countryside in conflict with the spatial approach to accommodate industrial development within defined settlements as identified within the Local Plan. It is not considered that there are material circumstances to outweigh the adverse impacts of further industrial development in this location. As such the proposal is contrary to Strategy 7 (Development in the Countryside), Policy E4 (Rural Diversification), Policy E5 (Small Scale Economic Development in Rural Areas), Policy E7 (Extensions to Existing Employment Sites) of the Adopted East Devon Local Plan 2013-2031 as well as the guidance contained within the National Planning Policy Framework.
2. Insufficient information has been provided to demonstrate that the development proposed would have an acceptable visual impact on the landscape. Therefore the proposal is contrary to Strategy 7 (Development in the Countryside) and Policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) and D3 (Trees on Development Sites) of the

Adopted East Devon Local Plan and the guidance contained within the National Planning Policy Framework.

3. Insufficient information has been submitted to demonstrate that adequate provision has been made to accommodate the surface water run off arising from the proposed development. As such the proposal is contrary to the provisions of Policy EN22 (Surface Run-Off Implications of New Development) of the Adopted East Devon Local Plan, as well as the guidance contained within the National Planning Policy Framework.

Following this refusal, the Council took enforcement action seeking the removal of the compounds, hard standing, and to cease the use of the land for the storage of park homes, caravans, and shipping containers.

An appeal against the enforcement notice was lodged and dismissed by the Planning Inspectorate. This appeal decision is appended to the committee report because the conclusions reached by the Inspector at the time in respect of the principle of development and its landscape impact are considered to be material to the determination of this application.

The soundness of Inspector's decision was subsequently challenged and upheld by the High Court.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

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)

E7 (Extensions to Existing Employment Sites)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

East Devon Villages Plan

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description:

This application relates to the former NHS vaccination centre site and building located to the east of the main entrance off the A3052 into the Greendale Business Park. It is not currently in use as a vaccination centre and currently has an unauthorised commercial use operating from within the site and building. The site is located in the countryside, outside of the extent of authorised uses of the business park as defined within the Adopted East Devon Villages Plan. The land rises to the north of the building and drops to the south and east. There are trees and/or hedging to the north, east and west of the building which are the subject of a Tree Preservation Order.

The building on the site is orientated north-south and is a large structure with the appearance of an industrial unit. There is a surfaced area to the east, south and west of the building which is used for car parking.

In planning terms, the site is within the open countryside and is not the subject of any national or local landscape designations. Trees on the eastern and southern boundary are the subject of a TPO.

Background to the NHS Vaccination Centre:

It is important to note that the building that is the subject of this planning application was constructed under permitted development rights established in light of the Covid-19 pandemic.

Part 12A of The Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020 was a time limited emergency permitted development right which came into force on the 9th April 2020 until 31st December 2021. The legislation was updated to extend the permitted development right until the 31st January 2022.

The permitted development right allowed for development by or on behalf of a local authority or health authority body for the purposes of preventing an emergency; reducing, controlling or mitigating the effects of an emergency; and taking other action in connection with an emergency.

The right enabled development including, but not limited to, change of use for existing buildings and new temporary modular buildings. The rights could be suitable to provide permission for a range of uses including use as hospitals, health facilities, testing centres, coroner facilities, mortuaries, additional residential accommodation and storage and distribution, including for community food hubs.

The vaccination centre building and car park which is the subject of this planning application was originally constructed under this legislation.

A temporary planning permission was granted by the Council in 2022 (ref 21/2123/COU) for the continued use of Greendale Vaccination Centre by the NHS until 31st December 2022. Planning permission was granted for the continued use of Greendale Vaccination Centre by the NHS on the basis that the proposal was Permitted Development from the 11th January 2022, and given the need for the facility to deal with the emergency global pandemic treatment required to the wider public, it was in the public interest for the use to continue on site until 31st December 2022 and planning permission was therefore granted even though it was not required because it was superseded by the extended timeframe within the legislation.

Members should note that a condition was imposed which required the temporary building and all the resulting materials to be removed from the land and the land restored to its former condition by 31st December 2023. The reason for the condition was because the use of the building and its siting were considered to be acceptable only in exceptional circumstances to aid in dealing with the global pandemic to fight Covid 19 and on the basis that the use of the site and building are contrary to Strategy 7 (Development in the Countryside) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan being outside the defined developable area of Greendale Business Park as defined by the Villages Plan DPD and the because the building has a detrimental impact on the character and appearance of the surroundings.

Both the permitted development right and the condition of the temporary planning permission are clear in that the use of the land must cease on or before the 31st December 2022 and that on or before the expiry of a further 12 months from when use of the land ceases, any building, works, plant, machinery, structure and erection permitted by Class A has to be removed; and the land is restored to its condition before the development took place, or, if the developer is not also the local planning authority, to such other state as may be agreed in writing between the local planning authority and the developer.

It is understood that the use of the building by the NHS has ceased in favour of a newly constructed vaccination centre at Greendale Farm Shop (refused by Planning Committee and the subject of a current appeal) and therefore in accordance with the permitted development legislation and the temporary planning permission granted by the Council, the building should be removed from the site by the end of this year.

At the time of the pandemic, the priority was to provide a site for the NHS to administer COVID vaccinations, the location and siting of the vaccination centre did not fall within the control of the Local Planning Authority. The fact that the NHS vaccination centre was constructed under permitted development rights is relevant to the determination of this application because, as explained later within this report, it is not a site or a location that the strategic or development management policies within the Local Plan support in land use terms on account of the fact that the site is located within the open countryside, distanced from towns and village settlements and is in an unsustainable location.

The applicant constructed this building in the full knowledge that it was only permitted as a temporary building.

It is also important to note that the emergency legislation was time limited and expired in December 2022. The government have not decided to renew the permitted development right which in itself is suggestive of the fact that the provision of additional temporary health facilities in response to coronavirus is no longer required.

Proposed Development:

Planning permission is sought to retain the building and car park for use by the NHS should it be required in the future and to allow the use of the building and site for uses with Classes E (Ci, ii, iii, D, E, F, G) and B2 (General Industry) and B8 (Storage and Distribution) of the Use Classes.

The building is steel framed with dark green clad walls under a dark grey coloured metal profiled roof. The building measures 10.5 metres in height to the ridgeline, 72 metres in length and 26.6 metres in width. It has an internal floor area of 1872 sqm. The building has a pitched roof design with a roller shutter door on the eastern elevation.

The site makes provision for vehicle parking with a mixture of tarmac and concrete surfacing and crushed rolled stone. There is an area for staff parking (approx. 94 spaces) to the west of the building with the remaining hard surfaced areas to the east and south. The site has two vehicular entrances from the internal business park road, one serving the staff parking area and the other to the south of the building.

ANALYSIS

Issues and Assessment:

Members should note that the starting point for determining this application is that it is for the retention of a site and building in the countryside that was originally constructed under permitted development rights. The building has a temporary permission and has only been approved by the Council on the basis of exceptional circumstances at the time to aid in dealing with the global pandemic to fight Covid 19.

As noted within the condition of the temporary planning permission which requires the use of the building to cease and its permanent removal from the site, this is because the use of the site and building are contrary to Strategy 7 (Development in the Countryside) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan being outside the defined developable area of Greendale Business Park as defined by the Villages Plan DPD and because the building would have a detrimental impact on the character and appearance of the surroundings.

In considering this application, Members are therefore advised that the site should be considered as being a greenfield site, within the countryside and that the proposal for the permanent retention of the building and parking should be assessed as if it is

a new build development, effectively assessing the application as if the building and site were not in situ. The fact that the building and site are already in use for a temporary basis is not considered to be relevant to the determination of this application because when originally constructed under permitted development, the Council could give no consideration to the location of the building, its siting and how it would be considered against Local Plan policies, the principle of development, the accessibility and sustainability of the site, its landscape and visual impact, surface water run-off and management, highway safety and any other relevant material considerations.

On the basis that this application seeks the permanent retention of the building and parking, the main issues to consider in determining this application are in terms of an assessment of the following:

- The policy position and principle of development
- East Devon Local Plan
- The East Devon Villages Plan
- Sustainability and Accessibility of the site
- An assessment of the NHS justification and the need for the building
- The appropriateness of proposed commercial uses
- The landscape and visual impact
- The impact on highway safety
- The impacts on residential amenity
- Surface water drainage and management
- Carbon Impacts
- Planning balance and Conclusions

The Policy Position and Principle of Development:

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on the 28th January 2016 and the policies contained within it are those against which applications are being determined and carry full weight.

Planning law requires that applications for planning permission must be determined in accordance with the development plan (foot note 2 states this includes local and neighbourhood plans that have been brought into force) unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the presumption in favour of development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.

East Devon Local Plan 2013-2031:

The strategic approach within the Local Plan is to direct new development into the most sustainable locations and accessible settlements which have been provided with defined built-up area boundaries which is reflected in Strategy 1- Spatial Strategy for Development in East Devon of the Local Plan.

Para 6.20 of the Local Plan states that BUABs are a fundamental policy tool for determining areas and locations that are appropriate, suitable, and acceptable for development. The Local Plan explains that the boundaries serve three primary functions:

- a) They set limits for outward expansion of settlements and in doing so control the overall scale and location of development that occurs in order to ensure implementation of the plan strategy:
- b) They prevent unregulated development across the countryside and open areas:
- c) They define (within the boundary) locations where many development types, in principle, will be acceptable because they will complement the objectives of promoting sustainable development.

At para 6.21, the Local Plan explains that beyond BUAB's some forms of development will be permitted. The development management policies of the Local Plan will provide more details of this and other development types relating to employment, recreation and other uses that can be acceptable under specified circumstances outside boundaries.

Paragraph 6.23 of the 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 agricultural, forestry or horticultural need or it will meet a community need that is not, or otherwise not be met or there is another clear policy justification.

The application site is located in the open countryside where under the provisions of Strategy 7- Development in the Countryside of the East Devon Local Plan it is stated that development will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not cause landscape, amenity or environmental harm.

Officers are of the view that there are no strategic or development management policies within the Local Plan which support this development which effectively leads to the outward expansion of Greendale Business Park into the countryside.

Policy E7- Extensions to Employment Sites of the Local Plan is a development management policy which establishes one of the exceptions to the policy of general constraint on development in the countryside established by Strategy 7. This policy provides for extensions to existing employment sites but specifically excludes Greendale Business Park.

Strategically, Greendale Business Park is identified within the Local Plan as a substantial stand-alone employment site which is different from the smaller and medium scale sites of East Devon and not deemed appropriate for expansion on account of its unsustainable location and to limit further landscape impact.

Policy E5- Small Scale Economic Development in Rural Areas of the Local Plan provides for the small-scale economic development in rural areas but is not applicable to large scale industrial areas such as Greendale Business Park. In addition, the proposed development is not considered to be small scale.

There are no specific policies that would support the outward expansion of Greendale Business Park contained within the Local Plan. Strategy 7 and policy E7 are perfectly clear in that the Plan seeks to apply a restrictive policy approach to accommodating further development through the outward expansion of Greendale Business Park.

This position has been supported by the Inspector in dismissing the appended enforcement appeal in which on the issue of principle, it was concluded that the development is contrary to Strategy 7 and policy E7 which indicate that the principle of development in this location would harm the strategic intentions of the Local Plan.

The Council's strategic approach to development at Greendale Business Park is further explained within the 'Setting the Context' section of the Local Plan (page 7 refers). It is stated that the Local Plan Document will set out strategic policy for development across East Devon and the full suite of policies for the seven main towns of the district and the West End and countryside areas, but not those villages with/proposed to have Built-up Area Boundaries nor Greendale and Hill Barton Business Parks. These villages and Business Parks are to have their own inset maps which will form part of the Village Development Plan Document.

East Devon Villages Plan:

The East Devon Villages Plan was formally adopted by the Council in July 2018.

The Villages Plan together with the Local Plan and any 'made' neighbourhood plans form the 'Development Plan' for East Devon, which guides decisions on development and land use in East Devon. The Villages Plan includes a plan of the extent of authorised uses at Greendale Business Park.

Within the Villages Plan, the purple line on the inset map shows the full extent of the land authorised for business uses at Greendale Business Park. The Villages Plan makes it clear that policies of the adopted Local Plan will be used to determine planning applications at Greendale Business Park which is within the open countryside and the subject of countryside protection policies including Strategy 7 – Development in the Countryside.

Policy VP04 of the Villages Plan sets out the relationship between the policies of the development plan and Greendale Business Park. The policy states that inset maps are included in this plan that show the extent of authorised uses at the Greendale Business Park for information purposes only. Development of Greendale Business

Park as indicated on the inset map will be considered in accordance with the relevant policies of the development plan, in particular Strategy 7 of the East Devon Local Plan (Development in the Countryside).

Development of the application site has led to the outward expansion of the business park into the countryside and outside of the extent of authorised uses of Greendale Business Park which is not supported by either the Local Plan or the Adopted Villages Plan. The application is considered to be contrary to strategy 7 and policy E7 of the Local Plan where the principle of development in this location would harm the clear strategic intentions of the Local Plan which is not to permit the outward expansion of Greendale Business Park.

It should be noted that the Villages Plan is supported by an evidence-based document entitled 'Assessment of Potential Appropriateness and Suitability of Greendale and Hill Barton Business Parks for Further Expansion' that was prepared by the Council's Planning Policy Team. This document provides a robust assessment of the sustainability and accessibility of Greendale Business Park and concludes that it has poor accessibility for pedestrians and cyclists with busy roads to navigate, a lack of safe walking and cycling routes and few people living in cycling and walking catchments of the site. It is the evidence base behind the Council's policy approach to preventing the outward expansion and growth of the business park.

In the absence of policy support for the principle of development, the application is considered to be a departure from the Local Plan. Planning law requires that applications for planning permission must be determined in accordance with the development plan (foot note 2 states this includes local and neighbourhood plans that have been brought into force) unless material considerations indicate otherwise.

Sustainability and Accessibility:

In setting out the strategic policy position set out within the Local Plan and the Villages Plan, it is clear that the policy approach is not to permit the outward expansion of Greendale Business Park beyond the extent of authorised uses because the Council does not consider this to be a suitable location for future employment growth. This spatial approach is relevant to the determination of this application both in terms of whether in land-use terms it is an appropriate and sustainable location to meet the future needs of the NHS who retain a long-term lease on the building and in respect of future employment uses for the building.

It is accepted that the Greendale Business Park has good vehicular access and connectivity with the A3052 however in location terms, it is not considered to be in a particularly accessible location by more sustainable transport modes, owing to its relatively isolated position away from a town or village settlement or other services and facilities. The site is not accessible on foot and owing to the busy nature of the A3052 is unlikely to be accessed via by bicycle.

Paragraph 105 of the NPPF states *"that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be*

focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. It does also recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making’.

These principles are reflected in policies in the Local Plan including Strategy 5B - Sustainable Transport which states *‘that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe, and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport’.*

Policy TC2 - Accessibility of New Development of the Local Plan also states *‘that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car. Where proposals are likely to attract large numbers of visitors, they must be accessible by public transport available to all sectors of the community’.*

The application is not accompanied by a transport assessment and therefore the accessibility of the site either for NHS use or for commercial uses has not been demonstrated by the applicants. It is acknowledged that the application site can be accessed by public transport in that it can be reached by a number of buses with routes along the A3052 and with the 58 and 58A services running from Exeter to Exmouth (with stops in Woodbury, Woodbury Salterton, Clyst St Mary). However, the location of the site away from towns and villages means that the majority of people accessing the site are likely to do so via private car with little option to walk or cycle which promotes a pattern of transport that would not be considered to represent a form of sustainable development conflicting with the aforementioned Local Plan policies and the NPPF which seeks to encourage promoting and securing sustainable modes of travel and transport.

This reflects the spatial and strategic approach that has been taken within the East Devon Local Plan and the Villages Plan which does not offer policy support for the outward expansion or growth of Greendale Business Park on account of its unsustainable location. Employment growth whether for the NHS or for other commercial users would therefore represent an unsustainable form of development in this location. Concerns around sustainability and the accessibility of the site are explained in greater detail in respect of both the continued use of the site by the NHS and alternative proposed commercial uses proposed for the building.

NHS Justification and Evidence of Need:

In respect of the proposed use for the building, this application seeks permission for possible future use of the building by the NHS as part of their surge protection programme and for various commercial uses when not required by the NHS. Whilst

the NHS are not the applicants for this application, they are understood to have a long-term lease on the building such that in the event that the vaccination centre was required for another medical emergency, existing commercial tenants would vacate at short notice and the NHS would relocate back to Greendale Business Park. Officers have not been provided with a copy of the lease, so the exact terms of the lease are unknown along with the timescales. The NHS would only use this building to retain surge capacity on the site.

Members should note that the building is not currently in use by the NHS and that it is in unauthorised use occupied by a commercial user. Members should also note that the NHS are currently administering COVID booster vaccinations from an unconsented vaccination centre at the nearby Greendale Farm Shop site, an application for the retention of which was refused by Planning Committee and is currently the subject of an appeal. The NHS have leases over the use of both buildings.

Within the supporting letter accompanying this planning application it is stated that the site has operated in its current form for the last 15 months as a Covid-19 vaccination centre and that the need for the centre by the NHS remains beyond the current time limited consent.

No substantive evidence has been provided by the applicants or the NHS to justify why there is a need for a permanent vaccination centre on this site, officers are however aware from considering the evidence to justify retention of the vaccination centre at the Greendale Farm Shop site that much of the justification is centred around the fact that the site has been used historically for such purposes and is well known and a tried and tested destination for responding to the COVID pandemic. However, officers are of the view that this does not justify the location of the new vaccination centre site or the building's permanent retention given that the Council had no control over the location of the original site during the pandemic.

The NHS describe Greendale as a well-known and accessible location but in planning terms, and as detailed later within this report, it is not located close to a settlement or other services and facilities and other than being on a bus route, is not very accessible by sustainable modes of transport and creates few opportunities for linked trips making it an unsustainable form of development in land-use terms which weighs against the proposal within the overall planning balance.

No reasonable planning justification or evidence of need for a continued use of this building by the NHS has been presented. There is no longer a state of emergency and there is no timescale or certainty that this building would be required to be used to vaccinate large numbers of people in the future. Officers do not consider this to be an appropriate justification or reason to grant a permanent building on this site.

Furthermore, in the interests of sustainable development, officers are of the opinion that the use proposed conflicts with the strategic approach within the Local Plan to direct new development into the most sustainable locations and accessible settlements which have been provided with defined built-up area boundaries which is reflected in Strategy 1- Spatial Strategy for Development of the Local Plan.

The pandemic required an emergency response finding any available sites/buildings that could accommodate, at short notice, temporary buildings, or re-purposing, these were often in unsustainable locations and the planning system set aside its usual land use policies to meet the very urgent need. However, now that the pandemic has been scaled down and the vaccination effort has been reduced to those of a certain age or with pre-existing medical conditions/vulnerable people, more permanent solutions need to be provided in locations that best suit the needs of the community they serve.

The Council has not been presented with sufficient information by the applicants or the NHS to demonstrate why a permanent vaccination centre is required in East Devon, in the countryside and on a greenfield site.

East Devon and Exeter have a wealth of brownfield land, car parks and community buildings within its urban and rural areas and so officers question why these alternative more sustainable locations have not been considered by the NHS in favour of a new build building and a non-conforming land use in the countryside.

The provision of a permanent vaccination centre in the countryside is contrary to the spatial strategy for development in East Devon and the wider sustainability objectives of the Local Plan which seek to direct new development into the district's most sustainable locations and accessible settlements which have been provided with defined built-up area boundaries. The Council's spatial approach to new development is to direct it to the district's largest towns and villages intended to form focal points for development to serve their own needs and the needs of surrounding rural areas. Within the districts towns and villages there are various 'service centres' where the public go to undertake shopping, other medical needs, and other activities such as church, school or for leisure activities, these service centres are often where the public go to receive vaccinations.

In land-use terms and having regards for the fact that the NHS have not been able to robustly demonstrate why a permanent vaccination centre is required in this location in favour of other more sustainably located sites better located in relation to existing villages and settlements and services and facilities providing better opportunities for linked trips, as advocated in the Local Plan's overall spatial approach to new development, it is not considered that a permanent use of the vaccination centre would represent a sustainable form of development from an environmental perspective which weighs against the proposal within the overall planning balance.

Members should also note that whilst we are told the NHS have an agreement with the applicants over a long-term lease in the event that the building is required to deal with another medical emergency, this falls outside of the control of the Local Planning Authority and as such we cannot require the applicant to make the building available to the NHS. This further diminishes the weight that should be attributed to the purported future use of the building by the NHS.

It is also relevant to note that the applicant is arguing need from the NHS to justify 2 otherwise unacceptable commercial buildings in the countryside with no explanation as to why the NHS have moved out of the building subject of this application into a

second, unauthorised building rather than to subdivide and use a smaller part of the first building.

The 'need' for the site by the NHS is the key issue that could be used to justify this development that is contrary to the Development Plan. It should be noted that if approved the building will be predominantly, if not solely used by commercial operators during its lifetime. The government has extended some of the PD rights introduced in response to the Covid pandemic, it has not extended the rights for temporary vaccination centres, indicating that they are no longer considered to be necessary.

Commercial Uses:

Should the principle of the permanent retention of the building on this site be supported by Members, consideration should be given to the type and nature of commercial uses that are proposed and stated within the description of development.

The uses proposed by the applicant include those contained within Schedule 2, Part A, Class E of the Use Classes Order and include:

Ci, ii,iii- defined as for the provision of the following kinds of services principally to visiting members of the public—

- (i) financial services,
- (ii) professional services (other than health or medical services), or
- (iii) any other services which it is appropriate to provide in a commercial, business or service locality,

D- for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public

E- for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,

F- for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,

G- for—

- (i) an office to carry out any operational or administrative functions,
- (ii) the research and development of products or processes, or
- (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

B2- General Industrial

B8- Storage and Distribution

Use Classes G(i)(ii)(iii) light industrial uses, B2 (General Industrial) and B8 (Storage and Distribution) uses are uses that, if supported in principle, would generally be

found to be appropriate and compatible with the industrial and commercial nature of Greendale Business Park. Officers have concerns however over the nature and types of the remaining uses proposed for this site which are not considered to be sustainable locations for uses which are likely to attract large numbers of people who are likely to access the site via private car. The use classes order clarifies that the majority of the uses proposed are principally for visiting members of the public and the type of uses which are expected to be found within or close to communities in towns and settlements where they can be accessed via a variety of modes of transport with opportunities for linked trips etc.

This concern has been raised with the applicants and officers have requested a change to the description of development to ensure that future proposed uses for the building are appropriate for the site's countryside location however no agreement has been reached.

The proposed uses are considered to conflict with the Council's spatial approach to new development where the uses proposed would attract a large number of people for uses that would ordinarily be found within existing settlements such that it is not considered that this would represent a sustainable form of development from an environmental perspective, conflicting with the provisions of Strategy 1, 5B and policy TC2 of the Local Plan. This weighs against the proposal within the overall planning balance.

Landscape and Visual Impact:

Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

Strategy 7 - Development in the Countryside of the Local Plan requires that development does not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement.
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings.
3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

Strategy 46 - Landscape Conservation and Enhancement and AONBs of the Local Plan states that development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in

particular in Areas of Outstanding Natural Beauty. Development will only be permitted where it:

1. conserves and enhances the landscape character of the area;
2. does not undermine landscape quality; and
3. is appropriate to the economic, social and well being of the area

Policy D1- Design and Local Distinctiveness states that proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Whilst the site is not located within a designated landscape, it is in the countryside and has led to the outward expansion of the business park site to the north of the business park. The application site is located in what would previously would have been undulating rural landscape which is to some extent visually contained by higher ground. Under the permitted development right and the temporary planning permission that has been granted, there is a requirement to remove the building and materials from the site and restore it back to its original condition. Therefore, there is no fall-back for a permanent building on this site.

Members should note that the planning history for the site indicates that development on this site is likely to have a detrimental impact on the character and appearance of the area. In the appended appeal against an enforcement notice issued by the Council seeking the removal of a number of storage compounds, concrete yards with portacabins and the storage of park homes (reference APP/U1105/C/16/3165341) an inspector commented on the following in respect of development on this site, having already concluded that the principle of the development was contrary to policy.

'The development has altered the landform and character of the countryside through the excavation and construction of the compounds, the creation of extensive areas of concrete hard standing, the introduction of steel fencing and security lighting, the erection of the warehouse on compound 39, the siting of portacabins offices, the open storage of mobile homes and other materials, etc. The effect of the development is significantly to change the character of the site from rolling open countryside to urbanised development having little relationship with its countryside setting. It is intrusive and, because of the change in levels, parts of the site are also prominent, particularly in respect of the warehouse on compound 39.'

Furthermore, within the 'Assessment of Potential Appropriateness and Suitability of Greendale and Hill Barton Business Parks for Further Expansion' that was prepared by the Council's Planning Policy Team in support of the East Devon Villages Plan, this assessment included an assessment of specific land areas around the edges of Greendale Business Park to assess possible suitable locations for extra development. The assessment includes part of the site to which this application relates where it was concluded that the land is considered unsuitable for business park use on account of its elevated position expanding the visual impact of Greendale on the wider countryside including the setting of the AONB.

The landscape sensitivity around the outward expansion of Greendale Business Park was another reason why the strategic decision was made by the Council not to allow its outward expansion into the countryside.

In assessing the landscape and visual impact of this development, on the basis that the building and site benefit only from a temporary planning permission, Members are advised that the starting point should be that the site is a undeveloped greenfield site, in the countryside and outside of the extent of authorised uses contained within the East Devon Villages Plan.

The application is accompanied by a Landscape Visual Impact Assessment (LVIA) prepared by a suitable qualified landscape consultant which has been considered by the Council's Landscape Officer. Of note is that the LVIA is based on the current state of the site as an irregular shaped parcel of land comprising terraced open hardstanding areas with a large metal clad building and tow portacabins. This should not be the starting point for an assessment of the landscape and visual impact of the development. The baseline for the assessment should be the original greenfield state of the site prior to any development taking place.

The LVIA description of the development is not comprehensive and should have included:

- Removal of original land-cover including some removal of trees and scrub.
- Extensive regrading of the site to form a large level platform
- Hard surfacing across the site
- The introduction of associated infrastructure and new light sources

The LVIA sets out landscape guidelines for enhancement of the site including removal of the existing gravel track along the eastern and northern edge of the woodland and its reinstatement to agricultural use, provision of woodland planting in the northeast corner of the site and further offsite planting to the south of the site. These works lie outside of the redline application area and are not included on the submitted block plan (dwg. no 8274-06E). While they form the basis of the LVA of mitigation proposals and are shown on the accompanying landscape strategy plan they are not included in the block plan, dwg. no. 8274-06 rev. E and it is not clear whether they are intended to be provided as part of the application or are just recommendations of the landscape consultant.

The Council's Landscape Officer has advised that assuming these measures are to be included as part of the application then post mitigation effects would be:

- Landscape elements (trees, hedgerow) – **Moderate adverse** level of effect
- Landscape elements (landform) – **Substantial adverse** level of effect (**Significant**)
- Landscape patterns/ site character – **Moderate/ substantial adverse** level of effect (**Significant**) rather than LVA assessment as **Moderate/ slight adverse**
- Wider landscape character – **Moderate/ slight to slight adverse** level of effect as LVA

- Landscape policies and strategies – **Moderate/ substantial adverse** level of effect (**Significant**)

The conclusion of the Council's Landscape Officer having reviewed the submitted LVA it that is there are a number of areas the level of landscape effects are understated and that even with proposed mitigation significant adverse effects remain as indicated above in respect of changes to landform, landscape patterns/ site character and landscape policies/ strategies resulting in unacceptable landscape and visual harm.

Officers support the view of the landscape officer. In respect of landscape planning policies and strategies, Local Plan policy E7 and the East Devon Villages Development Plan seek to contain the boundaries of Greendale Business Park to existing limits to preserve surrounding rural character. The sensitivity of the site to commercial development has been identified in the Enforcement appeal decision and within the Council's own evidence base supporting the East Devon Villages Plan.

Furthermore, the LVIA's assertion that Local Plan strategy 7 '*does not set out what degree of 'harm' is unacceptable but it would need to be significant otherwise no new development would occur within the district*' is incorrect. The purpose of strategy 7 is precisely to prevent development in open countryside unless there is a specific policy or allocation in the local plan which permits it.

The policy position with regards to development on this site is clear in that there should be no outward expansion of the business park into the countryside and as such the change to the landform, the hard surfacing of the site and the construction of a sizeable industrial building on the site has altered the rural landscape character of the site which was previously part of the rolling open countryside. By virtue of the lack of policy support for the outward expansion of the business park, development on this site has therefore resulted in landscape harm and harm to the rural character and appearance of the area.

The building and the site do appear more prominent from a number of public vantage points outside the site to the south and east which is considered to be detrimental to the rural landscape character and appearance of the area. It is accepted that there is no visual harm in views from the north due landform and the topography of the business park which is effectively screened from the A3052 and that the visual impact of the building is reduced to a degree through the use of dark green clad walls and a dark grey roof covering although the building does contain a number of rooflights which is likely to result in some light pollution at night .The visual impact of the development is exacerbated by virtue of the size and scale of the building, its site coverage and its position on the highest point of business park (some 15 metres above that of the existing business park which does extend its visual influence both locally and within the wider landscape.

In the absence of policy support for the outward expansion of the business park, officers considered that the proposed development by reason of the size and scale of the building and the extensive areas of hard surfacing has altered the landform and character of the site from rolling open countryside to urbanised development.

The proposal as a result of its position at the highest part of the business park appears unduly prominent and visually intrusive and encroaches into the countryside to the detriment of the rural landscape character and appearance of the area. It is not considered that there are material circumstances to outweigh the adverse impacts of development in this location which justifies a departure from policy and that the visual harm is considered to outweigh the limited economic and social benefits that would be derived from the proposal. The proposal is considered to be contrary to the provisions of Strategy 46 (Landscape Conservation and Enhancement and AONBs), Strategy 7 (Development in the countryside) policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031 and the guidance contained within the National Planning Policy Framework.

Highway Safety:

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

The views of the County Highway Authority have been sought who have raised no objections to the application on the basis that the site has been used since 2020 with no direct recorded collisions within the junction of Greendale from our recorded collision record (currently January 2017 - December 2021).

The vehicular trip generation has already been established along with the current uptake of the regular bus service. I do not envisage the trip generation being in excess of the current extent with either the NHS as is or of a similar use to that of the rest of Greendale Business Park.

Vehicular access into the business park from the A3052 is well established and does not raise any highway safety concerns in terms of increase traffic generation or visibility. Accesses into the site from the internal business park road are considered to be acceptable in terms of their visibility. In the absence of any objections from the CHA, the proposal is considered to be acceptable from a highway safety perspective in compliance with policy TC7 of the Local Plan.

Residential Amenity:

Policy D1- Design and Local Distinctiveness of the Local Plan requires that proposals do not adversely affect the amenity of occupiers of adjoining residential properties.

Policy EN14 - Control of Pollution of the Local Plan states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including. smell, fumes, dust, grit, smoke and soot.
2. Pollution of surface or underground waters including:

- a) Rivers, other watercourses, water bodies and wetlands.
 - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas.
 - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
 4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value

There are a number of residential properties located to the east of the site approximately 200 metres from the boundary. The Council's Environmental Health Officer has considered the application and has raised no concerns about the impact of the proposal on the amenities of local residents.

In the event that the principle of development on this site was supported, officers would seek to impose conditions relating to hours of use, delivery hours and for the submission of a lighting scheme to ensure the amenities of the nearest residential properties are duly protected from commercial uses on the site.

Surface Water Management:

EN22 - Surface Run-Off Implications of New Development of the Local Plan states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.
3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.
5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

Whilst the site falls within an area with a low risk of flooding (flood zone 1) as a major development for a large building with substantial hard surfacing on a site in excess of 1 ha, the planning application should have been accompanied by a Flood Risk Assessment along with details of a surface water management and drainage strategy.

The omission of this information has been raised with the applicant who has failed to provide the requested information to allow a robust assessment of the impact the development has had in relation to surface water run-off, management and disposal from the site. As the building and parking on the site was originally permitted development, surface water drainage was not a matter that the Council had any control over. As the planning application is seeking the permanent retention of the building and hard surfacing, the surface water run off implications of the development must be considered.

The application has been considered by the County Council's Flood Risk Management Team who have raised an objection to the application on the basis that the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered.

In the absence of a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, the application is recommended for refusal in conflict with policy EN22 - Surface Run-Off Implications of New Development of the Local Plan.

Carbon Impact:

The application is accompanied by a Greenhouse Gas Assessment which reports that removal of 2000 sqm of building and hard surfaced areas would result in significant carbon impact which does not accord with the Council's Climate Change Action Plan.

As part of the report the building's GHG emissions were analysed to understand the impact of three different scenarios to demonstrate the impact of the Vaccination Centre after 1.25 years

- Scenario 1 (baseline) which is the continuation of the existing building;
- Scenario 2 which is the demolition of the NHS Vaccination Centre after 2 years of operation; and
- Scenario 3 which is the early demolition of the NHS Vaccination Centre and the rebuild of a similar building on an alternative greenfield industrial site.

It is reported that to build the original NHS Vaccination Centre, 376 tCO₂e was spent in embodied carbon, transport to site and construction emissions. To support the planning application to retain and repurpose the existing Centre, demolition emissions for the current asset were forecast (Scenario 2), and the future rebuild of a similar Centre in a different location (Scenario 3) estimated to demonstrate these latter two approaches would not only result in additional local carbon emissions but would waste all resources invested and emissions embodied within the Centre to date.

The report concludes that:

Scenario 1 (retention of the existing facility) is - in terms of carbon and the circular economy – the most efficient and sustainable of the three scenarios as it is the one that promotes preservation of the resources invested in the building and has the least carbon emissions.

Scenario 2 (the demolition of the Centre) will result in emissions associated with on-site activities and from the transport and disposal of end of life waste arisings. This scenario has a total carbon impact of 32.02 tCO₂e which is equivalent to 231,000km travelled by an average private car.

Scenario 3 (the demolition of the Centre, as per Scenario 2, and rebuild of a similar building in a different location), represents the least sustainable option as all resources invested in the initial building are wasted, and additional embodied and transport GHG emissions associated with the construction of a new building would be required. This scenario's carbon impact is 407.86 tCO₂e which is equivalent to 2.9 million km travelled by an average private car.

Whilst the Council has declared a climate change emergency and is committed to achieve Carbon neutrality by 2040 and the carbon impacts arising from removal of the building and hard surfacing are acknowledged, officers consider that very little weight should be attributed to this as a material planning consideration.

As previously stated, the building was originally constructed under emergency permitted development rights and through the legislation it was always the intention that any buildings or development would be time-limited and would be required to be removed within a given timescale. It is the case that there would be carbon impacts from the removal of any buildings that were constructed under the emergency legislation across the country but this does not justify their retention particularly when considering development in the countryside which contravenes Local Plan policies and the Council's strategic approach to development at Greendale Business Park.

In deciding how much weight should be attributed to the carbon impacts arising from removal of the building, Members should be mindful that if this position was taken with all temporary or unauthorised building constructed in the District, enforcement action against them would rarely be taken. In the case of this application, the building has only been constructed on this site under permitted development rights for a temporary period. As such officers consider that minimal weight should be given to the carbon impacts arising from removal of the building as a material planning consideration.

Planning Balance and Conclusions:

The site is located within the open countryside where under the provisions of Strategy 7- Development in the Countryside of the East Devon Local Plan, development will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not cause landscape, amenity or environmental harm.

The starting point for determining this application is that it is for the retention of a site and building in the countryside that was originally constructed under permitted development rights. The building has a temporary permission and has only been approved by the Council alongside the permitted development right on the basis of exceptional circumstances at the time to aid in dealing with the global pandemic to fight Covid 19 with the intention of its removal by the end of December 2023.

The fact that the building and site are already in use for a temporary basis is not considered to be relevant to the determination of this application because when originally constructed under permitted development, the Council could give no consideration to the location of the building, its siting and how it would be considered against Local Plan policies, the principle of development, the accessibility and

sustainability of the site, its landscape and visual impact, surface water run-off and management, highway safety and any other relevant material considerations.

Development of the application site has led to the outward expansion of the business park into the countryside and outside of the extent of authorised uses of Greendale Business Park which is not supported by either the Local Plan or the Adopted Villages Plan. The application is considered to be contrary to strategy 7 and policy E7 of the Local Plan which indicate that the principle of development in this location would harm the clear strategic intentions of the Local Plan which is not to permit the outward expansion of Greendale Business Park.

In the absence of policy support for the principle of development, the application is considered to be a departure from the Local Plan. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

A new building in the countryside requires robust justification which the applicants have failed to provide to justify retention of the building. Whilst the NHS are not the applicants for this application, we are told they have a long-term lease on the buildings such that in the event that the building was required for another medical emergency, existing commercial tenants would vacate at short notice and the NHS would relocate back into the building. When not required by the NHS the building would be let to commercial tenants; the building may never be required by the NHS.

Whilst little evidence has been provided by the applicants or the NHS to justify why there is a permanent need for a 'reserve' vaccination centre on this site, officers are aware from considering the evidence to justify retention of the vaccination centre at the Greendale Farm Shop site that much of the justification is centred around the fact that the site has been used historically for such purposes and is well known and a tried and tested destination for responding to the COVID pandemic. However officers are of the view that this does not justify the location of this proposed 'reserve' vaccination centre site; it has not been demonstrated that such a service cannot be provided in equally well known locations that are more sustainable.

The NHS describe Greendale Business Park as a well-known and accessible location but in planning terms, it is not located close to a settlement or other services and facilities and other than being on a bus route, is not very accessible by sustainable modes of transport and creates few opportunities for linked trips making it an unsustainable form of development in land-use terms which weighs against the proposal within the overall planning balance.

With the exception of the G(i)(ii)(iii) light industrial uses, B2 (General Industrial) and B8 (Storage and Distribution) uses which are considered to be uses compatible with the industrial and commercial nature of Greendale Business Park, officers have concerns over the nature and types of uses proposed for this site which are not considered to be sustainable locations for uses which are likely to attract large numbers of people who are likely to access the site via private car. The use classes order clarifies that the majority of the uses proposed are principally for visiting members of the public and the type of uses which are expected to be found within or

close to communities in towns and settlements where they can be accessed via a variety of modes of transport with opportunities for linked trips.

The location of the application site at Greendale Business Park away from settlements means that whether used by the NHS or commercial uses, people are likely to access the site via private car which promotes a pattern of transport that would not be considered to represent a form of sustainable development conflicting with the aforementioned Local Plan policies and the NPPF which seeks to encourage promoting and securing sustainable modes of travel and transport.

In land use terms the proposal is not considered to represent a sustainable form of development from an environmental perspective which weighs further against the proposal within the overall planning balance.

The adverse landscape impact arising from the outward expansion of the business park into the countryside and the visual impact of the building is considered to be a further environmental concern which weighs against the proposal within the overall planning balance.

Support for the proposal from the Council's Economic Development Officer is noted and use of the site and building by the NHS and for other commercial uses would generate jobs and employment although this has not been quantified within the planning application submission. The support from the EDO is however caveated by the fact that it is acknowledged that there is no specific policy within the Local Plan which outlines the conditions to which 'non-small scale' economic development in rural areas will be supported or refused. The economic benefits to be derived from retention of the building for commercial uses are positive but are not considered to outweigh the proposal's policy conflict and the Council's strategic approach to development and the outward expansion at Greendale Business Park.

On balance, having regard for the above, it is concluded that no overriding material considerations have been presented which justify a departure from the Development Plan. This proposal represents an unjustified and unsustainable form of development which has led to the outward expansion of Greendale Business Park beyond its extent of authorised uses which is visually intrusive and encroaches into the open countryside to the detriment of the rural landscape character and appearance of the area. This harm coupled with the conflict with the Local Plan's strategic and plan-led approach towards the outward expansion of the business park contained within the East Devon Villages Plan and its wider sustainability objectives is considered to significantly and demonstrably outweigh the social and economic benefits that would be derived from commercial use of the building and the stated intention to allow occupation by the NHS if required. The proposal is considered to be contrary to the provisions of Strategy 1, 5B, 7, 46 and policies D1, E7, EN22 and TC2 of the Local Plan. The application is therefore recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed development, by virtue of its location beyond the built form of Greendale Business Park and outside of any recognised development boundary is within the open countryside where new development is strictly controlled. As no other policy within the Local Plan facilitates such a scale and type of development and in the absence of any evidence of overriding need, the proposal represents unjustified development in the countryside in conflict with the spatial approach to accommodate industrial development within defined settlements as identified within the Local Plan. It is not considered that there are material circumstances to outweigh the adverse impacts as a departure from policy of further industrial development in this location. As such the proposal is contrary to Strategy 1 (Spatial Strategy for Development in East Devon), Strategy 7 (Development in the Countryside) and Policy E7 (Extensions to Existing Employment Sites) of the Adopted East Devon Local Plan 2013-2031, the East Devon Villages Plan as well as the guidance contained within the National Planning Policy Framework.
2. Having regard to the sites location in the countryside, remote from any notable settlements and with limited access by public transport, walking or cycling and having regard to the wide range of proposed commercial uses, including many uses more typically found in town centres, the development will result in employees and visitors to the building being reliant on use of the private car, in conflict with policies in the East Devon Local Plan and the NPPF which encourage promoting and securing sustainable modes of travel and transport. The proposal is considered to be contrary to the provisions of Strategy 1 (Spatial Strategy for Development in East Devon), Strategy 5B (Sustainable Transport) Strategy 7 (Development in the Countryside), policies E7 (Extensions to Existing Employment Sites) and TC2- (Accessibility of New Development) of the East Devon Local Plan 2013-2031, the East Devon Villages Plan and paragraph 105 of the National Planning Policy Framework.
3. The proposed development by reason of the size and scale of the building and the extensive areas of hard surfacing has altered the landform and character of the site from rolling open countryside to urbanised development. The proposal because of its position at the highest part of the business park appears unduly prominent and visually intrusive and encroaches into the countryside to the detriment of the rural landscape character and appearance of the area. It is not considered that there are material circumstances to outweigh the adverse impacts of development in this location which justifies a departure from policy and that the visual harm is considered to outweigh the limited economic and social benefits that would be derived from the proposal. The proposal is considered to be contrary to the provisions of Strategy 46 (Landscape Conservation and Enhancement and AONBs), Strategy 7 (Development in the countryside) policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031 and the guidance contained within the National Planning Policy Framework.
4. Insufficient information has been submitted to demonstrate that adequate provision has been or can be made to sustainably manage surface water run

off arising from the proposed development. As such the proposal is contrary to the provisions of Policy EN22 (Surface Run-Off Implications of New Development) of the Adopted East Devon Local Plan, as well as the guidance contained within the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

8274-04	Proposed Combined Plans	24.08.22
8274-06 E	Block Plan	24.08.22
8274-05	Proposed Elevation	24.08.22
8274-LPA	Location Plan	24.08.22
	Landscape Visual Impact Appraisal	01.06.23

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.



Appeal Decision

Site visit made on 31 October 2017

by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2017

Appeal Ref: APP/U1105/C/16/3165341

Greendale Business Park, Woodbury Salterton, EX5 1EW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by FWS Carter and Sons against an enforcement notice issued by East Devon District Council.
- The enforcement notice was issued on 11 November 2016.
- The breach of planning control as alleged in the notice is the construction of 4 compounds, identified as Compound 39, 48A, 47 and 11 and edged with a broken black line on plan 2 attached to the notice, by the levelling of the land, the laying of hard surfaces using concrete and scalplings, enclosing with security fencing, gates, CCTV cameras and lighting. The construction of 2 buildings and the associated use of the land to store a portakabin type temporary building, cubicle, shipping containers, mobile park homes, caravans and other associated items.
- The requirements of the notice are
 1. Permanently remove from the land the concrete hard standing, foundations and associated drainage works from compounds 39, 48A and 47;
 2. Permanently cease the use of the land as compounds and for use as storage of mobile park homes, caravans, shipping containers, portakabin type buildings and storage of associated items;
 3. Permanently remove from the land all fencing from the perimeters of and within compounds 39, 48A, 47 and 11;
 4. Permanently remove from the land all gates from the perimeters of and within compounds 39, 48A, 47 and 11;
 5. Permanently remove from the land all CCTV cameras and supporting ancillary equipment from within compounds 39, 48A, 47 and 11;
 6. Permanently remove from the land all light fittings and cabling from compounds 39, 48A, 47 and 11;
 7. Permanently remove from the land the two permanent buildings sited within compound 39 shown indicatively edged and hatched in black on plan 2;
 8. Permanently remove from the land the temporary buildings including the shipping containers;
 9. Permanently remove from the land the cubicle identified outlined in yellow and coloured red on plan 3;
 10. Permanently remove from the land the mobile park homes caravans and associated items;
 11. Replace the topsoil in compounds 39, 48A and 47 to a depth of 20cm and reseed with an agricultural grass mix which shall be retained and maintained in perpetuity;
 12. Permanently remove, to an authorised place of disposal, all materials associated with compliance with steps 1, 3,4,5,6,7,8,9 and 10.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
- **Summary of decision:** Notice varied and upheld, appeal dismissed and planning permission refused.

The site

1. The appeal site is in open countryside in what previously would have been an undulating rural landscape although it is to some extent visually contained by higher ground. The site extends to about 2.14 ha and is located to the north-east of the Greendale Business Park which offers a range of employment units, storage compounds and on-site services. The business park is accessed by a private road from the A3052 to the north and White Cross Road to the south along which the closest residential properties are located. The west boundary of the appeal site is adjacent to the access road.
2. The allegation refers to compounds 11, 39, 47 and 48a which are all gated and have metal security fencing; and also to an electrical distribution housing.
3. Compound 39 is a large concrete yard which has been excavated into the slope of the ground to create a level site. In the corner of the site is a recently constructed prominent green clad mono-pitched warehouse building. Next to this are the concrete footings and the service ducts for a building that had been removed at the time of my visit. A number of commercial and private vehicles were parked on the site. The appellants state that the site is occupied by Actavo, a scaffolding company having 8 employees.
4. Compound 48A, adjacent to compound 39, has a portacabin office and is occupied by Data Solutions Ltd having 13 employees.
5. Compound 47 has a number of portacabins and is occupied by Flogas with 4 employees.
6. Compound 11 is lower down the slope and has been excavated in part to create a level compound. EBCS Leisure Ltd with 5 employees uses the compound for the storage of park homes of which about 30 were present at the time of my visit.

Relevant planning history

7. There have been many applications on the main Greendale Business Park and a number on the appeal site, the most relevant being planning permission 09/0410/MFUL granted in May 2009 for 'Change of use of agricultural land for employment, erection of associated offices and training facility and construction of parking and storage area'. This appears to include land identified as compound 11 and a small part of compound 47. It includes land to the south and west of compound 11 although this land is excluded from the notice. It also appears from the officer's report¹ that at that time, there had been a number of breaches of planning control in respect of the site. However it was concluded that the visual harm arising from the proposal was limited and in view of the economic benefits arising and the lack of available employment land at the time, approval was given, despite the site being in open countryside.
8. A partially retrospective hybrid application for the development of the appeal site (15/2592/MFUL) was refused in July 2016 for an extension to compound 33A, attenuation pond and warehouse, office building and hardstanding to

¹ Appellant's statement Appendix B

compound 39 and outline permission for B1/B2/B8 units (access to be determined). This was not appealed against in view of continuing liaison between the appellants and the Council.

9. Following the service of the enforcement notice two planning applications were submitted for retrospective permission for the works that had been undertaken on the site. The revised schemes removed the three buildings shown on the outline element of the hybrid scheme and replaced them with open storage yards. Application 16/2597/FUL was for 'Change of use of the site to a storage yard, including the erection of a warehouse, office building, fencing and associated works. Application 16/2598/FUL was for 'Change of use of the site to storage yard including the erection of temporary ancillary offices, fencing, SUDS and associated works. Both applications were refused. The appellants did not appeal the decisions as they were registered after the issue of the enforcement notice.
10. A Breach of Condition Notice was issued on 11 November 2016 but was withdrawn the following month.

The appeal on ground (a)

11. An appeal on this ground is that planning permission should be granted for what is alleged in the notice. The main issues in respect of the development include the acceptability of the principle of development and the effect of the development on the character and appearance of the open countryside.

Principle of development

12. The East Devon Local Plan 2013-2013 was adopted in January 2016 and I am able to attach substantial weight to it as it is up to date and was adopted subsequent to the National Planning Policy Framework (the Framework). The countryside is defined in Strategy 7 as those parts of the plan area outside the built up area boundaries and outside specific allocations shown on the proposals map. As the appeal site is outside these areas it is regarded as being in open countryside and there are no specific Local Plan policies which permit the development subject to the appeal. Development in the open countryside is only permitted where it is in accordance with specific Local or Neighbourhood Plan policy the explicitly permits such development. There is no neighbourhood plan covering the area of the appeal site.
13. Local Plan Policy E7 provides for extensions to existing employment sites but the policy specifically excludes Hill Barton and Greendale Business Parks. These are identified by the Council as substantial stand-alone employment sites which are different from the smaller and medium scale sites of East Devon and not deemed appropriate for expansion.
14. Although Policies E4 and E5 are referred to by the Council in the reasons for issuing the notice, Policy E4 relates to rural diversification of traditional agricultural related economic activities and is not relevant to this appeal, and Policy E5 provides for small scale economic development in rural areas but is not applicable to large scale industrial areas as in the current appeal.
15. An East Devon Villages Plan is currently being prepared which will identify village boundaries and residential development sites. It will also provide an inset plan for Greendale and Hill Barton Business Parks but the appellant points out that the current draft Villages Plan does not allow for expansion. The plan

has been subject to consultation and has recently been subject to examination. I note that the appellants have made representations about the Plan and on the availability of employment space for the type of users at the Business Park, and that some support has been expressed for this view.

16. The Council resolved in February 2017 to use the boundaries identified in the Villages Plan as primary policy for development management purposes. The Greendale Inset Map indicates that compound 11 is within the inset but the remaining areas appear to be outside. Although the Villages Plan has not been adopted it is at a fairly advanced stage such that I attach it moderate weight.
17. The Framework at paragraph 12 requires that proposed development that conflicts with an up to date local plan should be refused unless other material considerations indicate otherwise. The appellant has cited case law² relating to how development should be judged 'in accordance with the development plan' and I have had regard to these in my decision.
18. I disagree with the appellant's contention that the Local Plan is silent on the matter of employment provision/future development at the major existing employment sites of both Greendale and Hill Barton Business Parks. Although there may be no specific policies for the business parks Strategy 7 and Policy E7 are perfectly clear in that the Plan seeks to apply a restrictive policy approach to accommodating further development.
19. Whilst the appellant seeks support for the development through the various policies of the Framework, including paragraph 14, these do not outweigh the policy presumption against the development.
20. The appellant refers to appeal decisions in support of the argument that there is a need for the type of employment use provided for at the appeal site. An appeal decision relating to the nearby Hogsbrook Farm³, also under the control of the appellant, allowed the retrospective change of use of existing agricultural buildings to employment use in which the inspector, at paragraph 7, stated that the current level of occupancy indicated a demand and that he had not had evidence to indicate that this would lessen demand for space elsewhere. An appeal at Clyst St Mary⁴ allowed the erection of 3 small B1 business units on the footprint of a fire damaged building where the inspector considered that the proposals would not have any material effect on the take-up of permissions elsewhere. I consider these cases to be materially different to the current appeal as they concerned existing or fire damaged buildings not comparable to the site the subject of this appeal. Furthermore, the Clyst St Mary decision pre-dates the adoption of the Local Plan as does the Council's comments about the current need for employment land in the 2010 officer report relating to an application at Hill Barton.
21. The appellants consider that there is an over-riding need for the appeal site to be used for employment purposes due to the absence of other sites in the district and that the adopted Local Plan has failed to make adequate provision to meet appropriate levels of employment demand. The appellants and the Council have produced numerous technical reports on the issue either in response to the Local Plan or to the Villages Plan. In the case of the former,

² City of Edinburgh v SoS Scotland[1997] 1WLR 1447 and Tesco Stores Ltd v Dundee CC [2012] PTSR 98

³ APP/U1105/W/16/3151307 and 3151311

⁴ APP/U1105/A/12/2171968

this has been fully scrutinised through the adoption process and in the case of the Villages Plan, this has recently been the subject of independent examination.

22. The Local Plan and the emerging Villages Plan indicate that the principle of development on the appeal site is unacceptable other than in respect of compound 11 that benefits from an extant permission and is shown to be within the Greendale Inset Map in the emerging Villages Local Plan.
23. I conclude on this issue that the development is contrary to Strategy 7 and Policy E7 which indicate that the principle of development in this location would harm the strategic intentions of the Local Plan.

Effect on the countryside

24. The development has altered the land form and character of the countryside through the excavation and construction of the compounds, the creation of extensive areas of concrete hard standing, the introduction of steel fencing and security lighting, the erection of the warehouse on compound 39, the siting of portacabins offices, the open storage of mobile homes and other materials, etc. The effect of the development is significantly to change the character of the site from rolling open countryside to urbanised development having little relationship with its countryside setting. It is intrusive and, because of the change in levels, parts of the site are also prominent, particularly in respect of the warehouse on compound 39.
25. The appellants' Landscape and Visual Impact Assessment submitted with the earlier applications concludes that the impact on landscape character after mitigation would be slight-moderate adverse and there would be neutral impact on visual amenity due to the limited opportunity to view the site from publicly accessible locations. However, this does not affect my own conclusion in respect of the impact of the development on countryside character and appearance which I consider to be significant and harmful.
26. I note that the Council considered the landscape harm to be at an acceptable level when the 2009 permission was granted but this related to the lower compound 11 site which is considerably smaller in area than the appeal site.
27. I conclude on this issue that the development is harmful to the character and appearance of the wider countryside.

Other considerations

28. The development has generated considerable opposition from local residents, the Parish Council and the Woodbury Salterton Residents Association. There is widespread support for the Council's enforcement action against FWS Carter and Sons who the local residents state have persistently failed to respect the planning process. Local residents' concerns include potential noise and other disturbance arising from traffic, 24 hour operation, and external lighting.
29. The appellants state that the nearest residential properties are about 180m away with intervening trees and vegetation and that the Council's Environmental Health Officer raised no objection to previous applications on the site. Whilst the appellants consider that no significant adverse impact on residential amenity would occur, the Council was not satisfied that details had been submitted with the previous applications to show that the additional

operations are satisfactory and operate without unacceptable harm to residential amenity. Having regard to the extent of the existing employment area, a degree of disturbance to local residents occurs already and had the extant permission for compound 11 been fully implemented, this could have added to it. I am satisfied that a suitably worded condition could be imposed that might limit the potential effects of the development subject to the notice.

30. An ecological appraisal was submitted with the previous applications but as the site had been cleared, its value is limited. Trees have been felled to facilitate the construction of the compounds but additional tree planting could be required by condition. Part of the site is potentially of archaeological interest and could be the subject of an appropriately worded condition.
31. No highways objections were raised to the previous applications.
32. The appellants accept that alternative surface water drainage is required for the development and a SUDS solution and Drainage Strategy was considered to be acceptable as part of the earlier hybrid application. However the County Council's Flood Risk Management Team considers the flood risk strategy submitted previously and absence of any appropriate flood mitigation strategy development to be unacceptable. Notwithstanding this, an appropriately worded condition would normally satisfactorily deal with the issue.

Planning Balance

33. Although the development has created some employment, no reasons have been given why the occupiers of the compounds should be located in their particular compounds or why they cannot be relocated elsewhere. The economic benefits of the development are outweighed by the harm that the development causes to the development strategy of the Local Plan and to the character and appearance of the countryside. The extent of harm could not be mitigated sufficiently through the imposition of conditions to weigh in favour of the development.
34. I conclude that the development is contrary to Strategy 7 and Policy E7 of the adopted Local Plan. It is also contrary to Policy D1 relating to design and distinctiveness, Policy D2 regarding landscaping and Policy D3 in respect of trees and development sites. Additionally, the development fails to accord with the Framework.
35. The appeal on ground (a) fails.

The appeal on ground (f)

36. An appeal on ground (f) is that the steps required to comply with the notice are excessive and lesser steps would overcome the objections.
37. The appellants have not indicated why the requirements of the notice are considered to be excessive other than originally stating erroneously that the only works which ought to be required are those set out at point (I) of the notice. However there is no point (I) in the notice and the appellants subsequently stated that what was only necessary to remedy the breach are those works set out in step 5.2. This states: "Permanently cease the use of the land as compounds and for use as storage of mobile park homes, caravans, shipping containers, portakabin type buildings and storage of associated

- items". However the appellants have failed to explain how this remedies the breach or why the other steps are not necessary.
38. Part of the appeal site within the area of compound 11 has an extant planning approval and therefore the requirements in respect of this land only relate to its use.
39. Step 5.11 requires the replacement of the topsoil in compounds 39, 48A and 47 to a depth of 20cm and reseeded with an agricultural grass mix which shall be retained and maintained in perpetuity. Although the appellant has not made representations on this step, a requirement of the notice cannot go beyond the restoration of the land as it existed prior to the unauthorised development taking place. I therefore intend to vary the notice by the replacement of step 5.11 with "Reinstate the surface of compounds 39, 48A and 47 to its condition before the breach took place".
40. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice, as I propose to vary them, in this case do not exceed what is necessary to remedy the breach.
41. I have had regard to *Ahmed v SSCLG [2014] EWCA Civ 566* but I find that there is no obvious alternative to the retention of the whole of the development on site that would overcome the planning issues that I have identified in the ground (a) appeal.
42. The appeal on this ground fails.

Conclusions

43. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Decision

44. It is directed that the enforcement notice be varied by the deletion of step 5.11 of the requirements and its replacement with "Reinstate the surface of compounds 39, 48A and 47 to its condition before the breach took place". Subject to these variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Peter Jarratt

Inspector

Ward Exmouth Halsdon

Reference 23/1659/FUL

Applicant Ms Glina Deviell

Location 2 Seymour Road Exmouth EX8 3JG

Proposal Two storey 3-bed, dwelling with associated parking, external works and alterations to roof of existing dwelling



RECOMMENDATION: Approval with conditions



		Committee Date: 19.12.2023
Exmouth Halsdon (Exmouth)	23/1659/FUL	Target Date: 06.10.2023
Applicant:	Ms Glina Devielli	
Location:	2 Seymour Road Exmouth	
Proposal:	Two storey 3-bed, dwelling with associated parking, external works and alterations to roof of existing dwelling	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members of the Planning Committee following its deferral from Chair delegation meeting.

The application site is located within the built-up area boundary of Exmouth in a highly sustainable location where the principle of new residential development is acceptable in location terms.

The proposed dwelling would be positioned within the side garden of 2 Seymour Road and whilst its contemporary design and materials would result in a degree of impact on the visual amenity of the site and the streetscene, the loss of the open space between the property and the boundary is not considered to make such a significant contribution to the character and appearance of the area that would justify refusal of planning permission. The proposal would introduce a contemporary dwelling into a streetscene already characterised by a wide variety of architectural styles and forms of properties in the vicinity of the site such that it isn't considered that it would result in any significant harm to the character and appearance of the area to sustain an objection. The proposal and would comply with policies D1 of the Local Plan and EB2 of the Exmouth Neighbourhood Plan.

Concerns about over development of the site are acknowledged however the proposed site plan demonstrates that sufficient space would remain for the provision of two off road parking spaces whilst retaining parking for the existing dwelling and for the provision of a modest amenity area at the rear of the property. It isn't considered that an objection could reasonably be sustained on these grounds.

Whilst introducing built form into the space between the existing dwelling and the boundary with no 24 Iona Avenue would result in a degree of impact to

outlook from the side windows and garden as a result of the footprint of the dwelling extending close to the side boundary of the site, its asymmetrical roof form and design serves to significantly reduce the bulk and massing and overall physical impact of the development, effectively in a single storey form and would ensure no significant harm to residential amenity.

In the absence of any harm to the character and appearance of the area, the residential amenities of the occupiers of surrounding properties and highway safety, on balance, the proposal is considered to be acceptable, in accordance with the East Devon Local Plan and Exmouth Neighbourhood Plan policies and is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

Meeting 11.09.23

Objection; members felt that the proposal was out of keeping with immediate vicinity and concerned about the loss of trees and highway safety.

Technical Consultations

None

Other Representations

No letters received

PLANNING HISTORY

Reference	Description	Decision	Date
18/1739/FUL	Installation of side facing rooflight (west)	Approval - standard time limit	21.08.2018

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Exmouth Neighbourhood Plan (Made)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description:

The site refers to the side garden of no 2 Seymour Road, a detached hipped roof bungalow and garage which is located in a residential area of Exmouth. The site is set back from Seymour Road and occupies a prominent position opposite the junction with Featherstone Road. The front boundary of the site is defined by a low-level brick boundary wall and there are a number of ornamental trees within the front of the site which are not the subject of any statutory protection. The site is located within the built-up area boundary of Exmouth and is not the subject of any landscape or townscape designations and does not fall within a designated flood zone.

Proposed Development:

Planning permission is sought for the construction of a two-storey attached dwelling to the side of the property. The proposed dwelling would be formed as a side extension, extending from the ridgeline of the existing bungalow presenting its front façade to Seymour Road with a projecting gable feature with an asymmetrical roof form. The proposal would provide a 3-bedroom dwelling with living accommodation and a bedroom at ground floor and two additional bedrooms and a bathroom at first floor. The dwelling would have a rendered finish together with face brickwork under a tiled roof. The upper part of the northern and eastern elevations would have a horizontal grey weatherboard finish.

Two off road parking spaces would be provided and the existing car parking spaces for the existing dwelling inclusive of the garage would remain unchanged.

Issues and Assessment:

The main issues to consider in determining this application are in terms of:

- The policy context
- The principle of development
- The impact on the character and appearance of the area
- The impact on the residential amenities of the occupiers of surrounding properties
- The impacts on highway safety.
- Appropriate Assessment

ANALYSIS

Policy Context:

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined and carry full weight. The Exmouth Neighbourhood Plan (NP) has been 'made' and also carries full weight.

Principle:

The site is located within the built-up area boundary of Exmouth, in a highly sustainable location where under the provisions of Strategy 6 (Development within Built-up Area Boundaries) of the East Devon Local Plan, the principle of a new dwelling on the site is considered to be acceptable.

Strategy 6 - Development within Built-Up Area Boundaries of the Local Plan states that within the built-up area boundaries development will be permitted if:

1. It would be compatible with the character of the site and its surroundings and in villages with the rural character of the settlement.
2. It would not lead to unacceptable pressure on services and would not adversely affect risk of flooding or coastal erosion.
3. It would not damage, and where practical, it will support promotion of wildlife, landscape, townscape or historic interests.
4. It would not involve the loss of land of local amenity importance or of recreational value;
5. It would not impair highway safety or traffic flows.
6. It would not prejudice the development potential of an adjacent site

Character and Appearance:

Policy D1- Design and Local Distinctiveness of the Local Plan states that proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Policy EB2 of the Exmouth Neighbourhood Plan states that new development should be mindful of surrounding building styles and ensure a high level of design as exemplified in the Avenues Design Statement (2005).

The existing property occupies a prominent position facing towards the junction with Featherstone Road and at a point where Seymour Road becomes Iona Avenue. The existing plot has a wide frontage onto the road with a side garden area in which the proposed dwelling would be sited.

There is no discernible architectural style of property within the area where the streetscene is characterised by a mixture of bungalows, two storey dwellings with differing roof forms and designs such that it is considered that the attached design approach to this development would not give rise to any significant harm to the character and appearance of the area.

Whilst the proposed dwelling would take up the space between the existing bungalow and the side of the plot, the overall impact of the proposal on the streetscene would be reduced by virtue of the fact that the adjacent bungalow is set away from the boundary with a relatively discrete and a low-lying roof profile. This coupled with the asymmetrical roof form of the proposed dwelling would help to reduce the bulk and massing of the building despite the fact that it would introduce a two-storey dwelling into the site when viewed from the front.

The footprint of the proposed dwelling would project further forward than the existing bungalow by 1.7 metres but would remain set back from the front of the plot behind a pair of car parking spaces which would ensure that it does not appear unduly prominent or intrusive within the streetscene.

The asymmetrical roof form and more contemporary design approach to the dwelling would be at odds with the architectural styles of dwellings found within the area to a degree, however given the variety of architectural styles and forms of property within the streetscene, it is not considered that this in itself would amount to significant harm to the character and appearance of the area to sustain an objection.

The space at the side of the existing property is limited however the proposed site plan demonstrates that sufficient space would remain for the provision of two off road parking spaces whilst retaining parking for the existing dwelling and for the provision of a modest amenity area at the rear of the property. It would accommodate the proposed dwelling in a form that would appear as an extension to the existing dwelling

Whilst the proposed dwelling and its contemporary design and materials would result in a degree of impact on the visual amenity of the site and the streetscene, the loss of the open space between the property and the boundary is not considered to make such a significant contribution to the character and appearance of the area that would justify refusal of planning permission. The proposal would introduce a contemporary dwelling into a streetscene already characterised by a wide variety of architectural styles and forms of properties in the vicinity of the site such that it isn't considered that it would result in any significant harm to the character and appearance of the area to sustain an objection. The proposal and would comply with policies D1 of the Local Plan and EB2 of the Exmouth Neighbourhood Plan.

Residential Amenity:

Policy D1- Design and Local Distinctiveness of the Local Plan requires that development proposals do not adversely affect the amenities of existing residents.

The proposed dwelling would have its greatest impact on the amenities of the occupiers of no 24 Iona Avenue, a bungalow to the west of the site through the

introduction of a two-storey dwelling in the space at the side of the property. In this respect it is noted that there is a side porch and secondary windows on the side elevation facing the site, the boundaries of which are defined by a close boarded fence and trees. 24 Iona Avenue is set back from the side boundary of the site.

Whilst introducing built form into the space between the existing dwelling and the boundary with no 24 Iona Avenue would result in a degree of impact to outlook from the side windows and garden as a result of the footprint of the dwelling extending close to the side boundary of the site, its asymmetrical roof form and design would ensure that the impact in terms of the bulk and massing would be reduced whereby the roof of dwelling has been designed to be at its lowest point closest to the boundary, sloping away from no 24 Iona Avenue. This would significantly reduce the bulk and massing and overall physical impact of the development, effectively in a single storey form and would ensure no significant harm to residential amenity. Amended plans have been received which have changed a ground floor kitchen window on the side elevation to a high-level window (1.7 metres above the finished floor level of room) which would ensure no overlooking or loss of privacy to no 24.

The proposed dwelling would result in no significant harm to the amenities of other surrounding properties given the distance from the boundaries and its modest form and proportions.

In respect of standards of amenity for future occupiers of the building, the applicant has demonstrated that the building as a 3-bedroom, 5-person home would meet Nationally Prescribed Space Standards provided an internal floor area of 93.2 sqm. The applicant has also provided a breakdown of all of the bedrooms within the dwelling which would comply with the minimum floor areas and dimensions of the rooms inclusive of internal cupboard storage space.

The Council's Building Control Officer has advised that the proposals would comply with fire safety regulations on the basis that fire doors are fitted to rooms on the first floor and the kitchen on the ground floor can be closed off. Amended floor plans have been submitted to this effect such that officers are satisfied that the proposal would comply with building regulations.

On balance, it isn't considered that the proposed dwelling would give rise to significant harm to residential amenity to sustain an objection and that the proposal would comply an adequate standard of amenity for its future occupiers.

Highway Safety and Parking:

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

The proposal would create a new vehicular access and parking area at the front of the dwelling in a manner and form similar to that of other properties in the street. Vehicles would have to reverse onto the highway however having regard for the fact

that Seymour Road is a residential road with low vehicle speeds it isn't considered that there would be any highway safety concerns.

Policy TC9- Parking Provision in New Development of the Local Plan states that Spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one-bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.

The submitted site plan demonstrates that two car parking spaces for the existing dwelling would remain and that the development would make provision for two additional car parking spaces for the proposed dwelling.

The proposal would comply with policies TC7 and TC9 of the East Devon Local Plan.

Appropriate Assessment:

The site is located in close proximity to the Exe Estuary and the East Devon Pebble bed Heaths Special Protection Areas (SPA's) which provide an important recreational resource for the local community. However, these are sensitive environments which are important to nature conservation and are subject to European wildlife site designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47 (Nature Conservation and Geology) of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per dwelling which has been secured as part of this application.

Other Issues:

The Town Council's concerns in relation to loss of trees is noted and whilst some ornamental trees within the garden are likely to be lost to the development, it is not considered that these are of amenity value or worthy of a tree preservation order in favour of a what would be a sustainable form of residential development on the site. The proposal would not conflict with the provisions of policy D3- Trees and Development Sites of the Local Plan.

Conclusion

The application site is located within the built-up area boundary of Exmouth in a highly sustainable location where the principle of new residential development is acceptable in location terms.

The proposed dwelling would be positioned within the side garden of 2 Seymour Road and would result in no significant harm to the character and appearance of the area having regard for the character and variety of styles of property in the vicinity of the site coupled with the asymmetrical design approach to the dwelling. Concerns about over development of the site are acknowledged however the proposed site plan demonstrates that sufficient space would remain for the provision of two off road parking spaces whilst retaining parking for the existing dwelling and for the provision of a modest amenity area at the rear of the property. It isn't considered that an objection could reasonably be sustained on these grounds.

Whilst introducing built form into the space between the existing dwelling and the boundary with no 24 Iona Avenue would result in a degree of impact to outlook from the side windows and garden as a result of the footprint of the dwelling extending close to the side boundary of the site, its asymmetrical roof form and design serves to significantly reduce the bulk and massing and overall physical impact of the development, effectively in a single storey form and would ensure no significant harm to residential amenity.

In the absence of any harm to the character and appearance of the area, the residential amenities of the occupiers of surrounding properties and highway safety, on balance, the proposal is considered to be acceptable, in accordance with the East Devon Local Plan and Exmouth Neighbourhood Plan and is therefore recommended for approval.

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. Notwithstanding the submitted details, no development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

4. Prior to first occupation of the dwelling hereby approved, the car parking spaces shall be provided in accordance with the details shown on drawing no SAEX-23-102A. The parking spaces shall thereafter remain in perpetuity for that use unless otherwise agreed in writing by the Local Planning Authority.
(Reason: To ensure adequate parking facilities are provided in the interests of highway safety in accordance with policies TC7- Adequacy of Road Network and Site Access and TC9- Parking Provision in New Development) of the East Devon Local Plan 2013-2031).
5. In accordance with the details shown on drawing no SAEX-23-105A, the ground floor window on the west elevation of the dwelling hereby approved shall be positioned no lower than 1.7 metres above the finished floor level of the room it is intended to serve.
(Reason: To protect the privacy of adjoining occupiers in the interests of residential amenity in accordance with policy D1- Design and Local Distinctiveness of the East Devon Local Plan 2013-2031).
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows, doors, rooflights or other openings other than those shown on the plans hereby permitted shall be formed in the western elevation of the dwelling hereby approved.
(Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within the Schedule 2 Part 1 Classes A or E for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool, [other than any enclosure approved as part of the landscape management scheme]
(Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
8. In accordance with the details shown on drawing no SAEX-23-105B, the Swift brick shall be provided within the eastern elevation of the dwelling hereby approved. The swift brick shall thereafter remain in place in perpetuity.
(Reason: In the interests of ecology and biodiversity in accordance with policy EN5- Wildlife Habitats and Features of the East Devon Local Plan 2013-2031).

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:

	Location Plan	07.08.23
SAEX-23-102 A	Proposed Site Plan	26.10.23
SAEX-23-106 B	Proposed Floor Plans	16.11.23
SAEX-23-105 B	Proposed Elevation	16.11.23

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.

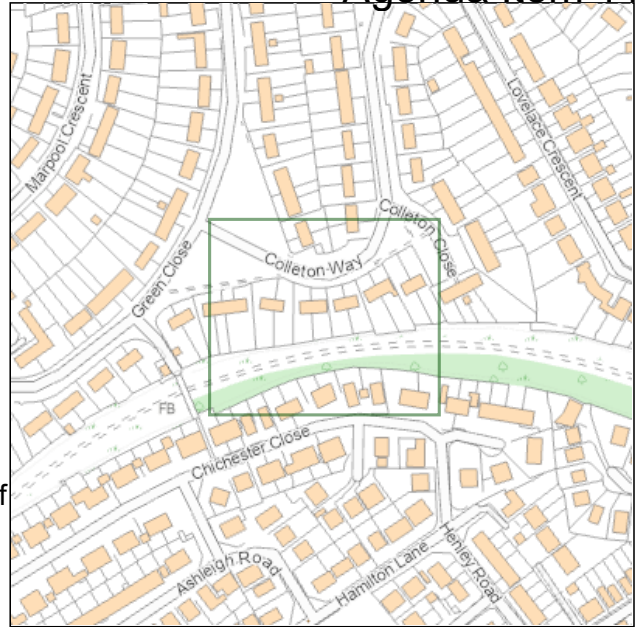
Ward Exmouth Withycombe Raleigh

Reference 23/1472/FUL

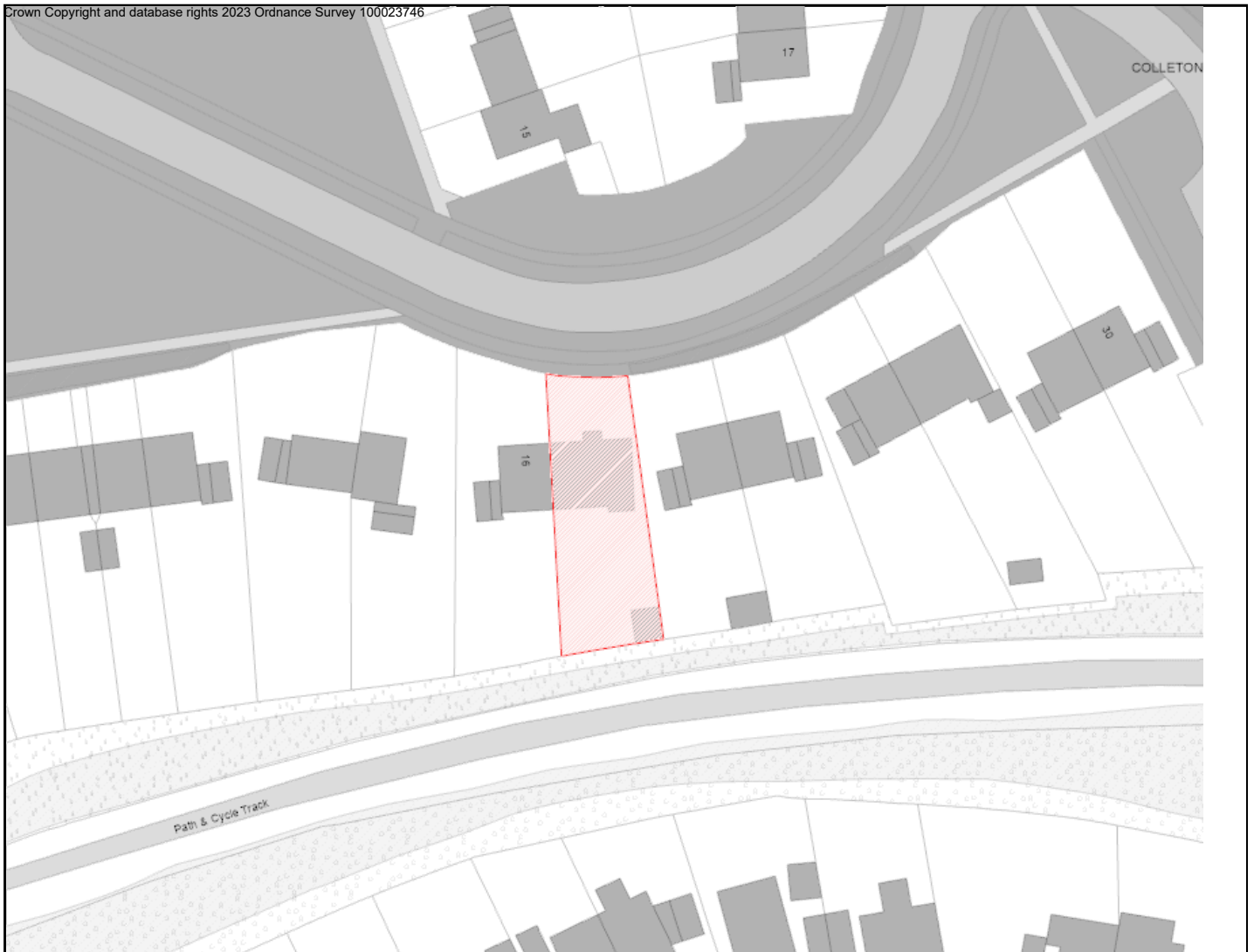
Applicant Mr Darren Pyne

Location 18 Colleton Way Exmouth Devon EX8 3PX

Proposal Separating existing property into two dwellings including gardens and driveways and addition of front porch.



RECOMMENDATION: Approval with conditions



		Committee Date: 19.12.2023
Exmouth Withycombe Raleigh (Exmouth)	23/1472/FUL	Target Date: 07.12.2023
Applicant:	Mr Darren Pyne	
Location:	18 Colleton Way Exmouth	
Proposal:	Separating existing property into two dwellings including gardens and driveways and addition of front porch.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

Colleton Way comprises of semi-detached and terraced properties of a generally uniform design and form. This location is not subject to any heritage or other area specific considerations.

The proposed development involves the subdivision of an existing property to create an additional dwellinghouse. This would similarly split the associated driveway and rear garden space between these resulting properties.

The objections to the proposal related to the precedent established by the subdivision of a family home along with associated highways impacts. In light of planning legal precedent, it is not considered reasonable to refuse an application solely on the grounds of potential future development. The highways impacts were ultimately considered to be acceptable.

When the application was considered against the local policies, it was identified that it complied in multiple regards and approval was recommended. Approval is therefore recommended subject to conditions.

CONSULTATIONS

Local Consultations

Parish/Town Council

Meeting 23.10.23
No objection

Exmouth Withycombe Raleigh - Cllr Matt Hall

With regards to the planning application at 18 Colleton Way, I am concerned about the precedent which would be set to allow family homes to be split into two properties. I appreciate that the proposal has room for a driveway for each proposed property but parking in this area is already a problem especially with it being located on the bend

If officers are minded to approve this application I really feel it should be put before the planning committee to decide.

Technical Consultations

No other representations have been received.

Other Representations

No other representations have been received.

PLANNING HISTORY

Reference	Description	Decision	Date
10/0434/FUL	Construction of two storey side extension incorporating existing garage. Juliette balcony to rear	Approved with Conditions	31/03/2010

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 22 (Development at Exmouth)

D1 (Design and Local Distinctiveness)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Exmouth Neighbourhood Plan (Made)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description

ANALYSIS

Site Location and Description

The application site is located within the Exmouth Built Up Area Boundary (BUAB) and is occupied by a semi-detached property. This site does not fall within a flood risk zone nor is subject to any heritage considerations. Its immediate setting consists of a residential area made up of similarly designed dwellings.

Background

The application under consideration primarily regards the use of the residential extension approved under 10/0434/FUL. This extension was built shortly following this permission and has been used as part of the existing dwellinghouse. It is noted that the plans approved at this time have a marginal footprint difference to the presently submitted drawings. Given the time that has elapsed since the construction of this dwelling, this is not considered to impact the following analysis.

Proposed Development

The application under consideration seeks planning permission for the subdivision of an existing property into two dwellings that would contain separate gardens and driveways. The proposed new dwelling would be contained within the two storey side extension built under planning permission 10/0434/FUL with the associated space directly to its front and rear representing its dedicated garden and off-street parking. A feather-board fence would be used to demark the boundary resulting from this subdivision.

As part of these conversion works, a porch matching that already found would be constructed to the front of the new property. A rooflight would also be introduced along the front roof elevation. Internally works would take place to separate their layouts so each dwelling can function independently of each other.

This application has been brought before planning committee following an objection received from Cllr Hall. With the officer's recommendation differing to these comments and in accordance with the LPA's scheme of delegation this case is brought before members.

Principle of Development

Strategy 6 of the East Devon Local Plan states that Built-up Area Boundaries, as defined on the Proposals Map, are considered appropriate through strategic policy to

accommodate growth and development. This position is mirrored by Strategy 22 relating to Exmouth as well as the adopted Exmouth Neighbourhood Plan.

With the application site located within an identified Built-up Area Boundary, this is a sustainable location with easy access to community facilities and amenities. This comes at a time when East Devon District Council cannot demonstrate a 5 year land supply which is recognised to weigh in favour of this application.

In terms of the nature of the development, the subdivision and thereby intensification of the existing plot, this is not in itself identified as objectionable by local policies. It is also noted that planning permission was granted at the nearby No 5 Colleton Close for a two storey side extension to be used as an annex (reference 15/0395/FUL). While this permission was for an annex rather than a new dwelling, the scale and the presence of a separate front door mirrors the present development.

Taking the above into account, the proposal is therefore considered acceptable in principle subject to the following analysis.

Impact on the Character and Appearance of the Surrounding Area

Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan, requires that proposals will only be permitted where they:

- 1. Respect the key characteristics and special qualities of the area in which the development is proposed.*
- 2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.*

Policy EB2 of the Exmouth Neighbourhood Plan states that new development should be mindful of surrounding building styles and ensure a high level of design as exemplified in the Avenues Design Statement (2005).

The application site is occupied by a rendered semi-detached dwelling extended by a two storey side extension. This property forms part of a series of similarly designed semi-detached and terraced dwellings that have been altered in differing ways. These differences include in the forms and appearances of the front gardens. This setting is generally considered to be of limited architectural merit.

The development under consideration would visually alter this property by creating a separate second entrance along its front elevation, installing a front rooflight and by subdividing its frontage. With the front porch created for this entrance designed like-for-like with the existing porch in terms of its form and scale, this lacks subservience to the original property. The resulting effect of having two so similarly designed porches so close together would create a somewhat confused and overly prominent frontage. Nevertheless, with weight attached to the mixed alterations present in their surroundings and the setback of this feature from the streetscene, this is considered to be acceptable in itself.

The subdivision of front driveway and the creation of a front rooflight are considered to be of a generally limited visual impact and would not harmfully impact their surroundings.

The proposal is therefore considered to have an acceptable impact on the character and appearance of the host dwelling, rear garden scene and the wider streetscene.

Neighbouring Amenity

Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan, requires that proposals do not adversely affect the amenity of occupiers of adjoining residential properties and the amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses.

With the proposed development subdividing the front and rear gardens, this would result in the newly created dwellings being able to overlook each other's private amenity spaces. However, with this relationship similar to that found within terraced properties, this alteration is not considered to be materially harmful in its impacts.

The proposed subdivided property, owing to its relatively limited change to footprint would mirror the existing views, scale and other amenity impacts that presently exist to all other neighbouring properties.

The proposed development is not considered to result in material harm to the amenity of the occupiers of the existing and proposed occupiers in terms of light, outlook, privacy or an overbearing presence. The proposal is therefore acceptable and policy compliant in the above regards.

Occupier Amenity

The proposal would create a wholly new dwelling consisting solely of the space created by an unoriginal two storey side extension. The resulting property would contain two bedrooms (one single, one double) over three storeys, with a total floorspace of some 71.1sqm. The Nationally Described Space Standards do not specify the minimum space standards expected for a property with this level of accommodation at three storeys. With no clear guidelines here, and upon reviewing what requirements do exist, it is considered that the proposal would provide adequate amenity for its occupiers.

It is noted that the second bedroom would be served solely by rooflights. While this situation is not ideal, given that this is not the primary bedroom this is considered to be acceptable.

The rear garden space provided is considered to be adequate for a dwelling of this size.

The proposal is therefore acceptable and compliant in the above regards.

Highways

Policy TC9 (Parking Provision in New Development) of the East Devon Local Plan states that spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.

The application form indicates that the exiting property is served by three off-street parking spaces. Following the proposed subdivision, this would leave two of these spaces for the existing property and a single space for the new dwelling. While it is acknowledged that this would be a breach of policy, given the availability of on-street parking in the surrounding area and its location within a BUAB, this is not considered to represent a reason for refusal in itself.

The proposal is therefore acceptable and compliant in the above regards.

Other Considerations

Habitat Regulations Assessment (HRA)

With the proposed development not materially increasing the footprint of the existing building, the statutory HRA payment does not apply in this instance.

Cllr Hall's Comments

With reference to the objection received from the local councillor, the precedent for similar development resulting from a planning decision does not represent valid grounds for refusal. This principle is established by caselaw and wider appeal decisions. For these reasons, it is not considered reasonable to refuse this application on the precedent established by the development. Weight is also given to the decision of application reference 15/0395/FUL that has already demonstrated that development of this sort could be considered acceptable.

Conclusion

Although the objection to the proposal raised by the ward member have been acknowledged, it is considered that the compliance of the proposal with the relevant national and local policies would weigh in favour of the development. The proposal is therefore considered to be acceptable and the scheme is recommended for approval.

RECOMMENDATION

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 dwelling hereby permitted shall not be occupied until details of waste storage and secure cycle/scooter storage facilities have been submitted to and approved in writing by the Local planning Authority and have provided within the site for both dwellings. These shall thereafter be retained in perpetuity.
(Reason - In the interests of promoting sustainable travel and the disposal of waste in accordance with Strategy 5B (Sustainable Transport), Policy TC4 (Footpaths, Bridleways and Cycleways) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)

4. Prior to occupation of the dwelling hereby approved the rear amenity space shall be subdivided from the host dwelling by a 1.8 m high close boarded fence or similar structure as indicated in the approved plans and the related amenity space made available for use by occupants of the dwelling hereby approved and retained as such for the lifetime of the dwelling.
(Reason – To ensure the long term amenity of the occupiers of the site)

5. The parking for the proposed new dwelling as indicated in the proposed plans shall be made available for its occupiers for the lifetime of the development.
(Reason - To ensure that adequate parking provision remains available in accordance with Policy TC9 – Parking Provision in New Development of the Adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council 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:

NO 5	Combined Plans	12.10.23
NO 4	Proposed Elevation	12.10.23
NO 3	Proposed Floor Plans	12.10.23
	Location Plan	07.10.23

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.

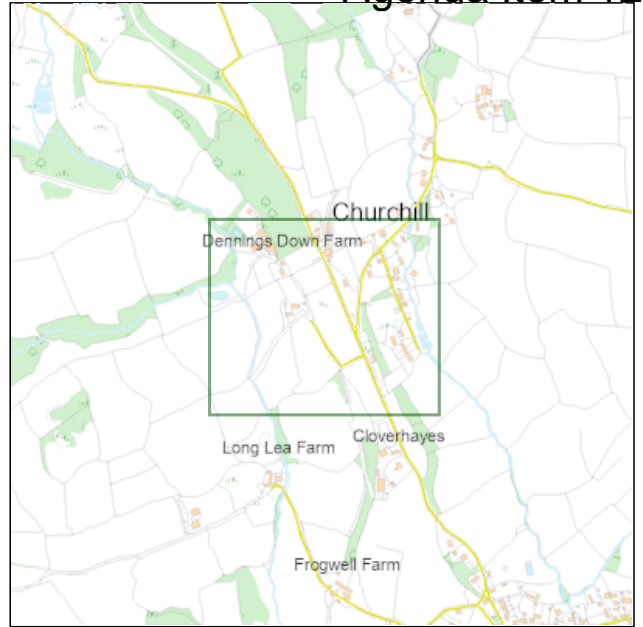
Ward Yarty

Reference 23/1278/FUL

Applicant Mr Hamish Bengough

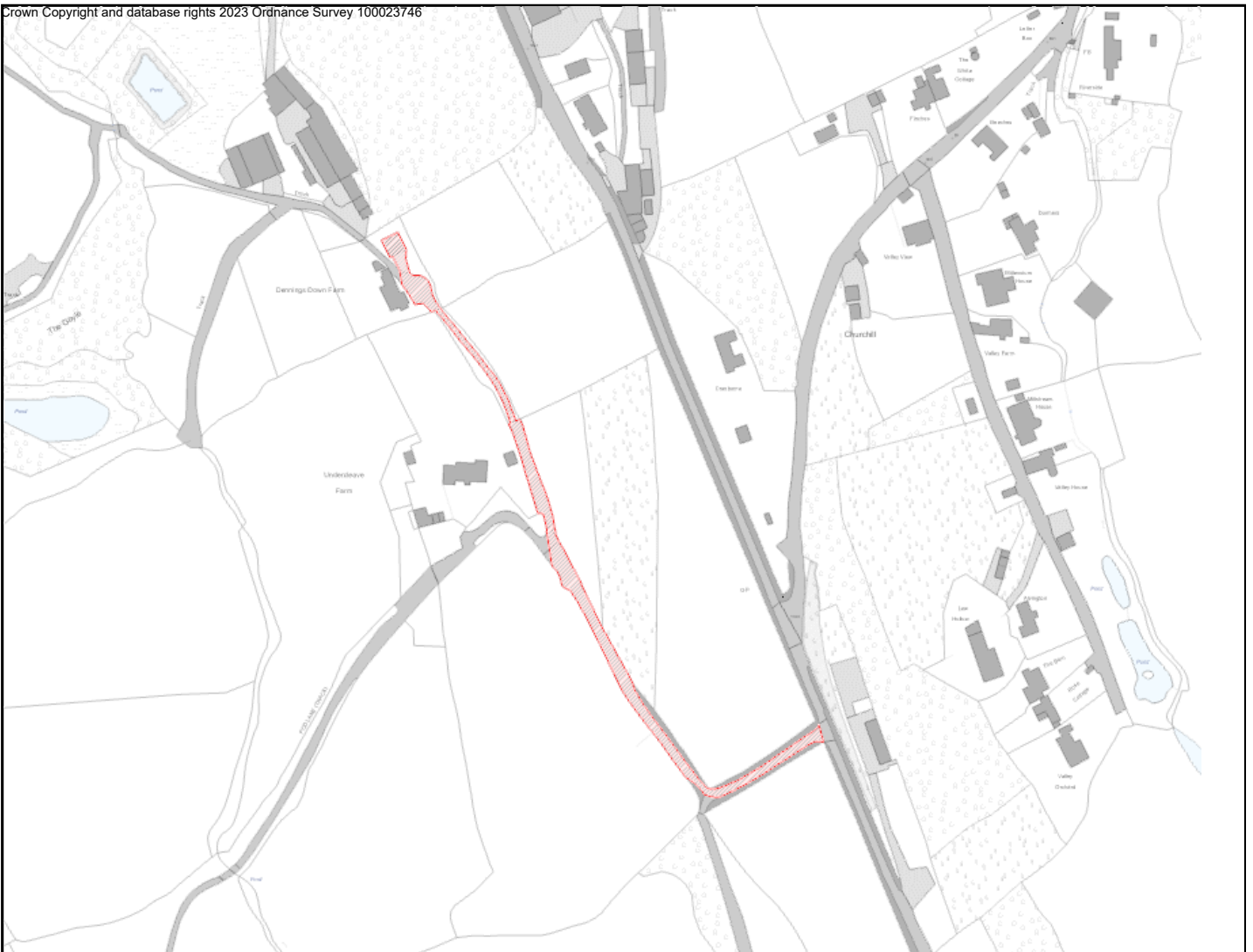
Location Dennings Down Smallridge Devon EX13 7JN

Proposal Replace garage store with timber frame two-storey educational classroom space and farm office.



RECOMMENDATION: Refusal

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		Committee Date: 19.12.2023
Yarty (Membury)	23/1278/FUL	Target Date: 18.08.2023
Applicant:	Mr Hamish Bengough	
Location:	Dennings Down, Smallridge, EX13 7JN	
Proposal:	Replace garage store with timber frame two-storey educational classroom space and farm office.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Committee as the officer recommendation for refusal is contrary to the view of a ward member. The Parish council also raise no objection to the proposal.

The proposal is to demolish an existing garage/store building and replace it with a two storey building occupying a similar footprint, with a raised external ramp/walkway to access the first floor. The building would be used as a classroom/farm office and is intended to support the expansion of the provision of learning opportunities to schools, community groups and children, which already takes place at the farm.

The site is in the countryside and the Blackdown Hills National Landscape (Formerly known as an AONB). It lies to the south of an existing farm complex and to the east of a farm dwelling and is bounded by Membury Footpath 6. The proposed building would be located to the immediate south of a group of existing mature oak trees, partly beneath their canopy. These trees are protected by a TPO.

The provision of a building for community use and outdoor recreation purposes is supported in principle by Policies RC4 (where no existing buildings are suitable) and Policy RC6 of the East Devon Local Plan, where certain other provisos are met. However the tree officer advises that notwithstanding the fact that the development could be carried out using methods to avoid harm to tree roots, the location of the building in close proximity to the mature oak trees would put those trees at risk of being heavily cut back or felled, due to their being overbearing, causing shading and/or the perception that the trees would potentially cause harm. These potential conflicts between the mature trees and the building are considered particularly likely to arise because the building is taller than the existing building which it would replace and it would be occupied frequently its use as a classroom is of a different nature to the existing

garage/store use. The tree officer considers that these conflicts would be likely to lead to pressure for the trees to be heavily pruned or felled. Such cutting back or felling would harm natural features, the amenity of the area and the character and appearance of the National Landscape in conflict with Local Plan Policies D1 (Design and Local Distinctiveness), D3 (Trees and Development Sites) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Membury Neighbourhood Plan Policy Policy NE1 (Conserving and Enhancing the Natural Beauty of our Parish), which sets out a presumption of natural features such as trees being conserved. Additional arguments in support of the application have been considered, including a lack of alternative suitable sites and that the Council could protect the trees with a Tree Preservation Order. It is unclear, however, why an alternative site would not be suitable and notwithstanding the recent protection by TPO this does not guarantee that work to trees or their felling would never take place, as the need for such actions might be successfully argued and permission granted, particularly given the scale of the building and the nature of its proposed use.

No unresolved concerns have arisen in relation to other issues. In the case that permission is granted the external materials of the building could be controlled by condition to ensure its visual impact is acceptable and a condition is recommended to protect nesting birds and to require that the biodiversity enhancement measures recommended in the ecology report be carried out. Notwithstanding this however, it is not considered that the benefits of the proposal outweigh the identified potential loss to the quality of trees and the harm to the National Landscape. As such the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

no objections

Yarty - Cllr Duncan Mackinder

I am happy to support this application which enhances ability to provide much needed educational opportunities to local groups.

Technical Consultations

EDDC Trees

Objection on the basis of conflict with significant mature oak trees, notwithstanding the construction method proposed. Following re-consultation on additional reasoning supplied by the applicant's arboricultural consultant, the tree officer has confirmed that his objection stands.

Blackdown Hills AONB Project Partnership

Thank you for requesting observations from the Blackdown Hills AONB Partnership on this application.

We note that the building to be replaced is of no architectural merit, the siting is well related to nearby buildings and trees and the proposal relates to existing farm activities. As such we do not wish to submit any detailed comments on this occasion, and would look to the planning authority to apply national planning policy and its own development management policies to the consideration of this proposal.

Other Representations

None have been received.

PLANNING HISTORY

A permission has previously been granted in relation to an agricultural building and to allow the creation of a pond but none are relevant to this application.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies (LP)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

RC4 (Recreation Facilities in the Countryside and on the Coast)

RC6 (Local Community Facilities)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Neighbourhood Plans

Membury Neighbourhood Plan (Made) (NP)

Policy NE1 - Conserving and Enhancing the Natural Beauty of our Parish

Policy NE2 Preserving Tranquillity & our Dark Skies

Policy BHE2 – Maintaining the Built Character of Our Parish through High Quality Design

Policy TRA1 – Rights of Way (Public Footpaths and Bridleways)

Government Planning Documents
National Planning Practice Guidance

NPPF (National Planning Policy Framework 2023)

Other Documents

Blackdown Hills AONB Management Plan 2019 – 2024 (NB The Blackdown Hills AONB is now referred to as The Blackdown Hills National Landscape).

Site Location and Description

The site is in the countryside near to the small settlement of Churchill. It is a short distance away from other small settlements including Smallridge and Allsaints and it lies approximately 3.2 km to the north of the larger settlement of Axminster. It lies within the Blackdown Hills National Landscape (formally known as the Blackdown Hills AONB) and is located within the catchment of the River Axe SAC.

The wider context of the site is a working farm, with the site lying to the south of the main agricultural complex and to the northeast of the farmhouse. The wider context is comprised of agricultural fields and small wooded areas. The site is located on land which slopes down to the west, towards the bottom of a stream valley. The site is currently occupied by a single storey garage/store building, part of which is open-sided. There are a number of mature oak trees to the north of the garage which are part of a wider woodland area to the north and which have recently been protected by a TPO. The tree canopy partly overlaps the site. The site is accessed from the unclassified public highway which lies to the south via a long private drive which passes close to the east of Undercleave Farm, which is Grade II Listed, and lies approximately 91m south of the site. Membury Footpath 6, which has an irregular route but trends approximately east-west, passes close to the west and south and east of the site.

There are no dwellings in close proximity to the site other than the applicant's, the nearest being Undercleave Farm 91 m to the south.

Proposal

Dennings Down Farm has existing links with schools, community groups and home schooled children and provides learning opportunities in relation to farming activities, traditional craft skills, foraging and well-being, however there is no suitable building available to support these activities. It is proposed to demolish the existing garage/store building and replace it with a two-storey timber frame building with a gambrel style roof. To enable the farm to expand these activities the proposed building would provide a classroom/store on the ground floor (together with a covered storage area for coats and boots) and the first floor would provide a classroom and farm office. The building would have a ramp/walkway to access the first floor and it would have a balcony on the opposite site. The building would be heated and would be accessible for wheelchair users. It would provide views across a valley within the Blackdown Hills National Landscape. It would not be used for overnight stays. There is already a composting WC at the site. Parking space for 5 cars is already available at the site for visiting children/adults however walking from the local primary school would also be encouraged. It is stated in the application that

the building may be eligible for grant support from the Blackdown Hills Farming in Protected Landscape programme. An email from an officer in the Blackdowns National Landscape group refers to the learning opportunities currently offered to children visiting the farm.

The building would be constructed using screw piles to try to avoid damage to tree roots. The proposed building would have a slightly larger footprint than that of the existing garage/store, providing an additional 14 m² of floor space.

ANALYSIS

The main issues for consideration include the principle of the proposal, impact on trees, visual impact, impact on wildlife, highway safety and parking, impact on a public right of way and impact on heritage assets.

Principle

Development in the countryside is resisted by LP Strategy 7 except where it is specifically supported by another local plan policy. The proposal relates, in part, to the use of a new building as a classroom by the community (children and schools). It is therefore considered that the requirements of LP Policy RC6 (Local Community Facilities) are relevant to the proposal, notwithstanding that the facility would be privately owned. It is also considered that in some respects the proposal is akin to a recreational facility in the countryside, given that attendees would sometimes be engaged in activities outdoors, and for this reason the proposal is also considered against the requirements of LP Policy RC4 (Recreation Facilities in the Countryside and on the Coast).

Policy RC6 states that in the countryside, proposals will only be permitted if they meet a number of criteria and where the need for the facility has been proven. Whilst no proof of the need for the classroom facility has been provided it is acknowledged that it is intended to support the provision of educational activity for attendees and that existing farm buildings may not be available or suitable (being unlikely to have been designed for a classroom purpose). Policy RC6 also requires that facilities be well related to the built form of the existing settlement. The site is near the settlement of Churchill but it is not immediately alongside the built development of its main settlement area. Therefore the proposal does not meet this locational requirement of Policy RC6. However, where the nature of the activities undertaken at a recreational facility require a countryside location, LP Policy RC4 offers support for it being located in the countryside. Given that the proposed facility is intended to provide activity relating to farming and foraging (amongst other activities) it is considered that it reasonably requires a countryside location. Consequently it is considered that despite the site's remote location, which is not within or near a large settlement or within convenient reach of public transport services, the proposal derives support from Policy RC4. Policy RC4 also requires that where indoor areas are needed use should be made of existing buildings, however as indicated above, it is understood that existing farm buildings may not be suitable for use as a classroom, particularly if they are still required for the purposes of agriculture. Given the support which the proposal draws from LP Policies RC4 and RC6 it is considered that the proposal is acceptable in principle. The further relevant requirements of LP Policies RC4 and RC6 are discussed under the headings below.

In part, the proposal also relates to an agricultural use, as a mixed use as a classroom and farm office is proposed. Agricultural development is supported through LP Policy D7, however where a proposal could give rise to certain adverse impacts there must be a genuine agricultural need for it, in order that it is considered acceptable in principle. The farm is already operating and it is unknown where the farm office work is currently carried out or why a new farm office space is required. It is therefore not known whether there is a genuine need for new farm office space, however given that the provision of a classroom building is acceptable in principle and that the farm office would occupy the same space as one of the proposed classrooms (presumably operating interchangeably with classroom activities) it is not considered that this point weighs significantly against the proposal.

Trees

There are four oak trees covered by a TPO and a holly and an ash tree in the vicinity of the development site. The canopies of a mature oak tree (labelled as T2) overlaps the existing garage. A tree survey, arboricultural appraisal and impact assessment have been provided with the application. These documents indicate that the oaks near the site are classed as category B (moderate quality) whilst the holly and ash are category C (low quality). The survey report indicates that the existing garage is within the root protection areas of several trees and it recommends a specific construction method for the building and raised walkway in order to avoid damage to tree roots. The footprint of the proposed building and the location of the walkway are not shown in relation to the root protection areas or canopies of the trees but it is nevertheless clear from other plans that the proposed building and walkway would have a slightly different footprint to the existing building.

The preamble to LP Policy D3 recognises that trees, both individually and collectively, make an important contribution to the amenity, character and environmental value of the district. It is noted that in this case the trees are in close proximity to Membury Footpath 6 such that they are readily visible from public viewpoints on this footpath. The tree officer has assessed the proposal and whilst he considers that the use of piled foundations may protect the roots of trees during construction, he also considers that the proximity of the proposed building to large mature oak trees would cause issues for the building in relation to overbearing, shading and the perception that the trees would cause harm. He considers that this would be likely in turn to lead to pressure for the trees to be heavily pruned or felled. The officer acknowledges that the existing garage building has not apparently caused a conflict with trees but he points out that the proposed replacement building is larger than the garage (with 2 storeys, whilst the garage is only single storey) and that the nature of its use would be different from that of the existing garage, with the building being likely to be occupied for several hours a day throughout the year. In response to these concerns the agent submitted further information to justify the proposal, including comments from the applicant's appointed arboricultural consultant. The points raised in support are summarised below:

- this is the only suitable location for the new building as it can be accessed without driving through the working farm and is away from working farm buildings, which can be dangerous places;
- the building is close to services and the existing composting WC;

- the building is the only building which can be replaced without affecting the running of the farm;
 - the proposed building would benefit from a good view of the AONB, which supports the purpose of the classrooms;
 - the applicant has an intimate relationship with the surrounding landscape and its natural features;
 - the existing garage has co-existed with the trees for many years and the adjacent trees will be managed so that they can co-exist with the new building;
 - the Local Planning Authority could make a Tree Protection Order (TPO) to regulate pruning works to the trees. (this has now happened)
- The tree officer has been consulted on this additional information however his concerns have not been resolved.

There is no reason other than to agree with the views of the tree officer, particularly given that the nature of the proposed use would be different from the incidental residential use of the existing garage and that the proposed building would accommodate visiting groups of children, which may give rise to a perceived risk of harm from the existing mature trees in close proximity to the building.

The points made by the agent and the applicant's arboricultural consultant are noted and understood. It should be noted however, that if permission is granted the building would be permanent and its permission would be tied to the land rather than to particular owners, such that the future use of the building and the way that trees in close proximity to it are considered and managed is not something that can be assumed.

A Tree Preservation Order has very recently been applied to the mature oak trees adjacent to the site but nevertheless it may be difficult for the Council to resist a future application for work to trees/felling if an argument is made that the trees are causing problems to the users of the building or potential harm.

There appears to be other space available within the holding, e.g. near the main farm complex or in the vicinity of the farm house, which could accommodate a new building whilst avoiding a potential conflict with existing mature trees. Whilst the benefits of the classroom building having an attractive view and being located in proximity to the existing composting WC are understood, outdoor activity at the site appears to be an inherent part of the educational activity offered, such that attendees should be able to appreciate the surrounding National Landscape even if the classroom building were to be located where it may not have a good view. It is also considered that a composting WC would be a relatively simple structure to erect (or relocate) at a new site, if required.

It is therefore not considered, overall, that there are benefits arising from the current proposal which outweigh the identified potential harm to tree quality within site's surroundings, which are part of the highly protected National Landscape. It is therefore considered that the potential risk to the quality of trees in the area which would be caused by the proposal conflicts with the requirements of LP Policies D1 and D3 and also NP Policy NE1, which sets out a presumption that existing natural features, such as trees, shall be conserved.

Visual Impact

The proposed building would be erected near an existing farm complex and dwelling and would therefore meet the one of the locational requirements of LP Policies RC4 and RC6, which requires that development be near existing built development. The proposed building would be erected largely on the site of an existing single storey garage/store building and whilst it would be taller, consisting of 2 storeys instead of 1, the new building would represent a fairly modest increase in scale compared to the existing building, given that the first floor accommodation would use the roofspace within the building. The proposal would not therefore not significantly increase the quantum of development in the countryside. The building would have timber clad external walls and a roof of corrugated metal sheeting, the colour of which could be controlled through the imposition of a condition.

It is therefore considered that the building would be visually recessive and that it would blend acceptably within the context of the farmhouse, mature trees and the adjacent farm complex to the north. LP Policy RC4 requires that parking associated with recreation facilities should be discrete however given that the parking provision at the site is not proposed to increase over that which already exists it is not considered that any new visual impact would arise in relation to parking.

The visual impact of the development is considered to be acceptable.

Wildlife

The proposal involves the demolition of an existing building and the proposal is therefore supported by a wildlife survey, however the surveyor's report is based on the proposal being for the conversion of the garage rather than its demolition. Nevertheless the surveyor concludes that the garage building is unsuitable for roosting bats and no evidence was found of nesting birds in the garage at the time of the survey.

No precautions have been recommended in relation to bats however measures for biodiversity enhancement are recommended, including the provision of new roosting opportunities for bats (through the installation of a bat tube) and nesting opportunities for birds (through the provision of a bird nest box).

In the case that permission is granted conditions are recommended to prevent demolition during the bird nesting season unless a check by a qualified ecologist, carried out immediately prior to demolition, confirms that nesting birds are not present. A condition is also recommended to require that the enhancement measures referred to by the ecologist be carried out within a three month period following the commencement of the use of the development.

With the suggested conditions in place the proposal would accord with the requirements of LP Policy EN5 and NP Policy NE1.

Highway Safety and Parking

The supporting information indicates that the community use, which the proposed building is intended to accommodate, is already operating at the site. This use might occur more often than it does currently, due to the development, but as the building is small scale it would tend limit the number of attendees, such that the provision of

the building is not considered likely to significantly increase traffic to and from the site. No changes are proposed to the existing access arrangements and the Highway Authority have raised no objection or made any request for further information in relation to the proposal. It is therefore considered that the development would be acceptable with regard to impacts on the local highway network and that the highway safety and traffic requirements of LP Policies TC7 and RC6 would be met.

Sufficient space is available within the site for parking 5 cars, as per existing arrangements. Given that the number of attendees would be limited by the scale of the building, as referred to above, this level of parking is considered to be sufficient such that the requirements of LP Policy TC9 would be met.

Public Right of Way

Although the proposed building would be adjacent to Membury Footpath 6, given that there is already a garage, incidental to the dwelling, at the proposed site of the building and that the community use which the proposed building is intended to accommodate (together with associated parking) is already operating there it is not considered that any new impact on this right of way, such as conflict with traffic, would arise, such that the proposal would not conflict with the requirements of LP Policy TC4.

Heritage assets

Special regard is had to the potential impact of the proposal on the setting of the grade II listed Undercleave Farm dwelling, however given that the proposal represents a relatively small scale increase in the built form at the site and it's distance from that building, it is considered that no harmful impact on the setting of the listed building would be likely to arise.

Other issues

Given that the site is not in close proximity to dwellings other than the applicant's it is not considered that it would be likely to have an adverse impact on residential amenity, such that the requirements of LP Policies D1, RC4 and RC6, with regard to residential amenity, are considered to be met.

CONCLUSION

The proposed classroom development would support the provision of an education service to the community which represents a social benefit. Its remote countryside location is considered to be justified, given the nature of some of the particular educational activities to be offered. No concerns arise in relation to the visual impact of the proposal and it is considered to be acceptable in many relevant respects, however the proposed development is considered likely to generate a risk to the quality of existing mature trees protected by a TPO, which are in close proximity to the site, through putting pressure on those trees to be heavily pruned or felled. The reduction in the quality of trees at the site would harm the character and amenity of the area and in turn the Blackdown Hills National Landscape. In the absence of adequate justification for this risk the proposal is considered to represent unsustainable development.

RECOMMENDATION

REFUSE for the following reason:

1. The proposed classroom/farm office building is located in close proximity to four mature oak trees to the north of it covered by a Tree protection Order and the building and associated raised ramp/walkway would be underneath the tree canopy area. The trees are an important natural landscape feature within the Blackdown Hills AONB and are visible from Membury Footpath 6 in both close and more distant views. Due to the building being taller than the existing garage/store which it would replace, its proximity to the trees and the nature of the classroom use, the proposal would put pressure upon those trees to be removed, thinned, lopped or topped, in order to avoid overbearing, shading and the perception that the trees might cause harm, which would cause material harm to the trees and to the Blackdown Hills National Landscape, in conflict with Strategy 46 (Landscape Conservation and Enhancement and AONBs), and Policies D1 (Design and Local Distinctiveness), D3 (Trees and Development Sites) of the East Devon Local Plan and Policy NE1 (Conserving and Enhancing the Natural Beauty of our Parish) of the Melbury Neighbourhood Plan and the provisions of the National Planning Policy Framework, 2023.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

Plans relating to this application:

DDF/PROP/03	Proposed Floor Plans	16.06.23
DDF/PROP/04	Proposed Floor Plans	16.06.23
DDF/PROP/05	Proposed Elevation	16.06.23
DDF/PROP/06	Proposed Elevation	16.06.23
DDF/PROP/07	Proposed Elevation	16.06.23
DDF/PROP/08	Proposed Elevation	16.06.23
DDF/PROP/01B	Location Plan	11.09.23
DDF/PROP/09B : combined	Block Plan	11.09.23

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.

Appendix 1

Tree officer comments

24/8/23

I have some concerns about the application and in particular the proposed siting of a classroom in close proximity to large mature oak trees. While the use of piled foundations may be feasible within the RPAs of the trees to protect the underlying roots during construction the closeness of the new building to the trees would potentially cause significant issues with overbearing, shading and the perception that the trees might cause harm, this would in turn likely lead to pressure for the trees to be heavily pruned or even felled. While I accept there has been a garage building on the site for a number of years that has apparently not caused conflict with the trees, the proposed 2 storey classroom/office, is a more substantial structure that would presumably be occupied for several hours per day throughout the year; this is potentially problematic for the above reasons.

It doesn't seem to have been sufficiently justified or explained why the new building needs to be constructed on the site of the old garage and whether or not other options have been explored.

I would object to this application in its current form due to the potential conflict it would cause with the significant large mature oak trees on the site.

14/11/23 (Following consultation on email from agent including further comment from applicant's appointed arboricultural consultant).

It appears there is no new information in the email, rather a repetition of previous points made in the AIA, therefore my previous comments would still apply

If the application is approved I recommend there is a pre commencement condition requiring a TPP and detailed construction AMS to include the use of piled foundations, access arrangements and services

Ward Yarty

Reference 23/1997/FUL

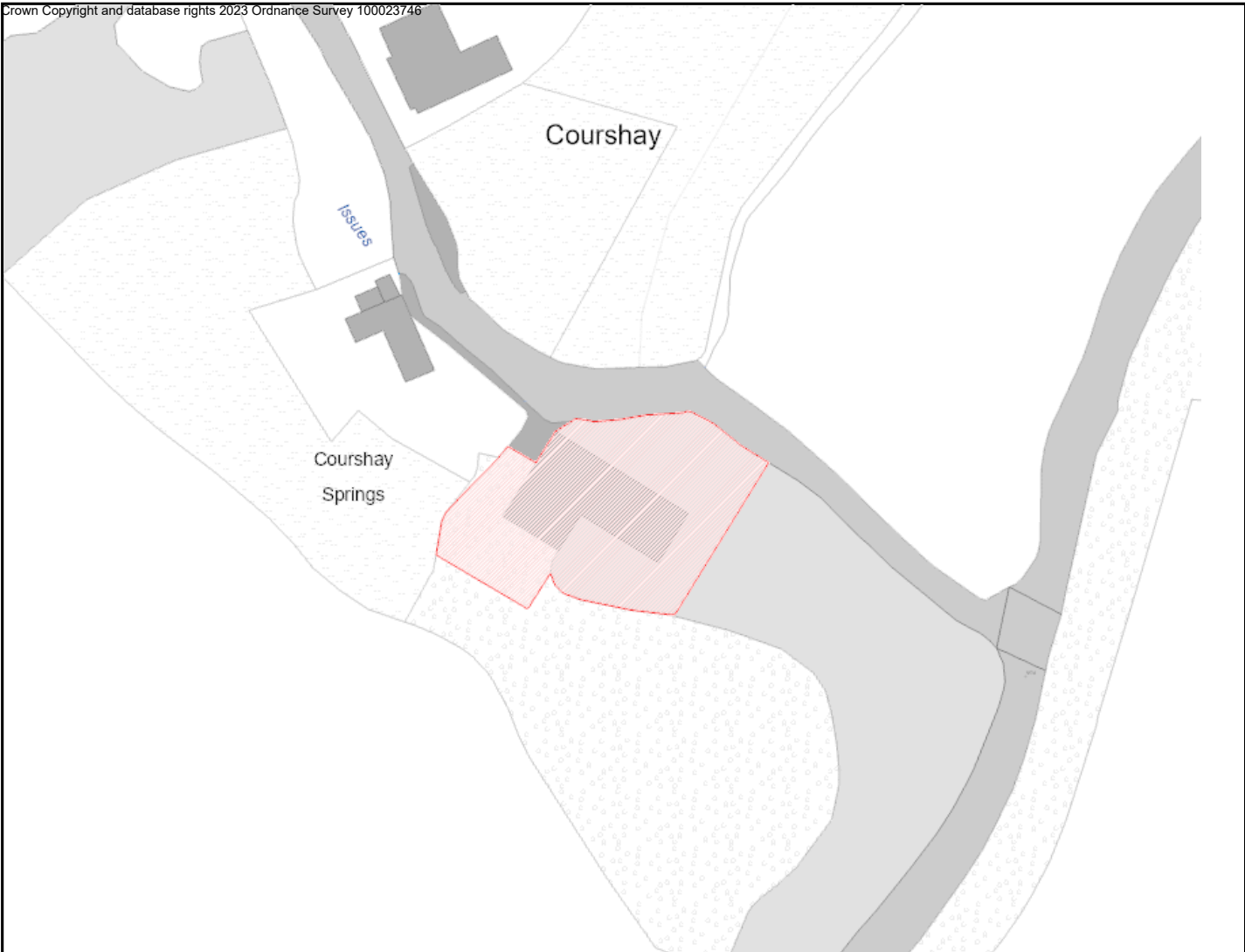
Applicant Sharon and Nigel Harding

Location Land And Building South East Of Courshay Springs Hawkchurch

Proposal Demolition of existing buildings and construction of 1 no. dwellinghouse (alternative to conversion of a redundant building to form 1 no. residential dwelling and associated works approval reference 21/3211/FUL).



RECOMMENDATION: Adopt the Habitats Regulations Assessment and Approve with conditions



		Committee Date: 19.12.2023
Yarty (Hawkchurch)	23/1997/FUL	Target Date: 15.11.2023
Applicant:	Sharon and Nigel Harding	
Location:	Land And Building South East Of Courshay Springs Hawkchurch	
Proposal:	Demolition of existing buildings and construction of 1 no. dwellinghouse (alternative to conversion of a redundant building to form 1 no. residential dwelling and associated works approval reference 21/3211/FUL).	

RECOMMENDATION: Adopt the Habitats Regulations Assessment and Approve with conditions

EXECUTIVE SUMMARY

This application is before the Planning Committee because the applicants are related to an officer of the Council.

Planning permission is sought for the demolition of a former workshop building and the construction of a dwelling in its place. This is an alternative to the extant planning permission for the conversion of the workshop which was granted by the Planning Committee in February 2022 under reference 21/3211/FUL.

The proposal is a departure from the Local Plan because, whereas there is policy support for the conversion of rural buildings, there are no policies that support their replacement with dwellings.

Notwithstanding the lack of policy support for the principle, the fallback position whereby a dwelling would be delivered on the site is a material consideration which carries significant weight. The existence of the fallback position justifies supporting the principle of the development in this case, but the proposal also needs to deliver a betterment compared to the fallback position to justify support overall.

The proposed dwelling draws inspiration from stone barns in the locality and, although larger than the approved conversion, would be compatible with local architecture and demonstrate the key quality of local distinctiveness. Aesthetically it would be a significant improvement on the approved conversion.

In view of the fallback position and the design betterment than would be delivered, the proposal is supported.

CONSULTATIONS

Local Consultations

No responses have been received from the Parish Council or the Ward Member.

Other Representations

None received.

Technical Consultations

None required.

PLANNING HISTORY

Reference	Description	Decision	Date
EJ/4273	Implement store	Approval with conditions	07.07.1961
21/3211/FUL	Proposed conversion of a redundant building to form 1 no. residential dwelling and associated works.	Approval with conditions	18.02.2022

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

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

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

EN16 (Contaminated Land)

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

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

Site Location and Description

The site is located just to the east of the main settlement of Hawkchurch amongst a small cluster of dwellings at Courshay. It forms part of a larger area of land which was formerly used for a mix of agricultural and industrial purposes but is in the process of being cleared of the detritus left over from that use. At the western end of the site is a former workshop building. There is a residential property neighbouring the site to the west and a lane on the north side. The main access is currently from a gate at the east end of the yard but there is also a pull-in at the western end of the site adjacent to the neighbouring dwelling. To the north, east and south there is agricultural land sloping down to the north east. The site is in an undesignated area of countryside between the East Devon, Blackdown Hills and Dorset National Landscapes (formerly known as AONBs).

ANALYSIS

Proposal

Planning permission is sought for the demolition of a former workshop building and the construction of a dwelling in its place. This is an alternative to the extant planning permission for the conversion of the workshop which was granted by the Planning Committee in February 2022 under reference 21/3211/FUL.

In the approved conversion scheme the form of the original building was largely unchanged other than the addition of a dormer extension to the south west elevation and the demolition of a roughly built single storey extension at the rear.

In comparison to the approved scheme, the new dwelling would provide an additional 40 square metres of floor space, comprised of around 45 square metres more first floor space and around 5 square metres less ground floor space. The overall length of the new building would be around 3m shorter than the approved conversion but the floor space lost at ground floor would be partly gained back by adding a single storey extension. At first floor level, additional floor space would be gained by reducing the amount of void space over the ground floor and lengthening the first floor by around 3.5m.

The other key difference is that the new building would be around 1.7m taller than the approved conversion, with a steeper roof pitch and a higher eaves.

As before, garden would extend around the property and access would be from a driveway on the north west side of the building to a parking area on the south west side.

Main issues

The main issues are:

- whether the proposed development would provide a suitable location for the construction of a dwelling having regard to the policies of the Local Plan and the existence of the fallback position; and

- whether the proposal would represent a betterment in terms of the effect on the character and appearance of the area compared to the fallback position.

Location

The site is in the countryside outside the main settlement of Hawkchurch but is not regarded as being isolated because it is part of a cluster of about 9 dwellings at Courshay. Although it is not isolated, it is in the countryside for planning policy purposes and in such locations new dwellings are only supported if there is support in a specific local or neighbourhood plan policy. There is no neighbourhood plan in this case and no support in the Local Plan for the construction of a dwelling in place of a workshop. Consequently, the proposal is not in accordance with the provisions of the Local Plan.

However, the fallback position would result in the delivery of a dwelling in this location and there is a real prospect of the development going ahead. Case law, including *Mansell v Tonbridge and Malling Borough Council* [2017], has established that such a fallback position is a material consideration. In this case, as there is no impediment to the permission being implemented, the fallback position attracts significant weight. Owing to the existence of the fallback position, the principle of constructing a dwelling in place of the workshop is acceptable in this instance.

Character and appearance

The proposed scheme would result in an enhancement to the site by virtue of the removal of extraneous structures, objects and scrap materials and the provision of landscaping. The same benefits would arise from the fallback scheme and therefore these benefits carry neutral weight in the assessment of the effect on the character and appearance of the area.

The key question is whether the scale and appearance of the new-build dwelling would result in a betterment compared to the approved conversion.

By virtue of being taller and longer (at first floor) than the approved conversion, the new dwelling would appear bulkier and more prominent. Additional bulk would also be added at the rear with the construction of a single storey wing. Although this wing would be similar in scale to the existing roughly built extension, this was to be removed as part of the approved scheme, partly because it was not suitable for conversion and partly to improve the setting of the retained building.

The new building would be almost 25% larger in volume than the fallback scheme (about 866m³ compared to 694m³). Furthermore, because permitted development rights were removed from the planning permission for the conversion, there is no scope for the converted barn to increase in floor area or overall bulk without the express consent of the local planning authority.

Whilst the increase in scale and bulk is substantial, there are no policies that apply to this site that place an upper limit on the size of dwellings. Consequently, there is no fundamental objection to the increase provided the resulting building is compatible with the character and appearance of the area.

The new dwelling has been designed with regard to the character of traditional farm buildings in the locality. In terms of the form of the building, the materials used, and the design of the window and door openings, the proposal is considered to be compatible with local architecture. For example, there are similarities with the stone-built granary at Wyld Court. Although the proposed dwelling is less restrained than the granary in terms of the number of windows, its design is still clearly derived from the local area and demonstrates the key quality of local distinctiveness.

In contrast, although the approved conversion retains the stone walls of the existing building, these are a relatively small component of the elevations. The majority of the walls and roof would be clad in timber and metal and whilst these finishes are typical of modern farm buildings, the resulting design holds limited visual appeal and little connection to the local area.

The proposed new dwelling would be an aesthetic enhancement and would respect the design and appearance of traditional buildings in the locality. The decision to base the design of the dwelling on a converted barn is also considered appropriate given the character of the existing building and its rural setting.

The new building would be visible from the adjacent lane but it would be in proportion with the neighbouring dwelling and its design would be compatible with its surroundings. From more distant vantage points there may be glimpsed views but the site is well screened by the land form and mature trees and hedgerows. Furthermore, in any such views the building would appear well-related to nearby buildings in terms of position, form, appearance and scale and would not detract from the character of the wider landscape.

Overall, therefore, the proposal would result in a betterment compared to the approved scheme.

Other matters

The site is in the catchment of the River Axe SAC where development is required to be 'nutrient neutral'. As already noted, there is an extant permission for a dwelling which was granted a month prior to the advice on nutrient neutrality being issued by Natural England. This permission is a realistic fallback and means that the current proposal would not result in a net increase in the number of existing or approved dwellings in the catchment. A significant effect on the River Axe SAC can therefore be ruled out and the proposal would be compliant with Strategy 47 and The Conservation of Habitats and Species Regulations 2017. A Habitat Regulations Assessment is appended to this report but Appropriate Assessment and consultation with Natural England is not required in this case because a significant effect has been ruled out.

The site is not in a flood zone and the only area of risk from surface water flooding lies to the south east of the building. Consequently, no specific measures are required in this application to address flood risk. However, to ensure compliance with Policy EN22, details of surface water drainage and hard surfacing are required and can be secured by conditions.

Foul sewage is proposed to be disposed of via a package treatment plant discharging to a soakaway. Whilst the suitability of the land for infiltration has not been assessed, the detailed design of the drainage system can be secured by condition to ensure compliance with Policy EN19.

The building has been surveyed for wildlife and it has been concluded that it does not support a bat roost. It is, however, recommended that bat and bird boxes are provided in the development, and these can be secured by condition in accordance with Policy EN5.

Given the former use of the land for industrial purposes, there is a risk of contaminated land being present. To ensure that any contamination is dealt with appropriately a condition is necessary in accordance with Policy EN16.

The north west elevation would face the neighbour's garden at a distance of about 8.2m. The first floor window in that elevation would serve a bathroom and therefore it would be reasonable to impose a condition requiring it to be obscure glazed in the interests of the neighbour's privacy. For the same reason it would also be reasonable to remove permitted development rights for new first floor windows in that elevation. Subject to those conditions the proposal would preserve the neighbour's living conditions, as required by Policy D1.

To preserve the character and appearance of the area and the integrity of the design, it is necessary to remove permitted development rights for extensions to the building, new doors and windows (other than those already shown on the plans) and cladding. This would ensure that the proposal is compatible with Policy D1.

It is proposed to use a former access at the western end of the site which has not been used for some time. Visibility would be adequate given that the lane is a no-through road and only serves a small number of dwellings. Within the site there would be adequate turning and parking space to serve the dwelling. The proposal would therefore comply with Policies TC7 and TC9.

In the absence of a lawful development certificate, it is not clear what the lawful use of the building and land is but based on the activities described in the planning statement it is probably a *sui generis* or mixed use incorporating elements of industrial activity. The proposal would result in the partial loss of a business premises, although the building is currently vacant. However, continued industrial use would significantly harm the environment of the locality and therefore the loss would be compatible with Strategy 32 which seeks to protect business premises only where they are appropriately located.

There is some uncertainty as to the applicant's future intentions for the land beyond the boundaries of the application site. Given that it would retain its current use there is potential for an unneighbourly business to be resurrected. However, whilst this cannot be controlled by way of a condition it is considered to be an unlikely eventuality with the probable outcome being a more benign use.

CONCLUSION

The replacement of a barn or workshop in the countryside with a dwelling is not in accordance with the Local Plan. However, the fallback position whereby the existing building would be converted to a dwelling is a significant material consideration, as established by case law (for example, Mansell v Tonbridge and Malling Borough Council [2017]). Although larger than the approved dwelling, the scale of the proposed dwelling would be in character with its surroundings and its appearance would be an enhancement compared to the approved scheme. Overall, the proposal would result in a betterment compared to the approved scheme and as such it is supported.

RECOMMENDATION

ADOPT the Habitats Regulations Assessment appended to this report

and

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved. (Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice. (Reason - For the avoidance of doubt.)
3. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy shall include the following components:
 1. A preliminary risk assessment which has identified:
 - I. all previous uses
 - II. potential contaminants associated with those uses
 - III. a conceptual model of the site indicating sources, pathways and receptors
 - IV. potentially unacceptable risks arising from contamination at the site
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation

strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same shall be prepared, both of which shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

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

4. No development shall take place (other than demolition) until details of the method of foul drainage to serve the dwelling, including its siting and the necessary percolation system, have been submitted to and approved in writing by the Local Planning Authority. The system shall be designed so as not to cause pollution of any watercourse or water sources. The development shall be carried out in accordance with the approved details.

(Reason - The details are required prior to commencement of construction to ensure that they fit efficiently within the site layout and to ensure that a suitable foul sewage treatment system of adequate capacity and design is available to serve the development in accordance with Policy EN19 - Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems of the East Devon Local Plan 2013-2031.)

5. No development shall take place (other than demolition) until a surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

(Reason - The details are required prior to commencement of construction to ensure that they fit efficiently within the site layout, protect water quality and minimise flood risk in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031 and the guidance contained with the National Planning Policy Framework.)

6. No development above foundation level (other than demolition) shall take place until details of the materials to be used in the construction of the external surfaces of the building (including details of quoins and lintels) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include a sample panel of the stone wall of a minimum 1 square metre in area which shall be constructed on site for inspection by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

7. No development above foundation level (other than demolition) shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local

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

8. The dwelling shall not be occupied until details of the surface finishes of all hard surfaces within the curtilage of the dwelling have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and the surface finishes shall be retained thereafter.
(Reason - In the interests of the character and appearance of the area and to prevent run-off from the site in accordance with Policies D1 - Design and Local Distinctiveness and EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031.)
9. Development shall be carried out in accordance with the recommendations of the Bat and Protected Species Survey prepared by Ecologic Consultant Ecologists (report reference 210837 dated September 2021).
(Reason - In the interests of wildlife protection and habitat creation in accordance with Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan 2013-2031.)
10. Before the dwelling hereby permitted is occupied the first floor bathroom window on the north west elevation shall have been glazed with obscure glass to Pilkington level 4 or equivalent and the obscure glazing of this window shall thereafter be retained at all times.
(Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
11. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C and D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) the dwelling shall not be enlarged, no rooflights, windows, doors or other openings shall be installed in any wall or roof slope (other than those shown on the approved plans), and no part of the exterior of the dwellinghouse shall be clad with artificial stone, pebble dash, render, timber, plastic or tiles without the prior express consent of the Local Planning Authority.
(Reason - To protect the character of the building and the surrounding area and the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

	Location Plan	19.09.23
HARDINGPRO	Proposed Combined Plans	19.09.23
HARDINGPRO2	Proposed Floor Plans	19.09.23
SP500	Block Plan	19.09.23

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.

Habitats Regulations Assessment		East Devon District Council
The Conservation of Habitats and Species Regulations 2017, Section (63)		
Application Reference	23/1997/FUL	
Brief description of proposal	Demolition of existing buildings and construction of 1 no. dwellinghouse (alternative to conversion of a redundant building to form 1 no. residential dwelling and associated works approval reference 21/3211/FUL)	
Location	Land And Building South East Of Courshay Springs Hawkchurch	
Site is:	<p>Within the nutrients Catchment Area for the River Axe SAC as defined by Natural England.</p> <p>See Appendix 1 for list of interest features of the SPA/SAC.</p>	
Step 1 Screening for Likely Significant Effect on the River Axe SAC		
Risk Assessment		
<p>Could the Qualifying Features of the European site be affected by the proposal?</p> <p>Consider both construction and operational stages.</p>	<p>No. There is an extant permission for a dwelling which was granted a month prior to the advice on nutrient neutrality being issued by Natural England. This permission is a realistic fallback and means that the current proposal would not result in a net increase in the number of existing or approved dwellings in the catchment. Consequently, compared to the baseline, there would be no increase in the amount of phosphorus reaching the River Axe as a result of permitting this development.</p>	
Conclusion of Screening		
Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?	<p>In accordance with Natural England guidance, East Devon District Council concludes that the proposal would not have a likely significant effect, when considered either alone or in combination, upon the qualifying features of the River Axe SAC.</p> <p>An Appropriate Assessment of the plan or proposal is not necessary.</p>	
Local Authority Officer	Andrew Digby Senior Planning Officer	Date: 23/11/23

Appendix 1. List of interest features:

River Axe SAC – Component SSSI

H3260 Water courses of plain to montane levels with *R. fluitantis*

S1095 Sea lamprey, *Petromyzon marinus*

S1096 Brook lamprey, *Lampetra planeri*

S1163 Bullhead, *Cottus gobio*

Site Description

Site description: The mixed catchment geology of sandstones and limestones gives rise to calcareous waters where stream water-crowfoot *Ranunculus penicillatus* ssp. *pseudofluitans* dominates, giving way to river water-crowfoot *R. fluitans* further downstream. Short-leaved water-starwort *Callitriche truncata* is an unusual addition to the water-crowfoot community. The diverse flora results from a number of contributing factors. Firstly, the lower reaches of the Axe have high bed stability. Secondly, the river has few trees along its banks, allowing much light to reach the riverbed. Finally, the active geomorphology of the river has generated a range of natural features (including long riffles, deep pools, islands and meanders), which provide a variety of ecological niches. This variety of river channel habitats also supports an important fish community, including Atlantic salmon *Salmo salar*, sea lamprey *Petromyzon marinus*, brook lamprey *Lampetra planeri* and bullhead *Cottus gobio*.

Qualifying habitats

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche* *Batrachion* vegetation. (Rivers with floating vegetation often dominated by water crowfoot)

SAC Conservation Objectives

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.