

**Agenda for Planning Committee  
Tuesday, 16th July, 2024, 10.00 am**



**Members of Planning Committee**

Councillors B Bailey, I Barlow, C Brown, J Brown,  
A Bruce, S Chamberlain, M Chapman,  
O Davey (Chair), P Faithfull, S Gazzard,  
D Haggerty, A Hall, M Hall (Vice-Chair),  
M Howe, S Smith and E Wragg

East Devon District Council  
Blackdown House  
Border Road  
Heathpark Industrial Estate  
Honiton  
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**[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)**

**Venue:** Council Chamber, Blackdown House, Honiton

**Contact:** Wendy Harris, Democratic Services Officer  
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(or group number 01395 517546)

Issued: Wednesday, 3 July 2024

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, 9 July 2024 up until 12 noon on Friday, 12 July 2024 by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

### Speaking on non-planning application items

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

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

The speakers' list and revised running order for the applications will be available on Friday 12 July 2024.

2 **Minutes of the previous meeting** (Pages 6 - 10)

Minutes of the Planning Committee meeting held on 18 June 2024.

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 11 - 27)

Update from the Development Manager

### **Applications for Determination**

8 **24/0415/MFUL (Major) BUDLEIGH & RALEIGH** (Pages 28 - 56)

Ladram Bay Holiday Park, Otterton, EX9 7BX.

9 **24/0331/MFUL (Major) FENITON** (Pages 57 - 80)

Land north and south of Station Road, Warwick Close, Wells Avenue, land opposite Greenacres Close and land adjacent to Ottery Road near Sidmouth Junction Sewage Pumping Station, Feniton.

10 **24/0594/FUL (Minor) BUDLEIGH & RALEIGH** (Pages 81 - 94)

Longboat Café, Marine Parade, Budleigh Salterton, EX9 6NS.

11 **23/1785/FUL (Minor) COLY VALLEY** (Pages 95 - 113)

The Old Reservoir, Ridgeway Lane, Colyton.

12 **24/0195/FUL (Minor) DUNKESWELL & OTTERHEAD** (Pages 114 - 131)

Twistgates Farm, Upottery, EX14 9PE.

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**

Agenda Item 1

**Planning Committee, Tuesday, 16 July 2024 – 10am**  
**Speakers' list for the planning applications**

<b>Agenda item 8</b> <b>Application number: 24/0415/MFUL (Major) Pages 28 - 56</b> <b>Ward: Budleigh &amp; Raleigh</b> <b>Address: Ladram Bay Holiday Park, Otterton, EX9 7BX</b> <b>Ward Member: Councillor Charlotte Fitzgerald / Councillor Melanie Martin / Councillor Henry Riddell</b>	
<b>Objector</b>	Dee Woods on behalf of Otter Vale Association Tel: 01395 568 822
	Geoff Porter
	Ian Birch
<b>Otterton Parish Council</b>	Roger Pellow
<b>Agent</b>	Jeremy Lambe
<b>DCC Ward Member</b>	Councillor Jess Bailey
<b>Ward Member</b>	Councillor Charlotte Fitzgerald Councillor Henry Riddell

<b>Agenda item 9</b> <b>Application number: 224/0331/MFUL (Major) Pages 57 - 80</b> <b>Ward: Feniton</b> <b>Address: Land north and south of Station Road, Warwick Close, Wells Avenue, land opposite Greenacres Close and land adjacent to Otter Road near Sidmouth Junction Sewage Pumping Station, Feniton</b> <b>Committee Ward Member: Councillor Alasdair Bruce</b>	
<b>Applicant</b>	Tom Buxton-Smith
<b>Portfolio Holder, Coast, Country &amp; Environment</b>	Councillor Geoff Jung

<b>Agenda item 10</b> <b>Application number: 24/0594/FUL (Minor) Pages 81 - 94</b> <b>Ward: Budleigh &amp; Raleigh</b> <b>Address: Longboat Café, Marine Parade. Budleigh Salterton, EX9 6NS</b> <b>Ward Member: Councillor Charlotte Fitzgerald / Councillor Melanie Martin / Councillor Henry Riddell</b>	
<b>Ward Member</b>	Councillor Charlotte Fitzgerald Councillor Henry Riddell

**Agenda item 11**  
**Application number: 23/1785/FUL (Minor) Pages 95 - 113**  
**Ward: Coly Valley**  
**Address: The Old Reservoir, Ridgeway Lane, Colyton**  
**Ward Member: Councillor Paul Arnott / Councillor Helen Parr**

<b>Objector</b>	Pam Patterson
<b>Applicant</b>	Lewis Pring Tel: 07968 443 186

**Agenda item 12**  
**Application number: 24/0195/FUL (Minor) Pages 114 - 131**  
**Ward: Dunkeswell & Otterhead**  
**Address: Twistgates Farm, Upottery, EX14 9PE**  
**Ward Member: Councillor Yehudi Levine**  
**Committee Ward Member: Councillor Colin Brown**

<b>Objector</b>	Hans Nelis Tel: 0775 474 871
<b>Agent</b>	Henry Lascelles

**EAST DEVON DISTRICT COUNCIL****Minutes of the meeting of Planning Committee held at Otter & Clyst Rooms, Blackdown House, Honiton on 18 June 2024****Attendance list at end of document**

The meeting started at 10.08 am and ended at 4.26 pm. The meeting was adjourned at 12.15 pm and reconvened at 12.30 pm and adjourned for lunch at 1.25 pm and reconvened at 2.08 pm.

**170 Minutes of the previous meeting**

The minutes of the Plannings Committee meetings held on 21 May and 24 May 2024 were confirmed as true records.

**171 Declarations of interest**

Minute 175. 24/0263/MFUL (Major) SIDMOUTH TOWN.  
Councillor Maddy Chapman, Affects and prejudicial Non-registerable Interest, Godmother to a public speaker objecting to this application.

Minute 175. 24/0263/MFUL (Major) SIDMOUTH TOWN.  
Councillor Olly Davey, Affects Non-registerable Interest, Known to one of the public speakers objecting to this application.

Minute 175. 24/0263/MFUL (Major) SIDMOUTH TOWN  
In accordance with the Code of Good Practice for Councillors and Officers dealing with planning matters as set out in the constitution the Chair, on behalf of Committee Members, advised lobbying in respect of this application.

Minute 176. 23/1657/FUL (Minor) SIDMOUTH TOWN.  
Wendy Ormsby, Directly relates Non-registerable Interest, The applicant is a close associate of a family member.

Minute 179. 22/2723/FUL (Minor) FENITON.  
Councillor Ian Barlow, Directly relates Non-registerable Interest, Friend of the manager at Combe Garden Centre.

Minute 179. 22/2723/FUL (Minor) FENITON  
In accordance with the Code of Good Practice for Councillors and Officers dealing with planning matters as set out in the constitution the Chair, on behalf of Committee Members, advised lobbying in respect of this application.

**172 Matters of urgency**

There were none.

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

There were none.

**174 Planning appeal statistics**

The Committee noted the Development Manager's report which included updates on three appeals.

The first update related to planning application 22/0058/FUL for the demolition of existing buildings and construction of residential dwelling and detached garage at Pitman's Farm, Dalwood. The Inspector had upheld the Committee's decision to refuse on accessibility reasons.

The second related to planning application 23/0615/VAR for the variation of a condition to allow a building within the caravan site to be used as an open market dwelling. The Inspector concluded that as there was no evidence to show that the dwelling was needed to ensure the viability of the caravan park and that to change to an open market dwelling would have no material impact on journeys to and from the dwelling, the appeal was allowed in accordance with the officer's original recommendation.

The third related to planning application 23/0401/OUT for a single dwelling at Exton Lodge, Mill Lane, Exton which was dismissed as the Inspector agreed with the Committee reasons for refusal.

175 **24/0263/MFUL (Major) SIDMOUTH TOWN**

Councillor Maddy Chapman left the room during the debate and did not take part in the discussions or vote on this application. Councillor Chapman left the meeting after this application and did not participate any further.

**Applicant:**

Mr Paull.

**Location:**

Former Council Offices, Knowle, Sidmouth, EX10 8HL.

**Proposal:**

Redevelopment of site to provide:

- (a) Care home building (Class C2) with associated parking, landscaping, staff and resident facilities and associated works;
- (b) Extra care apartment building (53 units) with associated communal lounge, wellbeing suite, restaurant and care provision (Class C2(c));
- (c) Retirement living apartment buildings (33 units) with associated communal lounge (sheltered housing) and;
- (d) Erection of four houses and three townhouses (Class C3) along with accesses, internal car parking, roads, paths, retaining walls, refuse and landscaping associated with development; retention/refurbishment of building B, erection of habitat building and sub-stations.

(Demolition of buildings other than building B).

(Variation to previous application (23/0571/MFUL) showing removal of balconies and elevational block and alterations to the southern end/elevations of the Retirement Living and Extra Care buildings).

**RESOLVED:**

Refused contrary to officer recommendation for the following reasons:

1. The scale, massing and design of the development, in particular the two blocks closest to the southern site boundary, fails to reflect local distinctiveness and is not compatible with the character of the area and does not relate well to its context and its surroundings and so will adversely affect the townscape and local landscape of Sidmouth. As such the development is contrary to Strategies 6 and 26 and Policy D1 of the East Devon Local Plan 2013-2031, Policy 7 of the Sid Valley Neighbourhood Plan 2018-2032 and the National Planning Policy Framework, 2023 in particular paragraphs 131, 135 and 139.
2. Having regards to large windows in the west elevation of the southwestern block of accommodation and the buildings scale and orientation, the development will result in an unacceptable level of overlooking and overbearing impact on neighbouring properties. As such the development is contrary to Policy D1 of the East Devon Local Plan 2013-2031, Policy 6 of the Sid Valley Neighbourhood Plan 2018-2032 and the National Planning Policy Framework in particular paragraph 135.

Councillor Simon Smith left the meeting.

176 **23/1657/FUL (Minor) SIDMOUTH TOWN**

The Development Manager left the room for this application.

**Applicant:**

Mr Mitch Tonks.

**Location:**

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

**Proposal:**

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

**RESOLVED:**

Approved with conditions as per officer recommendation.

177 **24/0823/FUL (Minor) SIDMOUTH TOWN**

**Applicant:**

Naomi Cook.

**Location:**

Sidmouth Lifeboat, The Lifeboat Station, The Esplanade, Sidmouth, EX10 8BE.

**Proposal:**

Extension and alterations to existing lifeboat station.

**RESOLVED:**

Approved with conditions as per officer recommendation.

178 **24/0673/OUT (Minor) DUNKESWELL & OTTERHEAD**



Councillor Alasdair Bruce joined the meeting.

**Applicant:**

Mr & Mrs Padget.

**Location:**

Cory Hill, Combe Raleigh, EX14 4TQ.

**Proposal:**

Outline permission sought (with all matters reserved other than access) for construction of a single storey dwelling.

**RESOLVED:**

Refused as per officer recommendation.

179 **22/2723/FUL (Minor) FENITON**

Councillor Ian Barlow left the room for this application and did not take part in discussions or vote on this application.

**Applicant:**

Mr Justin Lascelles.

**Location:**

Combe Garden Centre, Hayne Lane, Gittisham, EX14 3PD.

**Proposal:**

New farm shop and associated landscaping works adjacent to the site of the existing Combe Garden Centre.

**RESOLVED:**

Approved with conditions as per officer recommendation.

Councillor Anne Hall left the meeting.

180 **23/2382/MFUL (Major) WEST HILL & AYLESBEARE**

**Applicant:**

Mr Martin Small.

**Location:**

Great Houndbeare Farm, Caravan 1 Sunnyfield, Aylesbeare, EX5 2DB.

**Proposal:**

Proposal for one additional mobile home and stable with concrete floor for chickens and ducks.

**RESOLVED:**

Approved with conditions as per officer recommendation.

**Councillors present:**

B Bailey  
I Barlow  
C Brown  
J Brown  
A Bruce  
M Chapman  
O Davey (Chair)  
D Haggerty  
A Hall  
M Hall (Vice-Chair)  
M Howe  
S Smith

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

R Collins  
M Rixson

**Officers in attendance:**

Wendy Ormsby, Development Manager  
Wendy Harris, Democratic Services Officer  
Nigel Barrett, Senior Planning Officer  
Jill Himsworth, Planning Officer  
Damian Hunter, Planning Solicitor  
Jamie Quinton, Senior Planning Officer  
Gareth Stephenson, Principal Planning Officer

**Councillor apologies:**

S Chamberlain  
P Faithfull  
S Gazzard  
E Wragg

Chairman .....

Date: .....

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

**Ref:** 23/2373/PIP                      **Date Received** 05.06.2024  
**Appellant:** Mr David Selway  
**Appeal Site:** Land West of Backwells Mead Northleigh  
**Proposal:** Permission in principle for 4no. dwellings  
**Planning** APP/U1105/W/24/3345706  
**Inspectorate Ref:**

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**Ref:** 23/2548/COU                      **Date Received** 05.06.2024  
**Appellant:** Paul FitzHenry  
**Appeal Site:** Ivy Green Farm Chardstock EX13 7BY  
**Proposal:** Change of use of existing annexe accommodation to enable  
dual use as either annexe and/or holiday accommodation  
**Planning** APP/U1105/W/24/3345720  
**Inspectorate Ref:**

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**Ref:** 24/0088/FUL                      **Date Received** 06.06.2024  
**Appellant:** Mrs Sascha Kranen  
**Appeal Site:** 31 Oaklea Honiton EX14 1XH  
**Proposal:** Construction of a two-storey rear extension  
**Planning** APP/U1105/D/24/3345795  
**Inspectorate Ref:**

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**Ref:** 23/2167/FUL                      **Date Received** 07.06.2024  
**Appellant:** Churchill Estates Management  
**Appeal Site:** Tanyards Court Beer Road Seaton Devon EX12 2PA  
**Proposal:** Erection of seagull netting on roof of Tanyard's Court  
[Retrospective]  
**Planning** APP/U1105/W/24/3345882  
**Inspectorate Ref:**

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**Ref:** 23/1050/FUL                      **Date Received** 09.06.2024  
**Appellant:** Mr Steve Richards  
**Appeal Site:** Land South of 15 Halsdon Avenue Exmouth  
**Proposal:** To erect a 2 storey 2-bed dwelling with associated amenity  
space.  
**Planning** APP/U1105/W/24/3345960  
**Inspectorate Ref:**

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**Ref:** 24/0605/FUL **Date Received** 25.06.2024  
**Appellant:** Mr Nigel Morgan  
**Appeal Site:** Clapperentale Farm Escot Park Ottery St Mary Devon EX11  
1LU  
**Proposal:** Siting of rural workers dwelling (static caravan) in support of  
rural business (retrospective)  
**Planning** APP/U1105/W/24/3346991  
**Inspectorate Ref:**

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

**Ref:** 23/1246/FUL                      **Appeal Ref:** 23/00059/REF  
**Appellant:** Mr & Mrs D Moll  
**Appeal Site:** Flat 2 7 Louisa Terrace Exmouth EX8 2AQ  
**Proposal:** Proposed window/doors, revised terrace and guarding  
(amended fenestration opening detail)  
**Decision:** **Appeal Dismissed**      **Date:** 19.06.2024  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, conservation and amenity reasons upheld  
(EDLP Policies D1, EN9, EN10 and NP Policies EN1, EB2).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/23/3334501  
**Inspectorate Ref:**

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**Ref:** 23/2155/FUL                      **Appeal Ref:** 24/00001/REF  
**Appellant:** Mr & Mrs D Moll  
**Appeal Site:** Flat 2 7 Louisa Terrace Exmouth Devon EX8 2AQ  
**Proposal:** Proposed window/door  
**Decision:** **Appeal Allowed**      **Date:** 19.06.2024  
**(with conditions)**  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, conservation and amenity reasons  
overruled (EDLP Policies D1, EN9, EN10).

The Inspector considered that the proposed door would feature glazing bars that match the style used in most of the building's façade, although enlarging the existing window to accommodate the door would still alter the fenestration at the front of the building. The existing window would not however need to be enlarged a great deal to accommodate the door and taking into account the set back from the street and the intervening hedge and balustrade, these changes would be relatively inconspicuous when seen from pavement level.

The Inspector concluded that the overall appearance of the building and wider Conservation Area would be preserved and there would be no impact on the setting of nearby listed buildings. As such, there would be no conflict with Policies D1 and EN10 of the Local Plan.

**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/24/3336452  
**Inspectorate Ref:**

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**Ref:** 23/0810/FUL                      **Appeal Ref:** 24/00011/HH  
**Appellant:** Mr Alan Stevenson  
**Appeal Site:** 8 Mill Street Sidmouth EX10 8DF  
**Proposal:** Proposed two storey rear extension  
**Decision:** **Appeal Allowed**                      **Date:** 19.06.2024  
**(with conditions)**  
**Procedure:** Householder  
**Remarks:** Delegated refusal, amenity reasons overruled (EDLP Policy D1 and NP Policy 6).

The Inspector considered that the proposal would follow a similar style and appearance to other two storey additions found along the rear elevation of the terrace. It would also appear subservient in terms of its building mass to the host property.

Having regard to the amenity of neighbours, the Inspector considered that the openings to the rear of the properties to the east will not be impacted by the proposal, due to the orientation of the proposal, an intervening footpath and the separation distances involved.

The Inspector concluded that whilst the proposal would lead to an increase in building mass, the living conditions currently experienced by the occupiers of neighbouring properties would not be unduly prejudiced as a consequence. The proposal would not therefore conflict with Policy 6 of the SVNP and Policy D1 of the EDLP and paragraph 135 of the Framework.

**BVPI 204:** **Yes**  
**Planning** APP/U1105/D/24/3341105  
**Inspectorate Ref:**

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**Ref:** 23/1477/FUL                      **Appeal Ref:** 23/00047/REF  
**Appellant:** Mrs Charlotte Macadam  
**Appeal Site:** Parmiters Combyne Axminster EX13 8TE  
**Proposal:** Change of use of land to residential garden.  
**Decision:** **Appeal Dismissed**                      **Date:** 25.06.2024  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, countryside protection and landscape reasons upheld (EDLP Strategies 7, 46).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/23/3331844  
**Inspectorate Ref:**

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**Ref:** 23/2031/FUL **Appeal Ref:** 24/00015/REF  
**Appellant:** Mr and Mrs Gaskin  
**Appeal Site:** Castlewell Stockland Devon EX14 9DB  
**Proposal:** Demolition of existing building. Replacement dwelling and associated works.  
**Decision:** **Appeal Dismissed** **Date:** 25.06.2024  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, landscape and amenity reasons upheld (EDLP Policies D1, H6 & Strategy 46, and NP Policies NE1, BHE3).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/24/3340405  
**Inspectorate Ref:**

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**Ref:** 23/1888/FUL **Appeal Ref:** 24/00020/REF  
**Appellant:** Mr and Mrs Peek  
**Appeal Site:** Land Adjacent Irongate Lodge Escot Park Ottery St Mary  
**Proposal:** Proposed dwelling and removal of timber structures and a summerhouse.  
**Decision:** **Appeal Dismissed** **Date:** 25.06.2024  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, accessibility and conservation reasons upheld (EDLP Policies H4, TC2, EN8, EN9 & Strategies S1, 3, 5B, 7, 27 and NP Policies NP1, NP2).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/24/3341824  
**Inspectorate Ref:**

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**Ref:** 23/1451/FUL **Appeal Ref:** 23/00043/HH  
**Appellant:** John Shiel  
**Appeal Site:** Seagull House 1 Morton Crescent Exmouth EX8 1BE  
**Proposal:** Extension to front entrance and render existing boundary wall.  
**Decision:** **Appeal Dismissed** **Date:** 27.06.2024  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, conservation reasons upheld (EDLP Policies EN9, EN10 and NP Policies EB2, EN1).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/23/3331313  
**Inspectorate Ref:**

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**Ref:** 23/0176/FUL **Appeal Ref:** 24/00013/HH  
**Appellant:** Mrs Eileen Wilkins  
**Appeal Site:** Whiteleaf Poltimore EX4 0AD  
**Proposal:** The construction of a fence between the property and the road to replace a 10 foot high Leylandii hedge (retrospective)  
**Decision:** **Appeal Allowed** **Date:** 01.07.2024  
**(no conditions)**  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, amenity reasons overruled (EDLP Policy D1, Strategies 7, 48).

The Inspector acknowledged that due to its height, the fence blocks views into the appeal property from the lane outside. This reduces the openness of the lane outside the property and introduces a hard edge in place of the vegetation that is seen elsewhere along this part of the road frontage.

However, the Inspector considered that the fence occupies a relatively short section of lane, and the area maintains an open and verdant appearance overall, even outside the appeal property. There is a similar section of wooden fencing in the vicinity and so the materials are in general keeping with the surroundings.

The Inspector concluded that the fence is not an unduly prominent feature and has an acceptable effect on the character and appearance of the area. There is no conflict with Policy D1, Strategy 7 or Strategy 48 of the Local Plan which aim to protect local distinctiveness.

**BVPI 204:** **Yes**  
**Planning** APP/U1105/D/24/3339590  
**Inspectorate Ref:**

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## East Devon District Council List of Appeals in Progress

**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:** 2 July 2024

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**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:**  
**Hearing**  
**Questionnaire Due Date:** 2 November 2023  
**Statement Due Date:** 30 November 2023  
**Hearing Date:** 30 July 2024

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**App.No:** 23/1111/OUT  
**Appeal Ref:** APP/U1105/W/23/3332359  
**Appellant:** Mr A Watts  
**Address:** Land Adjacent 1 Ball Knapp Dunkeswell Honiton EX14 4QQ  
**Proposal;** Outline application with all matters reserved for the erection of  
one dwelling  
**Start Date:** 16 January 2024  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 23 January 2024  
**Statement Due Date:** 20 February 2024

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**App.No:** 23/0017/CPE  
**Appeal Ref:** APP/U1105/X/23/3333743  
**Appellant:** Mr Paul Sparks  
**Address:** 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).  
**Start Date:** 19 January 2024  
**Procedure:**  
**Written Reps.**  
**Questionnaire Due Date:** 2 February 2024  
**Statement Due Date:** 1 March 2024

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**App.No:** 23/1224/FUL  
**Appeal Ref:** APP/U1105/W/23/3333794  
**Appellant:** Mrs Elaine Paget  
**Address:** 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  
**Start Date:** 12 February 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 19 February 2024  
**Statement Due Date:** 18 March 2024

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**App.No:** 23/0809/LBC  
**Appeal Ref:** APP/U1105/Y/23/3329576  
**Appellant:** Mrs Jill Bayliss  
**Address:** Flat above Flix Hair Design Market Place Colyton EX24 6JR  
**Proposal;** Retention of 2no. first floor windows on front elevation  
**Start Date:** 19 February 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 26 February 2024  
**Statement Due Date:** 25 March 2024

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**App.No:** 23/0102/FUL  
**Appeal Ref:** APP/U1105/W/23/3334808  
**Appellant:** Mr Gary Conway  
**Address:** 9 Tip Hill Ottery St Mary EX11 1BE  
**Proposal;** Erection of a new dwelling in land to the rear of 9 Tip Hill.  
**Start Date:** 27 February 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 5 March 2024  
**Statement Due Date:** 2 April 2024

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**App.No:** 22/1377/FUL  
**Appeal Ref:** APP/U1105/W/23/3331872  
**Appellant:** Mr & Mrs D Branker  
**Address:** Site Of Spillers Cottage Shute EX13 7QG  
**Proposal;** Construction of a dwelling (retrospective) for occupation while the dwelling permitted under reference 21/0535/VAR is constructed, after which the first dwelling will be demolished  
**Start Date:** 5 March 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 12 March 2024  
**Statement Due Date:** 9 April 2024

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**App.No:** 23/1270/CPE  
**Appeal Ref:** APP/U1105/X/24/3339119  
**Appellant:** Mr and Mrs C M Summers  
**Address:** The Olde Dairy Hunthays Farm Awliscombe Honiton EX14 3QB  
**Proposal;** Application for a Lawful Development Certificate (CLUED) submitted under section 171B(3) of the Town and Country Planning Act 1990 (as amended) for the use of the building known as The Olde Dairy as an independent dwelling.  
**Start Date:** 14 March 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 28 March 2024  
**Statement Due Date:** 25 April 2024

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**App.No:** 22/2582/FUL  
**Appeal Ref:** APP/U1105/W/23/3332347  
**Appellant:** Mr Justin Werb  
**Address:** Barnards (land adjoining) Harepath Hill Seaton EX12 2TF  
**Proposal;** Erection of one dwelling and associated works.  
**Start Date:** 20 March 2024  
**Procedure:**  
**Written reps.**

**Questionnaire Due Date:** 27 March 2024  
**Statement Due Date:** 24 April 2024

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**App.No:** 23/1279/FUL  
**Appeal Ref:** APP/U1105/W/23/3335680  
**Appellant:** Mr Alban Connell  
**Address:** Land Adjacent Poppins Goldsmith Lane All Saints  
**Proposal;** Conversion of an agricultural barn to form a 1-bedroom dwelling.  
**Start Date:** 26 March 2024  
**Procedure:**  
**Written reps.**

**Questionnaire Due Date:** 2 April 2024  
**Statement Due Date:** 30 April 2024

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**App.No:** 22/0349/OUT  
**Appeal Ref:** APP/U1105/W/23/3334118  
**Appellant:** Mr & Mrs Reeves  
**Address:** Kilmore House Poltimore Exeter EX4 0AT  
**Proposal;** Outline application for an exception site comprising of 4 affordable houses and 2 open market houses  
**Start Date:** 3 April 2024  
**Procedure:**  
**Written reps.**

**Questionnaire Due Date:** 10 April 2024  
**Statement Due Date:** 8 May 2024

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**App.No:** 23/0332/FUL  
**Appeal Ref:** APP/U1105/W/24/3337198  
**Appellant:** Mrs H Mitchell  
**Address:** Land Adjacent to The Gardens Blackhorse  
**Proposal;** Construction of 5 dwellings with associated new vehicular access off Blackhorse Lane, parking and landscaping  
**Start Date:** 8 April 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 15 April 2024  
**Statement Due Date:** 13 May 2024

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**App.No:** 23/2209/FUL  
**Appeal Ref:** APP/U1105/W/24/3336804  
**Appellant:** Gill Parry  
**Address:** 1A Jarvis Close Exmouth Devon EX8 2PX  
**Proposal;** Revised proposals for the construction of a two storey dwelling with associated car parking and amenity space [Previously submitted under 22/1516/FUL]  
**Start Date:** 8 April 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 15 April 2024  
**Statement Due Date:** 13 May 2024

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**App.No:** 22/1973/MOUT  
**Appeal Ref:** APP/U1105/W/24/3336475  
**Appellant:** ALD Developments (Mr A Davis)  
**Address:** Land East of Sidmouth Road Ottery St Mary  
**Proposal;** Outline application with some matters reserved (access) for the residential development of up to 63 dwellings and associated infrastructure.  
**Start Date:** 10 April 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 17 April 2024  
**Statement Due Date:** 15 May 2024

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**App.No:** 23/2535/PIP  
**Appeal Ref:** APP/U1105/W/24/3338889  
**Appellant:** Mr Gary Moore (The Land & Planning Consultancy Ltd)  
**Address:** Land Adjacent Elsdon House Elsdon Lane West Hill  
**Proposal;** Permission in principle for the demolition of an existing greenhouse and the construction of two dwellings  
**Start Date:** 15 April 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 22 April 2024  
**Statement Due Date:** 20 May 2024

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**App.No:** 23/1829/FUL  
**Appeal Ref:** APP/U1105/W/24/3336569  
**Appellant:** Mr Harry Carter  
**Address:** H Carter and Sons 50 High Street Budleigh Salterton EX9 6LJ  
**Proposal;** Replacement shop front and installation of 2no new UPVC windows to replace existing bay windows  
**Start Date:** 16 April 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 23 April 2024  
**Statement Due Date:** 21 May 2024

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**App.No:** 23/1115/FUL  
**Appeal Ref:** APP/U1105/W/24/3339579  
**Appellant:** Antony Paul  
**Address:** 24 Cherry Close Honiton Devon EX14 2XT  
**Proposal;** Construction of a new dwelling.  
**Start Date:** 23 April 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 30 April 2024  
**Statement Due Date:** 28 May 2024

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**Ref.No:** 21/F0358  
**Appeal Ref:** APP/U1105/C/24/3342728  
**Appellant:** Mr Barry Hooper  
**Address:** Higher Wick Farm, Luppitt  
**Proposal;** Appeal against the serving of an enforcement notice in respect of the change of use of a former agricultural barn to a steel fabrication workshop.  
**Start Date:** 25 April 2024  
**Procedure:**  
**Inquiry**  
**Questionnaire Due Date:** 9 May 2024  
**Statement Due Date:** 6 June 2024  
**Inquiry Date:** 13 August 2024

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**App.No:** 24/0017/FUL  
**Appeal Ref:** APP/U1105/W/24/3340283  
**Appellant:** Ms Sam Knighton  
**Address:** The Maltsters Arms Greenway Woodbury Exeter EX5 1LN  
**Proposal;** Retrospective application for retention of marquee to be used as ancillary accommodation to the Maltster's Public House  
**Start Date:** 7 May 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 14 May 2024  
**Statement Due Date:** 11 June 2024

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**App.No:** 23/1472/FUL  
**Appeal Ref:** APP/U1105/W/24/3339709  
**Appellant:** Mr Darren Pyne  
**Address:** 18 Colleton Way Exmouth Devon EX8 3PX  
**Proposal;** Separating existing property into two dwellings including gardens and driveways and addition of front porch.  
**Start Date:** 14 May 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 21 May 2024  
**Statement Due Date:** 18 June 2024

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**App.No:** 23/1978/FUL  
**Appeal Ref:** APP/U1105/W/24/3341070  
**Appellant:** Mr & Mrs Dan and Claire McCandlish  
**Address:** Land Adjacent to Park House Plymtree  
**Proposal;** Proposed new dwelling and relocated site access with associated landscaping and parking  
**Start Date:** 23 May 2024  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 30 May 2024  
**Statement Due Date:** 27 June 2024

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**App.No:** 23/2540/VAR  
**Appeal Ref:** APP/U1105/W/24/3341698  
**Appellant:** Mr and Mrs Anthony  
**Address:** Land South Of Underhill Close Lymptone  
**Proposal;** Variation of conditions 1 (Approved plans), 8 (Privacy screen) and 9 (Void space) of 22/2410/RES (Application for approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a predominantly single storey dwelling following outline application (20/0933/OUT) (pursuant to the grant of outline planning permission appeal ref: APP/U1105/W/21/3282445) to update the house design and drawing reference numbers  
**Start Date:** 28 May 2024  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 4 June 2024  
**Statement Due Date:** 2 July 2024

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**App.No:** 23/1333/FUL  
**Appeal Ref:** APP/U1105/D/24/3341610  
**Appellant:** Mr. & Mrs. M. Luckman  
**Address:** Perky Pool Cottage Talaton Road Whimble Exeter EX5 2QZ  
**Proposal;** Proposed extension to garage, including addition of external stair with bin store beneath, formation of half hipped roof extension on the rear elevation and alteration to fenestration.  
**Start Date:** 29 May 2024  
**Procedure:** Householder  
**Questionnaire Due Date:** 5 June 2024

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**App.No:** 23/2244/FUL  
**Appeal Ref:** APP/U1105/W/24/3341596  
**Appellant:** Mr Lee Galan  
**Address:** The Firs Woodbury Salterton Exeter EX5 1ER  
**Proposal;** Demolition of existing garage, construction of two storey extension and associated works  
**Start Date:** 5 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 10 June 2024  
**Statement Due Date:** 10 July 2024

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**App.No:** 23/1794/FUL  
**Appeal Ref:** APP/U1105/W/24/3342388  
**Appellant:** Mrs Tina Percival  
**Address:** The Greyhound Inn Fenny Bridges Devon EX14 3BJ  
**Proposal;** Retrospective application for a static caravan for staff accommodation and re-siting of dog kennel.  
**Start Date:** 10 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 17 June 2024  
**Statement Due Date:** 15 July 2024

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**App.No:** 23/1670/FUL  
**Appeal Ref:** APP/U1105/W/24/3342434  
**Appellant:** Mr Michael Stevens  
**Address:** Coxes Farm Sidmouth Road Clyst St Mary Devon EX5 1DN  
**Proposal;** Proposed two storey 2 bed house with parking.  
**Start Date:** 13 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 20 June 2024  
**Statement Due Date:** 18 July 2024

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**App.No:** 23/1317/LBC  
**Appeal Ref:** APP/U1105/Y/24/3343238  
**Appellant:** Mr & Mrs Halse  
**Address:** Combehayes Farm Buckerell Devon EX14 3ET  
**Proposal;** Demolition of existing extension and proposed replacement single storey extension, reconfiguring external stone wall and hard landscaping  
**Start Date:** 18 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 25 June 2024  
**Statement Due Date:** 23 July 2024

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**App.No:** 23/2262/VAR  
**Appeal Ref:** APP/U1105/W/24/3343375  
**Appellant:** Mr & Mrs Clinch  
**Address:** The Barn and Pinn Cottage Bowd Sidmouth EX10 0ND  
**Proposal;** Removal of occupancy condition no.2 of permission ref: 7/39/02/P1130/00114 to allow use as an unrestricted dwelling  
**Start Date:** 13 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 20 June 2024  
**Statement Due Date:** 18 July 2024

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**App.No:** 24/0216/FUL  
**Appeal Ref:** APP/U1105/W/24/3343467  
**Appellant:** Mr Darrol Moss  
**Address:** Brackenrigg Cathole Lane Yawl Devon DT7 3XD  
**Proposal;** Site Log Cabin  
**Start Date:** 25 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 2 July 2024  
**Statement Due Date:** 30 July 2024

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**App.No:** 23/1849/FUL  
**Appeal Ref:** APP/U1105/W/24/3344323  
**Appellant:** Mr Mark Weekes  
**Address:** Land South of Dunsmore Farm Rewe Exeter EX5 4DX  
**Proposal;** Proposed erection of a permanent rural workers dwelling, 2x proposed car port and installation of 28x solar panels on roof.  
**Start Date:** 12 June 2024  
**Procedure:**  
**Hearing**  
**Questionnaire Due Date:** 19 June 2024  
**Statement Due Date:** 17 July 2024  
**Hearing Date:** 28 August 2024

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**App.No:** 24/0325/FUL  
**Appeal Ref:** APP/U1105/W/24/3345160  
**Appellant:** Mr D J Blackmore  
**Address:** Southlands Gardens King Street Honiton  
**Proposal;** Demolition of storage building and erection of a one bedroom bungalow.  
**Start Date:** 13 June 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 20 June 2024  
**Statement Due Date:** 18 July 2024

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**App.No:** 24/0088/FUL  
**Appeal Ref:** APP/U1105/D/24/3345795  
**Appellant:** Mrs Sascha Kranen  
**Address:** 31 Oaklea Honiton EX14 1XH  
**Proposal;** Construction of a two-storey rear extension  
**Start Date:** 13 June 2024  
**Procedure:**  
**Householder**  
**Questionnaire Due Date:** 20 June 2024

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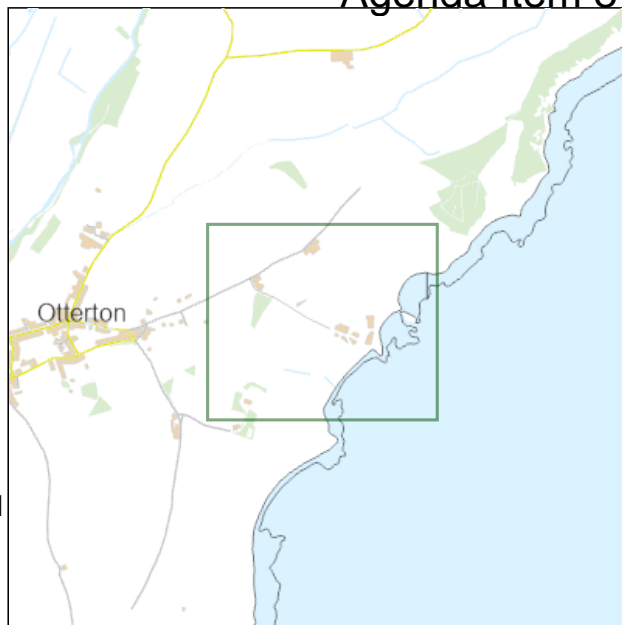
**Ward** Budleigh And Raleigh

**Reference** 24/0415/MFUL

**Applicant** Ladram Bay

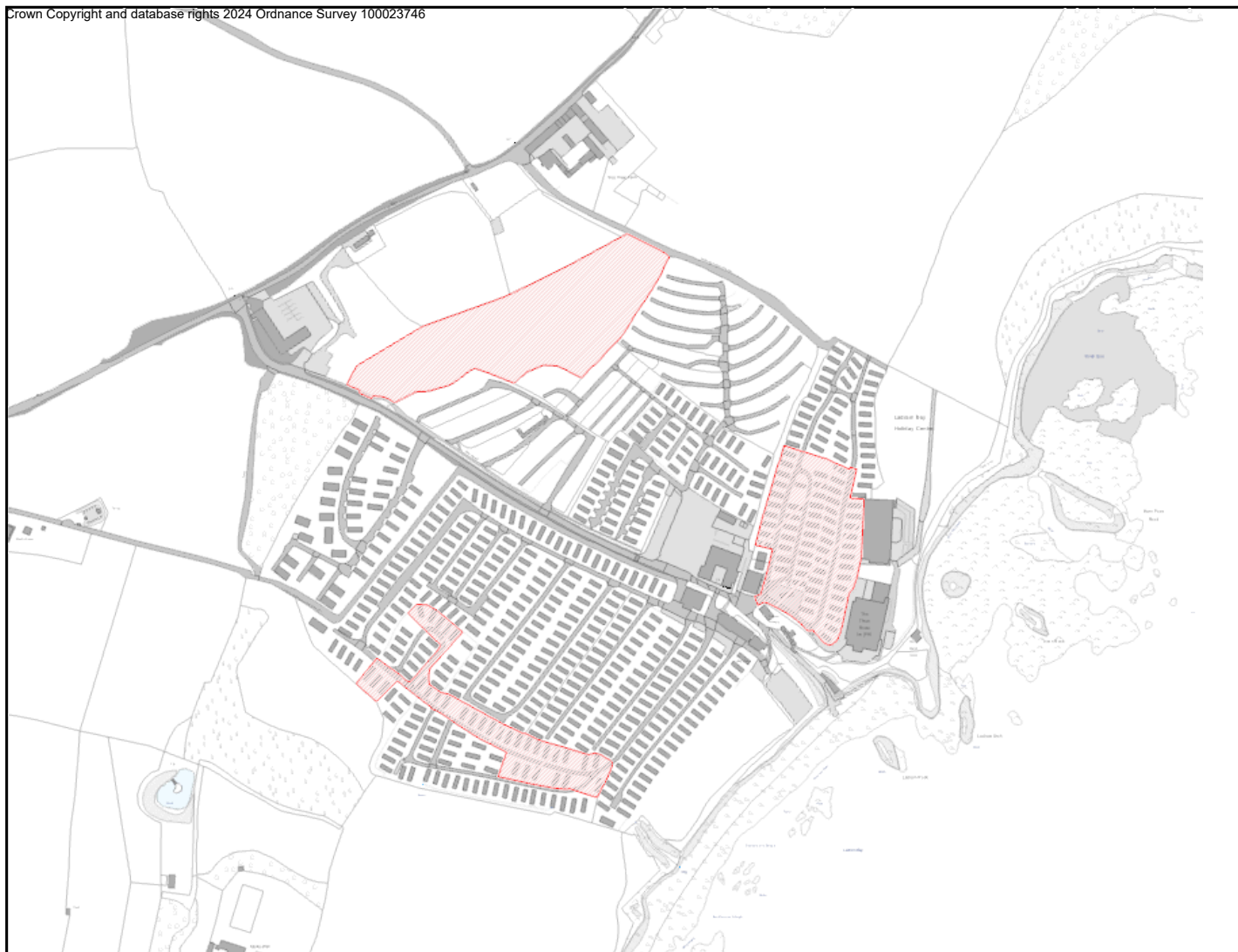
**Location** Ladram Bay Holiday Park Otterton Devon EX9 7BX

**Proposal** Change of use and regrading of Top Field to accommodate 32no luxury lodges and re-layout of existing holiday park to reduce holiday caravan pitches (no net increase in number of units) and provide landscape and environmental improvements



**RECOMMENDATION: Refusal**

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		<b>Committee Date: 16.07.2024</b>
<b>Budleigh And Raleigh (Otterton)</b>	<b>24/0415/MFUL</b>	<b>Target Date: 15.07.2024</b>
<b>Applicant:</b>	<b>Ladram Bay</b>	
<b>Location:</b>	<b>Ladram Bay Holiday Park Otterton</b>	
<b>Proposal:</b>	<b>Change of use and regrading of Top Field to accommodate 32no luxury lodges and re-layout of existing holiday park to reduce holiday caravan pitches (no net increase in number of units) and provide landscape and environmental improvements</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**The proposal seeks planning consent for change of use and regrading of a upper field within the Ladram Bay site. Also proposed is the reduction in caravan pitches within two areas of the existing site on lower parts of the existing site.**

**The proposal takes place within a sensitive part of the National Landscape which is protected by policies of both the Local Plan and the Neighbourhood Plan, the former of which specifically details that development within this area would not be considered acceptable.**

**Ladram Bay is a successful business that continues to draw visitors to the area and the proposal would be likely result in a boost to rural tourism within East Devon. Although overall capacity of the site would remain unchanged the benefits of a better visitor experience and higher quality lodges could make the destination a more attractive proposition for visitors.**

**However, the proposal has drawn an objection from the Council's landscape architect. Due to the prominence of the top field from a range of public receptors (including local landmarks and public footpaths) the development of the top field with lodges and associated paraphernalia fails to preserve and enhance the landscape qualities. The National Planning Policy Framework is clear that great weight can be attributed to any harm in order to protect such designations.**

**Whilst there could be local tourism benefits to the local economy these have not been made explicit and would not outweigh the harm to the landscape of**

**national importance. It is these valued views and intrinsic beauty which brings tourist to such areas and so should not be degraded.**

**Further, a site specific survey to ascertain the quality of the agricultural land has not been carried out. Given that our high level mapping system indicates level 3 agricultural land if this site fell within the 3a category this would conflict with the relevant policies. There is insufficient evidence to establish that there would be no harm in this regard. This forms a further reasons for refusal.**

**There have been objections received based on highway concerns. It is notable that traffic movements through the village of Otterton have in the past caused much concern. However, on the basis that there would be no net gain in overall numbers DCC Highways have not objected to the proposal. Although there could be temporary increase in traffic during the change in units and construction phase this could be mitigated via a CEMP condition and should not preclude planning consent.**

**Nevertheless, the landscape harm would be significant, and this harm outweighs the economic benefits that may accrue. Therefore, a recommendation of refusal is made. As this recommendation conflicts with the view of one of the Ward Members this application is referred to the Development Management Committee.**

## **CONSULTATIONS**

### **Local Consultations**

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

20.05.2024

A village meeting took place to hear the views of residents on 7th May following which, at the request of attendees at the meeting, 6 councillors visited the site to consider the planning application and to ensure they were fully informed.

At the OPC meeting the clerk read out a summary of the concerns of attendees at the village meeting.

Steve Harper-Smith from Ladram Bay commented as follows:

Ambitious project.

Mindful of the concerns of residents. Removal of 32 units. Replacement with

8000k tree & shrubs. Native & semi mature.

Luxurious lodges with no additional occupancy.

Investment in sewerage system has been agreed.

Blending of lodges into environment important.

Transported in 2 pieces making the unit smaller and easier to come through the village.

Life of each lodge 40 years which is much longer than current units.

Improvement of landscape through sympathetic planning & conservation of site.

Employment opportunity increases.

Lower density areas on the site with better landscaping. Enhancement & improved biodiversity.

Following a robust and detailed discussion by the Councillors when the concerns of the attendees at the village meeting were considered and the comments made by Mr Harper-Smith were taken into account a vote was taken and the planning application 244/015/MFUL was approved with 5 councillors approving the project & 1 councillor strongly objecting.

MM declared an interest and left the room throughout this agenda item & PW was not present at the meeting and therefore did not vote.

07.06.2024

Planning application 24/0415/FUL

Ladram Bay Holiday Park

Change of use and regrading of top field to accommodate 32no luxury lodges and re-layout 2 existing areas of the park to reduce existing holiday caravan pitches and provide landscape and environmental improvements

Following a meeting of the Otterton Parish Council on Monday 3rd June the Council seek to reverse their decision to approve the planning application detailed above & register a majority objection which echoes the view of many residents and interested parties locally.

The reasons for objection follow:

The site lies within the East Devon National Landscape (AONB) and the Council's Coastal Preservation Area. Its expansion beyond the existing boundary stipulated in the 'made' Neighbourhood plan is contrary to National and local planning policies that require development to protect and enhance the landscape and scenic beauty of the area, and would be damaging to its openness.

Ladram bay is uniformly dense in layout. There is no reason given for why the 2 areas recommended for reduced density have been chosen. As they are not discrete areas they would do little to enhance the site overall unless part of a much larger scheme. Therefore, the expansion into the Top Field would become a precedence for further expansion / development.

Concerns are also raised that there is no guarantee that once the new lodges are established that the 2 areas identified for reduced density would be carried out

The siting of luxury lodges in the top field clearly fails to safeguard open countryside, and undermines the landscape quality of the area.

As such it is contrary to Policy ONP4 of the 'made' Otterton Neighbourhood Plan and Strategies 44 and 46 of the Local Plan. The decision maker should give great weight to conserving and enhancing the natural beauty of this National Landscape, rather than economic considerations.

There is a specific planning policy within the Neighbourhood Plan for this site, policy ONP7. The justification for this policy was because the site has grown to its maximum size within its permitted boundary, and further development would certainly have a detrimental impact on the Jurassic Coast World Heritage Site, and the East Devon AONB (renamed East Devon National Landscape).

Traffic: The current development at Ladram Bay has an impact on the village in terms of loss of amenity i.e excess traffic, congestion and the accompanying pollution that cars, delivery vans, lorries and caravans bring. The fact that the new Caravans/lodges are much larger and will be privately owned therefore, could be sublet by the owners could create more traffic due to more users. The access road is totally inadequate currently and further development will only exacerbate the problem. For the wellbeing of the residents, properties enroute and wildlife it is vital that vehicles coming to and from the site must be properly controlled to prevent congestion.

Accommodation: The policy states: development will only be permitted within the area outlined in red on the map below if it is for the replacement of an existing structure or pitch, is designed to be sustainable and does not harm the landscape or setting of the East Devon AONB, Jurassic Coast World Heritage Site and Coastal Preservation Area.

The policy within the neighbourhood plan (ONP7) states that support will be given for any proposal meeting the following criteria that:

1. Improves the wider road infrastructure giving access to the site
2. Reduces the number of holiday units on the site
3. Improves the landscaping of the site including use of natural green and brown colours for lodge buildings
4. Reduces the need to travel by car
5. Reduces the need for delivery lorries
6. Improves the infrastructure for walking and cycling
7. Includes a Traffic Management and Travel Plan to reduce the traffic impact of the site on the local roads, which must be implemented and reviewed annually



The proposal fails to meet six of the seven of the criteria mandated in ONP7 for gaining support.

The policy requirements set out above are not met by this application, except the proposed landscaping improvements & even then cars parked outside will not blend in, and neither will the lighting of the units, accessways and car headlights, as they will be in an elevated position, they will be visible in the evenings for quite some distance!. The extension of the site onto the top field is clearly visible from the South West Coast Path, and footpaths 312 and 7, and would be extremely harmful to the rural character of the East Devon National Landscape and to the Coastal Preservation Area. The proposal is therefore contrary to Policies ONP4 and ONP7 of the Otterton Neighbourhood Plan, the local plan strategies and policies, and to the emerging local plan policies for caravan sites.

The proposal for 32 lodges on the Top Field means that they will be situated on ground that changes in level typically 2m to 2.5m per unit (more including decking) - this would require major re-profiling engineering works (earthworks, retaining walls, roads etc.). Whilst the sections show some work the plans do not show details. This engineering work would materially affect the scale and appearance of the site & thus the existing and recently planted trees might be adversely affected. In addition and not specifically a planning issue. The current drainage & sewerage systems that serve the site are in drastic need of renewal. To make the necessary modifications to serve the proposed site of the lodges will undoubtedly cause major upheaval to wildlife and the environment.

The Otterton Parish Council requests that before any decision is made, that members of the planning committee visit the site, and walk around the surrounding footpaths, so that they can see the impact that this proposal would have on the unspoilt landscape that is around the site.

#### West Hill And Aylesbeare - Cllr Jess Bailey

As the Devon County Councillor for Otterton I wish to comment on two specific issues that fall within the remit of Devon County Council.

First, I am concerned about the detrimental visual impact of the proposed development on public footpaths, namely Otterton footpath 7 and the South West Coastal path. This is a unique and sensitive landscape and must be protected and preserved for users of public rights of way. The proposed development will be prominent and obtrusive and harm this special landscape by visibly extending the existing developed area and out of the natural combe. The development would interfere with the enjoyment of this special landscape by users of the public rights of way.

Second, I note that DCC highways officers have not objected to the application. I disagree with the position taken. Otterton experiences major congestion as a result of Ladram both from lodges being delivered and also visitors coming and going to and from the site. The traffic issues are clearly articulated in the adopted Otterton neighbourhood plan. Whilst it may be the case that this application does not propose

additional units, the units are nonetheless larger than current ones and yet there has been no transport assessment to evaluate the impact that this will have in traffic movements both in terms of delivery/removal of units or use by visitors. Regardless of the stance taken by DCC, Eddc cannot simply defer to DCC as highway authority and has its own distinct duty (its 'Tameside' duty) to evaluate the impacts highlighted by myself and a number of residents in their consultation responses.

Therefore, I wish to object to this application because of my concerns about the proposed development impacting the enjoyment of public rights of way, and also because my concerns that the proposed development will exacerbate traffic issues.

### Budleigh And Raleigh - Cllr Charlotte Fitzgerald

Recommendation: approval

I am writing to recommend approval of this planning application. Ladram Bay Holiday Park is a valued local business providing access to our beautiful local environment for thousands of holidaymakers each year, including those coming from inner-cities. It makes a strong effort to support the village of Otterton and is a key actor in the wider local economy.

The East Devon Made Local Plan paragraph 24.29 'Holiday Accommodation Parks and Caravan/Chalet Sites states that 'the expansion of existing sites'.should not be to the detriment of the (a) natural environment and (b) those in settlements close to the proposals'.

This proposal is unavoidably detrimental to (a) the natural environment, because it extends the boundary of the existing occupied site further into the surrounding landscape. This landscape is protected by its multiple classifications: as a Coastal Preservation Area, Natural Landscape, World Heritage Site and Site of Special Scientific Interest. The boundary of the site will breach the ridge of the natural 'combe' or bowl in which the park sits and will be visible from both the South West Coast Path and paths 312 and 7. This being said, it is my view that the holiday park is already harmful to public view from the above mentioned PROWs and that this development does not have significant further detrimental effect ' indeed the plans deliver sensitive design and screening which would reduce as far as possible the visual impact of the development. Reducing density of caravans in the rest of the park will also improve the view from afar. If this application goes before committee, I would advise that the committee visit not just the site but the South West Coast Path to either side of the park, to understand for themselves the plan's impact on the view.

I am confident that the proposal is not to the detriment of (b) those in settlements close to the proposals, specifically the village of Otterton, which occupies the only access route to Ladram Bay. Otterton Parish Council has recommended approval of the application. The impact of Ladram Bay Holiday Park visitors on the village's already-overwhelmed main road is of great concern to many residents and is detailed in the Otterton Neighbourhood Plan. However I cannot see that the proposal

makes the current situation worse, because the smaller units will be easier to transport to site, will be transported less frequently, and because net visitor numbers should not increase. If the application goes before committee, I would suggest a condition be added that the installation of new units is phased to prevent significant increases in visitor numbers at any point.

Following my previous comment, I have now seen the recently-published EDDC Landscape and Green Infrastructure Response and would like to update my view.

The EDDC Landscape response to the application finds that, 'Contrary to the findings of the submitted LVIA (Landscape and Visual Impact Assessment), the proposed development is considered likely to give rise to significant landscape and visual impacts.'

The report recommends refusal of the application, and in light of its findings and my own concerns mentioned earlier about landscape and visual impact, I am changing my recommendation to refusal.

I will reserve my final views on the application until I am in full possession of all the arguments for and against.

08.06.2024

Following my previous comment, I have now seen the recently-published EDDC Landscape and Green Infrastructure Response and would like to update my view.

The EDDC Landscape response to the application finds that, "Contrary to the findings of the submitted LVIA (Landscape and Visual Impact Assessment), the proposed development is considered likely to give rise to significant landscape and visual impacts."

The report recommends refusal of the application, and in light of its findings and my own concerns mentioned earlier about landscape and visual impact, I am changing my recommendation to refusal.

I will reserve my final views on the application until I am in full possession of all the arguments for and against.

Budleigh And Raleigh - Cllr Henry Riddell

As the Ward Member for Budleigh & Raleigh, I fully support the Ladram Bay Holiday Park application 24/0415/FUL.

The East Devon Local Plan paragraph 24.29 - Holiday Accommodation Parks and Caravan/Chalet Sites states that "the expansion of existing sites.... should not be to the detriment of the (a) natural environment and (b) those settlements close to proposals".

I believe that the proposed development will not significantly harm the natural environment or National Landscape, this is down to the existing presence of a

holiday park in the area. The inclusion of sensitive design elements, extensive planting and screening will ensure a seamless integration of the new lodges into the surroundings. The proposed reduction in caravan density lower down in the park will enhance the visual appeal of the park from a distance, contributing positively to the landscape. The landscaping and planting outlined in the plans also promises favourable environmental outcomes.

Having personally visited the site, I am confident in Ladram Bay's ability to execute a design that respects its surroundings. The existing facilities on site as well as the luxury lodges already on the site are finished to a high standard and reflect the park owner's commitment to quality and I am certain that the new development will be of the same standard.

Ladram Bay Holiday Park is a family run park and provides employment opportunities for over 170 seasonal and around 60 full-time staff. The proposed expansion offers the potential for additional employment which will further contribute to our local economy and provide jobs our area desperately needs.

The staycation market is evolving at pace and being driven by luxury accommodation. Ladram Bay's up-market lodges will allow them to keep up with competitors and attract guests who are inclined to explore and spend within our local communities including Budleigh Salterton, Sidmouth, and Exmouth.

Whilst I acknowledge residents' concerns regarding the proposed development of the site, I am confident that with planning conditions these problems can be mitigated. The owner's commitment to collaborating closely and in detail with planners, including considerations for lodge colours to compliment the landscape, demonstrates a proactive approach to mitigating any impacts of the development on the area. Because of this I am certain that the proposed development will not be to the detriment of residents in Otterton.

In summary, I urge approval of this application. Ladram Bay is integral to our local tourism sector, and this expansion will enable them to adapt to industry trends while enriching our local economy.

## **Technical Consultations**

### **County Highway Authority**

Observations:

I have visited the site and reviewed the planning documents. The greater spacing of the holiday lodges in South-West and South-East will only help vehicle interaction upon the junction of Ladram Bay Road. The top fields erection of lodges will bring the net lodge total in line with existing situation, therefore I do not expect a trip generation intensification. The proposed access has acceptable visibility in both the East and West direction onto Ladram Bay Road.

Therefore in summary, the County Highway Authority (CHA) has no objection to this planning application.

#### Environmental Health

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

#### DCC Flood Risk Management Team

We have no in-principle objections to the above planning application at this stage, assuming that the pre-commencement planning conditions are imposed.

#### Natural England

#### SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION

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

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

#### EDDC Landscape Architect

Objection based on landscape impact. See online for full scanned document.

#### Other Representations

12 objections have been received (in summary);

- Harm to AONB Landscape from public vantage points and footpaths.
- Impact on traffic generation and flows within the village.
- Impact on the Jurassic coast
- Conflicts with neighbourhood plan
- Local infrastructure at capacity
- Submitted LVIA inadequate
- Lack of transport Plan and Assessment

#### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
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18/2912/FUL	Variation of Condition 3 (use restriction) of planning permission 10/1192/FUL (reshaping of touring and tenting field, etc) to allow use of part of the field for safari tents	Approved	25/07/2019
10/2287/MFUL	Change of use and regrading of field to accommodate static caravans for holiday use with provision of new access and landscaping works	Approved	18/08/2011
10/1192/FUL	Reshaping of touring and tenting field and new fence to rear of toilet block (retrospective).	Approved	19/08/2010
03/P1057	Use Of Touring Caravan Area For 38 Static Vans,ext.for Temp.over- Spill For Touring Vans/tents	Dismissed at appeal	16/03/2004

## **POLICIES**

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

D1 (Design and Local Distinctiveness)  
 D2 (Landscape Requirements)  
 Strategy 44 (Undeveloped Coast and Coastal Preservation Area)  
 Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
 EN21 (River and Coastal Flooding)  
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)  
 EN22 (Surface Run-Off Implications of New Development)  
 TC2 (Accessibility of New Development)  
 TC7 (Adequacy of Road Network and Site Access)  
 TC9 (Parking Provision in New Development)  
 Strategy 7 (Development in the Countryside)  
 Strategy 5 (Environment)  
 Strategy 33 (Promotion of Tourism in East Devon)  
 D3 (Trees and Development Sites)  
 EN5 (Wildlife Habitats and Features)  
 E19 (Holiday Accommodation Parks)  
 E20 (Provision of Visitor Attractions)  
 Strategy 47 (Nature Conservation and Geology)  
 Strategy 50 (Infrastructure Delivery)  
 EN13 (Development on High Quality Agricultural Land)

## Otterton 'made' Neighbourhood plan

Sustainable Development – Policy ONP1

Protecting and Enhancing the Built Environment – Policy ONP3

Protecting and Enhancing the Natural Landscape – Policy ONP4

Protecting and Enhancing Wildlife in the Natural Environment – Policy ONP5

Encouraging Small-scale Economic Development – Policy ONP6

Ladram Bay Holiday Park Development – Policy ONP7

Traffic and Travel Around the Parish – Policy ONP8

### Site Location and Description

Ladram Bay Holiday park is a holiday complex located between Budleigh Salterton and Sidmouth and set within a natural bowl in the landscape of the coastal edge. Comprising a central hub area including restaurant, entertainment suite marketing and general administration office, the park provides facilities for tents and touring pitches and a predominance of static mobile homes – the latter split between a hire fleet (owned and managed by the park itself) and privately owned static caravans that are commonly sublet by owners.

Split into various fields which are subdivided by hedgerows of varying ages and species, the developed site area spreads upwards from the central hub which is positioned at the lowest point within the land form and from where there is easy access to the beach, to rising fields to the north. Terraced to provide level pitches the fields have been regraded on a number of occasions to accommodate the change in tent and caravan size as well as provide improved facilities including electric and water points.

The application site the subject of the current application lies at the most northerly part of the site to the east of an existing service yard and L shaped building. It is a rough grassed field which in parts rises steeply to an elevated plateau area with Ladram Road to the north.

The landscape is designated as a National Landscape. Additionally, while the site itself is not designated adjacent land and the cliffs are designated as forming part of the Jurassic Coast World Heritage Site and a Site of Special Scientific Interest.

The park is one of the largest rural employers in the area employing 170 staff (68 permanent and 102 seasonal). 90% of employees are from the local area and live within a 10 mile radius of Ladram Bay Holiday Park.

### Proposed Development

The proposal seeks planning consent for expansion of the existing holiday park into a 'top field' with the material change in use of the land for the siting of 32 lodges for holidaying purposes. To achieve this would require the installation of an access road, 'cut and fill' regarding of the land, and installation of associated infrastructure. To mitigate the impact on the landscape hard and soft landscaping is proposed.

The proposal also includes the reduction and revision the layout in two separate existing areas of Ladram Bay, lower down the slope and closer to the sea. The applicants put forward that should consent be forthcoming that there would not be an overall net gain in holiday lodges of the site.

The holiday lodges proposed have sustainable features including energy efficient double glazing, high levels of cavity insulation, low energy lighting and central heating. Many of these units now also incorporate as standard, energy saving features which assists with the move towards carbon zero rating.

## ANALYSIS

The main issues concerning this planning application are;

- The policy context with regards to the principle of the development
- The impact on the character and appearance of the Nationally Designated Landscape (AONB) countryside
- The Potential economic benefits
- Impact on highway safety and traffic movements
- Foul and surface water drainage
- Impact on ecology
- Impact on high quality agricultural land

### **The policy context with regards to the principle of the development**

The proposal takes place outside of a built up area of a settlement and therefore in terms of the East Devon Local Plan (LP) takes place in the countryside. Strategy 7 of the LP is a rural restrictive policy which only permits development where it would accord with other policies of the LP.

Within the LP policy E19 facilitates, as a matter of principle the expansion of existing camping sites within designated landscapes (such as the National landscape (NL)). This policy allows for such development provided there no new permanent structures or where replacement structures are proposed they are designed to blend into their surroundings. It also states the following criteria to adhere to;

1. The proposal relates sensitively in scale and siting to the surroundings and includes extensive landscaping and visual screening to mitigate against adverse impacts. They do not affect habitats or protected species.
2. They are within, or in close proximity, to an existing settlement but would not have an adverse impact on the character or setting of that settlement or the amenities of adjoining residents.
3. They would not use the best and most versatile agricultural land.
4. They will be provided with adequate services and utilities.



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

6. The development will be subject to the provisions of plan policy in terms of sustainable construction and on site renewable energy production.

On 9 June 2021, Cabinet resolved to 'make' (adopt) the Otterton Neighbourhood Plan (NP) so that it forms part of the Development Plan for East Devon alongside any other made neighbourhood plans, the adopted East Devon Local Plan 2013-2031. The date of 'making' the NP was 18 June 2021. This was following the successful referendum on 6 May 2021, where 92% of residents who voted were in favour of the NP.

Within the 'made' NP Ladram Bay is dedicated its own policy - ONP7 - which is prescriptive with regards to where development related to Ladram bay can take place. Within the NP is a plan highlighting red areas where development is supported, however the application site is beyond this red edge. The wording of the policy states;

*'Development will only be permitted within the area outlined in red on the map below if it is for the replacement of an existing structure or pitch, is designed to be sustainable and does not harm the landscape or setting of the East Devon AONB, Jurassic Coast World Heritage Site and Coastal Preservation Area. Outside the existing red line boundary defined on the map below, new development must be limited and should not provide any additional holiday units or visitor accommodation'*

Justification for this policy explains that;

*The Holiday Park has grown to its maximum size within its permitted boundary, and has a detrimental impact on the Jurassic Coast World Heritage Site and the East Devon AONB. It has an impact on the village in terms of excess traffic, congestion and the accompanying pollution that cars, delivery vans, lorries and caravans bring. The access road is totally inadequate to serve such a large site, and vehicles coming to and from the site must be properly controlled to prevent congestion.*

Accordingly, whilst the local plan contains policies that could support the principle of the development (i.e. expansion of an existing caravan and camping site within the National Landscape) the neighbourhood plan specifically notes that the area of this proposal should not support future development of this kind. It does so to ensure harm does not occur to the designated landscapes and to prevent traffic related issues. Therefore, it is necessary to assess these issues to understand if the blanket *prima facie* of the NP policy can be upheld or whether the material consideration of this specific case outweighs this policy presumption.

## **Impact on the character and appearance of the Nationally Designated Landscape (AONB) countryside**

Strategy 46 of the local plan states that development will need to be undertaken in a manner that is sympathetic, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in National Landscapes.

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.

When considering development in or affecting NLs, great weight will be given to conserving and enhancing their natural beauty and major development will only be permitted where it can be shown that it cannot be reasonably accommodated elsewhere outside of the NL.

At a national level policy in the form of the National Planning Policy Framework (NPPF) states that 'great weight should be given to conserving and enhancing landscape and scenic beauty in ... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues', that decision should recognise the 'intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services'. and further that 'the scale and extent of development within all these designated areas should be limited, while development within the setting should be sensitively location and design to avoid or minimise adverse impacts on the designated areas'.

Section 85 of The CRoW 2000 requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of NLs when performing their functions. In addition, Planning Practice Guidance states that the duty to 'have regard' extends to consideration of the setting of a National Park or a NL, when development is proposed outside of but close to a National Park or NL.

The proposed development site is a 1.2-hectare irregularly shaped field adjacent to the existing Ladram Bay Holiday Park. The site has a gentle undulation with a steep slope, rising from 45m AOD to 65m AOD. It features mixed tree species and recently planted native hedgerows. It is visually connected to the agricultural landscape of Sea View Farm and partially screened from the holiday park. The site has significant visual connectivity with prominent local landmarks and is visible from several public viewpoints, including the South West Coast Path (SWCP).

There are clear views from the site northeast to High Peak (an iconic East Devon landmark and viewpoint), and as far as Brandy Head to the south. There are numerous views to the site from the South West Coast Path national trail between these locations (Otterton footpaths 9 and 10). There are views from Otterton footpath 7 which connects to the SWCP to the west of the site from Stantyway Cross and also some glimpse views to the site from Bay Road (which provides access for walkers to the

coast) adjacent to the southwestern site boundary. There are open views to the site from the sea.

The site lies within the East Devon National Landscape (AONB). Paragraph 182 of the NPPF states that NLs, along with National Parks, have the highest status of protection in relation to conservation and enhancement of landscape and scenic quality and that the scale and extent of development in these areas should be restricted. Additionally, the site lies within the setting of the Jurassic Coast World Heritage Site and the East Devon Heritage Coast. The site also falls within the East Devon Coastal Preservation Area as defined in the Local Plan.

The landscape character assessment categorises the development site within the '4D Coastal Slopes and Combes' area, which is distinguished by a series of incised branching valleys descending towards pebbly bays along the coast. These valleys, known as combes, often house historic settlements like Beer, Branscombe, and Salcombe Regis, characterized by concentrations of vernacular architecture set within historic landscapes. Tourism significantly influences these areas, especially where there is access to the coast.

The combes exhibit a variety of physical characteristics. Some are narrow and steep with well-wooded upper slopes and remnants of orchards, while others have a more open and scrubby character, particularly along their upper boundaries. This landscape character features an irregular patchwork of hedged fields and woodlands, accessed by steep, narrow, and often sunken lanes. Spectacular views are available from the tops of the valleys and from landmarks such as High Peak. The South West Coast Path, which connects the southern ends of the combes, offers exhilarating views of both the combes and the coast.

The landscape consists of a mix of unenclosed woodlands and small to medium-sized irregular fields, bordered by low hedgebanks, predominantly used for pasture, with pockets of wet pasture and scrub.

Semi-natural habitats in the region include grasslands, woodlands, scrub, wet pastures, and caves. The area has a long history of settlement, evidenced by surviving historic buildings, lanes, and field patterns, including prehistoric and Roman finds on High Peak, which was landscaped as part of the Bicton Estate. Settlements within the combes often feature stone and flint as primary building materials, with a variety of settlement patterns, including both dispersed and nucleated villages.

Here the landscape is defined by extensive coastal rights of way, including the South West Coast Path, which features steep paths leading down to beaches. The road networks are narrow and winding, with limited vehicle access to the coast. Coastal influences are evident in the exposure, vegetation, and expansive views, which transition from high, open, and exhilarating on the upper slopes to intimate and enclosed in the lower valleys. Despite a sense of timelessness in some parts, there is a noticeable presence of traffic and tourist activities, particularly during the summer months. High Peak serves both as a viewpoint and a focal point with artistic associations.

To preserve the landscape's integrity, recreation and tourism should be managed carefully to ensure that settlements thrive, and people can enjoy the coast and its views without compromising the tranquillity or scenic quality of the adjacent cliffs. Tourism development should be of appropriate scale and character to avoid negatively impacting the landscape. Expansion of coastal campsites should be resisted, especially where they affect coastal views, and existing sites should be encouraged to enhance their landscape settings.

The submitted assessment of landscape value as 'High' is accepted.

However, the susceptibility to change of the type of development proposed should be assessed as 'High', rather than the submitted Landscape Visual Impact Assessment (LVIA) evaluation of 'Medium' or 'Medium-low'. Following on from this, the assessment of sensitivity of landscape receptors, which combines judgements of value and susceptibility, should generally be 'High' rather than 'Medium' or 'Medium-high'.

The methodology used in the LVIA is broadly acceptable. However, there are inconsistencies in the definition of primary and secondary effects, which do not align with GLVIA guidelines;

- Landscape Baseline: The study area and coverage are appropriate. The site's landscape value is correctly assessed as High. However, the inclusion of susceptibility assessments in the landscape baseline is inappropriate and should follow the assessment of likely effects. The LVIA underestimates susceptibility, which should generally be assessed as High due to the development's prominent location.
- Visual Baseline: The Zone of Theoretical Visibility (ZTV) is accepted, but viewpoint photographs are of poor quality. Photomontages lack clarity regarding the timeframe for proposed mitigation planting, which appears overly optimistic. Sensitivity of key visual receptors, such as those on the SWCP and High Peak, is underestimated.
- Assessment of Proposed Development and Effects: The submitted LVIA underestimates the adverse impact on the landscape and visual receptors. The proposed development would extend the holiday park into a more prominent and visible area, negatively affecting the setting of Sea View Farm and the surrounding agricultural landscape. The proposed mitigation measures, including tree and scrub planting, are unlikely to be effective due to challenging coastal conditions and the desire to maintain sea views from the new lodges. The reduction in density of static caravans within the existing park is noted as a potential benefit, but this does not offset the overall adverse impact of the proposed development on the top field site.

While the holiday park is a feature in key views to the site, topographically this site sits above the combe (as is evident in the photograph from Viewpoint 5), and visually is more closely associated with the surrounding farmed landscape. Furthermore, the existing tree and hedgeline on the southeastern site boundary serves as part of a more extensive buffer which presently contains the northerly extent of the holiday park as clearly evident in viewpoint photographs 3a-e and 4, Appendix 2. In this context development of the site would have an adverse impact on the setting of the Sea View farmstead, which is an attractive feature of the wider, open agricultural landscape and would extend development and associated infrastructure and activity on to higher

more prominent ground where it would detract from the low rolling ridgeline to the north.

While it is evident that trees can thrive within and around the holiday park, given the exposed coastal situation establishment is difficult and growth rates are likely to be retarded. This can be seen in tree planting carried out by the applicant in 2018/19 immediately to the northwest of the application site where the young trees are clearly struggling. The effectiveness of mitigation is also likely to be limited by the stated desire to maintain sea views from the new lodges. Offers in terms of landscape mitigation are likely to be restrictive and not successfully mitigate the impact of the development.

The proposed development is likely to result in significant landscape and visual impacts, contrary to the findings of the submitted LVIA. Therefore, the councils landscape architect has recommended that the development be refused based on non-compliance with NPPF paragraph 180 and LP strategies 7, 44, and 46, which pertain to development in the countryside, coastal preservation, and landscape conservation in NLs.

Although due to the area of land covered by the proposed development this falls within a 'major' category of development this does not mean that the development would also be considered a major development within the NL for purposes of paragraph 183 of the NPPF. For this purpose whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. Although this proposal represents expansion of the existing holiday park as a proportion this could not be said to be 'major' expansion. Further, although a significant adverse impact on the nationally designated landscape has been identified this would not fundamentally undermine the purpose of the designation. Therefore, on balance this is not considered to be 'major development for purposes of paragraph 183 of the NPPF.

In summary the proposed development at Ladram Bay Holiday Park would have substantial adverse landscape and visual impacts due to its prominent location and visibility from key public viewpoints. The mitigation measures proposed are insufficient to counter these effects, making the development incompatible with local and national planning policies aimed at protecting high-value landscapes. The recognised harm to a nationally designated landscape, in line with the requirements of the NPPF is attached 'great weight'.

### **The economic benefits of the proposal**

The Planning, Design & Access Statement for Ladram Bay Holiday Park outlines several economic and employment benefits associated with the proposed development of 32 luxury lodges. Key points include:

1. Employment:

- Current employment at Ladram Bay includes 68 permanent staff and up to 102 seasonal staff, with 90% of employees residing within a 10-mile radius.

- The development will create 3 additional permanent jobs and 3-4 additional seasonal positions.

## 2. Local Economic Contribution:

- The holiday park contributes significantly to local employment through direct and indirect means, supporting local trades, services, and facilities.
- The new lodges are expected to reinforce existing employment, provide new job opportunities, and increase local economic benefits through higher visitor spending.

## 3. Sector Resilience and Contribution

- The broader UK holiday park and campsite sector, as reported in the 2024 'Pitching the Value' report, is shown to be resilient despite challenges like Brexit and the COVID-19 pandemic.
- The sector supports 226,745 full-time jobs and generates significant visitor expenditure, contributing £7.2 billion in Gross Value Added (GVA) to the UK economy.

The claim of creating only 3 additional permanent jobs and 3-4 seasonal positions does appear modest relative to the scale of investment (£4 million). A deeper analysis is needed to justify how these figures were derived and whether they accurately reflect the potential for local employment growth. The document cites various statistics from the UK Caravan and Camping Alliance's (UKCCA) reports. However, the reliance on broad industry reports may obscure the specific local impacts. It is essential to assess whether these general findings apply directly to Ladram Bay and its immediate economic environment.

The projected increase in visitor spending due to the new lodges should be backed by more localised data. The average spend figures provided are national averages, which might not fully capture regional variations in spending behaviour. While the statement highlights indirect employment benefits, the methodology for estimating these benefits is not detailed. It would be beneficial to have a clearer breakdown of how local trades, services, and facilities will be affected, along with quantifiable data.

In conclusion, while the economic benefits presented are promising, further detailed and localised analysis is required to substantiate these claims fully. Ensuring accurate and specific localised data would strengthen the case for the proposed development and its anticipated economic contributions to this locality. Given this it is considered moderate weight can be attributed to the economic benefits of the scheme such as additional employment and wider expenditure, and subsequent boost to tourism within the district.

Impact on highway safety and traffic movements

DCC Highways have been consulted on this proposal. Many of the objections received refer to the issue of traffic and this follows one of the main concerns within the neighbourhood plan of developing the site.

In terms of traffic generation, on the basis that there would not be any net gain in overall numbers of units within the overall site the impact would likely be negligible on the main traffic route to the site and no objection is raised by the Highway dept in this regard.

Concern has been raised that if larger lodges are installed this could lead to more occupants and in turn more traffic. However, there is no evidence to suggest that increased floorspace of lodges translates to more vehicles given that it is still more likely that these would be occupied by a family. It should be noted that what has been applied for with regards to the top field is a 'change of use of the land for the siting of lodges'. By definition these are moveable structures and so not considered 'buildings' due to lack of permanence and type of construction. Therefore, these lodges could be changed for different models of mobile structures at a later stage of differing sizes (provided ground conditions and layout remain unchanged) unless controlled through the use of a planning condition.

There is likely to be some interruption to the free flow of traffic during the construction period, however this is likely to be limited in duration and could be mitigated by adhering to a CEMP condition.

The above is based upon there not being any net gain in overall numbers of units overall on the site. However, to ensure this would require the use of a Grampian condition to ensure that no units are placed on the top field until the other two existing sites are reduced in number in accordance with the submitted layouts. Conditions cannot be used to ensure development is completed and without such conditions an operator could simply not carry out the unit reduction meaning that when the top field is occupied with lodges there would be an increase in over number (up to 32 more units).

Therefore, subject to conditions ensuring no net gain in overall units within the site and suitably controlling the construction phase, there are no highway issues weighing against this development.

## **Foul and surface water drainage**

### **Foul Water**

Wastewater from the entire Ladram Bay Holiday Park site is pumped to SWW's public drainage system located within Piscombe Lane approximately 300m from the park's western boundary.

Foul drainage from the proposed development will drain to the existing pump station, which is located close to the site's central facilities buildings, for onwards transfer to SWW infrastructure. The precise route of connection to the existing pumping station

has not yet been determined but it is likely that connection will be made to suitably sized existing drainage systems located within 'The Ridges', 'Smugglers' and / or 'Hillside' areas of the park (which skirt the application sites southern boundary).

The proposed development makes no net increase in the number of units provided within the site, as an equal number of units will be lost from other areas; as such the peak daily flow to both the existing pumping station and to SWW's drainage system will remain unchanged. Accordingly, the proposal is considered to accord with policy EN19 (Adequacy of foul sewers and adequacy of sewage treatment systems) of the LP.

## Surface Water

Falling within a 'major' category of development the proposal is required to comply with SUDs requirements. In summary the impermeable areas of the proposed development will drain via a system of filter trenches and swales.

The East Devon strategic Flood Risk Assessment (SFRA) suggests that a Defra Study (Defra 2004) provided maps of groundwater flooding recorded during a particularly severe episode of groundwater flooding over the winters of 2000, 2001 and 2003. The study recorded no groundwater flooding incidents within East Devon.

In addition, the SFRA describes how the Defra study identified zones of potential 'groundwater emergence' based on a digital terrain model and using known groundwater levels, potential groundwater rise in response to recharge events, as well as a number of more local factors (e.g. actual reports of groundwater flooding, spring emergence, headwaters response etc.) No such emergence zones were found within the East Devon boundary.

On this basis the submitted drainage report concludes that the application site is at negligible risk of flooding from groundwater.

As the site is steeply sloping (average gradient 1:5) infiltration is discounted as a viable surface water disposal mechanism due to the potential for water to resurface in an uncontrolled manner 'somewhere' downslope.

This consideration is particularly valid in this case, where significant level changes exist close to the site's downslope boundary, where levels have been reduced by up to 5 - 6m approx. to create flat touring pitches. In view of this, the drainage report concludes that infiltration drainage will not be feasible on the site and as such drainage proposals are based upon alternative strategies as outlined below. Where infiltration is discounted, the 'normal' fall back is to revert to an attenuation-based system, discharging surface water to a suitable receptor at a rate which does not increase flood risk to third parties downstream or downslope.

This site, however, is quite unusual in that there are no third parties downstream, (as the holiday park adjoins the coast), as such there is no opportunity of increasing flood risks to third party's downslope of the development,



DCC Lead Flood team do not object to the proposal subject to a condition which requires further details and clarifications. The proposal is considered to comply with policy EN22 (Surface Water Implications of New Development) of the LP.

## **Impact on Ecology**

The proposed development is for a site within or close to a nationally designated landscape namely East Devon National Landscape (defined in legislation as an Area of Outstanding Natural Beauty). Natural England has concluded that impacts on the nationally designated landscape and the delivery of its statutory purpose to conserve and enhance the area's natural beauty can be determined locally by the local planning authority.

The proposed development will result in the loss of 1.1 hectares of modified grassland, 0.19 hectares of tall ruderal habitats, and 8 meters of hedgebank. The development includes buildings and associated landscaping. The wooded bank and hedgerows will be retained and enhanced post-development. The landscaping will include a 5-meter wide strip of tussocky grassland with trees and scrub planting along the southern wooded bank boundary, 88 meters of new boundary native hedgebank, and the planting of 84 site trees and 0.14 hectares of scrub.

The survey area, covering approximately 1.76 hectares, consists primarily of modified grassland with tall ruderal vegetation, surrounded by hedgebanks and a wooded bank. The grassland, situated on a south-facing slope, is minimally managed except for mown paths used by dog walkers. It is dominated by tussocky grasses and ruderal species such as cock's foot, Yorkshire-fog, creeping thistle, and broadleaved dock. Additional species include white clover, creeping buttercup, spear thistle, and common sorrel.

The tall ruderal habitat, mainly located on a recently disturbed flat area towards the field's eastern end, features broadleaved dock, Yorkshire-fog, and occasional hemlock and white clover. Rare species include Canadian fleabane and black mustard.

Two hedgebanks border the site along the northern and western boundaries, and a line of trees runs along the southern and eastern boundaries. The hedgebanks, approximately 3-4 years old, include species like hawthorn, hazel, field maple, and dog rose. The southern and eastern boundaries are marked by a line of trees, including sycamore, sweet chestnut, and oak, with a ground layer dominated by bramble, nettle, and ivy.

The site offers limited habitat for common amphibians like the common frog, common toad, and palmate newt. No records of great crested newts were found within 1 kilometer of the site, although it lies within a great crested newt consultation zone. The site lacks suitable waterbodies for these newts.

One unidentified pipistrelle bat was recorded within 1 kilometer of the site, and a European Protected Species license for bats is located 1.3 kilometers to the west. The wooded bank contains trees with potential roosting features for bats, offering low to

moderate roosting potential. The site provides limited foraging and commuting habitat for bats.

Five records of badger use were found within 1 kilometer of the site, with evidence of badger paths and hair on barbed wire. No setts were found on-site, but the area forms part of a badger social group's territory.

Twenty-six bird species records were returned, including common species like dunnock and song thrush, and red-listed farmland birds like grey partridge and yellowhammer. The site's habitats provide general and nesting habitat for birds.

Two dormouse records were found approximately 160 meters to the north and northeast. Suitable dormouse habitats on-site include the wooded bank and hedgerows, which are connected to other suitable habitats nearby.

Three reptile records were returned, including slow worms and grass snakes. The hedgerow bases and modified grassland offer limited habitat for common reptiles.

To mitigate the ecological impact, the development will retain and enhance the wooded bank and hedgerows. The landscaping plan includes a 5-meter wide tussocky grassland strip with trees and scrub planting, 88 meters of new boundary native hedgerow, and the planting of 84 trees and 0.14 hectares of scrub. Modified grassland areas to be removed should be managed with a short sward to encourage amphibians and reptiles to move away from the working areas.

A sensitive lighting strategy is required to avoid illuminating wooded banks, hedgerows, and created habitats, thereby protecting nocturnal species like dormice and bats. Lighting should be minimal, using LED luminaires with warm white spectrum, and equipped with hoods or shields to reduce light spill.

During construction, trenches could be covered overnight to prevent wildlife entrapment, and tree protective measures should be implemented to safeguard retained hedgerows and wooded banks. Future management should avoid hedge cutting during the bird nesting season.

The proposed development will initially have a negative ecological impact by removing habitats for various species. However, the project plans to achieve a net gain in biodiversity, with a +21.61% change in area habitat and a +13.78% change in hedgerow habitat. With the implementation of mitigation measures and enhanced landscaping, the development would overall have an acceptable impact on onsite biodiversity.

### Appropriate Assessment

EDDC guidance makes it clear that new housing and tourist accommodation will lead to increased recreational demands on the environment. Pebblebeds and Exe Estuary overlapping zones where in East Devon.

The Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas (SPAs) provide an important recreational resource for the local community. They are sensitive environments which are important to nature conservation and are subject to European wildlife site designations. The Authority has a responsibility under European Habitat Regulations to assess and seek to minimise the impacts of new development on these habitats. A recent study has shown that recreational use of the Exe Estuary and Pebblebed Heaths is already having a significant effect on the levels of disturbance of wildlife. New housing and tourist accommodation will lead to increased recreational demands on the environment.

In partnership with Natural England, the Council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these SPAs. It is therefore essential that mitigation is secured to make such developments permissible.

The NPPF advises on the promotion, preservation, restoration and re-creation of priority habitats and protection and recovery of priority species. International and national legislation and policy already provides statutory protection for, and comprehensive guidance on, the management of valued biodiversity and geological assets. The Council will apply these safeguards carefully together with the continued use of Local Plan strategies and policies to conserve these precious assets.

East Devon District Council currently mitigates in accordance with its obligations under the Habitat Regulations by collecting contributions towards infrastructure (for instance SANGS) through the Community Infrastructure Levy.

To make it easier for developers to 'deliver' such mitigation, in many cases the Council will accept a financial contribution per new house or holiday unit. The three local planning authorities work in partnership to use these financial contributions to deliver the required mitigation measures. Alternatively, developers may choose to provide their own mitigation measures rather than pay the contribution. Similar approaches have been successfully adopted for other European-designated wildlife sites (for example, the Thames Basin Heaths, the Dorset Heaths and Breckland).

An Appropriate Assessment is required for development as it is within 10k of these designated sites the proposed development and could give rise to recreation activity. The Appropriate Assessment must consider the conservation objectives for the affected European site(s) and the effect the proposed development would have on the delivery of those objectives. In the light of the conclusions about the effects on the delivery of the conservation objectives the competent authority must decide if the integrity of the site would be affected. There is no definition of site integrity in the Habitats Regulations - the definition that is most commonly used is in Circular 06/2005 is '(...) the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified'.

In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations.

A legal agreement securing the contribution has not been provided to date. However, subject to a suitably worded condition to ensure there would be no overall net gain numbers of lodges or accommodation units there would not be an increase in pressures on this ecological designation. Therefore subject to a condition this should not weigh against the proposal.

### **Impact on High Quality Agricultural Land**

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

Records indicate that the site occupies an area that is the subject of a 'grade 3' agricultural land classification which is defined as 'good to moderate'. Grade 3 is split within grade 3a and grade 3b.

While it is not clear whether this is grade 3a (which would be regarded as higher grade land for the purposes of application of Policy E19 criteria - in addition to the provisions of Policy EN13 (Development on High Quality Agricultural Land) of the LP) or grade 3b (which is of a lower grade) the relevant classification would need to be ascertained. Given that the provisional classification is based on a higher level assessment a site-specific assessment should be undertaken to clarify further on site conditions.

Should it be established that the land is classified grade 3a the proposal would be considered to be contrary to both of these policies on the grounds that it would involve loss of higher grade agricultural land. However, in the absence of any site specific assessment to illustrate that this is not the case this must weigh against the proposal until proven otherwise.

### **Planning Balance**

The proposed development of 32 luxury lodges at Ladram Bay Holiday Park would have significant adverse impacts on the designated landscape, as highlighted by the Landscape Architect's assessment. The development extends into a prominent and visible area, affecting views from key public viewpoints, including the South West Coast Path (SWCP) and High Peak. The existing visual harmony with the agricultural landscape and the setting of Sea View Farm would be disrupted. The proposed

mitigation measures, such as tree and scrub planting, are deemed insufficient due to the challenging coastal conditions and the likely need to maintain sea views from the new lodges. The photomontages provided are unclear about the timeframe for effective mitigation and provide limited comfort that the impact can be ameliorated. Accordingly, the development does not align with NPPF paragraph 180 and Local Plan strategies 7, 44, and 46, which emphasize the protection of the countryside, coastal preservation, and landscape conservation in Areas of Outstanding Natural Beauty (AONBs).

The economic and employment benefits of the proposed development are detailed in the applicant's Planning, Design & Access Statement. The development is projected to create 3 additional permanent jobs and 3-4 seasonal positions, supporting local employment within a 10-mile radius of the site. The holiday park currently contributes significantly to local employment and economic activity. The new lodges are expected to enhance this contribution through increased visitor spending, thereby supporting local trades, services, and facilities. The holiday park and campsite sector has shown resilience in testing times, contributing substantially to the national economy. The development proposed aligns with this trend, aiming to sustain and enhance local economic benefits despite broader economic challenges.

Nevertheless, the adverse effects on the landscape, particularly in a sensitive and highly visible coastal area, weigh heavily against the proposed development. The visual and environmental integrity of the AONB is a critical consideration and aligns with national and local planning policies aimed at preserving these landscapes. While the economic benefits, such as job creation and increased visitor spending, are positive, they are relatively modest in scale. The creation of 3 additional permanent jobs does not substantially offset the significant landscape harm identified.

Insufficient information has been submitted to confirm whether the proposal would result in the loss of best and most versatile agricultural land. Whilst in certain circumstances benefits of a scheme can outweigh such harm in this instance due to the above there is clear environmental harm arising from the development of the top field. In this regard there is identified conflict with policy EN13 and paragraph 180 of the NPPF.

The proposal's non-compliance with key planning policies focused on landscape and environmental protection makes a strong case against consenting the development. Preserving the natural and visual quality of the area takes precedence over the proposed economic gains. Indeed this is ingrained and recognised within the economic and tourist policies of the development plan, which make it clear that whilst such development can be supported this should not be at the expense of the natural environment.

The protection of the high-value landscape and adherence to established planning policies are attributed 'great weight' in considerations in this decision. Ultimately, it is the spectacular coastal, views, geology, and natural landscape that attract tourist to these areas. Degradation of such natural features would undermine the very reasons tourists visit in the first place. Given the substantial adverse landscape impacts and

the relatively modest economic benefits, it is recommended that the development be refused planning permission.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposal takes place in a high value landscape, which has a high sensitivity to change. The proposed development for the siting of lodges (and the associated paraphernalia) on the top field site would, by virtue of the sites prominence, topography, intrinsic change in the character and introduction of built form with associated infrastructure would result in a large magnitude of change. This magnitude of change would be readily perceptible from the public realm from the South West Public Footpath, as well as notable local landmarks and surrounding vantage points, resulting in significant harm to the natural qualities of the character and appearance of the area. The proposal therefore fails to preserve and enhance the National Landscape and undermines the significant landscape qualities. Although there are some economic benefits recognised from the proposal in accordance with the National Planning Policy Framework the significant harm to the nationally recognised designation is attributed 'great weight'. Therefore, the proposal would conflict with the requirements of East Devon Local Plan Strategies 7 (Development in the Countryside), 44 (Undeveloped Coast and Coastal Preservation Area) and 46 (Landscape Conservation and Enhancement and AONBs) and policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements), the Otterton Neighbourhood Plan policies ONP4 (Protecting and Enhancing the Natural Landscape) and ONP7 (Ladram Bay Holiday Park Development) and guidance within the National Planning Policy Framework.
2. Insufficient information in the form of a site specific land classification survey has been submitted in order to demonstrate that the proposed development would not result in the loss the best and most versatile agricultural land and as such fails to demonstrate that the best and most versatile soils would be protected or that alternative sites with lower quality have been considered. The resulting harm is considered to outweigh the benefits that the proposal could bring about and is contrary to Policies EN13 (Development on High Quality Agricultural Land) and E19 (Holiday Accommodation Parks) of the East Devon Local Plan 2013-2031 and paragraph 174 of the National Planning Policy Framework.

## NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability. This Informative confirms that this development is not liable to a CIL charge.

Plans relating to this application:

LPD/1220/LBHP/ MP2/SW1	Other Plans	27.02.24
LPD/1220/LBHP/ MP2/SE1	Other Plans	27.02.24
LPD/1220/LBHP/ LPTF1	Location Plan	27.02.24
LPD/1220/LBHP/ LP2D	Other Plans	27.02.24
LPD/1220/LBHP/ CS1A	Sections	27.02.24
895/05 REV A	Other Plans	27.02.24
895/04 REV A	Other Plans	27.02.24
895/02 REV C	Other Plans	27.02.24
895/02 REV C	Other Plans	27.02.24
895/01 REV C	Other Plans	27.02.24
LAYOUT PLAN - EXISTING (AREA 2)	Other Plans	27.02.24
LAYOUT PLAN - EXISTING (AREA 1)	Other Plans	27.02.24
A - D	Proposed Elevation	03.04.24
FORESTERS LODGE 40 X 22 2 BED	Proposed Elevation	09.04.24
PLANTATION HOUSE 40 X 20 2 BED	Proposed Elevation	09.04.24
CASA DI LUSSO 45 X 22 2 BED	Proposed Elevation	09.04.24
15.04.2024	Other Plans	15.04.24

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.



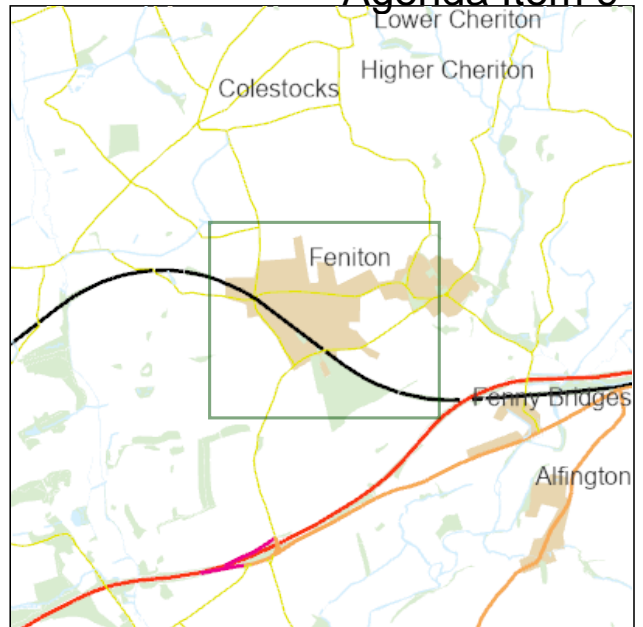
**Ward** Feniton

**Reference** 24/0331/MFUL

**Applicant** Mr Tom Buxton-Smith

**Location** Land North And South Of Station Road, Warwick Close, Wells Avenue, Land Opposite Greenacres Close And Land Adjacent To Ottery Road Near Sidmouth Junction Sewage Pumping Station. Feniton

**Proposal** Amendments to phase 4 of the Flood alleviation scheme (consented under ref; 14/2882/MFUL) - works comprising the construction of channels, culverts and swales and mitigation works including flood defences, inlet water storage areas, infrastructure and outfall structure.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 16.07.2024</b>
<b>Feniton (Feniton)</b>	<b>24/0331/MFUL</b>	<b>Target Date: 16.05.2024</b>
<b>Applicant:</b>	<b>Mr Tom Buxton-Smith</b>	
<b>Location:</b>	<b>Land North And South Of Station Road, Warwick Close, Wells Avenue, Land Opposite Greenacres Close And Land Adjacent To Ottery Road Near Sidmouth Junction Sewage Pumping Station, Feniton</b>	
<b>Proposal:</b>	<b>Amendments to phase 4 of the Flood alleviation scheme (consented under ref; 14/2882/MFUL) - works comprising the construction of channels, culverts and swales and mitigation works including flood defences, inlet water storage areas, infrastructure and outfall structure.</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is brought before the Planning Committee as the scheme to which it relates has financial implications for the Council and as such cannot be determined under the scheme of delegation.**

**Permission is sought for revisions to the final phase (Phase 4) of the approved flood alleviation scheme for Feniton that was originally approved in 2015 (under application ref. 14/2882/MFUL).**

**Phases 1, 2 and 3 have since been completed.**

**Phase 4 involves the creation of an open channel on the north eastern edge of the village, to the east of Mount View, and construction of a below ground bypass culvert discharging to the south west into a ditch to the rear of Metcombe Cottage.**

**The proposed modifications involve, in summary, changes to the approved operations within the part of the site to the rear of Mount View at the north eastern end of the development and the realignment of the south western end of the culvert within a field opposite the junction of Green Lane and Ottery Road.**

**The latter involves additional land to the 2014 application site and therefore necessitates the submission of an entirely fresh detailed application for this phase of the scheme.**

The principal benefits of the proposed revisions will be a reduction in the discharge rate from the culvert, an enhanced capacity in excess of the 1% annual exceedance probability event (1 in 100-year return period) with a 30% allowance for future climate change and easier inspection and maintenance of the diverted section of culvert at Ottery Road via the highway rather than private land.

As before, the main issues for consideration relate to the risks of flooding, landscape impact and any harm to trees and ecological interests.

Detailed assessments relating to the main constraints have again been included within the application. In assessing these, it is considered that, while some limited and localised harm would arise, much of this can be suitably addressed by appropriate mitigation that can be secured by way of appropriately worded conditions.

Also given the fallback scenario of the extent 2014 permission, it is again considered that there are significant benefits associated with the project and that, taken together with identified mitigation (for both flood risks and other site constraints) the scheme should be supported.

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

The Council support this application.

### **Technical Consultations**

#### EDDC Trees

No objections subject to condition (Full consultation response at end of report)

#### Environmental Health

I have considered the application and note that this site is close to nearby residents who may be impacted during the construction process. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays.

#### Environment Agency

No objections subject to condition (Full consultation responses at end of report)

#### EDDC District Ecologist

No objections subject to conditions (Full consultation response at end of report)

#### DCC Historic Environment Officer

No objections subject to condition (Full consultation response at end of report)

### Other Representations

Two representations of support and two 'neutral' representations have been received.

#### Summary of Grounds of Support

1. Feniton is long overdue this flood relief work.
2. Clarification about vehicular access to properties during works required.

#### Summary of 'Neutral' Representations

1. Concern that access to and from my property from my parking area in front of my bungalow with my car and accessibility to the road with my disability scooter kept in my garage will be impaired.
2. Would like the Council to provide warning/clarification as to when and if vehicular access is available, parking arrangements when vehicular access is not possible and hours of working.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
14/2882/MFUL	Flood alleviation works comprising the construction of channels, culverts and swales and mitigation works to individual properties including flood defences and by pass channel.	Approval with conditions	11.02.2015

### **POLICIES**

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

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

Strategy 3 (Sustainable Development)

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

#### Made Feniton Neighbourhood Plan 2016-2031 Policies

F1 (Environmental Protection)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2023)

### **ANALYSIS**

#### Site Location and Description

The application site comprises a long narrow tract of land stretching through part of Feniton and extending, just, into the adjoining parish of Ottery St Mary. From a field to the east of Mount View, on the northern edge of the village, it extends south of Station Road between Louvigny Close and Silverton Rise and through the recreational field. (At this point it also encompasses open land to its east and to the south of Vineton Place, together with a further spur of land beyond this extending as far south as Green Lane.) It then continues in a southerly direction along Warwick Close to Green Lane. After passing under the road, the site then turns to the west, alongside Green Lane itself, crosses under the railway line before continuing to the road junction of Green Lane and Ottery Road. It then turns to the north west to extend along part of an open field along the western side of the latter as far as an existing sewage pumping station building.

#### Background

Planning permission was granted to the Council in 2015 (application 14/2882/MFUL refers) for a flood alleviation scheme for Feniton comprising the following phases:

Phase 1 - Downstream mitigation works for Phase 4 (see below) including an improved ditch around Metcombe Cottage and Sweethams Cottage and a ditch bypassing the ponds at Gosford Farm

Phase 2 - Downstream property protection including new flood gates, walls and raised drives at The Oaks, Pine Cottage and Iron Gate Lodge

Phase 3 - Construction of a culvert underneath the Exeter to London Waterloo railway line and two manhole chambers at either end

Phase 4 - Construction of a new 1050mm diameter bypass culvert through Feniton, starting in the north east of the village, connecting to the culvert under the railway line (phase 3) and discharging south west of the village into the ditch behind Metcombe Cottage

Phases 1 and 2 of the scheme were constructed in 2016 while Phase 3 was constructed by Network Rail in 2022.

In summary, the key elements of the Phase 4 works, which are intended to carry flood water from the north east of the village to discharge to a ditch to the south west, consist of:

#### 1. Inlet structure

- A new inlet swale in the field to the east of Mount View to capture overland surface water flows which cause localised flooding. It is intended that it will also act as a temporary attenuation pond
- A new inlet structure incorporating a silt trap and debris screen located immediately downstream of the swale, at the entrance to the proposed culvert (see point 2 below), to reduce blockages and prevent unauthorised entry into the culvert
- A new earth bund and land drain to re-direct overland surface water flows towards the inlet swale
- A gabion structure to retain an embankment adjacent to the new inlet head wall

#### 2. Flood relief culvert

- An 850 metre underground culvert to convey flood water from the inlet swale to a drainage ditch to the south west, bypassing residential properties in Feniton

#### 3. Outfall structure

- A new culvert outfall structure consisting of a curved, concrete open channel bed and gabion walls to retain the adjacent embankment. Energy dissipation features are added to the concrete channel bed to decrease flow velocity
- Improvements to the existing ditch behind Metcombe Cottage to tie in with improvements made further downstream in Phases 1 and 2

#### Proposed Development

The current application proposes modifications to the design of the approved Phase 4 works involving the following:

1. Redesign of the inlet swale on the land to the east of Mount View to incorporate the following:
  - a) The sitting of the structure within the ground rather than on raised embankments with deeper ground excavation
  - b) A larger debris screen structure to meet current regulations
  - c) Larger wing walls to the debris screen structure with gabion baskets in place of concrete
  - d) A single access maintenance ramp, at the north western corner of the field, in place of three access ramps previously approved

- e) The addition of timber access steps within the swale/channel
- f) Limited raising of land to the south east to prevent any flood waters from bypassing the channel

2. Omission of a network of smaller diameter (450mm and 300mm) pipes that are no longer required.

3. An extension of the approved culvert - as a concrete box culvert - into the field to the west of the Green Lane/Ottery Road junction with a discharge via a relocated outlet structure, consisting of a curved gabion basket headwall and outfall channel with concrete bed, into an existing drainage ditch that runs alongside the hedged western boundary of the field.

This has been changed from a large concrete structure with a sluice, silt trap and pedestrian bridge to a smaller redesigned structure to reduce the velocity of flow leaving the pipe culvert.

It has also been moved so that it can be inspected/maintained from the public highway rather than requiring regular access across private land.

These revisions aside, the approved Phase 4 scheme remains unchanged from the original 2014 application.

The proposed culvert extension and outlet structure involves additional operational development on land beyond the 2014 application site. As such, these operations cannot be considered either in the form of a non-material amendment under section 96A of the Town and Country Planning Act (TCPA) or a minor material amendment under section 73 of the TCPA to the original planning permission ref. 14/2882/MFUL.

Moreover, they are not considered to be permitted under any provisions set out within the Town and Country Planning (General Permitted Development) Order (GPDO), hence the requirement for a fresh full application relating to the entirety of this phase of the flood alleviation scheme.

### Considerations/Assessment

#### Principle of Development

As stated previously at the time of the original 2014 application, the need for a flood alleviation scheme for Feniton is well documented. The village has flooded on a number of occasions in the comparatively recent past and this brings with it not only the financial costs to the Council, local businesses and residents but also personal misery.

Although three phases of the scheme have been completed, the remaining fourth phase to which the revised proposals relate is of obvious importance to the effectiveness of the development as a whole. Given this, together with the extant status of the 2014 permission, it is considered that the proposals are acceptable in principle.

However, as with the previous proposal there are a number of contextual issues that require consideration. These principally relate to flood risk and impact upon landscape character, trees and ecology, each of which is discussed in turn as follows.

### Flood Risk

Although the primary purpose of the proposal is to reduce the risk of flooding it is important to consider the implications of any works involving the control of flood waters. This is to ensure that any benefits that are provided in one location do not cause additional harm in another. To this end, the submission is accompanied by a detailed flood risk assessment.

Its main conclusions are:

- The proposed works do not encroach into Environment Agency (EA) flood zones 2 and 3 although they do intentionally encroach into an overland flow path associated with surface water runoff
- The vulnerability classification of the proposed works is water-compatible development
- The vulnerability of the proposed works is compatible with the envisaged flood risk
- As the development is within flood zone 1, the proposal satisfies the sequential test for flood risk and is not therefore subject to the need to pass the exception test. However, since it has to interface with an area that is at higher risk of flooding, the impact of the proposed works on flood risk elsewhere should be considered
- The proposed works will reduce the final discharge from the culvert from the previously approved discharge rate of 2.3 cu.m./s to 2.0 cu.m./s.
- The proposed works would result in an enhanced capacity in excess of the 1% annual exceedance probability event (1 in 100-year return period) with a 30% allowance for future climate change

However, the assessment has had to be revised in the light of EA concerns as to the lack of sufficient information in relation to groundwater protection, most notably a demonstration that risks posed by the development to groundwater can be satisfactorily managed. A ground investigation was therefore required to characterise the site and evaluate the risk of impact to controlled waters for any contaminations or water pollution, more particularly owing to the site being located within a source protection zone and the encroachment of part of the scheme within the boundary of a historic landfill site just west of the railway line on the southern side of Green Lane.

In response, a Controlled Waters Risk Assessment report has been provided that satisfactorily demonstrates to the EA that it would be possible to manage the risks posed to controlled waters by the development. However, further detailed information - in the form of a remediation strategy - is required, principally on account of the historic landfill use which presents a high/medium risk of contamination that could be mobilised during construction and in turn pollute controlled waters.

A condition is therefore recommended to secure the submission for approval, and implementation thereafter, of a remediation strategy.

### Impact upon Character and Appearance of Landscape



While the main flood relief culvert would clearly be installed underground and would not therefore impact the character and appearance of the area, the proposed swale, bund/land drain, silt trap, debris screen, access/maintenance ramp, gabion basket walls, headwall and outfall structure would all represent above ground elements of the proposals.

Although the swale, bund and ramp would change the topography and appearance of the field to the east of Mount View, the impact would be little more than localised in extent. Equally, whilst the other operations would read as engineered and rather harsh interventions in the landscape, they are essential parts of the scheme that, taken both in themselves and in the context of the development as a whole, are not considered likely to result in material harm to the character and appearance of the two main fields within which the modifications and additional operations would take place. This is also more especially given also the re and extent of the previously approved works that could alternatively be carried out in light of the extant status of the 2014 permission by way of a fallback scenario.

An existing orchard lies to the south of the existing railway line. It is understood that this has a dual purpose in both providing a commercial crop of apples as well as cover for free range poultry. While the proposed flood alleviation is culverted at this point, a working margin to construct the culvert is required. While such a margin would take place along the edge of the field it is likely to result in the loss of a small number of fruit trees. Noting that these can be replaced, it is not considered that any landscape harm would result.

### Trees

The submission is accompanied by an arboricultural impact assessment report, incorporating a tree protection plan and arboricultural method statement prepared in accordance with B.S. 5837:2012.

These mainly propose construction exclusion zones and the installation of tree protection fencing (either braced Herras or high visibility barrier) adjacent to trees, tree groups and hedges as follows:

1. Around key trees on the northern and southern hedged boundaries of the field to the east of Mount View as well as along the entirety of the eastern side of the proposed swale.
2. A small group of trees on the southern side of Station Road between Louvigny Close and Silverton Rise.
3. Between a group of roadside trees along the southern side of Green Lane and larger tree groupings to the south to the west of the railway line.
4. Around two individual category B Oaks close to the Green Lane/Ottery Road junction and further south west alongside Ottery Road.
5. Alongside a category A Oak and the additional application site area adjacent to Ottery Road.

The Council's Tree Officers are satisfied, on the basis of the details submitted, that the proposals would result in no more than a limited impact upon the arboricultural features on and adjacent to the site and raise no objections subject to a condition being attached to any grant of permission requiring compliance with the tree protection measures supplied.

### Ecology

A detailed report, following an Extended Phase 1 habitat survey of the site, and subsequent Phase 2 surveys in relation to hazel dormice and badgers, has also been provided with the application.

The proposals include the permanent loss of 5 metres of hedgerow and the temporary loss of 11 metres of hedgerow, which include the sections confirmed as dormouse habitat. However, a Dormouse Mitigation Licence from Natural England was obtained for the works in September 2023 and the hedgerow removal was completed under ecological supervision in October 2023. Although further temporary hedgerow removal is proposed, the affected sections are considered unsuitable habitat for dormice due to their isolated location and poor habitat connectivity and are not subject to the requirement to obtain a dormouse licence. Furthermore, the hedgerows are to be re-planted with a mix of native species.

Several habitats on site provide suitable foraging and commuting areas for bats. The report considers the trees proposed for removal do not contain suitable bat roosting features. Mitigation and compensation measures are considered acceptable and appropriate for the predicted impacts and the scale of the works.

Overall, the submitted ecological survey information, including various recommended ecological avoidance, mitigation and enhancement measures, is considered acceptable subject to the successful implementation of these measures and conditions to secure the submission, agreement and implementation thereafter of landscape and construction ecological management plans (LEMP and CEcoMP)

### Archaeology

The original permission for the flood alleviation scheme, ref. 14/2882/MFUL, carried a condition requiring the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) approved by the Local Planning Authority.

The agents representing the Council have advised, in response to a query from the County Council's Historic Environment Team (HET), that there is an intention to implement the WSI that was approved in the discharging of this condition in relation to the archaeological works on Phases 2, 3 and 4 of the scheme, the Phase 1 works having already been implemented.

The HET therefore recommends a condition to ensure that the development proceeds in accordance with this undertaking.

### Other Issues

The scheme would again result in the loss of a small amount of productive Best and Most Versatile (BMV) (Grade 1 and 2) agricultural land. However, although weighing against the proposal in the planning balance, it is not considered to outweigh the benefits assisted with the flood alleviation scheme. Again, in this regard the presence of a fallback scenario in the form of the extant 2014 permission is highlighted.

The remaining issue is the presence of a public footpath (no. 1 on the Definitive Map) that extends southwards off Green Lane and which the length of proposed culvert running parallel with Green Lane would cross under. However, whilst the footpath may require a temporary closure during construction of the scheme, it would not be affected long term given the underground nature of the proposed operations within this part of the site.

The issues raised by interested third parties regarding the management of access to properties in Warwick Close during the course of operations are acknowledged. However, they relate to the management of the project as opposed to its merits in Planning terms and, as such, are not directly material to assessment of the proposals.

### Conclusion

In conclusion and having regard to the balance of the various material considerations set out above, it is considered that the submitted revised proposals for the Phase 4 operations relating to the Feniton Flood Alleviation Scheme are acceptable.

Approval is therefore recommended subject to conditions relating to the submission of a remediation strategy for mitigating the risk to groundwater from the development along with a LEMP and CECoMP in line with the recommendations made by the EA and the Council's Ecologist, respectively. A further condition is also recommended to secure the implementation of the remaining archaeological work secured through the submission and agreement of the WSI in connection with the discharging of the relevant condition attached to the previous planning permission granted under ref. 14/2882/MFUL.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Prior to commencement of any works on site (including demolition), measures for the protection of trees and hedges during the course of development shall be carried out as detailed within the Arboricultural Report, Tree Protection Plan and Arboricultural Method Statement dated 20th December 2023 prepared by Advanced Arboriculture. All works shall adhere to the principles embodied in B.S. 5837:2012 and shall remain in place until all works are completed, and no changes shall be made without first gaining approval in writing from the Local Planning Authority.

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

a) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

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

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

d) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

e) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

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

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

4. The development hereby permitted shall be carried out strictly in accordance with the Ecological Impact Assessment (Hamilton Ecology, January 2024), in particular the ecological mitigation and enhancement measures detailed in Table 2 and Figure 3 (Ecological Constraints and Opportunities Plan). A written record shall be submitted to the Local Planning Authority at the respective stages of the development to include records of compliance monitoring, supervised habitat removal, and photographs of the installed ecological mitigation, compensation and enhancement measures listed in Table 2 and Figure 3.

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

5. Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. The LEMP shall be based on the submitted Ecological Impact Assessment. It shall include the location and design of biodiversity features, including the newly planted and enhanced hedgerow planting, the creation of the wildflower meadow and wetland and other features to be shown clearly on the submitted plans.

The content of the LEMP shall also include the following.

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

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

(Reason – A pre-commencement condition is required to ensure that the development provides ecological mitigation and enhancement measures in accordance with a prior evaluation of features to be managed in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031.)

6. No development shall take place (including ground works) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the Local Planning Authority. The CECoMP shall include the following:
  - a) Risk assessment of potentially damaging construction activities, to include an invasive species management plan to prevent the spread of non-native plant

species during the works. This is to include a pre-construction check a minimum of 6 weeks prior to commencement of works.

b) Identification of "biodiversity protection zones".

c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication, including reporting compliance of actions to the LPA.

g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEcoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

(Reason – A pre-commencement condition is required to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures further to a pre-construction risk evaluation of potentially damaging construction activities and the agreement of appropriate management measures, where necessary, in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031.)

7. No development relating to the landfill and groundwater protection area (as defined in yellow shading on the attached plan) 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. The strategy shall include the following components:
  1. A preliminary risk assessment which has identified:
    - all previous uses
    - potential contaminants associated with those uses
    - a conceptual model of the site indicating sources, pathways and receptors
    - 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 and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the written approval of the Local Planning Authority. The scheme shall be implemented as approved.

(Reason – A pre-commencement condition is necessary to ensure that contamination of the site is corrected at the appropriate stage of development and that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution in line with Policy EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031 and paragraph 180 of the National Planning Policy Framework (2023).)

8. The development hereby permitted shall proceed in accordance with the Written Scheme of Investigation prepared by AC Archaeology (document ref: ACD1137/1/1 dated 12th May 2015). The development shall be carried out at all times in accordance with the approved scheme.

(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the adopted East Devon Local Plan 2013-2031 and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.)

#### NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability. This Informative confirms that this development is not liable to a CIL charge.

#### Informative:

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

#### Plans relating to this application:

001001 REV C01	Location Plan	15.02.24
001002 REV C01	Other Plans key plan	15.02.24
003001 REV C01	Other Plans	15.02.24
003005 REV C01	Other Plans	15.02.24
003002 REV C01	Other Plans	15.02.24
003003 REV C01	Other Plans	15.02.24
003004 REV C01	Other Plans	15.02.24
003006 REV C01	Other Plans	15.02.24

003007 REV C01	Other Plans	15.02.24
004000 REV C01	Sections	15.02.24
004001 REV C01	Other Plans	15.02.24
004002 REV C01	Other Plans	15.02.24
004003 REV C01	Sections	15.02.24
004004 REV C01	Other Plans	15.02.24
004005 REV C01	Other Plans	15.02.24

### 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 – Technical Consultations - Full consultation comments**

#### EDDC Trees

The proposal is supported by an arboricultural impact assessment, tree constraints plan, tree protection plan and arboricultural method statement. Together these show that the proposal will only have a limited impact on the arboricultural features on site and therefore no objections are raised. I recommend the following condition:

a) Prior to commencement of any works on site (including demolition), the Tree Protection measures shall be carried out as detailed within the Arboricultural Report



and Arboricultural Method Statement submitted by Advanced Arboriculture on the 20/12/2023. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority.

b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

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

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

e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

f) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

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

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

#### Environment Agency (Original consultation comments)

Thank you for consulting us on this application.

#### Environment Agency position

Whilst we support the principle of the scheme from the perspective of flood risk management, we do raise an objection because insufficient information has been submitted in relation to groundwater protection.

#### Reason

Our approach to groundwater protection is set out in 'The Environment Agency's approach to groundwater protection'. In implementing the position statements in this

guidance we will oppose development proposals that may pollute groundwater especially where the risks of pollution are high and the groundwater asset is of high value. Groundwater is particularly sensitive in this location because the proposed development site is located within source protection zone 3 and, part of the proposed scheme encroaches within the boundary of a historic landfill site ('Sidmouth Junction').

To ensure development is sustainable, applicants must provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed. Therefore, a ground investigation is required to characterise the site and evaluate risk of impact to controlled waters for any contaminations or water pollution.

#### Overcoming our objection

The applicant should submit additional information relating to groundwater protection as outlined in this letter. Please re-consult us on any relevant information submitted.

Please contact us again if you require any further advice.

#### Environment Agency (Further consultation comments)

Thank you for re-consulting us on this application.

#### Environment Agency position

Following review of the submitted Controlled Waters Risk Assessment ref. 5222087/GQRA/001/V1 by AtkinsRéalis dated 11th June 2024, we have no objection to the proposed development subject to the inclusion of a condition relating to the management of contaminated land on any permission granted. Suggested wording for this condition and the reason for this position is provided below.

#### Condition

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 will include the following components:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - 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 and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

We can confirm that the applicant has already presented a satisfactory preliminary risk assessment and is proposing to undertake additional site investigation to supplement data from 2014. This additional data will help to characterise the site further and will enhance the risk assessment. We look forward to receiving the additional information so that elements (2), (3) and (4) of the above Condition can be satisfied.

Reason - To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 180 of the National Planning Policy Framework.

Reason for position - The previous use of part of the application site as a landfill presents a high/medium risk of contamination that could be mobilised during construction and in turn, pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is within source protection zone 3 of South West Water's public water supply boreholes in the Otter Valley. The site is also located on the Otter Sandstone, which is a principal aquifer, which are capable of yielding significant quantities of water for potable supply and are important for providing base flow to rivers during dry periods.

The applicant's submitted Controlled Waters Risk Assessment demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 189 of the National Planning Policy Framework. Without this condition, which is outlined above, we would object to the proposal in line with paragraph 180 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Please contact us again if you require any further advice.

### EDDC District Ecologist

#### 1 Introduction

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

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

## 2 Review of submitted details

### Ecological Impact Assessment (EclA)

The application is supported by an Ecological Impact Assessment (EclA), including a biological records centre data search and surveys for dormice and badgers. The application is also informed by a Preliminary Ecological Report (Blackdown Environmental, 2014), Phase 2 Ecological Survey Report (Blackdown Environmental 2014) and an Ecological Statement of Compliance (Blackdown Environmental 2015) associated with a previously consented development (ref. 14/2882/MFUL) involving the first three phases of this scheme.

The ecological surveys to support the application are within 12 months of the application and follow best practice guidelines and are therefore considered suitable to support the application. The botanical survey was undertaken outside the optimal survey period; however acceptable justification is provided.

### Ecological receptors

Ecological surveys determined the site supports dormice, harvest mice and foraging and commuting badgers. An outlier badger sett was identified adjacent to the site, along the railway line. The EclA considers the site also provides potential habitat for commuting and foraging bats, nesting birds, hedgehogs, brown hares, reptiles and common amphibians.

The site is within a great crested newt (GCN) consultation zone, however, there are no suitable breeding ponds within 250m of the site and therefore are considered absent. In addition, the EclA considers beavers, otters, and water voles are also absent from the site.

The EclA notes the presence of variegated yellow archangel, an invasive non-native species (listed on Schedule 9 of the Wildlife and Countryside Act (1981, as amended)), in the southwest section of the site and considers the works have the potential to spread the species. Suitable mitigation measures have been provided which is welcome.

Further details on the management of the species during construction could be provided within a Construction and Ecological Management Plan (CECoMP).

### Ecological Impacts

There are no predicted impacts on any designated sites for wildlife interest.

The development would result in permanent loss of 5 m of hedgerow, 0.18 ha of modified grassland, several young broad-leaved trees, and areas of tall ruderal vegetation and scrub. In addition, the proposals include the temporary loss of 11 m of hedgerow, proposed to be reinstated during the first available planting season with a mix of native species.

In the absence of mitigation measures, the EclA report considers the impacts of site clearance and construction could result in killing or injury to several protected

species, including nesting birds, badger, dormice, common reptiles and amphibians, harvest mouse and hedgehog.

## Bats

Several habitats on site provide suitable foraging and commuting habits for bats. The report considers the trees proposed for removal do not contain suitable bat roosting features. Mitigation and compensation measures are considered acceptable and appropriate for the predicted impacts and the scale of the works.

## Dormice

The proposals include the permanent loss of 5 m of hedgerow and the temporary loss of 11 m of hedgerow, which include the sections confirmed as dormouse habitat and identified as TN1, TN3 and TN12. A Dormouse Mitigation Licence from Natural England was obtained for the works in September 2023 and the hedgerow removal was completed under ecological supervision in October 2023. Further hedgerow removal is proposed (TN7, TN8, and TN18 within Figure 2: Phase 1 Habitat Plan, target notes and photographs); these sections are considered unsuitable habitat for dormice due to their isolated location and poor habitat connectivity and are not subject to dormouse licence. Their removal is temporary and will be re-planted upon completion of the works.

## Ecological mitigation, compensation, and enhancement measures

The submitted ecological survey information including ecological avoidance, mitigation, and enhancement measures are considered acceptable assuming the following conditions are imposed and the successful implementation of the mitigation and enhancement measures.

## 3 Conclusions and recommendations

If minded for approval, the following conditions are recommended:

- o Works shall proceed strictly in accordance with the Ecological Impact Assessment (Hamilton Ecology, January 2024), in particular the ecological mitigation and enhancement measures detailed in Table 2 and Figure 3 (Ecological Constraints and Opportunities Plan). A written record shall be submitted to the local planning authority to include records of compliance monitoring, supervised habitat removal, and photographs of the installed ecological mitigation, compensation and enhancement measures listed in Table 2 and Figure 3.

- o A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development based on the submitted Ecological Impact Assessment. It should include the location and design of biodiversity features including the newly planted and enhanced hedgerow planting, the creation of the wildflower meadow and wetland, and other features to be shown clearly on submitted plans.

The content of the LEMP shall also include the following.

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

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

o No development shall take place (including ground works) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall include the following:

- a) Risk assessment of potentially damaging construction activities, to include an invasive species management plan to prevent the spread of non-native plant species during the works. This is to include a pre-construction check a minimum of 6 weeks prior to commencement of works.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication, including reporting compliance of actions to the LPA.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CECoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

#### Reason

To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5

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

DCC Historic Environment Officer

Application No. 24/0331/MFUL

Land North and South of Station Road, Warwick Close, Wells Avenue, Land Opposite Greenacres Close And Land Adjacent To Ottery Road Near Sidmouth Junction Sewage Pumping Station. Feniton - Amendments to phase 4 of the Flood alleviation scheme (consented under ref; 14/2882/MFUL) - works comprising the construction of channels, culverts and swales and mitigation works including flood defences, inlet water storage areas, infrastructure and outfall structure: Historic Environment

My ref: ARCH/DM/ED/22765c Comments received 08/05/24

Thank you for the clarification regarding Phases 2 and 3 of the scheme subject to planning application 14/2882/MFUL. Since there is an undertaking from AtkinsRéalis referred to in our email exchange that they will be implementing the previously approved written scheme of investigation I would advise - in accordance with current practice - that any consent that may be granted for the above planning application should be conditional upon the following worded condition:

'The development shall proceed in accordance with the Written Scheme of Investigation prepared by AC Archaeology (document ref: ACD1137/1/1, dated 12th May 2015) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved scheme.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.'

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

I refer to the above planning application. The consent granted for application 14/2882/MFUL is conditional upon a programme of archaeological work being undertaken - Condition 4.

While the archaeological works were implemented on Phase 1 of this scheme, this current application refers to Phase 4 but I am unaware that any archaeological works have been undertaken on Phases 2 and 3 of this scheme, if they have previously proceeded, as per the agreed programme of archaeological work - copy attached.

As such, I would advise that the applicant is made aware of the need to undertake archaeological works during the course of the groundworks associated with the construction of the flood alleviation scheme as per the agreed programme of archaeological work.

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



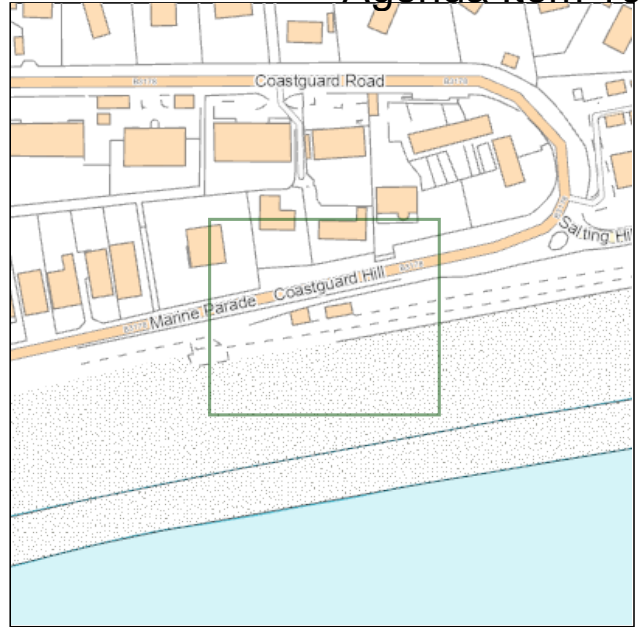
**Ward** Budleigh And Raleigh

**Reference** 24/0594/FUL

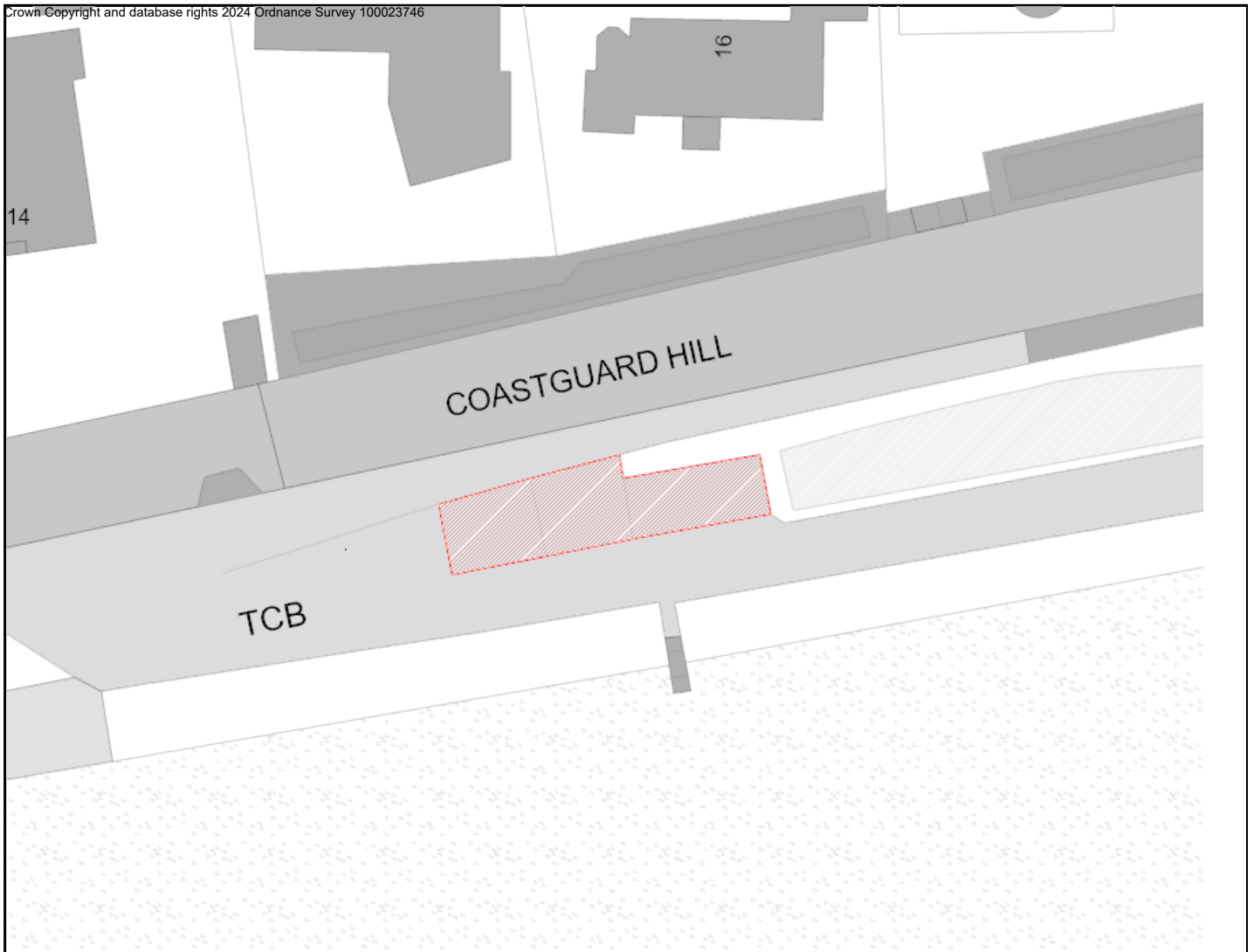
**Applicant** Mr Mitch Tonks

**Location** Longboat Cafe Marine Parade Budleigh  
Salterton Devon EX9 6NS

**Proposal** Proposed extension with retractable roof and walls.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 16.07.2024</b>
<b>Budleigh And Raleigh (Budleigh Salterton)</b>	<b>24/0594/FUL</b>	<b>Target Date: 21.05.2024</b>
<b>Applicant:</b>	<b>Mr Mitch Tonks</b>	
<b>Location:</b>	<b>Longboat Cafe Marine Parade</b>	
<b>Proposal:</b>	<b>Proposed extension with retractable roof and walls.</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

The proposal seeks to extend the existing café building with a modest extension of 43 sqm which covers an outside seating area. Due to the national and local designations which cover the site the proposal takes place in a sensitive area. These designations include the National Landscape, setting of a conservation area, the World Heritage Site, and SSSI. However, there are no statutory consultee objections to this proposal in relation to these. The retractable glass design is considered acceptable within this context.

The proposal has drawn objections from third parties which have raised concern over the potential noise (from its use and from the extraction system). However, no objections to the proposal have been received from Environmental Health and details and operation of the extraction system can be controlled via condition.

As a consequence of being situated on the seafront the proposal falls within floodzone 3. However, due to its modest size the sequential test is not applicable and national guidance makes it clear that the exception test is not required either. A suitable and robust Flood Risk Assessment has been submitted.

A change of use of the café is not proposed and so the use of the site would remain unchanged albeit with formalised increase in capacity. There are likely to be economic benefits stemming from formal expansion which weigh in favour of the proposal.

The proposal is considered to be compliant with the development plan and therefore a recommendation of approval is made. As this recommendation conflicts with the view of a Ward Member this application has been referred to the Development Management Committee.

## **CONSULTATIONS**

### **Local Consultations**

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

This Council supports the application

This Council is happy with the amendments and therefore continues to support the application.

#### **Budleigh And Raleigh - Cllr Melanie Martin**

I object to this planning application.

The cafe as it stands provides affordable refreshments for residents and visitors to Budleigh, it is accessible to all. If the cafe was to be replaced by a chain restaurant there would be a number of people who could not afford to eat here.

On a visit to the cafe I counted three front of house staff plus kitchen staff, I cannot see that the proposed restaurant would be increase its staffing levels significantly. I am concerned that there would be an increase in odours, noise levels and disturbance to neighbouring residential properties.

#### **Budleigh And Raleigh - Cllr Charlotte Fitzgerald**

I support this application. The proposed improvements to the structure of the building would be welcomed, and the Rockfish dining offering would fill a gap in the Budleigh Salterton tourism economy that would place it well to compete with other nearby seaside towns for both local custom as well as visitors from further afield.

#### **Budleigh And Raleigh - Cllr Henry Riddell**

I support the following application. The design is sensitive to the area and an upgrade from the existing structure which is currently has an enforcement notice. It is also nice to see that the original Longboat building is retained. I am sure that Rockfish will be a welcomed addition to our town.

### **Technical Consultations**

#### **Conservation**

On the basis of the information provided through this application, the works as proposed for a low-profile extension with retractable roof and walls, sited between the Longboat Café and adjacent shelter. Would, on account of the extensions, location, scale and design result in no harm to the setting of Coastguard House a Grade II heritage asset sited to the northeast, the Grade II listed war memorial sited to the east of the development site and Budleigh Salterton conservation area sited to

the west. In this respect conservation do not wish to offer any further heritage comment. Case Officer to assess on planning merit.

#### Amendments

On the basis of the amendments provided through this application, Conservation has no further comments to make on this application. Case Officer to assess on planning merit.

#### Natural England

##### SUMMARY OF NATURAL ENGLAND'S ADVICE

##### NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites Budleigh Salterton Cliffs SSSI and has no objection. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

##### Budleigh Salterton Cliffs Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection

#### Historic England

Thank you for your letter of 7 May 2024 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

#### Environmental Health

I have reviewed the schematics of the extraction system including the locations of the two fitted SLU50 silencers. Given the level of attenuation achieved by these two units, I do not anticipate any environmental health concerns.

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

#### World Heritage Organisation

We are content that the scale of this development will have no negative impact on the geological interests, Outstanding Universal Value or setting of the World Heritage Site as they currently exist. However, we note that this proposal will increase

development and economic value of an asset in a position that is highly vulnerable to the effects of coastal change. In other locations along the Jurassic Coast where non-impactful development like this takes place in a similarly vulnerable position we advocate for temporary consents that can be renewed at intervals if appropriate. This allows for a more adaptive and sympathetic approach to the continued use of coastal frontages in the context of ongoing sea level rise and climate change.

### Other Representations

At the time of writing there have been 21 objections to the proposal and 13 emails of support;

Objections (in summary);

- Damage to high street retailers (reduction of trade)
- Loss of amenity
- Conflicts with the unique nature of structure
- Loss of public seating
- Spoil seafront
- More deliveries and traffic, lack of parking
- Object to proposed operators menu and business plan
- Animal welfare
- Precedent for future development and expansion
- Noise from patrons and ventilation system (80 db would be generated).
- Smells generated
- Business would be anti competition
- Lack of a refuse area
- Lack of toilets
- Queues and increased pedestrian traffic prevent access for all to the seafront/beach
- Insufficient and inadequate information submitted
- Impact on World Heritage Site

Support (in summary);

- Better design than existing configuration
- Support on going use as a café
- Town needs investment
- Increase visitors and evening options to eat
- Boost to tourist economy

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
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08/2537/FUL	Demolition of existing cafe/store and construction of new cafe/ restaurant facility	Approved	22.10.2010
11/2764/FUL	Demolition of existing cafe and construction of new cafe facility	Refused	14.02.2012
12/0883/VAR	Variation of approved plans (under condition 7 of permission 08/2537/FUL - demolition of existing cafe/store and construction of new cafe/restaurant facility) proposing reduced building footprint and retention of shelter	Approved	18.06.2012
13/0889/FUL	Demolition of existing cafe and construction of new cafe facility	Allowed at appeal	05.02.2014

## **POLICIES**

Strategy 6 (Development within Built-up Area Boundaries)  
 Strategy 44 (Undeveloped Coast and Coastal Preservation Area)  
 D1 (Design and Local Distinctiveness)  
 EN14 (Control of Pollution)  
 D2 (Landscape Requirements)  
 EN21 (River and Coastal Flooding)  
 Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
 EN10 (Conservation Areas)  
 EN8 (Significance of Heritage Assets and their setting)  
 Strategy 21 (Budleigh Salterton)  
 Strategy 47 (Nature Conservation and Geology)  
 TC2 (Accessibility of New Development)  
 TC7 (Adequacy of Road Network and Site Access)  
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)  
 EN22 (Surface Run-Off Implications of New Development)  
 E2 (Employment Generating Development within Built Up Area Boundaries)

### **Budleigh Salterton 'made' Neighbourhood Plan 2017 - 2031**

POLICY H2: Maintaining local character  
 POLICY H3: Infill developments and extensions  
 POLICY B1: Identity of town and seafront  
 POLICY B2: Protection of key views and vistas  
 POLICY B3: Heritage Assets  
 POLICY NE1: Conservation of the Natural Environment  
 POLICY NE3: Conservation of Biodiversity  
 POLICY NE5: Development within the Coastal Preservation Area  
 POLICY EC1: Supporting the Development of Small Business Enterprises

## Site Location and Description

The Longboat cafe is a single storey white painted building with a low pitched roof, standing between the path and the retaining wall to Coastguard Hill, towards the eastern end of the Budleigh Salterton sea front.

To the west of the building is a former open area used for seating associated with the cafe and further to the west of that is an open fronted concrete shelter and store building with viewing area above, itself containing seating and enclosed by railings.

Budleigh Salterton Cliffs is an SSSI notified for its geological interests and is covered by two GCR sites (1507 Budleigh Salterton, Permian - Triassic and 1837 Budleigh Salterton Coastal Geomorphology of England). It is understood that although any maps on the subject of the World Heritage Site are inconclusive, for the purposes of the definition of its boundary, as the site lies within an SSSI it is also considered to lie within the Dorset and East Devon coast World Heritage Site, appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage.

The building itself was considered for listing and English Heritage concluded that the building has been heavily altered and so has lost its historic fabric. As a result, it was considered a 'poor example' of a late 19th Century longboat house.

The adjacent shelter, which is owned by this Council, does not form part of this planning application.

Currently on site a makeshift enclosed building has been erected to cover the seating area erected during the Covid pandemic. Whilst the operator considered that this building was built under planning provisions due to the pandemic planning officers disagreed as it was considered a building of permanence had been constructed for which planning permission would be required. Subsequently an Enforcement Notice was served in January 2022 against this unauthorised development. Therefore, the existence of this unauthorised building should not be relied upon to establish that there would be a betterment in terms of design over the existing on site conditions.

## Proposed Development

The proposal seeks planning consent for an extension of the existing building to formalise an outside seating area. The proposal has an approximate floor space of approx. 43m<sup>2</sup> between the existing café building and the adjacent council owned shelter building.

Constructed of retractable glass and roof panels with a powder coated steel frame the extension would provide operators the option to open and close this seating area dependant on conditions. The height of the proposed extension purposely matches that of the adjacent shelter and eaves of the café building.

Also proposed is an extractor system flue to be attached to the rear of the main café building.

No change of use to the existing use of the café is proposed.

## ANALYSIS

The main issues concerning the proposal are;

- The potential Flood Risk,
- Environmental Health/Amenity
- Impact of the designated Nationally Recognised Landscape (Area of Outstanding Natural Beauty)
- the impact on the World Heritage Site - Jurassic Coast
- Impact on the Conservation Area

### **The Potential Flood Risk**

Due to the position of the development in close proximity to the sea the proposal is within Floodzone 3.

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

Footnote 56 of the NPPF states that certain minor development is exempt from the Sequential Test. This includes 'minor development' where the floor space of extensions falls under 250 sq metres - as is the case here. Therefore, the sequential test does not need to apply.

The Exception Test must also be considered. However, the site falls within Flood Zone 3a and use of the site for restaurant purposes is considered a 'less vulnerable' class use as per Table 2 at paragraph 079 of the PPG. The development is therefore exempt from the Exception Test.

With regards to ensuring the development shall be safe with regards to flood risk and Flood Risk Assessment (FRA) has been submitted. The proposed finished floor levels of the extension will be the same as the existing ground floor level at 7.2mAOD. With the Upper End climate change scenario SWL at 4.80 mAOD (2124), the maximum predicted still water level remains more than 2 m below the site level.

The storm alert threshold for sea waves from the nearby wave buoy at Dawlish is set at a significant wave height of 2.63 m, which is equivalent to the 1 in 0.25-year storm event. To account for the potential effects of climate change, a 10% increase is applied



to this wave height, resulting in a value of 2.89 m. The event probability is considered appropriate for a 'modest' dependency scenario.

As a conservative assessment, half the wave height (1.45 m) is added to estimate the potential wave impact on the café building. The resulting peak wave height reaches 6.2 mAOD, which remains 1 m below the building's ground level.

As a precautionary measure the FRA explains that it is standard policy for the restaurant to temporarily close if a severe storm is forecasted for the area.

The FRA recommends that the property owners register for the Environment Agency's 'Flood Warning Alert' system for the 'South Devon Coast from Exmouth to Seaton' area to receive timely notifications of potential flood events. These notifications can be used to ensure the premises is closed and evacuated ahead of any flood event.

Given the above officers are satisfied that the FRA's recommendations can be safely and reasonably achieved. There are no flood mitigation measures required that would result in a residual risk and with easy access to high ground and egress to the site. Surrounding access routes should allow occupants to safely access and exit the building in design flood conditions or in advance of major flood. Vehicular access from the higher ground of the road behind the café building should allow the emergency services to reach safety during flood conditions.

Therefore, the proposal although situated within floodzone 3 is considered to provide an acceptable flood risk, this can be mitigated by implementing the submitted FRA which can be secured via condition. Accordingly, the proposal complies with policy EN21 of the LP and the National Planning Policy Framework.

## **Amenity**

The proposal includes the provision of an extraction system to be attached to the rear (north) elevation of the main café building.

During the processing of the planning application additional information regarding the extraction systems have been submitted at the request of the Environmental Health team. Additional details concerning the type of extraction systems, its specification and performance have since been submitted with the Environmental Health team now satisfied in this regard, suggesting that there is not likely to be environmental health issues raised from the extraction system. In the event of an approval the operation and maintenance of this extraction system could be secured via condition.

Further, no objections to the any related general customer noise have been raised by Environmental Health and given its existing café use and modest extension this is unlikely to be sustained. The outside seating area can be legitimately used in any event and providing a building to enclose this seating area would not increase noise levels thereby harming nearby residential occupiers.

## **Impact of the designated National Landscape**

The site is most prominent in immediate views from the west along Marine Parade and the beach, but it still clearly forms part of the urban context with the rural landscapes of the National Landscape (NL) forming a more distant backdrop. Within the Neighbourhood Plan policy B2 establishes key views and the café building appears within two of these key views. These key views are long range views with the café building not being especially prominent within these. Due to the limited floor space and lightweight design the extensions to the café would have no impact on the wider character and scenic beauty of the NL.

Although the site lies within the East Devon NL, it is also contained within the built environment of Budleigh Salterton and forms a part and parcel of the established built fabric of the seafront. The site has limited visual influence over the surrounding area, to the extent that when it does appear within immediate and medium range views, it is seen within the context of the built form of the town.

It is worth noting that the unauthorised structure currently on the site drew concern from officers with regards to its design, but particularly the materials used in the construction of this building. That wooden construction stands in stark contrast to the surrounding construction by failing to reference the predominant building materials of the adjacent buildings. The same also applies to the Perspex roof, which again give the impression of a transitory construction built for convenience, unsuited or committed to longevity. Taken these design aspects, together the incongruous form of development, is difficult to architecturally reconcile with existing buildings or its setting.

The proposed extension would infill an area between two existing buildings with the design purposely not expanding out from the confines of this gap so as to not be overly prominent. Instead, the design retains a suitable degree of subservience on the host original café building and being lightweight but durable in nature and design, with the predominant use of glass, means the original building is respected and can still be readily seen from public vantage points.

The proposal would therefore not be in conflict with policies which seek to protect the NL as set out in the National Planning Policy Framework (NPPF) or the East Devon Local Plan (EDLP).

## **Impact on the World Heritage Site (WHS)**

The Dorset and East Devon Coast World Heritage Site Management Plan sets out the basis on which the setting of the WHS is defined. That states that the setting should be regarded as the surrounding landscape and seascape and concerns the quality of the cultural and sensory experience surrounding the exposed coasts and beaches. The application site (denoted by the red edge on the location plan) falls outside of the WHO. Nevertheless the impact on its setting should be taken into account.

The existing Longboat café is a single storey structure, with a formally open area for

seating, which faces on to the level sea front promenade towards the eastern end of the Budleigh Salterton sea front. To the rear of the building and the open seating area is the retaining wall to Coastguard Hill. To the east of the café, levels between the promenade and Coastguard Hill continue to diverge and where the retaining wall ceases, red sandstone cliffs become exposed. These form a part of a SSSI noted for its geological interests. The cliffs are also designated as part of the Dorset and East Devon Coast World Heritage Site.

The most significant views of the site are from the south along the beachfront. In a prominent location along the shore the site forms a part of the seafront and its urban setting, and lies immediately adjacent to the exposed cliff section of Coastguard Hill.

Since there are unlikely to be any cliffs, and as there are no exposed cliffs to the rear of the area of the extension, the development would not impact on the geology or the Outstanding Universal Value of the SSSI or WHS.

The World Heritage Site organisation have been consulted on this proposal and fundamentally do not raise objection stating there would be no negative impact on geological interests, Outstanding Universal Value or setting of the World Heritage Site as they currently exist. The suggestion that planning consent should be temporary would be unreasonable since permanent structures are sought and any such condition would nullify the benefits of the consent.

### **Impact on Conservation Area**

The Budleigh Salterton Conservation Area (CA) lies to the west of the site, and policy EN11 of the local plan states that proposals, including those that affect the setting or views into or out of the area, will only be permitted where they would preserve or enhance the appearance and character of the area. This reflects the statutory requirement set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to the desirability of preserving or enhancing the character or appearance of the CA.

The site lies just outside, to the east of, the CA. Whilst it is not part of the historic fabric of the CA, it does nevertheless form a part of its setting. In addition to LP policy EN11 deals with the preservation and enhancement of the CA.

The proposed works would lie below the level of the road and footpath of Coastguard Hill, and fronts the path which runs along the foot of the cliffs to the east. The existing buildings are single storey and do not appear above the level of the road and footpath. From the intervisibility of the site with the conservation area the modest extension would complement the surrounding built form by not being unduly obtrusive and be assimilated readily with the existing structures.

The conservation officer has commented on the proposal, as have English Heritage, and no objections have been raised.

Accordingly, there is no adverse impact upon the setting of the conservation area.

## **Other Matters**

The existing private drainage system at the site would be retained in its current arrangement. All impermeable areas, including the proposed extension, will continue to drain directly onto the beachfront and discharge into the sea. The runoff from the extension will be allowed to freely drain onto the hardstanding area in front of the café, where it will naturally flow towards the sea without posing a downstream flood risk.

The use of the premise as a cafe is established and the works proposed form material operation and do not seek to change this existing use. This established café use of the premise would continue if a planning consent were to be obtained for this development and then implemented. The planning process cannot take into account who, i.e. which operator, actually runs the café as this could change without Planning being involved.

Therefore, who does or would, operate the café is not material to the planning decision. By extension the issue of costs of food/drink and the affordability of this is also not material to the planning decision as this is subject to market forces beyond the control of the planning regime and indeed could change at any time without the input of Planning.

Given that it has been established that the proposal would not affect the actual cliff (which forms the SSSI) it remains unlikely that existing ecology would be harmed. The existing area of the extension, i.e. the modest outdoor seating area, is very unlikely to provide a home to protected species. The unauthorised structure which has been erected, and so would be replaced by this proposal, featuring a Perspex roof is unlikely to be used as a habitat by protected species.

## **Planning Balance**

The proposal represents a modest extension to an existing café to enclose an existing outside seating area. Due to the position of the site there are an array of nationally and local designations which have to be considered. After carrying this out the proposal is not considered to be contrary to policies of the development plan or relevant legislations with no objections raised by statutory consultees.

The potential flood risk and extraction system impact can be mitigated via condition.

Therefore, a recommendation of approval is made.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Prior to their installation samples of the materials to be used in the external construction shall be submitted to and approved in writing by the Local Planning Authority. Such samples shall illustrate the materials, colours and texture to be used. The development shall be carried out in accordance with the approved details.(Reason – To ensure that the proposal preserves and enhances the Nationally designated landscape, in accordance with strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan).
4. The development shall be carried out in accordance with the submitted extractor equipment details;

SLU 50 data sheet  
Purified air document  
HN Cowl Spec Sheet  
KFE Extract design drawing  
ESP 3000Ei spec  
ESP 3000EI drawing  
CAN-CNB fan Specs  
Novenco Centrifugal Fans Specs

received by the Local Planning Authority on 2<sup>nd</sup> May 2024.

All equipment installed in relation to this ventilation scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions and for the lifetime of the development.

(Reason – To ensure that the extraction system does not result in undue levels of noise and satisfactorily operates to prevent odours, in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan).

5. The development hereby approved shall be carried out in accordance with the recommendations of the Flood Risk Assessment prepared by Awcock Ward Partnership submitted to the Local Planning Authority on 02.05.2024.  
(Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with policy EN21 (River and Coastal Flooding) of the East Devon Local Plan).

#### 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.

Informative: Confirmation - No CIL Liability. This Informative confirms that this development is not liable to a CIL charge.

Plans relating to this application:

PLO1 Rev A	Location Plan	02.05.24
1906-PI03	Existing Elevation	18.03.24
1906-PI02	Existing Floor Plans	18.03.24
1906-PI04	Proposed Floor Plans	18.03.24
1906-PI05 B	Proposed Elevation	24.06.24

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.

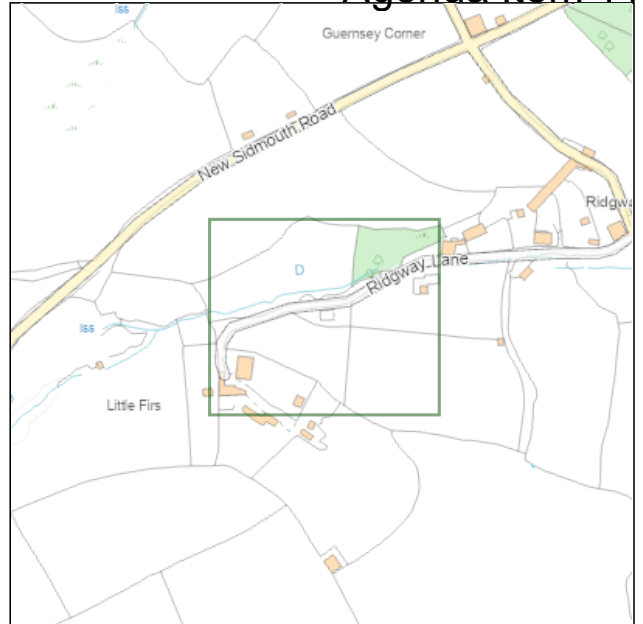
**Ward** Coly Valley

**Reference** 23/1785/FUL

**Applicant** Mr Lewis Pring

**Location** The Old Reservoir Ridgeway Lane Colyton

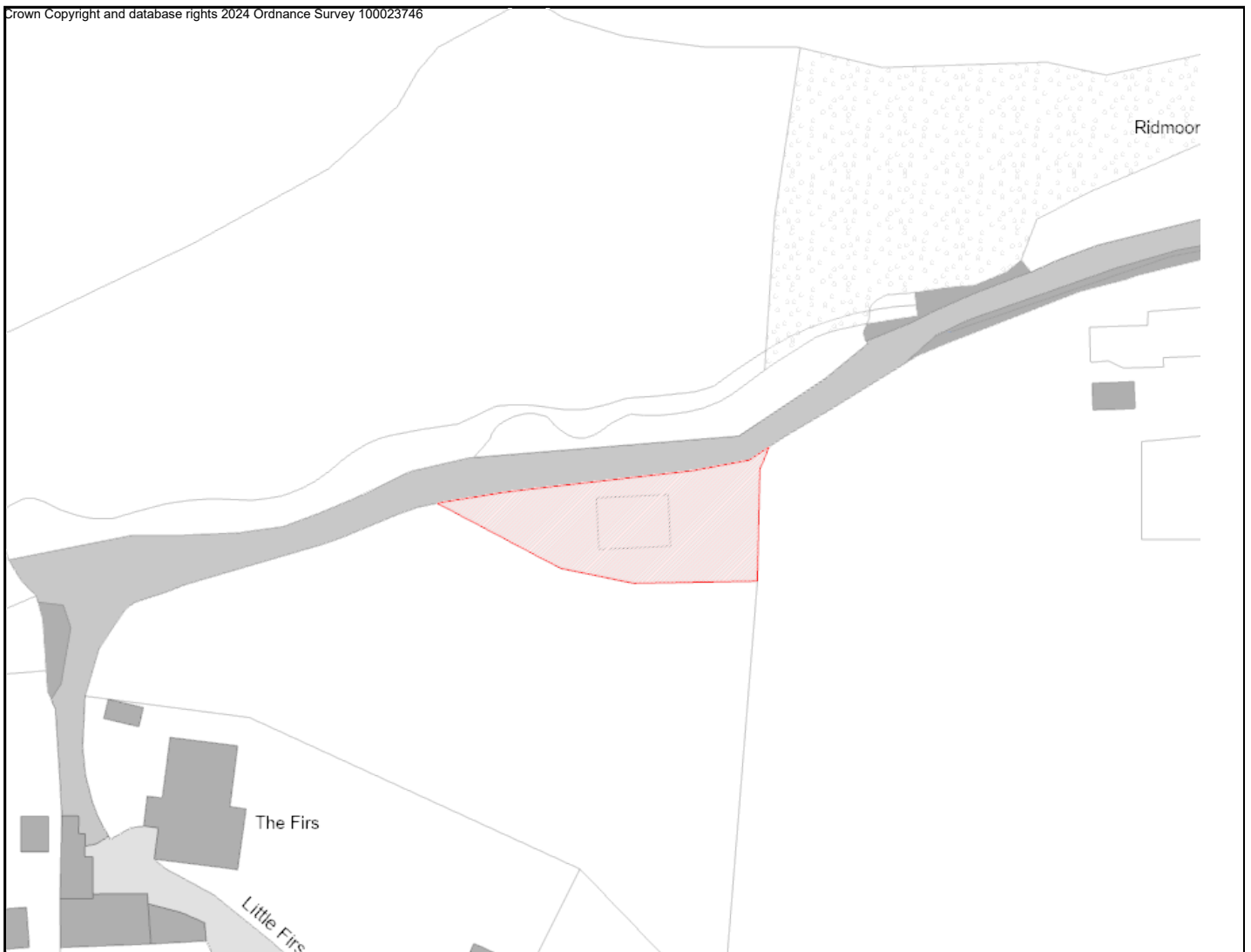
**Proposal** Demolition of existing reservoir tanks and construction of new dwelling house



**RECOMMENDATION:**

- 1. Agree Appropriate Assessment (as appended to the report)
- 2. REFUSE planning permission

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		<b>Committee Date: 16.07.2024</b>
<b>Coly Valley (Colyton)</b>	<b>23/1785/FUL</b>	<b>Target Date: 12.10.2023</b>
<b>Applicant:</b>	<b>Mr Lewis Pring</b>	
<b>Location:</b>	<b>The Old Reservoir Ridgeway Lane</b>	
<b>Proposal:</b>	<b>Demolition of existing reservoir tanks and construction of new dwelling house</b>	

**RECOMMENDATIONS:**

- 1) Agree Appropriate Assessment (as appended to the report)
- 2) REFUSE planning permission

**EXECUTIVE SUMMARY**

The application is before committee as the officer recommendation differs from that of one of the ward members.

Planning permission is sought to demolish the existing reservoir tanks and to construct a new dwelling on the site. The site lies outside the built-up area boundary of Colyton in open countryside and where, in accordance with Stgy 7 of the Local Plan, development proposals require explicit policy support to accord with the development plan. No such policy support exists and as such the proposal represents a departure from the development plan and has been advertised as such.

Permission has previously been granted (13/0505/FUL) to convert the existing reservoir tanks on the site to form a dwelling and there is a file record that a technical start on that permission has been undertaken. This being the case, the applicant could continue to implement that earlier permission. The existence of this 'fallback' position is therefore a material consideration to be taken into account in determining the current application. It is reasonable to assume that were permission to be refused for the current scheme that the applicant would seek to complete the approved conversion scheme. In such circumstances a comparison needs to be made between the fallback position and the current proposal.

The proposed scheme would give rise to similar sustainability impacts with regards to access to services and facilities as the conversion scheme but where national planning policy for conversion of redundant rural buildings does not apply the same sustainability criteria as for new buildings in the countryside.



In other regards, the proposal is considered to be acceptable in terms of highways, amenity, arboricultural and ecology impacts, or could be made so through the imposition of conditions and again where the impacts of development could be considered not dissimilar to the consented conversion scheme. In addition, the proposal may provide some limited benefits in terms of energy costs over the lifetime of the development compared with the conversion scheme.

However, in terms of design and impact on the character and appearance of the area the proposal would have a greater footprint, height and massing than the conversion scheme and where the earlier permission was largely subterranean. In comparison, whilst it is acknowledged that efforts have been made to reduce the visual impact of the proposal and where this would be partially cut into the bank to the south side of the site, it would nevertheless result in a large building of greater footprint, massing and height and where, as a result, the development would be more visible from public view drawing attention to and having an urbanising effect on the character and appearance of the site. This would not be true to the same extent with the conversion scheme. This being the case the proposal does not demonstrate that it would provide a betterment over the fallback position and would result in a new build dwelling in the open countryside contrary to the development plan.

The proposal is therefore in conflict with Strategy 7 and Policies D1 and TC2 of the Local Plan, as well as relevant national planning policies and guidance and as such is recommended for refusal.

## **CONSULTATIONS**

### **Local Consultations**

#### Ward Member – Cllr Arnott

10.06.24 - Having had a look at this - which has been running for many years even before this proposal - I am happy to agree to the applicants request that it be referred to committee if the officer recommendation is refusal. I do understand this is complex.

#### Parish/Town Council

The Colyton Parish Council does not support this application for the following reasons:

1. It is deemed too risky to build on Green Sand. There exists the danger of both the banks and the road collapsing, thus marooning the residents who live beyond the site at the top end of Ridgeway Lane..
2. The barrel roof is not in keeping with the other dwellings on the lane and although the old reservoir may have had an arched roof it was made level with soil and grassed over.
3. Although the use of the turning area further up the lane 'is not to be encouraged', we would say it should not be used at all as the road at the top end of Ridgeway Lane is both delicate and muddy.

## **Technical Consultations**

### County Highway Authority

No objections subject to inclusion of a condition requiring submission of a Construction Management Plan (CMP).

### Environmental Health

No objection subject to control over construction working hours and compliance with the Council's Construction Sites Code of Practice.

### Natural England

No objection subject to appropriate mitigation being secured.

### EDDC District Ecologist

No objection subject to conditions to secure the nature and type of internal lighting; no external lighting, and; provision of the mitigation, compensation and enhancement measures set out in the submitted Preliminary Ecological Appraisal.

### EDDC Trees

The 2 oaks are on the opposite side of the road and therefore I don't have any significant concerns, subject to the implementation of the submitted TPP (Tree Protection Plan) & AMS (Arboricultural Method Statement) being conditioned.

## **Other Representations**

6 no. representations have been received in relation to the original proposal all raising objections to the scheme and summarised as below. No additional comments have been provided in relation to the revised scheme.

- Increased visual impact over previous conversion proposal;
- Works undertaken on site already have destabilised the roadside bank;
- Removal of the existing tanks and importation of new materials would require significant transport movements causing noise and disturbance to local residents;
- The proposed replacement structure would not represent any improvement on the previous approval and would be taller and have more of an impact;
- Exacerbate surface water run-off concerns;
- Exacerbate highway maintenance issues and damage to highway from lorries/HGVs
- Overdevelopment of the site
- Impact on water supply to adjoining land
- Concerns over stability of the site and adjoining land
- Concerns over impact of development on drainage infrastructure on/adjacent to the site
- Potential damage to mature trees growing adjacent to the site
- Lack of details on how foul drainage would be dealt with
- Construction traffic restrictions should be imposed to minimise disruption

- Design out of character with the area
- Lack of parking spaces along Ridgeway Lane
- Impact on wildlife and habitat
- The original permission does not represent a viable or realistic fall-back position
- The retention of part of the concrete structure as a retained wall to the roadside bank is unlikely to prove adequate
- The design does not reflect that of the existing reservoir tanks
- Construction impacts of develop including traffic, turning, construction worker parking and highway damage.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
13/0505/FUL	Conversion of disused reservoir tanks to form residential dwelling	Approval with conditions	02.06.2014

## **POLICIES**

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

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Colyton Neighbourhood Plan (In Preparation)

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 5B (Sustainable Transport)

Colyton Parish Neighbourhood Plan 2020 -2031

Coly 2 Trees, Woodlands and Hedgerows

Coly 6 Sustainable Development

Coly 9 Parking Provision for New Housing Development

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

**Site Location and Description**

The application site relates to a small triangular plot of land extending to approximately 572 sqm (0.057 ha). It is accessed from Ridgeway Lane by a gap in the roadside bank which leads to a gravelled hardstanding area set to the rear of a small entrance splay. The land on site continues to slope up away from the access and reflects the surrounding topography that falls from southwest to northeast.

The existing water tanks are exposed and sit generally below the level of the site to their south side and that of the roadside bank to the north side. The two tanks are arranged parallel to each other and are constructed from concrete, they have domed roofs and are open at their eastern end. The site boundaries are formed by post and wire fencing with the roadside fencing set atop the bank which slopes down to the adjoining lane.

Ridgeway lane is a single track no through road that serves the application site and a number of other residential properties located between the site and the town and a on higher land to the southwest.

The site is located in open countryside to the west of Colyton, approximately 380 metres from the edge of the town (as defined by the Built-up Area Boundary). It is not subject to any specific landscape designation and lies within Flood Zone 1.

**Planning history**

Planning permission was granted in 2014 for the conversion of the disused reservoir tanks to form a residential dwelling (13/0505/FUL).

The 2014 permission included a number of pre-commencement conditions: 3 (Materials); 4 (Stone Sample Panel); 5 (Landscaping); 7 (Design details); 8 (Surface water attenuation), and; 9 ((Construction Management Plan).

Details on the application file confirm that the pre-commencement requirements of these conditions were met within the time period for commencement.

There is also an email on file, dated 5<sup>th</sup> May 2017, from a Building Control Officer of the Council to the effect that they had commenced a Building Regulation application at the site the day before *'with the completion of the reduced level dig'*. The email goes on to state, *'A "technical start" was therefore made.'*

It is therefore recognised that there has been previous acceptance that the earlier permission was commenced within the specified time period for commencement and that it therefore remains extant and capable of completion without the requirement for any further planning approval.

### **Proposed development**

The application seeks permission for the demolition of the existing reservoir tanks and construction of a dwelling.

The original plans indicated a two storey building of rectangular plan form on broadly the same part of the site as the existing reservoir tanks but of a reduced footprint area.

Amended plans have subsequently been received where the previously proposed first floor element has been removed and the development now proposed is of single storey form.

The main (barrell-roofed) part of the building would be constructed at broadly the same floor level as the existing tanks and on the same part of the site. It would have a similar overall floor area to the existing tanks but would be repositioned slightly to the southeast further from the lane but closer to the site access. It would also seek to replicate the form of the tanks albeit under a single domed roof, as such there would be an increase in height of approximately 1.5 metres. A section of roof to the south side of the building and the garage to the southeast would be cut into the site and feature green roofs, this would represent an extension in floor area over the approved conversion scheme.

The elevations are proposed to be faced in vertical timber cladding with the roof clad in standing seam metal.

To the southeast of the main building an attached double garage is proposed this would be cut into the slope to the rear and attached to the main building by a utility/plant room link.

To the west end of the building is a small sunken courtyard with stone faced retaining walls to its south and west side. To the north side of the building/courtyard it is proposed to retain part of the existing reservoir structure as a retaining wall feature.

A hardstanding parking/turning area is proposed between the garage and the site access. To the west of the building a small courtyard is proposed with steps leading up to a terraced grass area and bank. The flat roof sections of the building would feature green roofs and sedum planting is also proposed between the south side of the building and the boundary.

Although there is considered to be an extant and implementable permission for the conversion of the existing structure to a dwelling (and where policy D8 of the Local Plan potentially permits such development) as a new build development in the countryside there is no such policy support to be found in the Local or Neighbourhood Plan and as such the proposal has been advertised as a departure from the development plan.

## ANALYSIS

The main issues in the determination of the application are as follows:

- Principle and policy compliance
- Impact on the character and appearance of the area and wider landscape impact
- Ground conditions and stability
- Ecological Impact
- Arboricultural Impact
- Highways and Access Issues
- Amenity Impact
- Drainage
- Other Issues

### Principle and policy compliance

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

Strategy 7 of the Local Plan states the following:

*The countryside is defined as all those parts of the plan area that are outside the Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map. Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, 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.*

The proposed development would comprise development in the countryside, outside of the defined settlement boundary of Colyton, thereby conflicting with Strategy 7 of the local plan. Consequently, the site would not offer an appropriate location for the

development proposed having regard to the development plan's overall settlement strategy and expectation for such development to be contained within a designated built up area boundary

Planning law requires that planning applications must be determined in accordance with the development plan, unless other material considerations indicate otherwise. One such consideration is the National Planning Policy Framework (NPPF). The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework includes the following:

*Plans and decision should apply a presumption in favour of sustainable development. For decision-taking this means:*

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

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

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

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

The National Planning Policy Framework, Dec 2023, states at paragraph 77 that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply.

Paragraph 226 states: *“From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.”*

The draft local plan consultation undertaken by East Devon District council in November 2022 to January 2023 was carried out under Regulation 18 and so the Local Plan is sufficiently progressed to benefit from this provision. On this basis, as

the Council can demonstrate a 4.5 year housing land supply, policies within the adopted Local Plan most important for determining the application remain up to date and the tilted balance in favour of sustainable development need not be applied.

In assessing this proposal for development in the countryside it is therefore necessary to consider the following:

1. It is in accordance with a specific local or neighbourhood Plan policy that explicitly permits such development in the countryside and where it would not harm the distinctive landscape, amenity and environmental qualities of the area?
2. Are there other material considerations that justify allowing this departure from the development plan?

In this instance there are no specific policies of either the Local Plan or the Colyton Neighbourhood Plan that would support an unrestricted new-build dwellinghouse in this location and as such it has been advertised as and is treated as a departure from the development plan.

It is necessary to consider whether there are any material circumstances that would warrant a decision being taken contrary to the policies of the development plan.

### **Accessibility of the site**

The application site is located approximately 380 metres from the built-up edge of Colyton and 800 metres from its centre where the majority of the services and facilities are to be found and where the nearest bus stops are located. Whilst it would be possible to access these services and facilities by foot or cycle the route is partially unlit and steep and/ or without dedicated footway provision in places as such it is unlikely to provide a viable alternative to the private car for at least some journeys.

### **Fallback position**

The submitted statement makes reference to a 'fallback position' related to the ability to convert the buildings on site under the previously approved permission 13/0505/FUL and which itself would result in the creation of an unrestricted dwellinghouse on the site. Reference is made to case law in R v Secretary of State for the Environment and Havering BC [1998] Env LR 189. This case established 3 elements to the fallback test:

- a) Whether there is a fallback (i.e. a lawful ability to undertake the development);
- b) Whether there is a likelihood or real prospect of it occurring; and if so
- c) A comparison must be made between the proposed development and the fallback.

Taking each of these in turn, it is considered in relation to a) that although there is no lawful development certificate confirming commencement of the previous 'conversion' permission the evidence available is that this permission has been commenced and therefore that a) is met. This being the case, in the event that permission were to be refused for the current proposal it would seem likely that the



applicant would seek to continue to develop the site under that permission so that b) would be met. In terms of c) , there is a need to consider the impacts and benefits of the proposed development in comparison with those of the fallback position, these are considered in the relevant sections below and a conclusion on this matter drawn within the conclusion section of the report.

The Court of Appeal decision in, *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314*, is also relevant. This considered when a 'fallback' development may be a material consideration in relation to the determination of alternative proposals for the development of a site. Whilst the case law applied to a Class Q barn conversion development, arguably it is equally applicable in this instance. The relevance in the current case is that permission has been granted for the conversion of the existing building on site to a dwellinghouse (13/0505/FUL), that permission is still extant, could be implemented and would equally result in the creation of a dwellinghouse in the same location, albeit through conversion as opposed to new build.

It is also worth noting that policy H6 of the Local Plan permits the replacement of exiting dwellings in the countryside subject to a number of listed criteria being met. However, this policy would not apply, at present, as there is no existing dwelling on site. Were the conversion scheme to be fully implemented the applicant could then apply to replace the dwelling but that is not the case at present.

This issue has recently been considered by an Inspector in a case elsewhere in the district under appeal reference: APP/U1105/W/23/3326357 - Land South of Rull Barton, Rull Lane, Whimble EX5 2NX. In that case, the development proposed was for a new dwelling which sought to rely on an earlier Class Q prior approval. The Inspector found that the scheme found no support under policy H6 – as there was no existing dwelling to replace. The Inspector went on to consider further the 'fall-back' position but found that, in that instance, the proposal resulted in harm to the character and appearance of the area and as such was unacceptable. It is noteworthy that the Inspector in that case also noted the Council's housing land supply position and that the presumption in favour of sustainable development was not engaged.

#### Impact on the character and appearance of the area and wider landscape impact

The application site and location of the existing reservoir tanks below ground means that the site has a limited visual impact, largely restricted to views from the lane to the north and from the site access. Whilst the currently exposed nature of the tanks is a detracting feature in any glimpsed views of the site this is localised and results in limited harm. The approved scheme would see the tanks covered over and the roof grassed. In time, the approved scheme, which also included boundary hedge planting, would have further ameliorated the impact of the development.

The proposal differs from that approved fundamentally in proposing a new build rather than a conversion. In addition, whilst the simple form of the existing building is sought to be replicated in the design of the proposed replacement, the new dwelling would be taller and its roof and north (side) elevation would be exposed. The footprint of the proposed building is also moved slightly to the southeast, closer to

the site entrance and extended to include a garage element. As a result, the building on site would no longer retain the largely subterranean appearance of the approved conversion scheme but in a larger building with a taller and exposed roof, set closer to the site entrance and with the addition of a double garage block and high level retaining wall on the eastern boundary of the site.

It is acknowledged that wider landscape impacts resulting from the proposal are likely to be limited and that the proposed building would largely only be viewed from the lane and in the immediate vicinity of the site. It is also recognised that the proposed design has sought to reduce the impact of the development both through a reduction in size (from that originally proposed) and replication of form and materials that take some cues from agricultural buildings. It is also noted that supplemental planting of the roadside hedge bank and works to secure its retention are proposed which would help to reduce and filter views of the site from the lane. However, the building would clearly be residential in appearance and this use would be more apparent in views from the lane where the angular lines and clearly domestic appearance of the garage and building would be visible. Whilst the impact of the previous permission needs to be considered and where that also would have resulted in a change in the character and appearance of the site. The earlier scheme, was for a conversion only and where soil profiling would maintain a more natural appearance with a less 'engineered' change to the site levels resulting in a more discrete form of development.

In this regard the proposed development is considered to have an increased and more harmful impact than the previous conversion scheme resulting in harm to the rural character and appearance of the lane contrary to Stgy.7 and policy D1 of the EDLP and Coly 6 of the CNP..

#### Ground conditions and stability

Questions have been raised by third parties in relation to the impact of the proposed works on the stability of the roadside bank and road itself. The applicant has been requested to provide additional information on this matter to demonstrate how the retention of part of the existing reservoir tank wall, adjacent to the roadside bank, could be secured and used to help retain the adjoining bank.

A letter has been provided by a Chartered Structural Engineer setting out a methodology to retain the wall and ensure the stability of the bank, this includes the removal of some soil that has backfilled between the hedgebank and the wall, the installation of a suitable land drain and the installation of a concrete plinth at the base of the wall with vertical steel stanchions installed at regular intervals to the inner face of the wall. Illustrative details of how this would work have been provided, it is considered that this indicates that a suitable engineering solution could be found and where further details of this could be secured by condition.

#### Ecological Impact

A Preliminary Ecological Appraisal has been carried out and the report submitted as part of the application. The report found no evidence of the use of the existing structure by bats and similarly no evidence of nesting birds. The site was found to

have some foraging potential for bats but was noted as being small in area and adjacent to more favourable foraging areas. The report also considered the potential use of the site by other protected species including dormice, otter, amphibians and reptiles and in each case, save for dormice, found no evidence of use and limited potential of the site to provide suitable habitat. With regards to dormice the northern hedgebank, which is to be retained, was considered to provide commuting habitat. The report makes recommendations in relation to the timing of works, lighting of the site and landscaping to provide appropriate mitigation and provision of bird boxes and bat tubes as enhancement. Such measures could be secured by suitably worded conditions.

The Council's ecologist objected to the earlier scheme on the basis of the lack of information, primarily in relation to the lighting of the development and where there was noted potential for use of the site by bats associated with the Beer Quarry and Caves Special Area of Conservation. In light of the amended plans and additional survey information received, the ecologist has confirmed that the previous concerns have been addressed. Therefore subject to conditions to control lighting (both internal and external) in line with the submitted Lighting specification details and to secure the ecological mitigation, compensation and enhancement measures set out in the submitted Preliminary Ecological Appraisal the proposal can be considered to have an acceptable ecological impact.

Biodiversity Net gain requirements, brought forward under the Environment Act 2021 and amendments to the Town and Country Planning Act 1990, mean that, subject to some exemptions, all planning permissions will be subject to a conditional requirement to provide a minimum 10% increase in biodiversity value. The Biodiversity Net Gain (BNG) can be delivered on site or off-site through a registered credit scheme. In this case, the application is exempt as it was made prior to the date when the legislation came into effect. Nevertheless, the Preliminary Ecological Appraisal report includes recommendations to incorporate positive biodiversity benefits including: supplemental planting to the roadside hedgebank; bird box and bat tube provision and creation of habitat piles. These provisions could be secured by condition and would provide some limited benefits.

**Beer Quarry and Caves Special Area of Conservation** - In relation to this designation the site lies within the landscape connectivity zone for all 3 notifiable species (Greater and Lesser Horseshoe and Bechsteins bats) associated with the site and within the sustenance zone for Lesser Horseshoe Bats.

The applicant's ecologist has undertaken an assessment of the potential impact of the development on the designated site and an Ecological Lighting Consultant has produced a lighting plan for the site and proposed lighting measures to minimise light spill. These documents have informed a Habitats Regulation Assessment which has concluded that likely significant effect cannot be ruled out. An Appropriate Assessment of the scheme has therefore been completed which has concluded that subject to mitigation measures to control lighting and provide appropriate landscaping to the site boundaries that the integrity of the designated site would not be adversely affected. Such measures could be secured by appropriately worded conditions.

Natural England has been consulted on the Appropriate Assessment and have concurred with its findings subject to the above mitigation measures being appropriately controlled by condition.

The Appropriate Assessment of the project under the Habitat Regulations is included as an addendum to this report which also includes a further recommendation that the Appropriate Assessment is adopted. Subject to the identified compensation, mitigation and enhancement measures being secured the proposal is considered to comply with the requirements of Stgy 47 and policy EN6 of the Local Plan.

### Arboricultural Impact

Policy D3 of the EDLP seeks to ensure that there is no net loss in the quality of trees or hedgerows resulting from an approved development. There are no trees of amenity value on the site and the hedgerow on the roadside appears to be gappy and of limited value. However, there are 2 no. mature Oak trees growing offsite to the north, on the opposite site of Ridgeway Lane. Given their size and proximity to the site these trees represent a potential constraint.

The application is accompanied by a tree survey that categorises the trees, in accordance with Bs5837:2012 as: T1 - A3 and T2 – B2, as such both are considered a constraint. The report considers the impact of the development on these trees and considers that subject to works being undertaken in accordance with recommendations in the report and arboricultural supervision that harm to the trees could be avoided. Those recommendations include for the retention of the northern wall of the existing reservoir tanks to be retained, this acts as a root protection barrier and also helps to retain the roadside bank. It is noted that works to help stabilise this wall could impact on any existing root structure and that further arboricultural investigation/input may be required. On this point the submitted indicative strengthening works do not indicate that this would be the case.

The Council's arboricultural officers have considered the proposal and advised that subject to compliance with the submitted Tree Protection Plan and Arboricultural Method Statement that there are no arboricultural concerns with the proposal, such compliance could be secured by condition.

It is noted that the submitted Construction Management Plan (CMP) includes a proposal for the 'temporary' removal of the section of hedge bank closest to the site access to improve access for construction with this being reinstated at the end of the construction phase. This proposal would conflict with the proposed tree protection plan. The planning agent has informally advised that the CMP could be amended to remove the requirement for removal of the section of hedgebank and if the application was otherwise acceptable a condition could be passed to require the submission of a revised CMP to secure this.

### Highways and Access Issues

The site is accessed via a single track no through road which terminates further to the southwest of the site. The road contains limited passing places and local residents have expressed concerns in relation to the condition of the highway and

the impact of the proposed development on this both in terms of the demolition and construction phases.

In terms of the construction phase of development the proposal would require the breaking up and removal of the existing concrete tanks and the importation of materials involved in the construction of the development both of which could involve at least some larger vehicle movements. The applicant has provided information to confirm that the existing concrete walls of the reservoir will be recycled and reused on site as hardcore and for drainage backfill.

Devon County Council as the highways authority has recommended that a detailed Construction and Environment Management Plan (CEMP) should be required and this could be secured by condition and would look to manage construction impacts to minimise impact on the local highway network.

In terms of impacts through the operational phase of the development these are considered unlikely to result in significant additional journeys. It needs to be borne in mind that there is permission already for a conversion to residential use of the existing structure and where once completed such development would give rise to similar traffic movements.

Although visibility at the site access would be below standard requirements the fact it is existing, the road lightly trafficked and vehicles speeds are likely to be low leads to the view that a refusal on highway safety grounds would not be warranted and that the proposal would comply with the requirements of policy TC7 of the EDLP. In addition, the proposal makes adequate provision for on-site parking in accordance with policy TC9.

#### Amenity Impact

The proposal has the potential to give rise to impacts primarily during the construction phase of the development, once constructed the location of the site at a distance to the nearest other residential properties is such that no harm is likely to arise.

During the construction phase of development amenity impacts could arise as a result of traffic and construction impacts (noise, dust etc.) The Environmental Health officer has however reviewed the submitted details and has raised no objections to the proposal other than seeking to control construction working hours and preventing fires on site, these measures could be secured by condition to ensure compliance with the requirements of policies D1 and EN14 of the Local Plan.

#### Drainage

Policy EN19 and EN22 of the EDLP respectively seek to ensure that foul and surface water drainage is appropriately and effectively managed.

In relation to foul drainage, the application is accompanied by a Non-mains drainage form which includes information from South West Water (SWW) to confirm that there is no record of existing drainage infrastructure in the vicinity of the site. The

application proposes to use a private package treatment plant to be installed on the site discharging to an off-site watercourse/leat. The connection route to the offsite water course is not entirely clear but it is noted that on the earlier conversion scheme the proposal included the use of existing drainage infrastructure connecting under the road to the off-site watercourse. At that time it was noted that the separate consent of the Environment Agency would be required for this and this remains the case.

In relation to surface water drainage, it is advised that 'All paving/driveway areas shall be constructed in permeable paving'. However, notwithstanding the current tanks reducing the extent of permeable areas on the site, the proposal would result in a larger building footprint and the main building would be exposed rather than grassed over. Although other roof areas are shown with areas of green roofs. The agent has suggested that additional attenuation measures could be provided below the car parking and turning areas through the provision of storage crates etc. and it is considered likely that a technical solution could be found and that opportunities for above ground attenuation are limited by the constraints of the site.

On the previous conversion scheme the proposal included below ground attenuation tanks designed to slow the run-off rate of surface water and such details were subsequently approved it may be possible to similarly secure attenuation works by condition if the development were otherwise found to be acceptable.

### Other Issues

**Sustainable construction** – As part of the amended plan package the applicant was asked to consider how the redevelopment of the site might represent a more sustainable option than the re-use of the existing structure as permitted under the earlier scheme and where there is explicit policy support at both national and local level for suitable conversion schemes. In response SAP (Standard Assessment Procedure) calculations for both the conversion scheme and proposed new build scheme have been provided. The calculations seek to demonstrate that the energy costs to run the dwelling would be less for the new build as it would be more thermally efficient, and that over the lifetime of the development this would outweigh any loss of embodied carbon in the existing building. It is also advised that the entirety of the existing structure would be re-used in the construction of the new building, with the Construction Management Plan stating, '*...The crushed concrete will be used as clean drainage backfill to the new retaining walls, plus as hardcore under the floor slab of the building.*'

It is recognised that consideration has been given to how the environmental impact of the proposed building can be minimised both through the construction process and recycling of materials on site. This responds positively to Stgy 38 of the EDLP and would provide for a thermally efficient new building utilising renewable energy sources. However these are expectations that should be pursued as standard on new build developments and provides only limited benefits in favour of the proposal.

**Housing delivery** – As set out above the Council is able to demonstrate a 4.5 year housing land supply but notwithstanding this it is acknowledged that they will need to demonstrate a five year housing land supply in order to successfully bring forward a

new, updated Local Plan. Housing delivery therefore remains an important material consideration. In this instance however the benefits of bringing forward one dwelling are very limited. It is also the case that were the permission to be refused that the fallback permission of the conversion scheme is likely to be pursued and in this scenario the proposed scheme is neutral in terms of housing provision.

## CONCLUSION

As set out earlier in this report, this development proposes development in the countryside outside of a built-up area boundary where according to planning law and Strategy 7 of the Local Plan the principle of development must be assessed against the following criteria:

1. It is in accordance with a specific local or neighbourhood plan policy that explicitly permits such development in the countryside and where it would not harm the distinctive landscape, amenity and environmental qualities of the area?
2. Are there other material considerations that justify allowing this departure from the development plan?

The detailed analysis in this report has identified that there are no specific local or neighbourhood plan policies that explicitly permit this type of development in this countryside location.

The Fallback position provided by the earlier scheme to convert the reservoir tanks to a dwellinghouse is acknowledged. However, in line with case law referenced above, where a fallback position exists there will be a need to compare the impacts of this against those of the proposed development. In doing so, it is considered that the conversion scheme, which was for a smaller dwelling incorporated entirely within the envelope of the existing below ground structures on site, would result in a more low-key and organic appearance with a reduced visual impact. Whilst the applicant has amended the current scheme to reduce its scale and has sought to demonstrate the sustainability benefits, in terms of carbon emission reductions that could be achieved over the lifetime of the development, any such benefits are not considered to outweigh the harm that would arise from the increased visual impact of the proposal and its urbanising effect on the character of this rural lane. The proposal would introduce a large building that, unlike the conversion scheme, would be at least partially above ground; include more extensive engineering of levels requiring large sections of retaining wall and more angular building lines. As a result the proposal would be more visible from the adjoining lane and harmful to the largely undeveloped and rural character of its immediate surroundings. It is possible, in time, that the impacts of the development could be reduced, to an extent, through appropriate landscaping but overall the impact of the proposed scheme is considered to be more harmful than that of the fallback position and as such limited weight is attributed to this.

Given the aforementioned and where there are no other material considerations which would justify a departure from the countryside protection policies of the Local Plan. The proposal is recommended for refusal for the following reasons.

## **RECOMMENDATION**

- A) Agree Appropriate Assessment as appended to the report
- B) REFUSE planning permission for the following reasons:

1. The application site lies in open countryside outside of any designated Built up Area Boundary or Strategic allocation within the East Devon Local Plan and where there are no Local or Neighbourhood Plan policies that would explicitly support the development. As such the proposal would represent residential development in a location which is contrary to the spatial strategy for new development set out in the development plan and where the distance and nature of access routes to essential services and facilities and to public transport access to further afield settlements are such that future occupiers are likely to rely on the use of private transport for the majority of journeys. As such, the proposal would be contrary to the provisions of Strategy 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.
2. The proposed development would as a result of its increased footprint, height, bulk and massing would have an urbanising and harmful impact on the rural character and appearance of the area beyond that which would occur through the modest conversion of the existing building under the previous planning permission. As such, it has not been demonstrated that any fallback position exists which would result in the same degree of visual impact or that any other benefits of the scheme would outweigh such harm. The proposal is therefore considered to be contrary to the provisions of Strategy 7 (Development in the Countryside) which seeks to ensure that proposals do not harm the distinctive landscape, amenity and environmental qualities within which it is located and policies (D1- Design and Local Distinctiveness) which states that proposals will only be permitted where they respect the key characteristics and special qualities of the area in which the development is proposed and where the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

### NOTE FOR APPLICANT

#### Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

#### Plans relating to this application:

E100	Location Plan	16.08.23
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P100A	Proposed Site Plan	08.04.24
P200A	Proposed Floor Plans	08.04.24
P300A	Proposed Elevation	08.04.24
P401	Other Plans	08.04.24

#### 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.

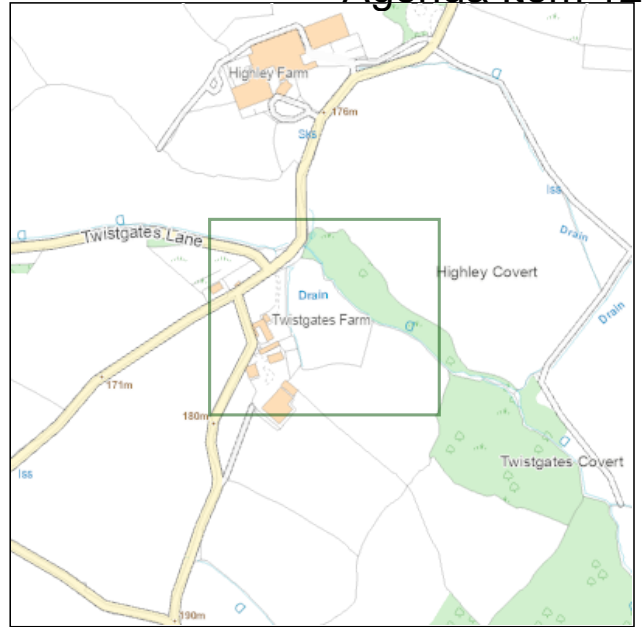
**Ward** Dunkeswell And Otterhead

**Reference** 24/0195/FUL

**Applicant** Duncan Gray

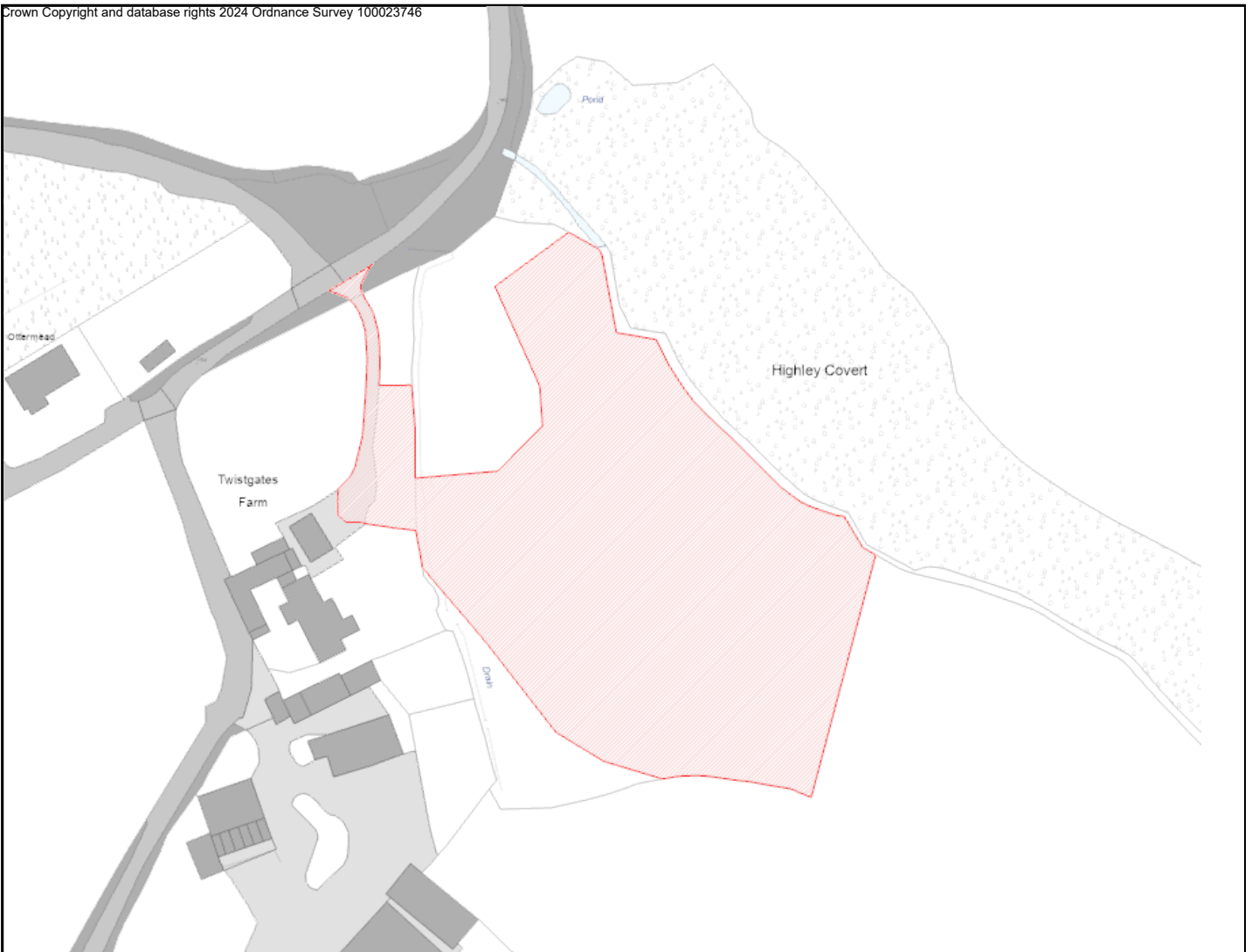
**Location** Twistgates Farm Upottery Devon EX14 9PE

**Proposal** Proposal for change of use of land to site 3no. timber cabins for holiday accommodation; landscaping and construction of pond.



**RECOMMENDATION: Refusal**

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		<b>Committee Date: 16.07.2024</b>
<b>Dunkeswell And Otterhead (Upottery)</b>	<b>24/0195/FUL</b>	<b>Target Date: 19.04.2024</b>
<b>Applicant:</b>	<b>Duncan Gray</b>	
<b>Location:</b>	<b>Twistgates Farm Upottery</b>	
<b>Proposal:</b>	<b>Proposal for change of use of land to site 3no. timber cabins for holiday accommodation; landscaping and construction of pond.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**this application is before Committee as the officer recommendation is contrary to the view of the Ward Members.**

**Planning permission is sought to change to the use of land for the siting of 3 no. timber cabins for holiday accommodation use as well as for the construction of a wildlife pond, landscaping and other ancillary works. The holiday accommodation would operate as part of the applicant's existing holiday accommodation business comprising of holiday lets within converted former farm buildings.**

**The proposal would provide some economic benefit relating to the expansion of an existing business and involved in the construction/setting out works. Following this there would be some further ongoing support of the rural economy through visitor spend and limited on-site job creation. Such benefits would be limited by the scale of the development.**

**In addition, the proposal is considered to be acceptable in terms of highway, heritage, arboricultural and amenity impacts, or could be made so by condition.**

**Weighed against this are the environmental impacts that would result from the development. In this respect it is acknowledged that the proposal would have a very limited visual impact outside the immediate site and subject to landscaping and habitat creation conditions some minor enhancement could be provided, however any limited benefits in this respect would be offset by the change to the character of the site and impact on the tranquillity of the area such that overall impacts on the National Landscape could be considered neutral.**

However in terms of the location of the site, this is such that the occupiers of the holiday units would be likely to be almost entirely reliant on private transport to access services, shops, tourist attractions etc. This reliance on private transport, notwithstanding the holiday nature of the residential use and the economic benefits arising, would weigh against the proposal.

Whilst the Local Plan acknowledges the importance of tourism to the local economy, it stresses that tourism development must take place in a sustainable manner. In this case the limited benefits that would arise from the proposal in economic terms are considered to be outweighed by the conflict with development plan policies and the harm arising from the unsustainable location of the site and reliance of future occupiers on private transport. The proposal is therefore in conflict with Strategies 5B, 7 and 33 and Policies, E5, E19 and TC2 of the Local Plan as well as relevant national planning policies and guidance and as such is recommended for refusal.

## **CONSULTATIONS**

### **Local Consultations**

#### **Clerk To Upottery Parish Council**

The Council support this application.

#### **Dunkeswell And Otterhead - Cllr Colin Brown**

This is a well-established and respected holiday business in the area.

I support the expansion of the site being close to the main A30 and the village of Upottery with the Sidmouth arms.

Tourism is important to the economy of East Devon and its area of national landscape importance.

If the officer's opinion is different to mine I would like this application to go to committee, where I will keep an open mind until I hear the discussions both for and against.

#### **Dunkeswell And Otterhead - Cllr Yehudi Levine**

1/7/24 - My support for this application was lukewarm and I am happy to accept the Officer's recommendation for refusal.

**Amended plan comments:** Alas, the difference between the amended site plans and the superseded ones elude me. I am, however, encouraged by the clarification about the water supply situation. I support the application provided the plans align with the conditions suggested by the Blackdown Hill NL planning officer.

**Original comments:** The application for the extension of a holiday accommodation site fits in with the increasing demand of tourism. I understand from other proprietors that tourism has changed and visitors very often come for less than a week at

various times of the year. While we need to support the industry, we need to be mindful of the impact of the change of land use and I am concerned that in this case the site will be overdeveloped.

In addition, I find the problem with the water supply raised by the neighbour Mr Nelis of concern and think that mitigation will be required.

I hope that officers will be able to address these concerns and I am happy to change my mind when presented with additional evidence.

### **Technical Consultations**

#### **EDDC Trees**

No objection to the application in principle, however if the application is approved there should be a condition applied that requires the submission of an arboricultural method statement(AMS) & tree protection plan(TPP) as the current plan is lacking in certain details.

#### **Environmental Health**

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

#### **Devon County Archaeologist**

No objection subject to condition requiring submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest that may be impacted by the development.

#### **Blackdown Hills AONB Project Partnership**

The National Landscape Partnership supports its local planning authorities in the application of national and local planning policy in order to ensure that any development in the designated AONB conserves and enhances the natural beauty of this nationally protected landscape.

The Partnership's response highlights various policies in the Blackdown Hills AONB Management Plan 2019-24 that should be taken into account and highlights noise impact and lighting should be given particular attention and that in the event of an approval condition to control materials and number of units; ancillary development; external lighting; access requirements and habitat enhancement should be considered.

#### **EDDC Landscape Architect**

No specific objection raised to landscape impact. Comment raised that the lodges are likely to be visible in a glimpsed view from the adjacent highway but could be screened by appropriate native scrub and tree planting. Further comment that, the application site is not conveniently situated in relation to services and the proposal would result in increased vehicle traffic along the narrow, steep and winding country lanes by which it is accessed and where this and activity at the site would result in some local loss of tranquillity.

## Other Representations

1 no. representation has been received raising the following objections/concerns:

- Impacts on private water supply on neighbouring properties and land uses
- Increased traffic generation in narrow country lanes
- Local road close to the site prone to flooding
- Increased noise impact from additional holiday units
- Increase potential for dog fouling
- Potential for future increase in number of units proposed and overdevelopment of the site
- Impact on wildlife
- Impact on the AONB

## PLANNING HISTORY

Reference	Description	Decision	Date
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## PLANNING HISTORY

Reference	Description	Decision	Date
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87/P1095	Conversion Of Disused Milking Parlour/stable Block To Single Storey 3 Bedroom Dwelling.	Approval with conditions	07.07.1987
88/P1093	Conversion Of Disused Farm Buildings To Two Holiday Letting Units.	Approval with conditions	07.09.1988
88/P2268	Conversion Of Buildings Into 2 Holiday Flats.	Approval with conditions	14.12.1988
89/P1630	Agricultural General Purpose Building.	Approval - standard time limit	16.08.1989
89/P2136	Conversion Of Redundant Farm Building To Form Single Holiday Unit.	Refusal	23.11.1989

91/P0945	Change Of Use Of Part Of Barn To Form Lounge And Bedroom To Serve Holiday Unit.	Approval with conditions	08.07.1991
98/P1295	Convert One Holiday Let To Dwelling	Refusal	26.10.1998
05/2584/FUL	Conversion of barn to dwelling	Withdrawn	24.10.2005
05/3144/FUL	Conversion of barn to holiday letting unit	Approval with conditions	12.01.2006
08/3008/FUL	Conversion of barn to holiday let	Approval with conditions	04.02.2009
10/1463/FUL	Removal of existing single storey structure and construction of holiday letting unit including balcony and external staircase.	Refusal	15.09.2010
12/1530/FUL	Construction of replacement outbuilding to provide holiday accommodation, laundry and store	Refusal	05.09.2012
12/2691/FUL	Construction of replacement outbuilding to provide holiday accommodation, laundry and store	Approval with conditions	18.04.2013
14/1170/FUL	Replacement agricultural building	Approval with conditions	11.06.2014

## **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

D6 (Locations without Access to Natural Gas)

EN5 (Wildlife Habitats and Features)

EN6 (Nationally and Locally Important Archaeological Sites)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN21 (River and Coastal Flooding)

E4 (Rural Diversification)

E5 (Small Scale Economic Development in Rural Areas)

E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities)

E19 (Holiday Accommodation Parks)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Blackdown Hills Management Plan 2019-2024

LC3 – Landscape Character

PD2 – Planning and Development

RET3 – Economy and Tourism

Government Planning Documents

National Planning Practice Guidance

NPPF (National Planning Policy Framework 2023)

Site Location and Description



The application site relates to an agriculture field laid to pasture and extending to approx. 0.65 ha. The field occupies low lying land and falls gently from south to north. The northwest boundary of the field is defined by a small open brook beyond which is an area of woodland planting. There is further tree planting to the northern boundary with the remainder of the boundaries largely marked by hedgerow. The field is accessed from a field gate on the northern boundary with a separate pedestrian gate providing access from a parking/turning area to the west. Beyond this parking area lies the group of buildings that form Twistgates Farm and which include the main house and a number of existing holiday let units formed within converted outbuildings. The building group is accessed via a private track from the local road to the north which terminates in the parking area from which the field can be accessed.

The site lies in a relatively remote rural location set on the lower west slopes of the Upper Otter Valley and within the Blackdown Hills National Landscape. There is one residential property, Ottermead, located just to the northwest of the site and farm buildings in separate ownership to the south. Twistgates Farm is located approximately equidistant from the settlements of Upottery, Yarcombe and Smeatharpe, all of which are approximately 1 ½ miles (as the crow flies) from the site. The village of Churchinford lies a little further to the north.

Land to the northeast of but outside the site is defined as Flood Zone 2 and there is another area adjacent to the site and running broadly parallel to this boundary which is indicated as susceptible to surface water flooding. The site itself is not within any area of defined flood risk.

### **Proposed Development**

The application seeks permission for the siting of 3 no. holiday chalets within the application field and for the creation of a wildlife pond in the central part of the field. Associated works include:

- provision of a new package treatment plan to deal with foul drainage;
- proposed EV charging point
- proposed refuse and recycling store
- proposed bicycle store

The proposed units are described as 'temporary cabins' and in terms of dimensions are indicated to meet the definition of a caravan. They would be sited on the ground and attached to it by means of removable ground screws.

### **ANALYSIS**

The main issues in the determination of the application are considered to be:

- The principle of development
- Accessibility
- Impact on character and appearance of the area and wider AONB
- Highway Safety and Access
- Other Issues

## Principle of Development

The Development Plan for the area currently consists of the East Devon Local Plan 2013-2031. The site falls within Upottery Parish, all of which is designated as a Neighbourhood Area but where there is no draft or made Neighbourhood Plan in place.

In policy terms the site lies in open countryside and therefore falls to be considered under Strategy 7 Development within the Countryside.

Strategy 7 is quite specific by stating,

*‘Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development’*

And goes on to say

*‘and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located’.*

Strategy 5B Sustainable Transport requires development to contribute to the objectives of promoting and securing sustainable modes of transport. It requires development to be of a form incorporate proposals for and be located where it will encourage and allow for efficient, safe and accessible means of transport.

Strategy 33 Promotion of Tourism in East Devon of the Local Plan, seeks to support and facilitate high quality tourism that promotes a year round industry. It states tourism growth should be sustainable and should not damage the natural assets of the District. Whilst this policy offers some general support to tourism development proposals it is not a policy that ‘explicitly permits such development’.

Policy E16 Proposals for Holiday or Overnight Accommodation and Associated Facilities deals specifically with new tourist accommodation proposals. This policy supports hotel development, conversion of dwellings into self-catering accommodation, guest houses and upgrading of existing accommodation within built-up area boundaries (i.e. larger villages and towns) but in rural areas only supports conversion or use of existing buildings for small scale holiday accommodation uses. It does not make provision for new units such as that proposed. This policy would therefore offer no support for the proposal.

Similarly, Policy E19, deals with Holiday Accommodation Parks but only supports the provision of new sites outside of designated areas. Within such areas, extensions to existing caravan and camp sites are permitted where they propose no new permanent structures. This policy therefore offers no support to this small scale holiday accommodation proposal.

Policy E4, relates to rural diversification proposals and could potentially offer support to proposals that are of an appropriate scale and location and subject to a number of

other listed criteria. For a proposal to find support under this policy it must be complementary to or compatible with agricultural operations in the area and be operated as part of an overall farm holding. Although the application site lies in a rural area and is proposed on agricultural land, it is not considered to meet the policy requirements so as to represent rural diversification. The planning statement confirms that Twistgates Farm is no longer a working farm and the site location plan shows that the field, of which the application site forms part, represents the extent of agricultural land held at Twistgates Farm. This being the case it is not considered that the proposal would meet the requirement of this policy to be on a farm or operated as part of an overall holding.

Policy E5 relates to Small Scale Economic Development in Rural Areas and offers support in principle to such developments where they are designed to provide jobs for local people and utilise existing buildings; are on previously developed land or where on greenfield sites – as is the case with this proposal - are well related in scale and sustainability terms to the villages and surrounding areas. In relation to job creation, the supporting information suggests that the development would result in the creation of 0.75 FTE (full-time equivalent) employment posts (based on 2 changeovers a week per unit for 12 months of the year). However with occupancy predicted to be at 60% across the year this employment generation is likely to be lower than anticipated. Nevertheless, it is acknowledged that there would be some economic benefits arising from the proposal both at the initial set-up stage and ongoing through support of the local tourism economy. The proposal would find some limited support under this policy in terms of local employment provision but also needs to be, “... *well related in sustainability terms to the villages and surrounding areas*” this aspect is discussed further below.

Policy TC2 Accessibility of New Development 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 (discussed below).

It is considered that the principle of development derives some limited support from policies of the Local Plan but that such support is dependent on the site's location being found to be sustainably located.

Para. 2 of the National Planning Policy Framework (NPPF), confirms that applications for planning permission are required to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF itself is capable of being such a consideration and as such it is necessary to consider whether this indicates that a different stance should be taken. Para. 88 of the NPPF states planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas and support sustainable rural tourism which respect the character of the countryside. Para. 85 recognises that sites to meet ‘*local business and community needs*’ may have to be found outside existing settlements but where this is the case it is important they should, amongst other things, ‘*exploit opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).*’

Whilst the NPPF does potentially offer some support for rural tourism proposals they need to be demonstrated to be acceptable in sustainability terms (or be capable of being made so) and to comply with other policies of the NPPF taken as a whole.

### **Location and Accessibility**

It is recognised that the applicant operates a successful tourism business from the buildings adjoining the site and where former agricultural buildings have been converted over the years to provide for a number of holiday accommodation units. Nevertheless permission for each unit would have been considered against the relevant policies in place at the time and where historically such policies have tended to look favourably on the reuse of rural buildings for alternative economic purposes.

Current planning policy has a greater emphasis on delivering sustainable development which includes the location of sites and how they can be accessed. Policy TC2 and Stgy 5B of the Local Plan seek to minimise the need to travel by car and maximise the opportunities for accessing development by alternative modes of transport. Policy E5 similarly seeks to ensure development is sustainably located and Stgy 33 of the Local Plan and para. 88 of the NPPF seek to support sustainable tourism development. Whilst para. 109 of the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas in this case such opportunities are considered to be extremely restricted.

The site occupies a relatively remote location where it is accessed via narrow, winding and in places steep rural lanes. Although there are a number of villages within a relatively short driving distance of the site in all circumstances these have a very limited range of services to meet the needs of guests. Larger settlements with a wider range of services are located further afield (Honiton 7 miles, Chard 8.5 miles) and where there is no direct public transport link from the site. The nearest bus stop serving the site is found at Upottery, two services run, one runs twice a week between Taunton and Honiton (and on to Sidmouth on one of the days) the other runs once a week to Honiton on a Tuesday. As such, the site itself is not served by public transport and the nearest public transport route is some distance from the site and the services along it extremely limited.

The applicant has provided a supplementary statement relating to sustainability and within this suggests that the guests attracted to the site, which it is advised includes strong repeat custom, do so on the basis of its location and wanting to explore the local area which they can do by foot or cycle. It is also suggested that given the length of stay and nature of the holiday accommodation use that journey requirements would be less than unrestricted residential use. These comments are noted but whilst some guests may choose to walk or cycle to access some facilities, such as the Sidmouth Arms Inn at Upottery for example, this would not be suitable for all guests and in all weather conditions/times of day and is not a viable alternative for most journeys. Guests staying at the site are likely to be heavily reliant on private transport for the majority of their journeys which would be contrary to Policy TC2 and strategy 5B of the Local Plan.

The proposed provision of EV charging points and cycle storage are recognised positives and would go some way to enabling use of more sustainable means of

transport.

However, overall whilst recognising that the applicant has sought to include initiatives to support the use of more sustainable modes of transport and that paras. 89 and 109 of the NPPF recognise that opportunities to maximize sustainable travel vary between sites, in this instance those opportunities to do so are severely limited and weigh against the proposal.

### **Impact on the character and appearance of the area and wider AONB**

The site lies within the Blackdown Hills designated National Landscape and on the east slope of the Otter Valley. It comprises an irregularly shaped small field under permanent grassland, bounded by native hedgebanks with numerous trees apart from a short section to the southwest corner where the hedgebank has been removed and which has been fenced. The field is very gently sloping with a northwesterly aspect, rising more steeply towards its eastern boundary and with a low, wet area marked by rush in the centre. A mature, deciduous woodland abuts the northern boundary and a tributary watercourse of the River Otter runs along the edge of this, just beyond the site boundary hedge. The existing group of buildings forming the Twistgates Farm holiday complex lies to the south. The northwestern boundary adjoins the highway and a field gate provides access to the site from this. A pedestrian gate to the south provides access from the existing car park.

The surrounding land-use is predominantly intensive agricultural grassland set within a matrix of tightly cut hedgebanks with scattered copses and occasional farms and isolated dwellings. The A303 runs along the upper valley side further to the east but is not visible or readily audible from the site. Overall the landscape at the site has a tranquil rural character and affords attractive vistas across the Otter valley.

There is no public access within the site and no public rights of way in the vicinity that are likely to be affected by the proposal. The site is visually well contained due to a combination of vegetation and landform and the only publicly accessible view into it is from the existing field gate off the adjacent highway which provides a direct view across the site.

The site lies within a landscape character type (LCT) described as 3A: Upper farmed and Wooded Valley Slopes in the East Devon Blackdown Hills Landscape Character Assessment 2019. The characteristics of this LCT include: a dispersed settlement pattern of isolated farms and small villages; very winding narrow lanes; A well-treed pastoral farmland with small to medium sized fields with irregular boundaries, and; remoteness and tranquillity with little obvious modern development. The application site reflects these characteristics.

The proposed development, aside from the proposed creation of the wildlife pond, would involve limited operational development with the siting of the units themselves having a temporary appearance. It has been suggested that the proposal could be the precursor to the siting of further units at the site but that is not what is proposed

as part of this application and where any further development would be assessed on its own merits.

The Council's Landscape Architect considered the potential landscape and visual impact of the development as originally proposed and considered that, subject to sensitive construction, the proposed pond could appear as a natural feature, that the proposed units would only be visible in glimpsed public views and where screen native planting could reduce their visibility further.

In order to ensure all of the site would lie outside any area of defined flood risk there has been some amendments to the originally proposed site layout. These changes are limited to the revised siting of one of the units to a more central location within the field. An additional section of the pond has also been provided indicating that some bunding works would be required. Although these changes are likely to make the development as a whole more visible in any glimpsed views, it remains the case that, in time landscaping could effectively screen views of the development and that the creation of the wildlife pond and other landscape enhancement proposals would provide some enhancement benefits. If the development were otherwise found to be acceptable then subject to conditions to secure: further details of the finished materials for the proposed units; appropriate soft landscaping; control over external lighting, and; submission of a landscape and Ecological Management Plan (LEMP) that the proposal can be found acceptable in landscape and visual impact terms.

In terms of impact on the character of the area both the Council's Landscape Architect and the Blackdown Hills AONB partnership have highlighted the very tranquil character of this part of the National Landscape and development of the site and where development of and activity related to the site is likely to give rise to some harm in this regard. Overall taking into account the limited visual impact and the landscape enhancement measures proposed and weighing these against the impact on tranquillity and the scale of the development the impact on the character and appearance of the area is considered to be neutral.

### **Highway safety and access**

Policy TC7 of the Local Plan seeks to ensure that the road network and site access to serve development proposals is appropriate and would not be detrimental to the safe and satisfactory operation of the local or wider highway network. Criteria set out under policy E5 has similar aims.

The proposal would be served by the existing private access road that already serves as the primary vehicular access to the site and which is considered to afford appropriate visibility in both directions taking into account the nature, volume and speed of vehicles likely to be passing the site. There is also provision within the site to enable vehicles to turn and so to exit in forward gear.

The wider network of lanes leading to the strategic highway network is narrow and winding with limited passing places and where increased transport movements associated with the site are likely to increase incidences of vehicles meeting and having to perform reversing manoeuvres. However, the increase in transport movements overall is not considered to be so significant or its impacts so severe as

to give rise to an unacceptable impact on highway safety that refusal of the application on highways grounds would be warranted.

In terms of parking provision the submitted plans indicate that no additional parking provision would be provided and that there would be no vehicular access to the cabins themselves. Parking would be through use of existing parking areas with individual units then accessed by foot via new pedestrian paths from the parking area. The existing site plan indicates 11 no. parking spaces for guests (served by the primary access) and the proposed site plan shows the same. From the applicant's holiday business website it appears that there are a total of 5 no. existing accommodation facilities available ranging from bedroom accommodation to self-contained units). If all booked at the same time it is considered that this could use up most of the existing parking provision and therefore the addition of further units could result in under provision. However it is recognised that the applicant is best placed to understand parking requirements associated with the business and there is additional room on site to provide for further parking if required. The proposed site plan indicates provision of a bicycle store for 12 no. bikes and some indicative details of such bike storage provision have been provided showing a roofed and open fronted timber structure. Were the application found to be acceptable in other regards further details of bike storage could be secured by condition.

## **Other Issues**

### Amenity Impacts

Concern has been raised in relation to noise and amenity impacts of the development resulting from the increased number of visitors/guests staying at the site. The neighbouring occupier advises that noise is already an issue. The application site (and individual units) are located further from the neighbouring residential property than existing holiday let units, however it is acknowledged that the nature of the accommodation is likely to encourage more time spent outdoors. Whilst it is recognised that the proposal has the potential to create additional activity and disturbance it is also noted that the applicant is resident on site and therefore is in place to manage any specific noise disturbance incidences. It is also the case that it would be in the applicant's own interests to seek to appropriately manage noise impacts so as to avoid disturbance to other guests. Whilst the Environmental Health team has raised no specific objection, if a the application was found to be acceptable in other respects consideration could be given to imposing a condition requiring submission of a Noise Management Plan for the site to demonstrate how noise incidences would be controlled and actively managed.

### Water Supply

A local resident who lives at nearby Ottermead, has raised concern regarding the impact of the development on water supply. They advise that at present the mains water supply stops at Rookery Farm (which lies over 650m to the south of the site) after which supply splits to several privately maintained supplies. It is stated that Twistgates Farm shares its supply with Ottermead and nearby agricultural land and that in summer there is already an issue with supply and water pressure when existing holiday lets at Twistgates Farm are occupied. Concern is expressed that the proposal will exacerbate this situation. In response the applicant has provided an addendum statement on this issue which acknowledges the concern but suggests

that the water pressure in the area is also affected by other issues including agricultural use and can be low even when no guests are resident. They also state that the proposal would result in only a 26% increase in bed spaces at the site rather than the doubling suggested.

The National Planning Practice Guidance (NPPG) provides guidance on where water supply, wastewater and water quality are considerations for planning applications. In relation to water supply it states that Planning for the necessary water supply would normally be addressed through authorities' strategic policies and that Water supply is unlikely to be a consideration for most planning applications. It does though recognise that there may be exceptions to this which might include:

- large developments not identified in plans that are likely to require a large amount of water; and/or
- significant works required to connect the water supply; and/ or
- where a plan requires enhanced water efficiency in new developments as part of a strategy to manage water demand locally and help deliver new development.

The proposal is not considered to be one of the exceptions listed and as such is not a matter that would warrant objection to the proposal. Having said this greywater recycling could potentially be considered for the proposed units to reduce their demand on the water supply.

#### Arboricultural Impact

As originally submitted there were some concerns in relation to the proximity of some of the units to the woodland to the north of the site. The revised site layout has addressed this issue through the reduction of the site area, however the submitted arboricultural information still lacks details in relation to some areas of development. Although, in principle, it is considered that the development can be accommodated without harm to trees on or adjoining the site, and so comply with policy D3 of the Local Plan in the event of a revised Arboricultural Method Statement and Tree Protection Plan would be required.

#### Biodiversity

The proposal scheme looks to provide habitat enhancement measures which include provision of a wildlife pond, changes to the management of the grassland and bat roost and bird nesting provision, these benefit are recognised and could be secured by appropriate conditions to ensure compliance with Stgy 47 and policy EN5 of the Local Plan.

In relation to Biodiversity Net Gain (BNG), requirements brought forward under the Environment Act 2021 and amendments to the Town and Country Planning Act 1990, mean that, subject to some exemptions, all planning permissions will be subject to a conditional requirement to provide a minimum 10% increase in biodiversity value. In this case though the proposal is considered to be exempt from the requirement as the application was made prior to the date when the legislation came into effect for non-major development.

#### Heritage impact



The proposed development lies in an area of archaeological potential some 190m to the east of the site of a putative prehistoric or Romano-British ditched enclosure identified through aerial photography. As such, groundworks for the construction of the proposed new pond have the potential to expose and destroy archaeological and artefactual deposits associated with early settlement in this area.

The Historic Environment Team at Devon County Council have advised that recommends that the application should be supported by a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. As such a scheme has not been provided this would need to be secured by means of a pre-commencement condition. In addition, to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe a condition requiring the completion and submission of a post investigation assessment prior to the initial use of any of the units would be required.

#### Economic benefits

As set out under the 'Principle of Development' section above the proposal has the potential to bring forward short term economic benefits during the construction/setting up stage as well as longer term benefits to the local economy and limited on site job creation. Given the scale of the development such benefits are considered to be moderate at best.

### **CONCLUSION**

The proposal would provide some limited economic benefit relating to the expansion of an existing business and construction/setting up works, some limited job creations and following this support of the rural economy through visitor spend. However, there are very limited shops, services in the immediate locality that visitors might help sustain through their patronage.

Weighed against this are the environmental impacts that would result from the development. In this respect it is acknowledged that the proposal would have a very limited visual impact outside the immediate site and no substantive impact on the wider landscape. However in terms of the location of the site, this is such that the occupiers of the holiday units would be likely to be almost entirely reliant on private transport to access a range of services, shops, tourist attractions etc. This reliance on private transport, notwithstanding the holiday nature of the residential use and the economic benefits arising, would weigh against the proposal.

Whilst the Local Plan acknowledges the importance of tourism to the local economy, it stresses that tourism development must take place in a sustainable manner. In this case the limited benefits that would arise from the proposal in economic terms are considered to be outweighed by the conflict with development plan policies and the harm arising from the unsustainable location of the site and reliance of future occupiers on private transport. The proposal is found to conflict with Strategies 5B, 7 and 33 and Policies, E5, E19 and TC2 of the Local Plan as well as relevant national planning policies and guidance and as such is recommended for refusal.

## **RECOMMENDATION**

REFUSE for the following reason:

1. The proposed development is located in the countryside outside of any designated settlement boundary where development is strictly controlled and where there are no policies of the development plan that provide explicit support for development of this nature. Given the distance from the site to essential services and public transport routes occupants of the proposed holiday accommodation units would be highly car dependent, as such the proposal would represent an unsustainable form of development contrary to Strategies 5B - Sustainable Transport and 7 - Development in the Countryside and Policies, E5 – Small Scale Economic Development in Rural Areas, E19 – Holiday Accommodation Parks and TC2 - Accessibility of New Development of the East Devon Local Plan 2013-2031 and policy contained within the National Planning Policy Framework.

### NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

#### Plans relating to this application:

TW1-P07 Rev A: Proposed Pond Section BB	Additional Information	17.05.24
TW1-P01 Rev A	Location Plan	17.05.24
TW1-P03 Rev A	Proposed Site Plan	17.05.24
TW1-P04 Rev A: Habitat Enhancement Plan	Other Plans	17.05.24
TW1-P06 Rev A: Pond Section AA	Sections	17.05.24
TW1-SK01 Rev A: With Flood Levels	Proposed Site Plan	17.05.24
TWI-P10	Proposed Floor Plans	23.02.24

### 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.