

**Agenda for Planning Committee
Tuesday, 20th August, 2024, 10.00 am**



Members of Planning Committee

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

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

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(or group number 01395 517546)

Issued: Friday, 9 August 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, 13 August 2024 up until 12 noon on Friday, 16 August 2024 by leaving a message on 01395 517525 or emailing planningpublicspeaking@eastdevon.gov.uk.

Speaking on non-planning application items

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

1 **Speakers' list for the applications** (Pages 4 - 5)

2 **Minutes of the previous meeting** (Pages 6 - 9)

Minutes of the Planning Committee meeting held on the 16th July 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 10 - 27)

Update from the Development Manager

Applications for Determination

8 **22/1478/FUL (Minor) SEATON** (Pages 28 - 63)

Axe Valley Mini Travel, 26 Harbour Road, Seaton, EX12 2NA

9 **23/1276/MOUT & 23/1271/FUL (Major) DUNKESWELL and OTTERHEAD**
(Pages 64 - 109)

Land Adjacent To Hillcrest, Awliscombe

10 **24/0226/FUL & 24/0227/LBC (Minor) BROADCLYST** (Pages 110 - 155)

Town Tenement Farm, Clyst Hydon, Cullompton, EX15 2NB

The planning applications below will not be considered before 2pm

- 11 **23/1269/MFUL (Major) WOODBURY and LYMPSTONE** (Pages 156 - 196)
Land South Of Meeting Lane, Lympstone
- 12 **24/1197/PIP (Other) FENITON** (Pages 197 - 206)
Land Adjacent To Hamlet House, Nags Head Road, Gittisham
- 13 **24/0603/FUL (Minor) TALE VALE** (Pages 207 - 222)
Beacon Copse, Talaton

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, 20 August 2024 – 10am
Speakers' list for the planning applications

Agenda item 8 Application number: 22/1478/FUL (Minor) Pages 28 -63 Ward: Seaton Address: Axe Valley Mini Travel, 26 Harbour Road, Seaton, EX12 2NA Ward Member: Councillor Marcus Hartnell / Councillor Dan Ledger Committee Ward Member: Councillor Del Haggerty	
Agent	Simon Horler
Ward Member	Cllr Marcus Hartnell

Agenda item 9 Application number: 23/1276/MOUT & 23/1271/FUL (Major) Pages 64 - 109 Ward: Dunkeswell & Otterhead Address: Land adjacent to Hillcrest, Awliscombe Ward Member: Councillor Yehudi Levine Committee Ward Member: Councillor Colin Brown	
Agent	Ed Persse

Agenda item 10 Application number: 24/0226/FUL & 24/0227/LBC (Minor) Pages 110 - 155 Ward: Broadclyst Address: Town Tenement Farm, Clyst Hydon, Cullompton, EX15 2NB Ward Member: Councillor Paula Fernley / Councillor Eleanor Rylance Committee Ward Member: Councillor Sarah Chamberlain	
Applicant	Alexandra Stewart Tel: 07813 018220
Clyst Hydon Parish Council	David Mitchem

The applications below will not be considered before 2pm

Agenda item 11 Application number: 23/1269/MFUL (Major) Pages 156 - 196 Ward: Woodbury & Lympstone Address: Land south of Meeting Lane, Lympstone Ward Member: Councillor Ben Ingham / Councillor Geoff Jung	
Objector	Jane Moffatt Tel: 07730 877889
	John Brewer Tel: 07711 226837
	Caroline Linfoot
	Sophie Cocks
	Mark Moffatt Tel: 07749 263262
Applicant	David Matthews
Lympstone Parish Council Rep Woodbury Parish Council Rep	Susan Francis Anne-Marie Bates
Ward Member	Councillor Ben Ingham Councillor Geoff Jung

Agenda item 12 Application number: 24/1197/PIP (Minor) Pages 197 - 206 Ward: Feniton Address: Land adjacent to Hamlet House, Nags Head Road, Gittisham Ward Member: Councillor Alasdair Bruce	
Agent	Emily Heydon
Ward Member	Councillor Alasdair Bruce

Agenda item 13 Application number: 24/0603/FUL (Minor) Pages 207 - 222 Ward: Tale Vale Address: Beacon Copse, Talaton Ward Member: Councillor Richard Jefferies	
No Speakers	

EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 16 July 2024****Attendance list at end of document**

The meeting started at 10.00 am and ended at 2.20 pm. During the meeting two short adjournments took place, the first took place at 11.35 am reconvening at 11.55 am and the second at 1.32 pm reconvening at 1.40 pm.

181 Minutes of the previous meeting

The minutes of the Planning Committee meeting held on 18 June 2024 were confirmed as a true record.

182 Declarations of interest

Minute 186. 24/0415/MFUL (Major) BUDLEIGH & RALEIGH.

In accordance with the Code of Good Practice for Councillors and Officers dealing with planning matters as set out in the constitution Members advised of lobbying in respect of this application.

Minute 187. 24/0331/MFUL (Major) FENITON.

In accordance with the Code of Good Practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillor Peter Faithfull advised of lobbying in respect of this application.

Minute 188. 24/0594/FUL (Minor) BUDLEIGH & RALEIGH.

Wendy Ormsby, Directly relates Non-registerable Interest, The applicant is a close associate of a family member.

183 Matters of urgency

There were none.

184 Confidential/exempt item(s)

There were none.

185 Planning appeal statistics

The Committee noted the Development Manager's report which included an update on application 21/F0358 – Higher Wick Farm, Luppitt. Members were advised that the Planning Inspectorate would be considering the appeal of the enforcement notice by written representations and not by Public Inquiry.

186 24/0415/MFUL (Major) BUDLEIGH & RALEIGH**Applicant:**

Ladram Bay.

Location:

Ladram Bay Holiday Park, Otterton, EX9 7BX.

Proposal:

Change of use and regrading of top field to accommodate 32 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.

RESOLVED:

Refused as per officer recommendation.

187 **24/0331/MFUL (Major) FENITON**

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 reference 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.

RESOLVED:

Approved as per officer recommendation subject to an additional condition regarding hours of construction.

188 **24/0594/FUL (Minor) BUDLEIGH & RALEIGH**

Applicant:

Mr Mitch Tonks.

Location:

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

Proposal:

Proposed extension with retractable roof and walls.

RESOLVED:

Approved with conditions as per officer recommendation.

189 **23/1785/FUL (Minor) COLY VALLEY**

Applicant:

Mr Lewis Pring.

Location:

The Old Reservoir, Ridgeway Lane, Colyton.

Proposal:

Demolition of existing reservoir tanks and construction of new dwelling house.

RESOLVED:

1. The Appropriate Assessment be adopted.
2. Refused as per officer recommendation.

190 **24/0195/FUL (Minor) DUNKESWELL & OTTERHEAD**

Applicant:

Duncan Gray.

Location:

Twistgates Farm, Upottery, EX14 9PE.

Proposal:

Proposal for change of use of land to site 3 timber cabins for holiday accommodation; landscaping and construction of pond.

RESOLVED:

Approved contrary to officer recommendation subject to planning conditions to be agreed in consultation with the Chair, Vice Chair and Ward Members.

Members considered that the proposal was in line with Policy E5 (Small Scale Economic Development in Rural Areas).

Attendance List

Councillors present:

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

Councillors also present (for some or all the meeting)

R Collins
C Fitzgerald
G Jung
T Olive
H Riddell

Officers in attendance:

Wendy Ormsby, Development Manager
Damian Hunter, Planning Solicitor
Wendy Harris, Democratic Services Officer
Gareth Stephenson, Principal Planning Officer

Chris Hariades, Landscape Architect, Development Management
Nigel Barrett, Senior Planning Officer
Charlie McCullough, Senior Development Control Officer

Councillor apologies:

A Bruce
S Chamberlain
M Chapman
S Gazzard
E Wragg

Chairman

Date:

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

Ref: 24/0110/FUL **Date Received** 02.07.2024
Appellant: Mulberry Architectural Services
Appeal Site: Branscombe Farm Ebford Lane Ebford EX3 0QX
Proposal: Proposed demolition of existing structures and erection of two dwellings, garages, improvements to existing vehicular access, hardstanding, landscaping and all associated development
Planning Inspectorate Ref: APP/U1105/W/24/3347347

Ref: 24/0217/FUL **Date Received** 08.07.2024
Appellant: Mr Neil Hitt
Appeal Site: 1 Pithayes Cottages Church Road Whimble Devon EX5 2TG
Proposal: Construction of detached double garage with workshop and gym/storage on first floor.
Planning Inspectorate Ref: APP/U1105/D/24/3347667

Ref: 23/2523/FUL **Date Received** 09.07.2024
Appellant: Mr & Mrs Eccles
Appeal Site: Northcombe Farm Salcombe Regis EX10 0JQ
Proposal: Proposed annexe (conversion of redundant rural building)
Planning Inspectorate Ref:

Ref: 24/0926/FUL **Date Received** 10.07.2024
Appellant: Mr Justin Wright
Appeal Site: 2 The Barnfield Jerrard Close Honiton EX14 1DX
Proposal: Raising of roof and conversion to habitable accommodation.
Planning Inspectorate Ref: APP/U1105/D/24/3347872

Ref: 23/1064/FUL **Date Received** 10.07.2024
Appellant: Mr and Mrs A Brewer
Appeal Site: Bung Ho Southdown Road Beer Devon EX12 3AE
Proposal: Two storey, 5-bed, detached dwelling, with associated parking and amenity space and demolition of existing dwelling and garage.
Planning Inspectorate Ref: APP/U1105/W/24/3347829

Ref: 23/2774/FUL **Date Received** 20.07.2024
Appellant: Mr Alex Watson
Appeal Site: Bramblecot Gate Hawkchurch Devon EX13 5TZ
Proposal: Addition of detached double garage to property.
Planning APP/U1105/D/24/3348516
Inspectorate Ref:

Ref: 24/0175/FUL **Date Received** 22.07.2024
Appellant: Miss Clare Humphreys
Appeal Site: 58 St Andrews Drive Axminster Devon EX13 5EZ
Proposal: Fencing erected to replace hedging (retrospective)
Planning APP/U1105/D/24/3348571
Inspectorate Ref:

Ref: 23/2725/FUL **Date Received** 26.07.2024
Appellant: Mr Mark & Lisa Clouter
Appeal Site: Kings Arms Farm Nags Head Road Gittisham Honiton EX14 3AP
Proposal: House of multiple occupation (HMO), that provides individual living-rooms for vulnerable people; the facility includes communal areas for socialising, cooking and dining set with private and secure gardens.
Planning
Inspectorate Ref:

Ref: 23/1890/FUL **Date Received** 02.08.2024
Appellant: Mrs Alison Beresford
Appeal Site: Ratclyffe House Clyst Hydon Cullompton EX15 2NQ
Proposal: Reinstatement of main drive lights and gate pillar lights.
Planning APP/U1105/D/24/3349359
Inspectorate Ref:

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

Ref: 23/1333/FUL **Appeal Ref:** 24/00018/HH
Appellant: Mr. & Mrs. M. Luckman
Appeal Site: 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.
Decision: **Appeal Dismissed** **Date:** 10.07.2024
Procedure: Written representations
Remarks: Delegated refusal, listed building conservation reasons upheld (EDLP Policies EN8 & EN9).
BVPI 204: **Yes**
Planning APP/U1105/D/24/3341610
Inspectorate Ref:

Ref: 23/0332/FUL **Appeal Ref:** 23/00062/REF
Appellant: Mrs H Mitchell
Appeal Site: Land Adjacent to The Gardens Blackhorse
Proposal: Construction of 5 dwellings with associated new vehicular access off Blackhorse Lane, parking and landscaping
Decision: **Appeal Dismissed** **Date:** 26.07.2024
Procedure: Written representations
Remarks: Delegated refusal, countryside protection and amenity reasons upheld (EDLP Strategy & Policy D1).
Application for a partial award of costs against the Council refused.
BVPI 204: **Yes**
Planning APP/U1105/W/24/3337198
Inspectorate Ref:

Ref: 23/2209/FUL **Appeal Ref:** 24/00004/REF
Appellant: Gill Parry
Appeal Site: 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
Decision: **Appeal Dismissed** **Date:** 26.07.2024
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons upheld (EDLP Policy D1).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3336804
Inspectorate Ref:

Ref: 21/F0358 **Appeal Ref:** 24/00027/ENFAPP

Appellants: Mr Barry Hooper & Mrs Jean Hooper
Appeal Site: Higher Wick Farm, Wick, Honiton EX14 4TY
Proposal: Appeal against enforcement notice served in respect of the material change of use of the land from agricultural use to a mixed use of agricultural and Use Class B2 (General Industrial) use by virtue of the use of a former agricultural barn as a steel fabrication workshop.

Decision: **Enforcement** **Date:** 26.07.2024
Notice quashed

Procedure: Written representations

Remarks: Full award of costs in favour of the appellants.

The Inspector considered that the enforcement notice did not specify with sufficient clarity the alleged breach of planning control, the steps required for compliance, or the land where the breach of planning control is alleged to have taken place.

The Inspector concluded that the enforcement notice was invalid, and it was not open to them to correct the error in accordance with their powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were they to do so.

BVPI 204: **No**
Planning APP/U1105/C/24/3342728
Inspectorate Ref:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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
Hearing/Inquiry Date:

App.No: 24/0525/COU
Appeal Ref: APP/U1105/W/24/3345084
Appellant: M Stephen Hartwell
Address: Land adjacent too Grange Farm Newton Poppleford EX10 0BY
Proposal; Change of use of agricultural land to residential garden
Start Date: 8 July 2024

Procedure:
Written reps.

Questionnaire Due Date: 15 July 2024
Statement Due Date: 12 August 2024

App.No: 23/0571/MFUL
Appeal Ref: APP/U1105/W/24/3341996
Appellant: Mr Paull (McCarthy and Stone Retirement Lifestyles Ltd)
Address: 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) Retirement living apartment building (33 units) with associated communal lounge d) Erection of 4 houses, and 3 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) | Former Council Offices Knowle Sidmouth EX10 8HL

Start Date: 9 July 2024
Procedure:
Hearing

Questionnaire Due Date: 16 July 2024
Statement Due Date: 13 August 2024
Hearing Date: 5 November 2024

App.No: 23/2418/PDQ
Appeal Ref: APP/U1105/W/24/3344843
Appellant: Mr and Mrs Willis
Address: Higher Berry Farm Clyst St Lawrence Cullompton EX15 2NW
Proposal; Prior approval application to convert existing farm building to a residential dwelling with associated development
Start Date: 9 July 2024
Procedure:
Written reps.
Questionnaire Due Date: 16 July 2024
Statement Due Date: 13 August 2024

App.No: 23/1496/FUL
Appeal Ref: APP/U1105/W/23/3333745
Appellant: Mr Paul Sparks
Address: Barn Close Kennels Combe Raleigh Devon EX14 4SG
Proposal; Change of use from kennels to 3no. dwellings including associated works and parking.
Start Date: 15 July 2024
Procedure:
Written reps.
Questionnaire Due Date: 22 July 2024
Statement Due Date: 19 August 2024

App.No: 23/2373/PIP
Appeal Ref: APP/U1105/W/24/3345706
Appellant: Mr David Selway
Address: Land West of Backwells Mead Northleigh
Proposal; Permission in principle for 4no. dwellings
Start Date: 18 July 2024
Procedure:
Written reps.
Questionnaire Due Date: 25 July 2024
Statement Due Date: 22 August 2024

App.No: 23/2548/COU
Appeal Ref: APP/U1105/W/24/3345720
Appellant: Paul FitzHenry
Address: 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
Start Date: 18 July 2024
Procedure:
Written reps.
Questionnaire Due Date: 25 July 2024
Statement Due Date: 22 August 2024

App.No: 23/2167/FUL
Appeal Ref: APP/U1105/W/24/3345882
Appellant: Churchill Estates Management
Address: Tanyards Court Beer Road Seaton Devon EX12 2PA
Proposal; Erection of seagull netting on roof of Tanyard's Court [Retrospective]
Start Date: 18 July 2024
Procedure:
Written reps.
Questionnaire Due Date: 25 July 2024
Statement Due Date: 22 August 2024

App.No: 23/1050/FUL
Appeal Ref: APP/U1105/W/24/3345960
Appellant: Mr Steve Richards
Address: Land South of 15 Halsdon Avenue Exmouth
Proposal; To erect a 2 storey 2-bed dwelling with associated amenity space.
Start Date: 23 July 2024
Procedure:
Written reps.
Questionnaire Due Date: 30 July 2024
Statement Due Date: 27 August 2024

App.No: 24/0439/TRE
Appeal Ref: APP/TPO/U1105/10189
Appellant: Mr Steven Richards
Address: Land South Of 15 Halsdon Avenue Exmouth Devon EX8 3DL
Proposal; G7.1 and G7.2 Lime:
i) Create high pollard on structural branches, with preferentially nodal pruning at a height of approx. 8m, with target pruning cuts of typically 100mm dia. Establish radial spread of approx. 2.5m.
ii) Repeat management on cycle of not less than 5 years, and not more than 7 years.

Start Date: 26 July 2024

Procedure:
Written reps.

Questionnaire Due Date:

9 August 2024

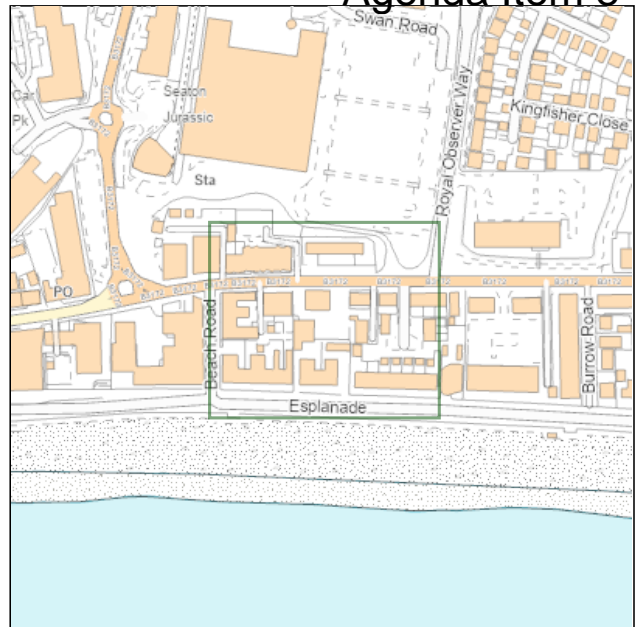
Ward Seaton

Reference 22/1478/FUL

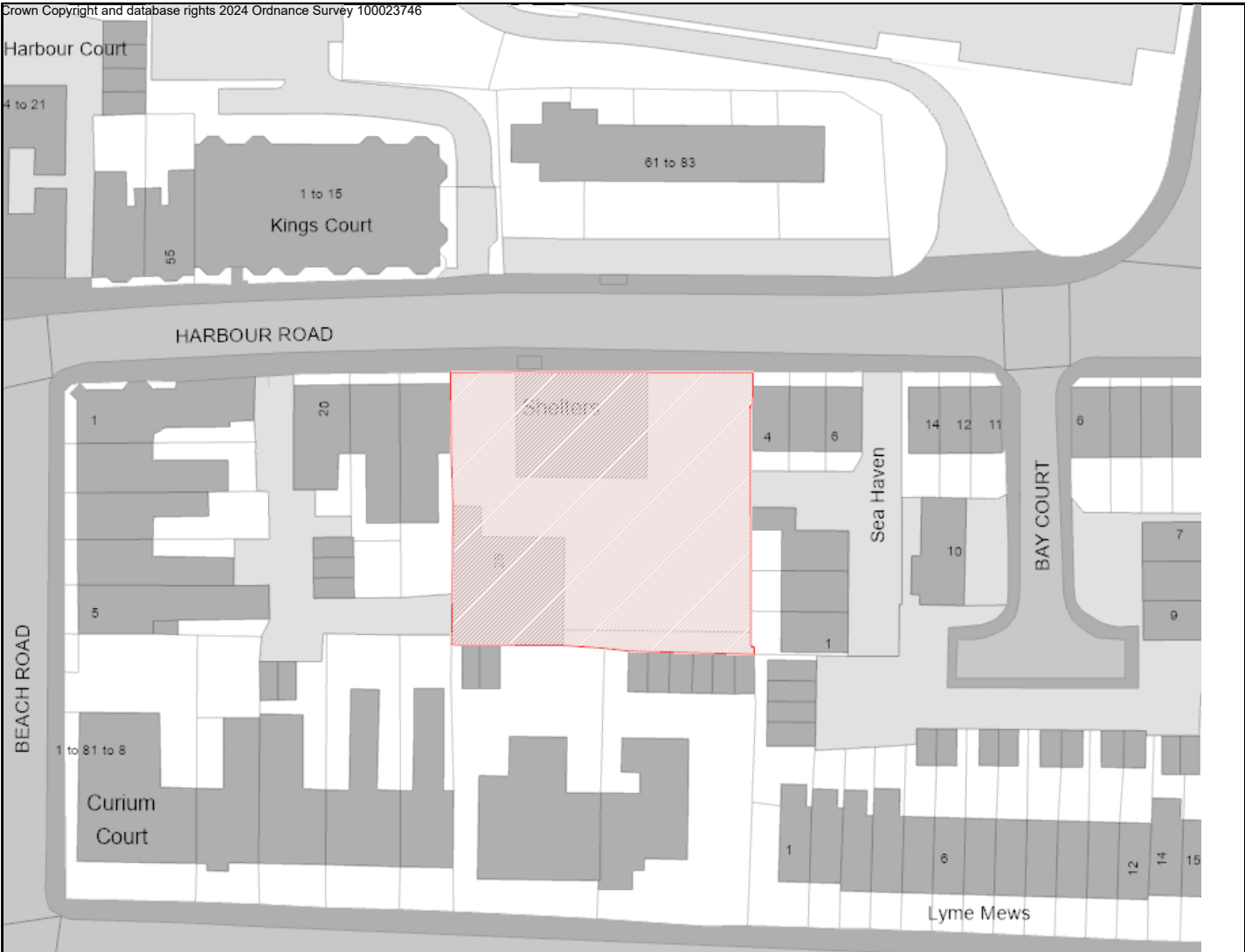
Applicant Mr T Sidhu

Location Axe Valley Mini Travel 26 Harbour Road Seaton EX12 2NA

Proposal Demolition of existing STC store and Bus Garage on site to be replaced by 7 residential units, 198 square metres of commercial floorspace (Use Class E) and landscaped gardens and private parking.



RECOMMENDATION: Refusal



		Committee Date: 20.08.2024
Seaton (Seaton)	22/1478/FUL	Target Date: 02.09.2022
Applicant:	Mr T Sidhu	
Location:	Axe Valley Mini Travel 26 Harbour Road	
Proposal:	Demolition of existing STC store and Bus Garage on site to be replaced by 7 residential units, 198 square metres of commercial floorspace (Use Class E) and landscaped gardens and private parking.	

RECOMMENDATION: Refuse

EXECUTIVE SUMMARY

The application is before committee as the officer recommendation is contrary to the Ward Members views.

This application was considered at the Planning Committee meeting on 26 March 2024 but was deferred. It was deferred to allow the applicant the opportunity to submit a revised FRA addressing The Sequential test, Exception Test and to provide a detailed Flood Warning and Evacuation Plan. These have been submitted and considered by the EA and the Council's emergency planner.

The development would see an existing employment site redeveloped to provide a block of 7 flats, one class E commercial unit and associated development. The site lies within the Built-Up Area Boundary of Seaton and also within Flood Zone 3.

The site is considered to be an employment site. The marketing effort described in the application is considered to be inadequate. However the applicant is willing to accept a planning condition limiting the use of the commercial space to office use only. The Economic Development team have accepted that if this condition were imposed it would overcome its initial objections as it would secure similar employment numbers and higher GVA jobs. If permission were granted such a condition would required to make it comply with Strategy 32.

The development is required to pass the sequential test regarding flood risk, whereby it has to be demonstrated that there are no other reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This has not been achieved, despite the additional supporting information received since the application was deferred. There are other

reasonably available sites in the District that can be used for housing that are at less risk of flooding. Furthermore, the Exceptions Test as it has not been shown to be designed to be safe for the lifetime of the development, again despite the submission of a Flood Warning and Evacuation Plan. The proposed dwellings and their occupants would therefore be placed at unnecessary risk of flooding, contrary to policy EN21.

While the design would enhance the architectural character of the site and the street and also provide some additional market housing, this is not considered sufficient to overcome the harms identified above.

CONSULTATIONS

Local Consultations

Seaton - Cllr Marcus Hartnell – 23/1/23

I support this application. Harbour Road has become predominantly residential, and the Bus Garage is now out of keeping with the surrounding properties. Historically it was surrounded by similar commercial uses, but over time planning permission has been granted to develop residential flats and town houses nearby. The proposed development is therefore in keeping with its surroundings.

The nature of the existing business means that emissions and noise from the buses are common and can be detrimental to the locality. There is no architectural merit to the existing buildings. I understand that the bus company can relocate within Seaton, retaining current jobs. The recent amended plans also retain commercial use on the first floor for class use E which is positive. Should this application be approved I would request that a flood warning and evacuation plan is submitted by the applicant.

Seaton – Cllr Del Haggerty – 2/8/24

I fully support this application, there is no threat to employment, in fact it would probably create more, the current location is has reached its maximum potential, the business has an option of relocating, not far away better suited to this type of commercial usage,

The suggested plans would fit into an already growing residential area, with a major similar project nearby, this would enhance the harbour road area, which is very much needed.

Parish/Town Council - 22/3/23

Seaton Town Council have no objections to this application.

Technical Consultations

Economic Development Officer

My understanding now is that the proposal is to replace 212sqm of retail space and 198sqm of general industrial floorspace (410sqm in total) with 198sqm of E(g) use co-working floorspace. This would lead to a total net reduction of 212sqm of employment floorspace.

The current floorspace provision should accommodate between 16-19 jobs, with the proposed development accommodating 15-20 jobs (10-13sqm employment density for general office use).

As a result, I'm content that the proposed development would likely not harm employment opportunities. Although one could argue that the net loss of floorspace could harm businesses opportunities, it can also be argued that the proposed alternative use would likely yield a higher GVA than the types of uses currently accommodated at the site, and would therefore not harm business opportunities.

This, along with the relocation flexibility for AVMT, in principle addresses the main concerns from the Economic Development team.

Environment Agency

Comment Date: Fri 05 Jul 2024

Environment Agency position:

This consultation related to the submission of two relevant documents- the Flood Warning and Evacuation Plan dated 24/05/2024 and a Sequential Exception Test Report. In regard to the latter, we leave the review and consideration of the sequential test to your authority.

In regards to the flood warning and evacuation plan, it contains some deficiencies and we advise that any decision made by your authority on this application about whether or not the measures proposed would render the development as being safe over its lifetime would, arguably not be fully informed.

Comment Date: Fri 12 Jan 2024

Object on grounds of flood risk; it has not been demonstrated that the development can be made safe for its lifetime.

Emergency Planning and Business Continuity Officer

Comment Date: Monday 24 Jun 2024

I would not be authorising this as a plan as it does not cover the necessary aspects of an emergency plan as outlined in the adept guidance and the checklist at appendix 2. There is insufficient detail in the plan or in the flood risk assessment to ensure safety of the occupants and residents as it stands at present.

County Highway Authority

Comment Date: Tue 09 Aug 2022

No objection.

Environmental Health

Comment Date: Tue 12 Jul 2022

I recommend approval with conditions.

Contaminated Land Officer

Comment Date: Tue 14 Mar 2023

No objection, condition recommended regarding unexpected contamination.

Other Representations

3 letters of objection:

- Previously supported but now object due to increase in height.
- Unplanned gull netting would increase its height further and would be ugly.
- The building is bulky in scale.
- Totally out of keeping with surrounding buildings.
- EV chargers just add more traffic rather than promoting public transport.
- More power will be required for the building.
- More low cost housing is needed in Seaton for youngsters.
- Concern about damage to third party property adjacent to site.
- Noise and air pollution during construction could affect adjacent hotel business.

2 letters of support:

- Bus depot has a suitable, approved location to transfer to and the development now includes commercial premises.
- It will be a huge improvement on the appearance of the site.
- Noise and dust during construction can be controlled.
- Bus depot unable to use the workshop as it is unsafe.
- Commercial unit has been empty for many years.

PLANNING HISTORY

Reference	Description	Decision	Date
21/0649/FUL	Demolition of existing retail store and Bus Garage and construction of residential apartment block containing 9 residential units together with associated landscaped gardens and private parking.	Refusal	17.12.2021

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 25 (Development at Seaton)

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

Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)

Strategy 38 (Sustainable Design and Construction)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN16 (Contaminated Land)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Site Location and Description

The site lies near to the town centre and seafront in Seaton along Harbour Road, from which it is accessed via two separate vehicular access points.

It is occupied by two main buildings and an open yard. The site is occupied by the STC computer store and the bus service garage business, both reportedly at the end of their tenancies. The proposal began with 9 residential units but has since been revised down to 7 residential units, comprised of 2 x 2 bed units and 5 x 3 bed units. The ground floor is occupied by undercroft parking, cycle parking, a plant room and

bin storage. The first floor contains a commercial (E use class) units and the lower floors of residential units 1,2 and 3.

The site lies in the Built Up Area Boundary and Flood Zone 3 for the purposes of the development plan.

A previous application (21/0649/FUL - Demolition of existing retail store and Bus Garage and construction of residential apartment block containing 9 residential units together with associated landscaped gardens and private parking.) was refused planning permission following the Planning Committee on 12 December 2021 for the following reasons:

1. The development would harm business and employment opportunities in the area and result in the loss of existing employment land, without it first being rigorously demonstrated through an appropriate marketing exercise that there is no interest in re- using the site for employment generating uses. Furthermore, it has not been demonstrated that there is a surplus of land or provision of employment sites in the locality. The development would therefore not ensure that the local community remains vibrant and viable by reducing employment opportunities in favour of additional housing, which would not represent sustainable development and is therefore contrary to Strategies 3, 4, 25 and 32 of the East Devon Local Plan 2013 - 2031 and to the policies in the National Planning Policy Framework (paragraphs 7 - 10).

2. The proposal for housing is a 'more vulnerable' use that would be situated within Flood Zone 3, an area of high flood risk, and policy EN21 of the East Devon Local Plan 2013 - 2031 and the National Planning Policy Framework (NPPF) require, amongst other matters, for development of this kind within Flood Zone 3 to pass a Sequential Test. It has not been demonstrated why the area of search for this test should be less than the whole of the East Devon District area. Furthermore, it has not been demonstrated that there are a lack of alternative sites available for the proposed development that are at less risk of flooding and therefore the development does not pass the Sequential Test and unnecessarily puts a 'more vulnerable' development type, at risk of flooding. Furthermore, the development has not been demonstrated to be designed with safe finished floor and ground levels, therefore also failing the Exception Test, contrary to Policy EN21 of the East Devon Local Plan 2013 - 2031 and Guidance in the NPPF and the National Planning Practice Guidance.

This application seeks to overcome these matters.

ANALYSIS

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

- Whether the loss of an employment site is acceptable;
- Whether the development is appropriate in a flood risk area and can be made safe;
- Whether the design is acceptable;

- Whether the amenity and privacy of neighbours is reasonably maintained, and adequate amenity provided for future occupiers;
- The effects of the development on highway safety.

Principle

“Strategy 32 of the Local Plan addresses Resisting Loss of Employment, Retail and Community Sites and Buildings and reads as follows:

In order to ensure that local communities remain vibrant and viable and are able to meet the needs of residents we will resist the loss of employment, retail and community uses. This will include facilities such as buildings and spaces used by or for job generating uses and community and social gathering purposes, such as pubs, shops and Post Offices.

Permission will not be granted for the change of use of current or allocated employment land and premises or social or community facilities, where it would harm social or community gathering and/or business and employment opportunities in the area, unless:

1. *Continued use (or new use on a specifically allocated site) would significantly harm the quality of a locality whether through traffic, amenity, environmental or other associated problems; or*
2. *The new use would safeguard a listed building where current uses are detrimental to it and where it would otherwise not be afforded protection; or*
3. *Options for retention of the site or premises for its current or similar use have been fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in a locality; or*
4. *The proposed use would result in the provision or restoration of retail (Class A1) facilities in a settlement otherwise bereft of shops. Such facilities should be commensurate with the needs of the settlement.*

Employment uses include those falling into Class B of the Use Classes Order or similar uses classified under planning legislation as ‘Sui Generis’ uses. Redundant petrol filling stations and associated garage facilities will fall within the scope of this policy as do public and community uses and main town centre uses and other uses that directly provide jobs or employment, community meeting space or serve a community or social function.”

The site in question is an employment site for the purposes of Strategy 32 and according to the application form supports 3 full-time roles on the site. The proposal would result in the loss of existing employment space, totalling 212m² of class E use and 198 m² of the bus depot (a *sui generis* use) floorspace. The proposal would establish 116m² of class E floorspace, leading to a net loss of 96m² class E floorspace, but an overall loss of 294m² of employment space.

It has been held on appeal elsewhere in the District (the Doyle Centre, Exmouth) that before considering criteria 1-4 of S32 it must first be established if there is any harm to social or community gathering and/or business and employment opportunities

occurs. As noted above, the site has 3 full-time jobs on it, although it is not stated if these jobs relate to the bus depot use, the E use floorspace or a combination of the two. The application form states that 3 retail jobs would be created therefore leading to no net loss of employment (purely in terms of job numbers). The Design and Access Statement suggests the class E unit proposed 'could be an office or shop space and could employ between 3-5 people. No evidence is supplied to explain how 3 (or up to 5) full time roles would be created in the proposed class E unit when the space available for class E uses is changing from 212m² down to 116m². No specific end user is identified, nor any expressions of interest in such a unit. If retail is considered to be an option it is disadvantaged by being at first floor level (due to flooding concerns) with no obvious route in for customers. Consequently, it is considered that given there would be a significant reduction in the overall employment floorspace and there is no certainty as to how many jobs, if any, would be generated that harm is likely to result in respect of S32 and the policy should be applied in full.

S32 states that permission will not be granted unless one of the following criteria is satisfied:

1. *Continued use (or new use on a specifically allocated site) would significantly harm the quality of a locality whether through traffic, amenity, environmental or other associated problems;*

The site has been in its current use since at least the late 1990s and none of the respondents to the planning application have described it as a nuisance site. The Council's Environmental Health team has been consulted and there is no suggestion in its response that there is an amenity issue with the use of the site.

2. *The new use would safeguard a listed building where current uses are detrimental to it and where it would otherwise not be afforded protection;*

This is not applicable in this case as no listed buildings are present on the site.

3. *Options for retention of the site or premises for its current or similar use have been fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in a locality;*

Although this is a single criterion, it has two requirements. First of all, the site must have been marketed (ideally in accordance with the guidance provided on the Council's website provided to aid applicants) for at least 12 months, not only for the existing use but for similar uses (which will be subject to planning if needed). This exercise is required to identify any interest in bringing the site back into a suitable use as identified in S32.

Second, there is a requirement to clearly demonstrate that there is a surplus supply of land or provision locally for similar uses. Similar uses in this respect would include employment generating uses which could include retail.

On the first matter, the applicant has supplied a letter from a local sales and letting agency. The Economic Development Team has analysed this letter and found it lacking in detail and concludes that it is not evidence that a sufficient marketing effort has been made to justify the loss of this employment site. This is a clear failure to comply with criterion 3 of S32 and so the proposal is unacceptable on this count alone.

On the second matter, the bus depot is defined as a *Sui Generis* use, from which there are no permitted changes under the GPDO. The site is surrounded by a number of dwellings and flats but also a hotel, so it is not purely a residential area. Further, the permission for the bus/coach depot use (P96/1751) is limited by conditions to that use only and limits hours of movement/operation of any bus/coach engine between 8pm and 6.45am the following day. Use of the workshop is limited in relation to the granted use only and for the same hours. There is no evidence that any nuisance suggested from such a use has occurred. Therefore, the current use is not considered unsuitable in its context and other alternative employment uses have not been explored.

Fundamentally there is no compelling evidence that a sufficient marketing effort has been made and neither has it been demonstrated that there is a surplus of land for employment in the locality. The development therefore fails to accord with criterion 3 of S32.

4. *The proposed use would result in the provision or restoration of retail (Class A1) facilities in a settlement otherwise bereft of shops. Such facilities should be commensurate with the needs of the settlement.*

This is not the case in this instance.

To address the shortcomings above the applicant had suggested that it would be willing to accept a planning condition to limit the use of the commercial space to office space only. The Economic Development team have indicated that it considers that no harm would arise to employment numbers and would be content that such a condition would likely lead to higher GVA jobs being delivered. In these circumstances, despite the preceding paragraphs in this section of the report, no harm could be said to arise and Strategy 32 need not be applied in full. Therefore there is no reason to refuse the application in relation to Strategy 32.

Flooding

The site lies in Flood Zone 3 the 1 in 100 year flood risk area. This is predominantly related to coastal and estuarine flooding events.

The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere (paragraph 165). Therefore it is necessary for the Local Planning Authority to perform the Sequential Test. The aim of the Sequential Test is to steer development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This falls to be considered in advance of any other flooding matters. It is only if the Sequential Test is passed that

the Exception Test is applied (a test to see if the wider sustainability benefits of the development outweigh the flood risk and to ensure the development can be made safe for its lifetime, without increasing flood risk elsewhere). These requirements are repeated under policy EN21 of the Local Plan.

The application was deferred from an earlier Planning Committee meeting to allow the applicant the opportunity to submit a revised FRA addressing The Sequential test, Exception Test and to provide a detailed Flood Warning and Evacuation Plan.

The applicant has submitted an addendum to the FRA, 'Sequential and Exception Test' (the 'FRA addendum'). These are considered in the following sections.

Sequential Test

There is some limited national guidance (NPPG) on what information is required to inform the Sequential Test, which essentially suggests that a developer discuss with a local planning authority (LPA) what it requires.

The guidance states that for individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration.

The FRA addendum states (paragraph 2.2.6) that the substantial weight the NPPF gives to using suitable brownfield land within settlements for homes is of key importance when considering how to apply the Sequential Test for town centre developments. This is based on paragraph 124 (c) of the NPPF 2023 which states decisions should "give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land". Paragraph 2.2.6 states that the purpose of the Sequential Test is not to stifle town centre regeneration. However, paragraph 124 (c) is simply about the weight to be afforded to using brownfield land in the planning balance, not how to apply the sequential test. To do so would ignore the risks of placing development in areas at risk of flooding simply because they are brownfield developments which would run contrary to the aims of NPPF paragraphs 167 and 168. The NPPG confirms that the sequential approach means steering development to areas at little or no risk of flooding (Paragraph: 023 Reference ID: 7-023-20220825).

Despite what is stated at paragraph 2.2.6 of the FRA addendum, paragraph 2.2.7 also recognises that there is no specific guidance on the application of methodology for the Sequential Test. Instead, the FRA addendum examines in the District where the test has been applied.

This includes past planning decisions in the town (in the same flood zone) where (against officer advice) permission was granted for the 'Demolition of 2 no. dwelling

houses and replacement with an 8 unit five storey apartment building' at Trebere on East Walk (reference 16/2795/FUL). The minutes for this meeting confirm that this was done as Members considered the combined regeneration and economic benefits to the seafront justified a smaller Sequential Test area focussed on the seafront and as a result the Committee considered the Test was passed. The NPPG does state that local factors can be considered when deciding the area of search to draw up. However, the difference between Trebere and the application site is that the latter is not on the seafront, which was cited specifically. Therefore, officers do not consider that the Trebere decision should determine the area of search in this case.

The FRA addendum provides a second example (¶2.2.14) of the Hook and Parrot Inn development (application 21/0891/FUL), which is on the seafront nearby. In this example permission was granted for the 'Demolition of existing public house and 3 residential apartments and construction of replacement bar/restaurant and 9 apartments. It is stated that the regeneration benefits of the scheme were said to justify the development despite officers recommending refusal due to flood risks (the site also being in flood zone 3). However in that case, site modelling suggested it was in fact in flood zone 1 and this was agreed by the Environment Agency. So in this instance the sequential test was not applied and so this case does not provide a suitable comparison.

The FRA addendum, using the two examples and extracts from the NPPG quoted, suggests that the appropriate criteria for a search area for the sequential test would be:

- Sites must be brownfield land and located in the Seaton town centre (to offer a comparable opportunity to deliver the benefits of urban regeneration); and
- Sites must be available for development (availability defined by inclusion in the East Devon District Council Brownfield Register); and
- Sites must be within an area subject to a lower level of flood risk.

The FRA addendum then looks at 3 other sites to assess suitability; Fosseyway Court, Seaton; Seaton Quay; Land at the boatyard Seaton. It concludes that these are not sequentially preferable sites.

However, the approach taken in the FRA addendum to defining the search area is not agreed by officers. As noted previously, paragraph 126 (c) has no bearing on how the sequential test should be applied. The test should be applied and whatever the outcome, you would then decide if the substantial weight to be afforded to brownfield development under paragraph 126 (c) is sufficient to move the balance in favour of granting permission.

In terms of the area of search for the Sequential Test, it is considered that there is no need to limit the area of search to the immediate locality and the development could quite capably be accommodated elsewhere in the District where the risk of flooding is much less.

Any supposed benefits of regeneration are considered to be overstated in this case because the site has not been marketed to see if another occupier could use it for employment generating uses and it is still occupied in part. Therefore, the benefits of

'regeneration' would be somewhat questionable, especially where it could lead to an unjustified loss of employment land to the local community. The site is not in a designated area for regeneration (the Seaton Town Design Statement 2009 defined the 'zone 1' regeneration area as the land lying north of Harbour Road).

It is considered that the Sequential Test is failed.

Exception Test

This test is not applicable where the Sequential Test is failed. However, in the event that Members consider it passed analysis of the Exceptions Test follows below.

To pass the Exceptions Test it must be demonstrated that:

- The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

Both criteria must be satisfied to pass the test.

The EA has maintained its objection to the proposals through various revisions, including in relation to the latest FRA addendum. Its comments relate primarily to the Flood Warning Evacuation Plan (FWEP). It regards the FWEP as being deficient. It has not considered the form and onset of flooding from various sources of flooding (surface water, sea and fluvial in this case) that the development is at risk from, other than providing maps showing the areas likely affected by these sources. There is no data provided on the velocity or depth of flooding, speed of onset or likely duration in relation to these different sources of risk.

The Council's emergency planner also considers the FWEP to be deficient.

In terms of wider sustainability benefits these could be summarised as the provision of 7 residential units and a revised design of class E unit and the possible temporary benefits into the local economy during construction. However, these units would all be located in a high flood risk area where they would be vulnerable to flood events that could risk not only the occupants' safety but that of the emergency services in dealing with a flood event. The development has not been demonstrated to be safe for its lifetime according to the EA's advice.

To conclude, the development is not considered to have passed the Sequential or the Exceptions Test, contrary to policy EN21 which weighs against the proposal.

In terms of surface water drainage, the site is presently completely covered in buildings or hard surfacing. The application proposes to dispose of surface water via the main sewer, to which no objection has been received from South West Water. The proposal includes a garden area of approximately 441m² which will offer more infiltration than presently exists which is an improvement. In this respect the proposal is considered to meet policy EN22.

Highways

It is proposed to close one of the existing accesses and retain only the western access which would serve the rear parking external parking area. The proposal has generated no objections from DCC in terms of safety.

The proposal would provide 7 residential units. This would generate a need for 18 vehicular parking spaces and 7 cycle parking spaces. 20 vehicular parking spaces are provided and the site lies reasonably close to the town centre and nearby supermarket. The Design and Access Statement suggests 4 EV chargers can be provided with wiring for the remainder so they can be fitted when required, which aligns with policy TC9. The plans indicate some cycle parking provision external to the building on the southern boundary although it is not clear how much or in what form. This could be conditioned to clarify if necessary.

Overall there are no highway concerns as the proposal complies with policies TC2, TC7 and TC9.

Design

The Council's Urban Designer was involved in reviewing the scheme which was refused previously. Although no such comments are provided in respect of this scheme, much of the design interest which was achieved via revisions to plans in the previous scheme has been retained and overall. The building does not set out to replicate those around but instead is designed to be unique and to elevate the quality of the design in the town. Through use of materials and finishes that reference the local vernacular, in terms of both domestic and more utilitarian architecture, the design could be described as being locally distinctive yet modern. Finishes include red brick with cream band details (traditional examples found on Marine Place). Zinc cladding is used elsewhere with vertical seams which compliment the vertical emphasis of the windows, doors and metal gates. The modern approach to design is welcome and avoids replicating some of the more tired looking architecture in this area.

The building provides good access and security for bin and bike storage area. Parking is discreetly provided within the undercroft and to the rear of the building adjacent to a landscaped garden area. Solar panels are proposed on the roof to provide renewable energy to the building

The scale of the building is in keeping with those adjacent on Harbour Road. The roof level of the building to the east is 12.3m AOD, the terrace to the west 14.7m AOD while the proposed building tops out at 13.9m AOD.

It is considered that it would be an enhancement to the quality of the architecture in the street which is beneficial, accords with policy D1 and weighs in favour of the proposal.

Amenity & Privacy

Some neighbouring residents and a business have raised some concerns over the effect of the development on their amenity both during and after construction.

The plans show that there is no overlooking from the ground floor as there is no accommodation on this level.

On the upper floors there would be various windows serving both utility/bathrooms but also habitable rooms that could afford some overlooking of neighbouring sites. The distance from these proposed building to the southern boundary is around 13m – 19m depending on the unit concerned. The rear of the Mariners Court Hotel and the adjoining flats (1-6 Homestead) is around 11m. So overall the separation is approximately from 24 to 29m. The rear outside areas of the hotel and flats appear to be parking and service areas and so perhaps not likely to suffer effects from overlooking. There may be some window to window views available but this would not be uncommon in this area which has a predominance of flats and other buildings in close proximity.

In response to the concerns raised during the last application a new brick wall is proposed along the southern boundary to the height of the eaves of the existing adjacent car garage.

Overall, the scheme allows a reasonable balance of amenity for the proposed development while keeping a reasonable level of amenity for existing neighbours.

Nationally Described Space Standards

Flat	GIA (m2)	Bedroom/Person Nos	NDSS size (m2)	NDSS Compliance?
1	98	2b4p	79	Y
2	114	3b5p	93	Y
3	210	3b6p	102	Y
4	141.9	3b5p	86	Y
5	105	3b5p	86	Y
6	134	3b5p	86	Y
7	95	3b6p	95	Y

All of the units meet the NDSS requirements. An outdoor amenity space is provided and the units are in walking distance of a number of green spaces and of course the seafront. The units have sufficient windows and some have terraces or balconies which give sufficient amenity to the occupiers.

Taking account of all of the above the proposal meets policy D1 of the Local Plan.

Planning Balance

The site is presently in use for employment purposes. With the imposition of a planning condition to limit the use of the commercial space to office use only (which the applicant would be willing to accept), the development would comply with Strategies 3 (Sustainable Development) and 4 (Balanced Communities) and Strategy

25 (Development at Seaton) and Strategy 32 (Resisting the Loss of Employment, Retail and Community Sites and Buildings).

The site lies in Flood Zone 3 and insufficient evidence has been presented as to why a small housing development could not be sited in an alternative location in the District which is at lesser risk of flooding. Furthermore, the development has not demonstrated that it would be safe. The development fails both the Sequential Test and Exceptions Test in this respect and is contrary to policy EN21.

While the design would represent an enhancement of the site in terms of architecture, and also provide some additional market housing, it is not considered that this is sufficient to outweigh the harms identified above and refusal is recommended.

RECOMMENDATION

Refuse

1. The proposal for housing is a 'more vulnerable' use that would be situated within Flood Zone 3, an area of high flood risk, and policy EN21 of the East Devon Local Plan 2013 - 2031 and the National Planning Policy Framework (NPPF) require, amongst other matters, for development of this kind within Flood Zone 3 to pass a Sequential Test. It has not been demonstrated why the area of search for this test should be less than the whole of the East Devon District area. Furthermore, it has not been demonstrated that there are a lack of alternative sites available for the proposed development that are at less risk of flooding and therefore the development does not pass the Sequential Test and unnecessarily puts a 'more vulnerable' development type, at risk of flooding. Furthermore the development has not been demonstrated to be safe for the lifetime of the development, therefore also failing the Exception Test, contrary to Policy EN21 of the East Devon Local Plan 2013 - 2031 and Guidance in the NPPF and the National Planning Practice Guidance.

Plans relating to this application:

1287.201 Rev A	Location Plan	08.07.22
1287.218 E : West	Proposed Elevation	18.12.23
1287.214 F : Ground floor	Proposed Floor Plans	18.12.23
1287.215 F : First floor	Proposed Floor Plans	18.12.23

1287.216 F : Third floor	Proposed Floor Plans	18.12.23
1287.217F : North	Proposed Elevation	18.12.23
1287.219 E : South	Proposed Elevation	18.12.23
1287.220 E : East	Proposed Elevation	18.12.23
1287.221 E : Site section/street elevation	Proposed Combined Plans	18.12.23
1287.222 E : Roof/site	Proposed Combined Plans	18.12.23
1287.225 F : Second floor	Proposed Floor Plans	18.12.23

List of Background Papers

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

Economic Development Officer

8 August 2023:

My understanding now is that the proposal is to replace 212sqm of retail space and 198sqm of general industrial floorspace (410sqm in total) with 198sqm of E(g) use co-working floorspace. This would lead to a total net reduction of 212sqm of employment floorspace.

The current floorspace provision should accommodate between 16-19 jobs, with the proposed development accommodating 15-20 jobs (10-13sqm employment density for general office use).

As a result, I'm content that the proposed development would likely not harm employment opportunities. Although one could argue that the net loss of floorspace could harm businesses opportunities, it can also be argued that the proposed alternative use would likely yield a higher GVA than the types of uses currently accommodated at the site, and would therefore not harm business opportunities.

This, along with the relocation flexibility for AVMT, in principle addresses the main concerns from the Economic Development team.

Economic Development Officer

27 March 2023:

ECONOMIC DEVELOPMENT TEAM RESPONSE - FOLLOW UP

Reference: 22/1478/FUL

Description: Demolition of existing STC store and Bus Garage on site to be replaced by 9 residential units with landscaped gardens and private parking

Location: Axe Valley Mini Travel, Seaton

Date: 27 March 2023

Recommendation: Reject

Follow Up Comments

We have reviewed the additional documents provided by the applicant on 9 March 2023, including the Marketing Report.

The Marketing Report provided does not satisfy the requirements as set out in Strategy 32, nor does it factor in the published Marketing Guidance provided by the Council to assist applicants in navigating the requirements set out in Strategy 32. We have reached this conclusion by considering the following points from the Marketing Report:

- The document titled 'marketing report' is not a report in the conventional sense, but simply a letter to the applicant provided by an agent.
- The letter does not specify if the site is being marketed as a leasehold, freehold, or both.
- The letter does not include any material evidence that the site has been actively marketed for 12 months.
- The letter mentions a number of initial enquiries (which cannot be verified), but does not confirm if this represents all of the enquiries received.
- The agent has not detailed the "similar" site in Rousdon, preventing a comparability between the two sites.
- The agent has not detailed the "several developments progressing" in Seaton, nor how this relates to the application.
- The agent's observation that "large commercial premises are receiving very limited interest in our area" is not consistent with the observations of the Council's Economic Development team, who continue to receive a considerable number of enquiries for B2 and B8 employment space within the district. The majority of these enquiries we are unable to satisfy given the highly constrained supply of available B use employment sites across East Devon.
- The following points have also been considered:
 - An "appropriate marketing strategy" has not been agreed with the Council prior to marketing the property, as advised within the published Marketing Guidance provided by the Council.
 - The "methodology used by the surveyor in arriving at a valuation", if indeed the site is being marketed as a freehold, has not been supplied

to the Council, as advised in the Marketing Guidance provided by the Council.

- A "copy of the letter of instruction to the agent" has not been supplied to the Council, as advised in the Marketing Guidance provided by the Council.
- A "verifiable record of all enquiries" has not been supplied to the Council, as advised in the Marketing Guidance provided by the Council.
- Copies of "sales particulars and adverts" marketing the site has not been supplied to the Council, as advised in the Marketing Guidance provided by the Council.

In order to ascertain whether the marketing exercise has been effectively carried out, we request the applicant provides information and evidence relating to the valuation methodology, the letter of instruction, the record of enquires and marketing evidence, as detailed within the published Marketing Guidance.

Conclusion

Strategy 32 requires the applicant to evidence that all options for retention of the site for its current or similar employment use have been fully explored without success for at least 12 months and that there is a clear demonstration of surplus supply of land or provision in the local area.

The additional documents provided by the applicant have not satisfied this requirement. As this application does not appear to be compliant with the East Devon Local Plan, we thereby maintain our recommendation is that this application is rejected.

We will reconsider this recommendation if the applicant is able to provide the requested information and evidence as set out above to the standard set in the published Marketing Guidance.

Economic Development Officer

ECONOMIC DEVELOPMENT TEAM RESPONSE

Reference: 22/1478/FUL

Description: Demolition of existing STC store and Bus Garage on site to be replaced by 9 residential units with landscaped gardens and private parking

Location: Axe Valley Mini Travel, Seaton

Date: 9 November 2022

Recommendation: Reject

Introductory Comments

The application proposes the loss of existing employment space, totalling at 212sqm of E (shops) use and 198sqm B2 (general industrial) use floorspace. The proposed development would re-establish 116sqm of E use floorspace, leading to a net loss of 96smq E use floorspace. The Design and Access Statement submitted by the agent has confirmed that both the B2 and E use employment spaces are currently in use,

although the current occupiers "are at the end of tenancies and relocating to other sites". It has not been specified if the sites the current occupiers are relocating to are existing or new commercial premises.

In terms of employment, this site currently hosts 3 full time jobs, although it has not been specified if these jobs are hosted within the B2 use floorspace, the E use floorspace or a combination of the two. The Application Form submitted by the agent outlines how 3 jobs in the retail sector will be created as a result of the proposed development, resulting in neither a net loss nor a net gain in current levels of employment at the site.

Employment Need

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

More recently, we have witnessed a growing reduction in the supply of available commercial units, particularly in the E(g), B2 and B8 classes. Most local and national commercial real estate search engines yield few if any results within Seaton and the wider district. We are also witnessing an increasing number of East Devon businesses who are having to leave the district in order to find available premises to grow, having a negative and lasting impact on local employment and local supply chains.

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

When examining population growth in Seaton between 2011-2020 (see Figure A:1 below), we see that whereas the number of residents of 65+ years of age has increased by almost 18%, the number of economically active residents of between 16-64 years of age has decreased by more than 3% over the same period. This is clear evidence that we need to act on protecting local employment opportunities for working age residents in Seaton.

Approval of the proposed development would serve to worsen this stark change in Seaton's demographic, further eroding the area's already comparatively poor levels of economic activity.

Strategy 32

Strategy 32 specifies that permission will not be granted for the change of use of current or allocated employment land where it would harm business and employment opportunities in the area. As the proposed development would result in the total loss of B2 floorspace, this will demonstrably harm business opportunities in the local area. Where the current permitted use enables the occupancy of two types of employment use, the proposed development would only enable the occupation of one.

It has not been specified whether the regeneration of this site for continued employment use, of much higher density, is financially viable. Although the site currently only hosts 3 jobs, which are due to be relocated, it should be understood that this valuable employment site could host a much higher number of jobs under new owners/tenants if the existing permitted employment uses are retained. The agent has confirmed this by suggesting that the current number of jobs hosted at the site could be retained even with a net loss of all B2 use space and a net loss of 96smq E use floorspace. The Employment Density Guide 2010 suggests that the existing permitted employment space at the site (212sqm of E class and 198sqm of B2 class) would typically yield between 16-19 jobs. It is therefore apparent that the proposed development would harm both business and employment opportunities in the area.

Strategy 32 also outlines how applications resulting in harm to business and employment opportunities are allowable under particular circumstances. The application and site does not relate to a listed building or the provision or restoration of retail facilities in a settlement otherwise bereft of shops. The applicant has not claimed that continued use would significantly harm the quality of a locality whether through traffic, amenity, environmental or other associated problems. The applicant is therefore required to evidence that all options for retention of the site for its current or similar employment use have been fully explored without success for at least 12 months and that there is a clear demonstration of surplus supply of land or provision in the local area.

From our analysis of the application and supplementary documents provided, we have concluded that no such evidence has been provided demonstrating that this site is unable to accommodate viable employment uses which would utilise the existing permitted B2 and E class floorspace. Furthermore, the applicant has not met the additional requirement of Strategy 32 to evidence that there is a surplus supply of alternative employment sites within the locality to mitigate the lasting adverse economic and employment impacts of the proposed development.

Conclusion

As this application is not compliant with the East Devon Local Plan, our recommendation is that this application is rejected.

Emergency Planning and Business Continuity Officer
24.6.24

The Flood Warning and Evacuation plan (FWEP) for 22/1478/FUL Axe Valley Mini Travel 26 Harbour Road Seaton EX12 2NA cannot be considered as it is, because

in the first instance there is a lack of detail with regards to the risk drawn from the associated Flood Risk Assessment.

This is outlined by the Environment Agency in their comments in relation to the details in the flood risk assessment “In light of evidence of flooding gathered during Storm Ciaran, we advise that the hazards associated with all the modes of flooding which pose risks to the site, its environs and the access/egress routes has not been satisfactorily demonstrated.” The FWEP must be informed with details of the hazards associated with the 1 percent and 0.5% design flood events as shown in Appendix D of the FRA but also, importantly, the progression of flooding from all sources.” “We acknowledge that hazard mapping associated with a 1 percent fluvial flood with climate change, and 0.5 percent tidal flood scenarios (with climate change) are included within Appendix D of the FRA and that these show the areas that would be inundated. They do not however adequately show the hazards associated with the progression of flood waters.” “This is especially needed in light of the complex numerous and, arguably chaotic modes of flooding that in reality pose a risk in this instance. It should also be taken into consideration the fact that people may choose to negotiate a combination of depths and velocities of water should they choose to access or egress the units during the progression of flooding. “We also note, and concur with, the statement in Appendix J of the FRA regarding duration of flooding i.e. ‘flood duration will depend on several factors and could occur within minutes or over a longer period and may even last days, weeks or longer.’ Given the numerous sources of flooding which the site and its environs are at risk from, it should be assumed that persons may receive little or no warning in some circumstances and may be stranded for days within the residential units sought.” And how the FWEP is meant to reduce the risk of harm for people including when there is a need for evacuation. The location has now increased the risk to include a more vulnerable residential premises and the associated occupiers. (even if the residential aspect is above or not within the flooding of a design flood event). The FWEP has to reference an accurate or detailed Flood Risk Assessment and as outlined by the EA, the current one does not provide sufficient detail for me to assess its purpose of informing a plan so occupants can prepare and adapt as well as planning for safe access and egress.

The Flood Warning Emergency Plan or flood response plan (FWEP) should be a document which can be read in Isolation by those who need it and should reference the risks for residents, business personnel, guests and transient visitors. The plan doesn't outline what are the triggers for response and what individuals can do to remain safe. The ADEPT/EA Flood Risk Emergency Plans for New Development provides detail of what to include and an Emergency Plan Checklist is provided at appendix 2 which covers 10 Sections and provides good guidance. This plan does not cover the detail as outlined in the checklist.

The plan doesn't assess the number and type of people living or working in the area of the development and the impact this would have on any increased need for evacuation. This is at the rear of the Seafront at Seaton and consideration should also be given in the plan as to how it would cater /support those who are transient i.e., holidaying in one of the apartments who may not know the area.

The flood warnings available are not described and if specific ones aren't available for the area what other measures should be considered by the occupants to be able to decide what needs to be done.

The plan doesn't describe what the triggers are for people being prepared such as moving cars out of the area, tying down loose objects such as garden furniture etc preventing further hazards. It doesn't identify what the triggers are for evacuation or containment or taking safe refuge.

The Egress routes suggested would require individuals to traverse the area of flooding, the route is not clearly demonstrated or described and doesn't show detail of the type and associated hazards within the flooding for residents to be informed of the potential risks. The adept guidance outlines what is safe access and the plan doesn't describe what the levels are or hazards likely to be encountered by the occupants.

Access routes for the emergency services to evacuate individuals is not described or detailed for the hazards they are likely to face as per the FRA levels or hidden hazards.

The proposed location for a temporary safe place of refuge is not outside the flooded area and with the unknown length of time for flooding this is likely to require "evacuation through flood water" placing an enhanced burden on the emergency services. The plan doesn't describe what will be at the safe refuge its size and capacity to ensure the safety of the occupants and the number s for the development. The reasons for the risk occurrence has not been accurately described this flood event would likely occur during an extreme weather event so it won't be a safe refuge in inclement weather when this is likely to be occurring as it does not provide adequate shelter and occupants will be subject to the effects of the severe weather.

The Emergency Plan should not place an increased burden on emergency services, such as the fire service to evacuate individuals which the creation of an external safe refuge area within the footprint of the development outside is likely to need .

Although the plan talks about recovery it doesn't cover in detail the expectations for occupants and residents as to how this would occur or the estimated time for return to normal use.

A list of roles and responsibilities is key to enabling occupants/residents to understand the duties and responsibilities of the whole development in a design flood situation.

Environment Agency

Comment Date: Fri 05 Jul 2024

Thank you for consulting us on this application.

Environment Agency position:

This consultation related to the submission of two relevant documents- the Flood Warning and Evacuation Plan dated 24/05/2024 and a Sequential Exception Test Report. In regard to the latter, we leave the review and consideration of the sequential test to your authority.

In regards to the flood warning and evacuation plan, it contains some deficiencies and we advise that any decision made by your authority on this application about whether or not the measures proposed would render the development as being safe

over its lifetime would, arguably not be fully informed.

Reason:

It is evident that the Flood Warning and Evacuation Plan (FWEP) by Jonathan Rhind Architects dated 24.05.2024 have failed to demonstrate the important issue of the form and onset of flooding from the various sources of flooding that the development is at risk from. The flood zone maps within the FWEP are, whilst useful for assessing the extent of the areas at risk, less so for the purpose of informing velocity/depth, speed of onset (for example Storm Cairan) or likely duration of flooding. Your authority's emergency planners would therefore be unable to make a fully informed decision on this matter.

It's important to recognise that in this instance, the number of likely flooding scenarios regarding the site are numerous, given the potential sources of flood water these being surface water, the sea, and fluvial. We accept that it is therefore not realistic to understand all of these scenarios because it would require very detailed modelling of numerous iterations of occurrences. In light of the above and in the absence of detailed modelling, any decision regarding whether the proposed measures would render the development as being safe over its lifetime should be based upon the following scenarios:

- o a rescue scenario by the emergency services during a design flood event and the progression of such, up to which evidence identifies would represent 'danger to all' including 'children, the elderly and the infirm', 'the general public' and the 'emergency services.'
- o a scenario of persons trying to access/egress the building in the progression of a design flood event, during a design flood event, and in the recession of flooding, unsupported by the emergency services i.e. voluntary movement by users/occupiers, which evidence identifies would represent 'danger to all' including 'children, the elderly and the infirm', 'the general public' and the 'emergency services.'
- o Persons being stranded in the building for an unquantified period of time.

Observations and recommendations:

Page 5 of the FWEP states that "During an extreme flood event, it is recommended that the users of the building are evacuated and seek higher ground to the west around Sea Hill or to the northeast along Royal Observer Way." This would be for your authority's Emergency Planner to comment upon.

Also on page 5 of the FWEP, it states "Alternatively, if the flood depths outside of the building are too dangerous to traverse through, it is recommended that the residents and users of the commercial zone remain within the building on the first/second floor of the flats/communal staircase or seek refuge within the designated area within the car park until the flood water resides." The proposer has failed to demonstrate how long people may need to seek refuge for.

Advice- Note that our previous letters outline the key issues around flood risks and we also remind you that we did have comments relating to contaminated land which is included in previous letters.

Comment Date: Fri 12 Jan 2024

Thank you for re-consulting us on this application.

Environment Agency position:

We acknowledge the revised plans submitted which provide clarity on the internal arrangement of the proposal, notably showing the car parking on the ground floor. We also note the "Agent response to Environment Agency comments" document dated 3rd January 2024 from Johnathan Rhind Architects to your authority. We have duly noted its content and take this opportunity to state that our position remains unchanged from that in our formal consultation response of the 21 Nov 2023.

We take this opportunity to highlight paragraph 020 Reference ID: 7-020-2022082 Revision date: 25 08 2022 of the current Planning Practice Guidance of the National Planning Policy Framework which clearly states: 'A site-specific flood risk assessment is carried out by (or on behalf of) a developer to assess the flood risk to and from a development site and should accompany a planning application where prescribed in footnote 55 of the National Planning Policy Framework. The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users (see National Planning Policy Framework Annex 3 - Flood Risk Vulnerability).'

We provide a copy of our previous comments below for ease:

We have significant concerns regarding the proposal in the context of flood risks. If your authority is minded to approve the application, it is essential that the applicant submit a Flood Warning and Evacuation plan prior to a determination. The plan must be informed with details of the hazards associated with the 1 percent and 0.5% design flood events as shown in Appendix D of the FRA but also, importantly, the progression of flooding from all sources. This plan must have been reviewed and approved by your authority's emergency planners.

Reason - Flood Risk

We have reviewed the revised risk assessment (FRA) ref.: 04393E revision F dated October 2023, by structureHaus. In light of evidence of flooding gathered during Storm Ciaran, we advise that the hazards associated with all the modes of flooding which pose risks to the site, its environs and the access/egress routes has not been satisfactorily demonstrated. This includes the progression of flooding i.e., where flood waters can emanate from, and danger posed as it reaches Harbour Road. For example, during Storm Ciaran, sea water overtopped the frontage and flowed down Trevelyan Road, and therefore possibly Beach Road (which we note is shown in the above-mentioned report as being a proposed access/egress route for Emergency Services). This mode of flooding certainly demonstrates the conditions of chaos that can and do occur during a flood event. We acknowledge that hazard mapping associated with a 1 percent fluvial flood with climate change, and 0.5 percent tidal flood scenarios (with climate change) are included within Appendix D of the FRA and that these show the areas that would be inundated. They do not however adequately show the hazards associated with the progression of flood waters.

Any granting of permission should be subject to your authority's approval of a Flood Warning and Evacuation Plan (FWEP) prior to determination. The applicant has

submitted a blank template for a FWEP but we advise that is not suitable to condition the production of a site-specific FWEP at a later date as it may come to light that measures proposed within it are not acceptable to the authority's Emergency Planner. This is especially needed in light of the complex numerous and, arguably chaotic modes of flooding that in reality pose a risk in this instance. It should also be taken into consideration the fact that people may choose to negotiate a combination of depths and velocities of water should they choose to access or egress the units during the progression of flooding. We also note, and concur with, the statement in Appendix J of the FRA regarding duration of flooding i.e. 'flood duration will depend on several factors and could occur within minutes or over a longer period and may even last days, weeks or longer.' Given the numerous sources of flooding which the site and its environs are at risk from, it should be assumed that persons may receive little or no warning in some circumstances and may be stranded for days within the residential units sought.

Way forward

In light of the above we advise that your authority seeks production of a Flood Warning and Evacuation Plan, that is informed by the hazards associated with the progression of flooding from all sources, prior to determination, or that permission is withheld.

Before the application progresses, it is important that clarity is provided on the proposed ground floor usage (and subsequently what uses are proposed in the upper floors also).

Advice - Contaminated Land

As outlined in our previous letter, we have also reviewed the amended Contamination Report Preliminary Risk Assessment Phase 1- Desk Study & Site Inspection Report. Job No. 2458 dated, December 2020. We advise that the Preliminary Conceptual Site Model in chapter 7 does not give us comfort that the site does not have the potential to contaminate controlled waters.

With that in mind, we advise that the comments set out in our letter dated 25 October 2022 still apply. Should you be minded to approve the application, we would recommend the inclusion of contaminated land conditions to secure the necessary additional work required.

Please contact us again if you require any further advice.

Yours faithfully

Harriet Fuller
Planning Advisor

Environment Agency

Comment Date: Thu 23 Nov 2023

Thank you for re-consulting us on this application and we apologise for the delay in providing our consultation response.

Environment Agency position:

We wish to start by highlighting that whilst a revised Flood Risk Assessment (FRA) has been submitted (ref.: 04393E revision F dated October 2023, by structureHaus) which indicates that the proposed ground floor would be parking, bin and bike storage and plant room(s), the proposed plans which show online (dated 9th March 2023) do not reflect this. The plans online currently show commercial on the ground floor with residential above. The applicant needs to clarify this matter.

Notwithstanding this matter which requires clarification, we advise that our position regarding the ground floor level of development remains unaltered from that detailed in our formal consultation response dated 27 Mar 2023. We have quite significant concerns regarding the proposal in the context of flood risks. If your authority is minded to approve the application, it is essential that the applicant submit a Flood Warning and Evacuation plan prior to a determination. The plan must be informed with details of the hazards associated with the 1 percent and 0.5% design flood events as shown in Appendix D of the FRA but also, importantly, the progression of flooding from all sources. This plan must have been reviewed and approved by your authority's emergency planners.

Reason - Flood Risk:

We have reviewed the revised risk assessment (FRA) ref.: 04393E revision F dated October 2023, by structureHaus. In light of evidence of flooding gathered during Storm Ciaran, we advise that the hazards associated with all the modes of flooding which pose risks to the site, its environs and the access/egress routes has not been satisfactorily demonstrated. This includes the progression of flooding i.e., where flood waters can emanate from, and danger posed as it reaches Harbour Road. For example, during Storm Ciaran, sea water overtopped the frontage and flowed down Trevelyan Road, and therefore possibly Beach Road (which we note is shown in the above-mentioned report as being a proposed access/egress route for Emergency Services). This mode of flooding certainly demonstrates the conditions of chaos that can and do occur during a flood event. We acknowledge that hazard mapping associated with a 1 percent fluvial flood with climate change, and 0.5 percent tidal flood scenarios (with climate change) are included within Appendix D of the FRA and that these show the areas that would be inundated. They do not however adequately show the hazards associated with the progression of flood waters.

Any granting of permission should be subject to your authority's approval of a Flood Warning and Evacuation Plan (FWEP) prior to determination. The applicant has submitted a blank template for a FWEP but we advise that is not suitable to condition the production of a site-specific FWEP at a later date as it may come to light that measures proposed within it are not acceptable to the authority's Emergency Planner. This is especially needed in light of the complex numerous and, arguably chaotic modes of flooding that in reality pose a risk in this instance. It should also be taken into consideration the fact that people may choose to negotiate a combination of depths and velocities of water should they choose to access or egress the units during the progression of flooding. We also note, and concur with, the statement in Appendix J of the FRA regarding duration of flooding i.e. 'flood duration will depend on several factors and could occur within minutes or over a longer period and may even last days, weeks or longer.' Given the numerous sources of flooding which the site and its environs are at risk from, it should be assumed that persons may receive little or no warning in some circumstances and may be stranded for days within the

residential units sought.

Way forward:

In light of the above we advise that your authority seeks production of a Flood Warning and Evacuation Plan, that is informed by the hazards associated with the progression of flooding from all sources, prior to determination, or that permission is withheld.

Before the application progresses, it is important that clarity is provided on the proposed ground floor usage (and subsequently what uses are proposed in the upper floors also).

Advice - Contaminated Land:

As outlined in our previous letter, we have also reviewed the amended Contamination Report Preliminary Risk Assessment Phase 1- Desk Study & Site Inspection Report. Job No. 2458 dated, December 2020. We advise that the Preliminary Conceptual Site Model in chapter 7 does not give us comfort that the site does not have the potential to contaminate controlled waters.

With that in mind, we advise that the comments set out in our letter dated 25 October 2022 still apply. Should you be minded to approve the application, we would recommend the inclusion of contaminated land conditions to secure the necessary additional work required.

Yours faithfully
Harriet Fuller
Planning Advisor

Environment Agency

Comment Date: Mon 27 Mar 2023

Thank you for re-consulting us on the above planning application.

Environment Agency position:

We maintain our objection to this proposal on grounds that insufficient information has been submitted to demonstrate that the proposed development will be safe from flooding over its lifetime. It is therefore contrary to the National Planning Policy Framework (NPPF). We recommend that the application is not determined until a satisfactory Flood Risk Assessment (FRA) has been submitted.

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test or either part of the Exception test is sufficient justification to refuse a planning application.

The reason for this position and advice on flood risk and contaminated land is set out below. Further advice on flood risk, access and egress and contaminated land is contained within our previous letter dated 25 October 2022.

Reasons - Flood Risk:

We have reviewed the updated FRA and amended plans submitted to support this proposal. We consider that the additional information has not demonstrated whether the users/occupants would be safe over their lifetime from the sources of flooding that pose a risk to the site. As the current plans stand, there will be significant internal flood depths, from numerous sources, during the design event which will cause damage to property and safety risk to users/occupants. This risk will increase over time due to the effects of climate change.

We reiterate our previous stance that all finished floor levels for both the commercial and residential must be raised to above the 1 in 200 plus climate change flood level and take a freeboard of 300mm into account. As advised previously, the 1 in 200 plus climate change tidal flood level is 4.68mAOD (not including freeboard) and should be considered as the design level in the absence of reliable detailed model outputs. The design to date, irrespective of the usage sought, does not reflect this consistent message.

We note that the FRA states that those in the commercial areas "can seek refuge on the first floor of the communal staircase of the flats until the flood waters reside". We inform your authority that members of the public/users could be trapped in this staircase for many hours and evacuation from emergency services would also not be possible because the flood hazard is identified as Extreme and a 'danger to all' which includes emergency services. The applicants FRA has not to date adequately addressed these issues and therefore your Authority is not in an informed position to determine whether or not the development as now proposed would be safe over its lifetime. This is a key policy aim of the NPPF.

Overcoming our objection:

The applicant can overcome our objection by undertaking an FRA and producing plans which demonstrate that the proposed development will be safe from flooding over its lifetime without increasing risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

The amended FRA will need to adequately demonstrate the, as yet, unanswered issue regarding the period of time people within the building would be stranded, given the building is at risk of being completely surrounded by water.

In addition, there remains a requirement for the applicant to demonstrate the potential routes and depth/hazard rating, that emergency services personnel would have to negotiate to enact a rescue, including at the end of the lifetime of the proposed development. This is necessary to demonstrate to the LPA the risks associated with the proposal.

Advice - Flood Risk:

We strongly consider that raising the ground floor level of the proposed building above that currently proposed would represent a positive measure and certainly better reflect the policy aims of the NPPF and PPG. The level of the ground floor currently proposed pays little regard to the risk flooding posed to the plot. In fact, it appears lower than those of existing buildings adjacent to the plot which were clearly

built to take flood risk into account. It is evident that the ground floor would be at risk of frequent flooding which would pose a safety risk and cause of avoidable flood damage. Failure to address the ground flood level issue risks the principle of development not being acceptable, adversely affecting the value of the development, insurability, and any potential future aspirations for changes of use.

Any technical or planning reasons why the finished floor levels cannot be raised above the design flood level should be clearly explained in the FRA. This will give your Authority the information required to make an informed decision on whether you consider that these matters are sufficient to outweigh the frequent flooding that would occur, and the potential risks to users of the site.

We note that Rev C of the FRA states 'Consideration should be given to flood proofing the ground floor of the proposed building to reduce the residual damages if an extreme flood was to occur.' Failure to achieve this, risks the proposal not being as sustainable it could be and thus also adversely affecting its value and potentially insurability.

The applicant may wish to refer to Defra/Environment Agency R&D report 'Flood Risk Assessment Guidance for New Development' document Technical Report FD2320/TR2.

Advice - Contaminated Land:

We have also reviewed the amended Contamination Report Preliminary Risk Assessment Phase 1- Desk Study & Site Inspection Report. Job No. 2458 dated, December 2020. We advise that the Preliminary Conceptual Site Model in chapter 7 does not give us comfort that the site does not have the potential to contaminate controlled waters.

With that in mind, we advise that the comments set out in our letter dated 25 October 2022 still apply. Should you be minded to approve the application, we would recommend the inclusion of contaminated land conditions to secure the necessary additional work required.

Advice to the LPA:

We will maintain our objection until the applicant has supplied information to demonstrate that the flood risks posed by the development can be satisfactorily addressed. We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Yours faithfully

SARAH SQUIRE
Sustainable Places - Planning Advisor

Environment Agency

Comment Date: Tue 25 Oct 2022

Thank you for re-consulting us on the above planning application.

Environment Agency position

We maintain our objection to this proposal on grounds that insufficient information has been submitted to demonstrate that the proposed development will be safe from flooding over its lifetime. It is therefore contrary to the National Planning Policy Framework (NPPF). We recommend that the application is not determined until a satisfactory Flood Risk Assessment (FRA) has been submitted.

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test or either part of the Exception test is sufficient justification to refuse a planning application.

The reason for this position is set out in our previous letter dated 4 August 2022 and reiterated below, together with advice on access/egress and the potential for contaminated land from the previous use of the site.

Reasons - Flood Risk

We have reviewed the further information submitted but advise that all our previous comments still stand. We need to ensure that proposed development is designed in accordance with the NPPF, which requires all residential and commercial development proposals to be safe from flooding over their lifetime in order to satisfy the Exception Test. As the current plans stand this is not the case, because there will be significant internal flood depths during the design event with will cause damage to property and safety risk to occupants.

We reiterate that all finished floor levels for both the commercial and residential must be raised to above the 1 in 200 plus climate change flood level and take a freeboard of 300mm into account. As advised previously, the 1 in 200 plus climate change tidal flood level is 4.68mAOD (not including freeboard).

We note that historically finished floor levels of 4.11mAOD were acceptable. However, this level is no longer in line with the current guidance on what would be acceptable for this location. The updating of the climate change allowances mean that higher levels are now required than previously agreed. We can therefore no longer support finished floor levels of 4.11mAOD, because this does not take account of current climate change allowances. Unless the current climate change allowances are applied, it cannot be demonstrated that the proposed development will be safe from flooding over its lifetime, which is an important requirement of the Exception Test.

In addition, details of flood resilience measures should be given because depths of water will pond against the front of the building which could cause structural pressures and damp problems as well as flood ingress routes through valves and airbricks.

Overcoming our objection

The applicant can overcome our objection by undertaking an FRA and producing plans which demonstrate that the proposed development will be safe from flooding over its lifetime without increasing risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

If the applicant would like to discuss the FRA with us prior to formal resubmission to the LPA, we can provide advice via our chargeable planning advice service. The fee for this service is £100 per hour plus VAT. Please contact us at SPDC@environment-agency.gov.uk to request more information and a quote.

Advice to LPA - Access/Egress

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

Further guidance has been produced by us and ADEPT to support local authority planners in understanding what information they need to ask applicants to provide with their planning applications. This can be viewed at: <https://www.adeptnet.org.uk/floodriskemergencyplan>

We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals. The advice on access and egress in our previous letter dated 4 August 2022, will assist them in their decision making on whether this is acceptable, taking account of the likely duration of flooding and hazards should emergency evacuation be necessary.

Advice - Contaminated Land

We have reviewed the submitted Contamination Report Preliminary Risk Assessment Phase 1- Desk Study & Site Inspection Report. Job No. 2458 dated, December 2020. We note that as a result the site's current use as a bus and coach station that includes workshops for minor body works and repairs, refuelling, etc, that various sources of contamination currently exist on the site.

The report states that "The Conceptual Site Model indicates that there are no significant pollutant linkages and the site is considered to pose a 'Negligible' level of risk to existing and future receptors and no further action is required". However, it is possible that cracks and joints on the hardstanding overtime may have provided a pathway for the movement of some contaminants to soil and groundwater receptors. We would therefore like to request a detailed site investigation in order to confirm the presence or absence of any impact to underlying soil or groundwater.

With this in mind, should you be minded to approve the application, we would recommend the inclusion of contaminated land conditions to secure this additional work.

Advice to the LPA

We will maintain our objection until the applicant has supplied information to demonstrate that the flood risks posed by the development can be satisfactorily addressed. We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Environment Agency

Comment Date: Thu 04 Aug 2022

Thank you for consulting us on this application.

Response:

We object to this application based on flood risk and recommend refusal.

Reason:

When a similar application for this land was submitted in 2021 (ref: 21/0649/FUL, our response dated 24 August 2021 ref: DC/2021/122019/02-L01) the following comments were made by the Environment Agency "The design flood level for the development is between 4.32mAOD and 4.69mAOD, when considering the 200yr tidal scenario with climate change over the lifetime of the development. With a proposed ground floor FFL of 3.48mAOD, flooding to a depth in excess of 1.0m can be expected for the ground floor. It is the Environment Agency's view that this is not considered 'safe', which questions whether the Exceptions Test can be passed."

These comments are still relevant as the proposal is not considered safe and therefore fails the exception test.

Finished Floor Levels:

The 1 in 200 climate change tidal flood level is 4.68mAOD (not including freeboard). Proposed ground floor levels for residential are 4.11mAOD. As the FFLs are lower than the design flood level internal flooding of 0.58m is therefore possible. The commercial finished floor levels are just 2.68mAOD which is considerably lower than the design flood level and would result in 1.12m deep flood water in the commercial area during a flood event. FFL of 4.98m.

Internal flooding is not acceptable. All finished floor levels for both the commercial and residential must be raised to above the 1 in 200 climate change flood level and take a freeboard of 300mm into account.

Although there is a flood wall with a height of 6.96mAOD the development must be designed to take breach scenarios into account which is why a finished floor level higher than the flood level is important to ensure the development is safe. This is in line with NPPF guidance.

We understand that historically finished floor levels of 4.11mAOD were acceptable, however, following updates to sea level rise allowances, this is no longer a level that we can support.

Flood resilience measures:

Flood resilience measures have been briefly mentioned in the FRA but no details have been provided. Details of resilience should be given which is required as depths of water will pond against the front of the building which could cause structural pressures and damp problems as well as flood ingress routes through valves and airbricks.

Notes to LPA:

Access and Egress:

- o There will be no safe access or egress during a fluvial or tidal flood event. The FRA has not detailed how long flood waters will be present for and ponded in Harbour Road and the Esplanade. Residents and those in the commercial area will be trapped for the duration of flooding.

- o The FRA states that those in the commercial areas "can seek refuge on the first floor of the communal staircase of the flats until the flood waters recede". Members of the public could be trapped in this staircase for many hours and evacuation from emergency services would also not be possible as the flood hazard is identified as Extreme and a 'danger to all' which includes emergency services.

- o We recommend a flood warning and evacuation plan be produced for both the residential and commercial areas.

Sequential and Exemption tests

- o Both must be passed

Yours faithfully,
Mr Chris Angell

County Highway Authority

Comment Date: Tue 09 Aug 2022

Observations:

I have visited the site and reviewed the planning documents.

The sites existing access will remain as the complete access and egress, with the other access to be closed.

The clearance within the car park measures 6m between the parking rows but can not be constructed at any less than this, in order to ensure vehicles can turn off-carriageway. The parking space dimensions are also acceptable, though the parking numbers is a policy for East Devon District Council to administer.

The former site and its permitted use would have generated a similar level of trip generation than this planning application.

Therefore the County Highway Authority has no objection to this planning application.

Recommendation:

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

Officer authorised to sign on behalf of the County Council
8 August 2022

Environmental Health

Comment Date: Tue 12 Jul 2022

I recommend approval with conditions:

1. The proposed development will involve the demolition of existing premises or structures, which may contain hazardous liquid or solid materials (including asbestos). Therefore, the following condition is recommended if permission is granted. Demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors. Prior to demolition commencing, a works plan and risk assessment shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services. This plan and assessment should identify and risk-assess any potential hazardous material in above or below ground structures that will be removed or disturbed during demolition and measures to deal with these safely. All potentially hazardous materials should be assessed.
2. A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: In the interests of public health and protection of the environment.

Contaminated Land Officer

Comment Date: Tue 14 Mar 2023

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

Contaminated Land Officer

Comment Date: Tue 12 Jul 2022

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

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:

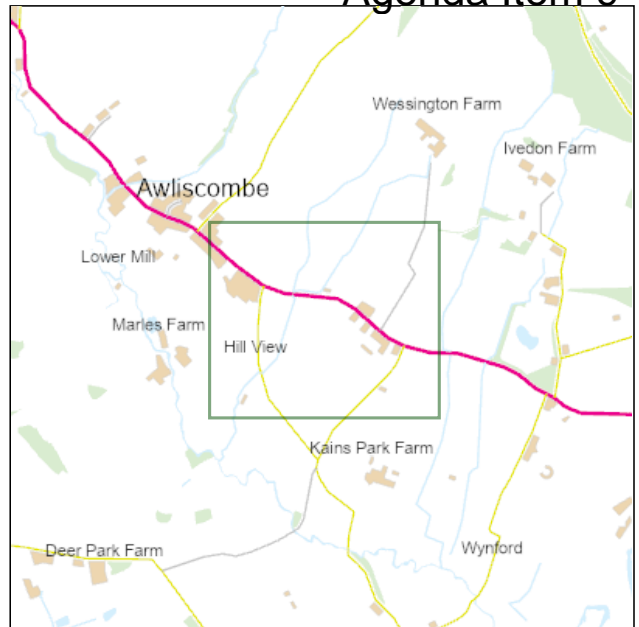
In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity 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 23/1276/MOUT & 23/1271/FUL

Applicant Mr R Falle

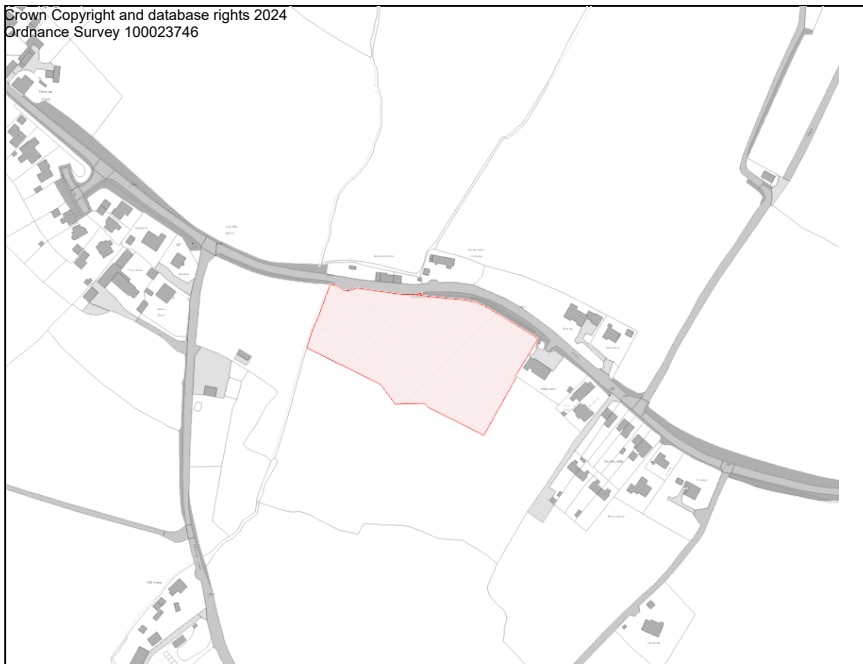
Location Land Adjacent To Hillcrest Awliscombe



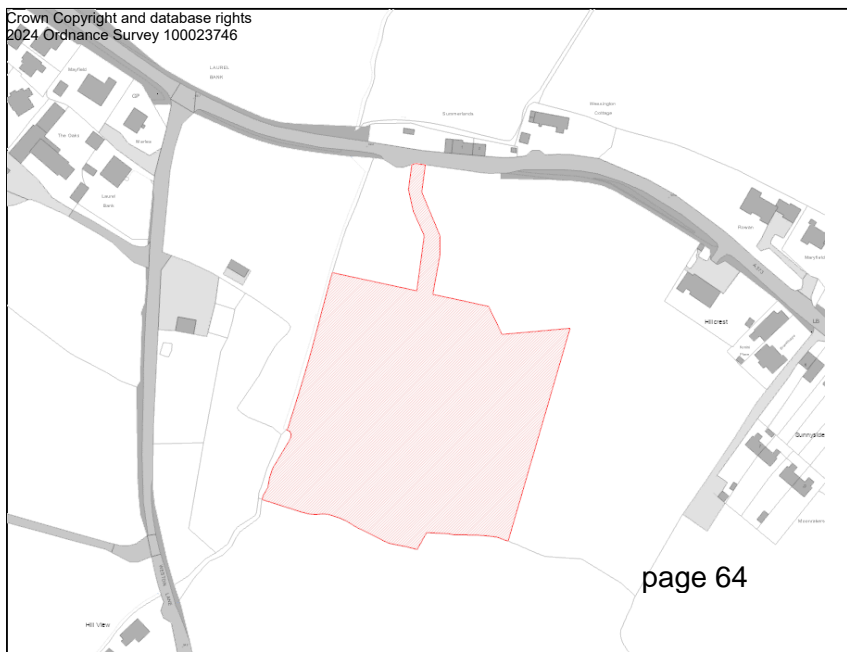
Proposal **(23/1276/MOUT)** Outline planning application for construction of 20 no. dwellings, village hall and farm shop and provision of village green and car parking, seeking approval of access only (matters of appearance, landscaping, layout and scale reserved)

(23/1271/FUL) Change of use of agricultural land to form recreation area.

RECOMMENDATION: Refusal



23/1276/MOUT



23/1271/FUL

		Committee Date: 20.08.2024
Dunkeswell and Otterhead (Awliscombe)	23/1276/MOUT 23/1271/FUL	Target Dates: 24.10.2023 19.09.2023
Applicant:	Mr R Falle	
Location:	Land Adjacent To Hillcrest Awliscombe	
Proposals:	23/1276/MOUT - Outline planning application for construction of 20 no. dwellings, village hall and farm shop and provision of village green and car parking, seeking approval of access only (matters of appearance, landscaping, layout and scale reserved) 23/1271/FUL - Change of use of agricultural land to form recreation area	

RECOMMENDATIONS: 23/1276/MOUT – Refusal

23/1271/FUL - Refusal

EXECUTIVE SUMMARY

This joint report relates to two applications that are essentially linked to one another and are brought before the Committee owing to a difference of opinion between officers and the parish council in regard to the proposals subject of 'major' application ref. 23/1276/MOUT. As such, it cannot be determined under the Council's scheme of delegation. There is similarly some conflict between the officer position and that of the commenting ward member in relation to application 23/1271/FUL, thereby also triggering the need for Committee referral.

Application 23/1276/MOUT seeks outline planning permission for a mixed use development of a 'greenfield' site, on the southern side of the A373, that currently forms a tract of open countryside between the main village of Awliscombe and a separate smaller cluster of mainly residential properties to its south east. The A373 itself forms the boundary of the designated Blackdown Hills National Landscape (NL) with the site lying just outside it.

The scheme comprises 20no dwellings, 8 of which would be affordable,

alongside the construction of a farm shop, the laying out of a 'village green', the provision of a 'community parking' area and the allocation of space for the construction of a village hall.

All detailed matters - aside from access - comprising the layout, scale, appearance and landscaping of the development are reserved for approval at a later stage.

The submission incorporates an illustrative masterplan for the development that shows the prospective utilisation of an existing recessed and splayed field entrance as the point of access to the site and a central cul de sac spine road. The affordable housing is shown indicatively in the form of a pair of terraces oriented 'end on' to the A373 to either side of a central parking courtyard near to the site entrance with the remaining open market units all detached and set within individual plots. The community parking, village hall and farm shops sites are shown towards the western end of the site with the 'village green' separating one of the terraces of affordable housing from the open market units on the northern side of the spine road.

Awliscombe does not have a settlement boundary as defined in the adopted Local Plan. Moreover, there is no neighbourhood plan in force for the village. Furthermore, the scheme does not comprise 'community-led' development of the type permitted under the provisions of Local Plan Strategy 27.

There is an acceptance of the need to facilitate the provision of more housing in locations outside of defined settlement boundaries so as to maintain a healthy supply towards ensuring that the required 5 year supply is in place when the emerging Local Plan is adopted.

However, this is also required to recognise the presumption in favour of sustainable development set out in national policy, which in essence conversely also means continuing to resist housing development in less sustainable locations.

In this regard, it is not considered that Awliscombe is a sustainable location for the accommodation of housing growth. It possesses little in the way of community facilities and services aside from a primary school, church, village hall and a limited bus service.

It is therefore considered that the provision of housing in this location would be contrary to the overarching local plan spatial strategy for the location of such growth.

Whilst the provision of affordable housing to meet the more general needs of the District (in the absence of up to date housing needs evidence to demonstrate a requirement for the same in Awliscombe or the other parishes with which it is grouped) is recognised and represents a benefit weighing in favour of the proposal, it is considered to be significantly outweighed by the shortcomings of the scheme in terms of the non-sustainable location of the site.

Moreover, the provision of a farm shop, 'village green' and a community parking facility, alongside land for a new village hall, do not reflect any community aspirations that are translated into any express policy requirements. Their offer as elements of the overall scheme must therefore be regarded as neutral, at best, in the overall planning balance in this case.

This is reinforced by the adverse harm to the local landscape character of the area that it is thought would result from the development. It would constitute a form of ribbon development extending the built form of the main part of the village towards the satellite cluster of development to its south east. In so doing, it would close off much of the existing gap between the two and result in an unwarranted visual incursion into open countryside that would be harmful of itself in close and medium distance view from the A373 and a local public footpath as well as detrimental to the character of the setting of the adjacent designated NL.

Application 23/1271/FUL relates to the provision of a recreation field/football pitch on land immediately to the south of this development.

Should permission be refused for the mixed use development described above, this proposal would be required to be considered on its own merits as a standalone proposal.

In this regard, it would constitute a proposal within the open countryside within which there is both strict control in place over new development and no policy provision in place that would permit it.

It would fail the tests set out in Local Plan Policy RC4 which, among other criteria, require that proposals should be in scale with the character, environmental characteristics and setting of the area, avoid conflict with countryside or landscape policies and incorporate on site facilities to meet the needs of the proposal.

In this case, no justification for the need for the facility has been provided. Furthermore, no clear details of any level of parking that would appear to be adequate to serve the facility have been provided whilst the proposal also fails to incorporate any changing facilities to serve the pitch or any details as to its future maintenance/management.

In the circumstances therefore, this too constitutes an unjustified form of development for which there is no policy support or other material considerations that would weigh in its favour.

Refusal is therefore recommended for both proposals.

CONSULTATIONS

23/1276/MOUT

Local Consultations

Parish/Town Council

Following a request from Community Council of Devon in 2010, a Parish Housing Needs Survey was carried out. The allocation for Awliscombe in the Local Plan (EDDC) was for a maximum of 20 houses up until 2026. It identified the need for 8 affordable homes.

The site at Hillcrest was one of three the sites identified by the Rural Housing Enabler for East Devon. Since then two Parish surveys have been conducted.

The Hillcrest site, which included the provision of a recreation area, was the most popular, being supported by the majority of parishioners on both occasions.

On this basis this application is supported by the Parish Council.

However, it is now ten years since the first survey. Whilst the need for affordable housing and a recreation area is still desirable, the relocating of the Parish Hall and provision of a Farm Shop may no longer be necessary and can always be reviewed in the future.

We also feel that the proposed parking for the recreation area is insufficient. Without the Hall and shop, this should be increased to include all the land to the west of the housing development, effectively doubling the size from 25 to 50 car parking spaces. If, in the future a small sports pavilion is required, there should be sufficient space on the edge of the recreation area to facilitate it.

Regarding the site access on to the A 373, having observed the traffic flow, we have no objections to the application, however we would request that the current speed limit be reduced to 30mph from where the existing 40mph sign starts, as the development would in effect create a built up area, joining the other parts of the village together.

Whilst we understand the delivery of the recreation area would be dependent upon the success of this planning application, the Parish Council believes strongly that it should be framed in a legally binding form, so that the ownership, occupation and direct access to the parcel of land is in place as soon as the development commences.

In conclusion, the proposed housing development reflects the finding of our two housing needs surveys. It would join the disparate parts of the village to create a sense of unity. It would provide much needed support for our village school and our younger families. We therefore strongly support this application and urge EDDC to grant its approval.

Dunkeswell And Otterhead - Cllr Yehudi Levine

I can support the conclusions drawn by the public consultations held by the Parish Council. It is regrettable to use agricultural land for housing development with the inevitable loss of countryside and can sympathise with the objectors on that. But do not find the reasons for rejection to be particularly cogent. However, I am open to be persuaded otherwise.

Dunkeswell And Otterhead - Cllr Yehudi Levine 5/8/24

The Officers reports about this application have put me in a rather difficult position and as a result I am going to change my mind and reverse on my comments about them.

While the applications were being considered, another application in Awliscombe, 24/0556/FUL was submitted. Its refusal by Officers aligns with the reasoning of the current applications. While this attests to a consistent approach by EDDC Planning Officers, it leaves me in an uncomfortable place, as I opposed 24/0556/FUL, but supported this application. So for reasons of consistency in planning considerations, I have decided to change my position and support the Officers refusal.

Technical Consultations

Housing Strategy/Enabling Officer - Cassandra Pressling

Support with conditions (Full consultation response at end of report)

EDDC Landscape Architect

Object (Full consultation response at end of report)

DCC Flood Risk SuDS Consultation

Object (Full consultation response at end of report)

County Highway Authority

Observations:

I have visited the site in question and reviewed the planning documents. As the application is only outline, I will concentrate on the access concept and not the internal layout such as parking, sustainable travel provision and off-carriageway turning.

The proposed access can obtain a visibility of 43m in either direction for this 30mph speed road, this accords to our current best practice guidance, Manual for Streets 1 and 2.

This application of 20 dwellings would not trigger our requirement for a Travel Plan, which is usually around 40 dwellings, however some thought needs to be given to the bell-mouth access of dropped kerbs or cycle priority junction.

The access would also need to be wide enough to allow simultaneous access and egress for the size of the proposed development.

Recommendation:

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

Police Architectural Liaison Officer - Kris Calderhead

Comments ref. layout, hedgerow condition, boundary treatments, pedestrian routes, lighting and parking layout (Full consultation response at end of report)

DCC Historic Environment Officer

Recommended condition re. archaeological recording (Full consultation response at end of report)

NHS Cranbrook/Primary Care Team

NHS reserves right to re-assess and respond as a result of any permission approved that will have an impact on assessed G.P. Practice(s) linked to the application. (Full consultation response at end of report)

23/1271/FUL

Local Consultations

Parish/Town Council

The Parish Council fully supports this application. The present arrangement consists of a farmer's field some 1.6 miles from the Village Hall changing rooms. It is only used for football and is often fog bound during the winter, which is the only time it is available. Having a recreation area for all sports and village events throughout the year would be of great benefit to the community.

The village has no designated safe outdoor facility for our children and young people. The use of the land in this way would give the council and the community the opportunity to deliver this long held wish.

The Parish Council would like to express their full support for the application.

Dunkeswell And Otterhead - Cllr Yehudi Levine

I can support the conclusions drawn by the public consultations held by the Parish Council. It is regrettable to use agricultural land for housing development with the inevitable loss of countryside and can sympathise with the objectors on that but do not find the reasons for rejection to be particularly cogent. However, I am open to be persuaded otherwise.

Technical Consultations

DCC Historic Environment Officer

Recommended condition re. archaeological recording (Full consultation response at end of report)

EDDC Trees

No arboricultural concerns.

Other Representations

A total of 25 representations of objection across both applications has been received. These include a representation from the Awliscombe Village Hall Committee and 1 'neutral' representation on behalf of Awliscombe United Football Club.

Summary of Grounds of Objection

1. Awliscombe does not have the infrastructure for new homes; no shops or public transport, therefore people will have to travel by car, increasing traffic and placing more pressure on roads, more cars on the lanes and increasing danger for local children walking to school.
2. Objections to previous applications repeated; reasons have not changed from before.
3. Detrimental impact upon beautiful countryside, AONB, views and wildlife.
4. New development on a blind corner on a fast narrow stretch of road will be an accident waiting to happen.
5. What will happen to the current village hall and public house?
6. There are brownfield sites that could be used for housing.
7. Increased noise and light pollution.
8. Increase in risk of flooding; rivers Otter and Wolf already flood in winter.
9. The village already has a hall and there are football pitches on the edge of Honiton and numerous farm shops in the area.
10. This will simply be phase 1; the development will grow until all green spaces and wildlife have been destroyed.
11. No lighting plan as referred to in the ecology report.
12. Village does not have any crossing facilities to aid safe passage across busy main road.
13. No overflow parking provision for residents with more than two cars or visitors.
14. Dangerous access onto and from the main road through current entrance leading to risk of collision and injury.
15. Increased levels of local congestion.
16. No funding for new hall proposed, so it is assumed it would be financed from the sale of the existing hall and car park.
17. Footprint of proposed village hall and size of car park are significantly smaller than the existing and would be inadequate for visitors to the hall, shop customers, residents' visitors, the recreational facilities or match day parking.
18. Existing car park provides a well-used parking resource for parents of the village school allowing for safe delivery of young children.
19. Existing village hall is well used and provides a focus in the village with easy walking distance for many which would be lost if moved.
20. 30mph speed limit incorrectly cited in Highway Authority's comments; it is 40mph, therefore comments are based on incorrect and misleading information.
21. Increasing the number of dwellings and downsizing the village hall would mean the latter would not be fit for purpose.

Summary of 'Neutral' Representations

1. We would welcome a shared football pitch and recreation area, but only on the basis that the land is transferred to the parish council to ensure its long term status.

2. Area designated for the village hall would be better used as either a pavilion or a children's play park.

PLANNING HISTORY

Reference	Description	Decision	Date
19/0483/MOUT	Outline planning application for the erection of 15no dwellings, village hall, farm shop and car parking, (3no affordable and 12no "downsizing" units), seeking approval for access only (matters of appearance, landscaping, layout and scale reserved)	Withdrawn	21.10.2019
19/0472/FUL	Change of use to form recreation area	Withdrawn	21.10.2019
14/2383/MOUT	Construction of 20no dwellings (10no open market and 10no affordable) including provision of vehicular access (outline application reserving details of layout, scale, appearance, means of access and landscaping).	Refusal	16.04.2015
15/1579/FUL	Change of use to form recreation area.	Refusal	20.11.2015
14/2383/FUL	Change of use of land to form recreation area and associated vehicular access and parking area.	Withdrawn	11.06.2015

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 27 (Development at the Small Towns and Larger Villages)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 35 (Exception Mixed market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

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

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

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

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

E5 (Small Scale Economic Development in Rural Areas)

E15 (Retail Development in Rural Areas outside Villages)

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

RC5 (Community Buildings)

RC6 (Local Community Facilities)

RC7 (Shared Community Facilities)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

(There is no neighbourhood plan in force for Awliscombe parish.)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

ANALYSIS

Site Location and Description

The application site comprises the northern and western portions, approximately 2.41 hectares in area in total, of a large agricultural field, to the south and west of a property known as Hillcrest at Awliscombe. It is located on the south eastern edge of the village and fronts the southern side of the A373 within a gap between the main concentration of development that forms the main part of the village and a smaller cluster of around 18 properties to its south east that are approximately 500 metres from the centre of the village to the north west. The western boundary of this gap is defined by Weston Lane which connects Awliscombe with Weston to the south.

The site has hedged eastern and western boundaries with post and rail fencing along the principal northern A373 road frontage boundary. The levels across the site show a gentle fall from both west to east and north to south. A pavement extends along the entirety of this frontage and follows the contours of the site where it rises towards the north eastern corner.

There is a small stream that runs along the western boundary of the site. However, the site is not within an area that is identified as being at risk of flooding.

The Landscape character of the site and its immediate context is described within the Landscape Character Assessment (LCA) as lower rolling farmed and settled slopes. The assessment describes the key characteristics to be a gentle rolling landform, sloping up from the valley floor with variable size fields with wide, low boundaries and irregular patterns. There are many hedgerow trees, copses and streamside tree rows. The settlement has buildings of varied ages and styles with much use of stone as a building material. The settlement features winding and often sunken lanes, streams, ditches and has an intimate feel.

The site sits immediately to the south of the designated Blackdown Hills National Landscape (formerly known as Area of Outstanding Natural Beauty) (NL). Indeed, the A373 itself forms this part of the boundary of the NL.

There are a number of neighbouring and nearby residential properties. Three dwellings known as Wessington Cottage and 1 and 2 Summerlands are located on the opposite side of the A373 immediately to the north of the site, whilst the cluster of properties to the east (referenced above) comprise Hillcrest itself, Konini Place and Brookthorpe along with pairs of semi-detached properties in the estate known as Sunnyside beyond.

The proposals to which application 23/1276/MOUT relate involve the northern part of the site nearer to the A373, extending to around 1.06 hectares in area, whilst the proposed recreation area, subject of application 23/1271/FUL, would occupy the remaining land to the south.

Proposed Development

Application 23/1276/MOUT seeks outline planning permission for a mixed development scheme comprising the following:

1. Construction of 20no dwellings, 8 (40%) of which would be affordable
2. Construction of a farm shop
3. Allocation of space for the construction of a village hall
4. Laying out of a 'village green'
5. Provision of a 'community parking' area

All detailed matters comprising the appearance and scale of development and the landscaping and layout of the site are reserved for approval at a later stage.

However, the application is seeking the discharging of details of access at this outline stage.

An illustrative masterplan has been provided with the application that shows a central spine road through the development with the point of access off the A373 positioned where a recessed, splayed and gated entrance to the field, close to its north western corner, exists at present.

The indicative site layout details set out on the masterplan show the affordable units in the form of a pair of terraces oriented north/south positioned to either side of a central parking area with the 'village green' laid out immediately to the rear (east) of the eastern terrace. The remaining 12no open market dwellings are all shown as being detached units arranged around the end of the spine road which is shown terminating as a cul de sac. The farm shop and community parking area are shown towards and adjacent to the western site boundary with the village hall set further into the site and alongside a side road to a proposed recreation area/football pitch, the provision and laying out of which are the subject of application 23/1271/FUL.

The proposal is similar, in terms of the number of residential units proposed to the scheme subject of application ref. 14/2383/MOUT.

Application 23/1271/FUL proposes the laying out of a recreation area. The illustrative masterplan referred to above shows this to take the form of the laying out of a football pitch oriented north/south with the northern end positioned almost immediately to the rear of the proposed village hall.

Indeed, the masterplan also indicates the laying out of a hard surfaced area between the two. In the absence of any annotation, it is not entirely clear what purpose this area would be intended for. However it is possible that it could be a parking area for the village hall and pitch.

Access to the proposed facility would be via the mixed development scheme to which application 23/1276/MOUT relates.

Draft heads of terms for a prospective section 106 agreement have been provided for:

1. The provision of 4 'downsizing' and 8 affordable units with a tenure split of 50% (min.) affordable rent and up to 50% intermediate home ownership. 'Downsizing' units to be limited to occupation by over 60s.
2. Negotiation, including with the parish council, of a local lettings plan for the affordable housing.
3. Provision of around 11,500 sq. m. of land for the provision of recreation space and car parking for the benefit of the village, with transfer of the agricultural land to the parish council within six months of the date of completion of the development.
4. Provision of a village shop within six months of the occupation of the final dwelling.
5. Contribution towards the primary school.
6. Habitat mitigation contribution.

Considerations/Assessment

23/1276/MOUT

The proposals subject of application 23/1276/MOUT fall to be considered having regard to the following material considerations.

Principle of Development

Strategies 1 and 2 of the adopted 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.

In this case the proposed development would comprise major development in the countryside, outside of any defined settlement boundary, thereby conflicting with Strategy 7 (Development in the Countryside) of the Local Plan. Consequently, the site would not offer an appropriate location for the proposed development 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 (BuAB).

In strategic policy terms therefore, the site is within the 'countryside' as defined in Strategy 7, the provisions of which would not ordinarily facilitate new build housing in the absence of any other local or neighbourhood plan policy that would explicitly permit such development. (There is no made neighbourhood plan in place for Awliscombe.)

Residential development of this nature and in this location conflicts with the spatial approach to development as expressed within the development plan. This conflict is attributed significant weight given that this is one of the main objectives of the Local Plan.

Planning legislation is clear that planning applications should be determined in accordance with the development plan unless other material considerations suggest otherwise. One such consideration is the National Planning Policy Framework (NPPF). The NPPF states that plans and decisions should apply a presumption in favour of sustainable development.

The NPPF (December 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. The emerging new Local Plan is therefore sufficiently progressed to benefit from this provision.

On this basis, and as the Council can currently 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 presumption in favour of sustainable development (the 'tilted balance') set out at paragraph 11d) of the NPPF need not be applied.

However, the "tilted balance" in the NPPF is not the only basis for planning decisions. It is a material consideration but does not displace the development plan nor the requisite planning balance established under section 38(6) of the Planning and Compulsory Purchase Act 2004.

The need for housing over the next five years is a crucial consideration in planning decisions. According to paragraph 69 of the National Planning Policy Framework (NPPF), local planning authorities must identify specific sites for housing for the next five years and broader areas for growth for the subsequent 10-15 years. This means that a responsible and proactive council should be looking beyond the mere 4 and 5

year timescales and should instead recognise the implications of decision making on both medium and longer term housing delivery.

If the Council cannot demonstrate a five-year housing supply when adopting a new local plan, it would conflict with paragraph 69(a) of the NPPF. Without an adequate supply of housing an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of paragraph 35 of the NPPF. Therefore, on this basis alone the Council should not rely solely on a short-term four-year housing supply as providing robust reason enough for resisting further housing as a matter of principle.

Appeal decisions have shown that even if a site is not allocated in the current plan or is outside development boundaries, it can still nevertheless be considered to be 'sustainable development' if there are no site specific technical objections and it is located within reasonable reach of an appropriate level of services and facilities. This is especially relevant given the Council's current and future housing supply challenges, regardless of the 'tilted balance'.

National policy prior to the changes to the NPPF introduced in December 2023 required a continuous five-year housing supply. Some other authorities have struggled to maintain this, leading to weaker positions when trying to defend planning appeals. These decisions often relied on overly optimistic policy assessments, resulting in a compounded effect on future planning. The experience of these authorities shows that it takes time to recover (so to claw back an appropriate supply of housing) making it very hard to successfully defend against appeals for sites deemed by the Council to be wholly unacceptable.

The Council's Housing Monitoring Update shows that the forthcoming five-year housing trajectory will fall below the required numbers and it is notable that affordable housing delivery has also been below the required levels. Currently, about 6,000 households are on the Council's housing register. The district's identified affordable housing need is 272 dwellings per year, totalling 4,896 dwellings over the 18-year plan period. Delivery in recent years has fallen well short of this annual target.

There is therefore a clear need for more housing, both market and affordable, within the district. The current and projected levels of housing delivery do not meet this need in the long term under the current policy climate. This unmet need is a significant factor for decision-makers in planning applications and appeals, particularly pertinent for otherwise sustainable sites outside current settlement boundaries.

To be in a strong position now, and remain so in the future, the Council must boost its supply of market and affordable housing and develop a local plan that ensures the realistic delivery of sufficient homes over the plan period. A robust approach in this regard would mean the adoption of a local plan which both expresses and reflects the needs of the district, provides the ability to defend unsustainable sites for development at appeal, prevent speculative planning applications afflicting local communities and meet the social elements at a national scale by delivering the right type of housing at the right time. Accordingly, the need to boost the supply of

housing is a material consideration that can be attributed significant weight given the strategic importance maintaining a healthy supply of housing means to the council and its ability to retain control over key planning decisions.

This issue was considered by Strategic Planning Committee on 15/7/2024 following the receipt of advice from King's Counsel. The committee resolved to advise Planning Committee that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position. This is in order to ensure that the council has a robust housing land supply and as a result a sound local plan in respect of housing land supply for examination of the Local Plan.

Accessibility

Awliscombe is not one of the settlements listed in Strategy 27 (Development at the Small Towns and Larger Villages) of the Local Plan that offers a range of accessible services and facilities to meet many of the everyday needs of the residents. Given the site's location outside of any defined BuAB as set out within the Local Plan or adopted Villages Plan, Strategy 7 applies. This strategy is an overarching strategy for all development and states that "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".

As such, there is limited provision in the Local Plan for new housing development in villages such as Awliscombe. As a small rural settlement with limited services and facilities, in the form of a primary school, church and village hall, but none such as a shop, public house (at present), doctors' surgery or a regular public transport service, the village is not considered to be a sustainable location for additional residential development.

In this regard, the majority of trips to shops, post offices and doctors/health care facilities by prospective residents of the development would have to take place outside the settlement and most likely in Honiton. Without a good public transport (the level of service cannot be described as frequent or convenient for most users), future occupiers would be reliant on the private car. Such reliance demonstrates that the village is poorly served by appropriate key services and of limited accessibility by non-car means.

The proposed development may support services in nearby villages but, again, these are limited. The nearest settlements with a BuAB, which would offer a range of accessible services and facilities to meet many of the everyday needs of local residents, including access to reasonable public transport, would be Honiton, as stated above, around 2km. to the south east, and Feniton, approximately 4.5 km. to the south west.

In terms of the site itself, it is located a little over 400 metres from the village hall and approximately 700 metres from the primary school. Whilst these distances are walkable and well within national guidelines, they do require a walk along the side of a busy Class 1 road. While most of the route has the benefit of a footway, there is a section close to the Greenway Lane road junction where there is no such provision.

Although not of a length that is considered too long as to prevent safe walking, it does serve to limit the weight that can be ascribed in terms of a benefit to the proximity of the site to the few services and facilities that the village enjoys.

Planning Balance - Principle of Development

In the absence of any neighbourhood plan for the village, development would only be supported if there was a proven local need for affordable housing in line with the provisions of Strategy 35 (Exception Mixed Market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries) or through those of Strategy 27 which otherwise promotes community-led development justifying how and why, in a local context, it would promote the objectives of sustainable development.

The proposal in this case does not involve a community-led scheme. Furthermore, the affordable housing offer does not reflect a proven local need that has been demonstrated through an up to date robust housing needs survey that meets the requirements of Strategy 35.

Reference is made in the application submission to two parish council-led public consultation events, held back in early 2020, in respect of a 'proposed community development' of the site at which more detailed proposals, based upon the indicative layout that accompanies the current application, were made available for public view.

The written comments that were generated (around 40 in number) suggested a majority level of public support (among respondents) for the development together, more specifically, with a requirement for a mix of affordable housing.

However, a public consultation exercise of this nature, undertaken now in excess of four years ago, cannot be regarded as equating to a 'proven local need demonstrated through an up to date robust housing needs survey' as required to meet the provisions of Strategy 35.

Indeed, the need that was identified through the last such survey, undertaken in 2018, has since been addressed through the grant of detailed planning permission, in 2022, of 3no affordable units as part of a five dwelling mixed affordable and open market housing scheme (in alignment with Strategy 35) on land off Greenway Lane.

Although this permission has yet to be implemented, it remains extant at the present time and must therefore be regarded as satisfying the most recently identified affordable housing need in line with the evidence required by Strategy 35.

There has been no more recent housing needs survey carried out that evidences a need for more affordable housing in the village.

In these circumstances therefore, and particularly in the absence of a further and more up to date housing needs survey, it is not thought that the provision of affordable housing to meet an identified local need can be considered to carry any weight in favour of the scheme.

In relation to the other community facilities that the proposal is offering, namely the village hall, farm shop (there is no indication of the farm to which this would relate), village green and vehicle parking, it is noted that none of these are an explicit requirement of any local or neighbourhood plan policy, or that there is any other evidence of a local need for these facilities.

Their provision is not in itself necessary to make the development acceptable in Planning terms since it is not considered that it would outweigh the fundamental policy conflict with the overarching strategy of the Local Plan, as set out above, in the wider planning balance.

As such, their offer must be regarded as neutral in the overall balancing exercise with very little weight being able to be attributed to them and they should not be secured by either a Section 106 or planning condition as they do not meet the required tests of being necessary to make the development acceptable in planning terms.

Impact upon Character and Appearance of Area

As stated above, the application is in outline form with all detailed matters, apart from access, reserved and therefore in terms of detailed design and layout, should the proposal be deemed to be acceptable, these would be considered as part of any later reserved matters submission.

The development would result in a physical incursion into a green field which is clearly distinguishable as part of the attractive surrounding countryside, interspersed with trees and the loose sporadic pattern of development along the A373. The site is also separated from the core of the village divorced from built form of the settlement. The land to the north east and immediately opposite the site is designated as Blackdown Hills AONB and gently rises from the boundary with the A373.

Due to the open and elevated position of the site and the immediate and wider public views, the proposals would give rise to landscape impact. The proposed site occupies an elevated and open position along the route into the village where there are clear views of the site from the road, and longer and wider views from the public footpaths and surrounding land to south and west.

The indicative drawings show the planting of a new length of hedge along the eastern side of the proposed recreation area/football pitch together with additional tree planting within the northern section of the existing hedge that forms the western boundary to both application sites.

However, due to the open nature of the site and its location, visually separated from the main built form of the village, it is considered that the impact on the landscape character and visual impact of the proposal would be difficult to properly mitigate with a landscaping scheme. Based on this assessment, the harm to the character and appearance of the open countryside setting that the site currently enjoys and the visual and physical separation that it provides between the main village and the satellite cluster of dwellings to the south east is considered to be significant and, as such, weighs heavily against the proposal.

Aside from a number of shortcomings in relation to the content and detail of the landscape visual impact assessment document that has been submitted alongside the application, the Council's Landscape Architect is of the opinion that the proposal would contribute to ribbon development along the A373 in extending the built form of Awliscombe along the main road east of Weston Lane, closing off views to attractive countryside to the south and connecting the eastern edge of the main village with the outlying cluster focused around Sunnyside beyond the eastern site boundary.

This would be contrary to guidance relating to the landscape character type that covers the site set out in the LCA that states that development, including ribbon development, that would contribute to the coalescence of settlements will be resisted.

Similar guidance is given within the Clyst Lowland Farmland Devon Landscape Character Area assessment, which also covers the site area, to 'protect the sparse settlement pattern of clustered hamlets, villages and farmsteads, preventing the linear spread of development along river valleys and roads wherever possible'.

As such, the proposals are considered to be in conflict with Local Plan Strategies 7 and 46 (Landscape Conservation and Enhancement) due to the harm that they would cause to the existing pattern of settlement of Awliscombe and the disruption of views from the public domain which form part of the distinctive rural landscape character of the area. They are therefore unacceptable in terms of landscape and visual impact, including from close range views from the A373 and from footpath no. 1 that ascends Bushy Knap and connects Awliscombe with Buckerell to the south west.

More generically, the development would be in conflict with the relevant provisions of Policy D1 (Design and Local Distinctiveness) which, among a number of criteria, only permit proposals that respect the area's key characteristics and special qualities, are of a scale that relates well to their context and do not adversely affect important landscape characteristics.

Impact upon Neighbour Amenity

The impact on the amenity of existing and future occupiers can only be properly considered at reserved matters stage. However, it is important to recognise whether the amount of development proposed can be properly accommodated on the site without causing significant harm to neighbour amenity.

Due to the position of the site away from the main core of the village and the majority of its built form, the impact on privacy and amenity is concentrated on the group of dwellings to the north and on the opposite side of the A373, namely Wessington Cottage, Rowan and nos. 1 and 2 Summerlands Cottages, and Hillcrest immediately adjacent to the site to the east as well as further properties that could potentially be affected by the development including Konini Place, Brookthorpe and the properties within Sunnyside to the south east.

The main concern in this regard concern is the relationship between the site and the closest neighbouring property, Hillcrest. The illustrative layout indicates two

dwellings positioned close to the eastern site boundary with this property. The potential therefore exists for these to be overbearing and intrusive to the occupiers.

In terms of the relationship with the properties on the opposite side of the A373 to the north, it is accepted that the road provides sufficient separation distance. The indicative masterplan also shows the two terraces of affordable units oriented 'end on' to these properties so that any overlooking/privacy and/or physical/visual impact upon these properties could be minimised.

Whilst it is acknowledged that new dwellings in this location would affect the outlook over the fields and wider countryside beyond, it is not considered that the proposals would unreasonably affect privacy and amenity whereby the Local Planning Authority could reasonably recommend refusal on these grounds.

Equally, while the development of the site would clearly result in impact in terms of noise and disturbance in comparison to the existing agricultural use of the site, it is not considered that this would be at an unacceptable level. As with all development this is short term situation and the hours of construction could be controlled by condition in conjunction with a construction management plan for the scheme.

On this issue therefore, it is considered that the development would meet with the criterion set out in Local Plan Policy D1 (Design and Local Distinctiveness) that requires that proposals do not adversely affect the amenity of occupiers of adjoining residential properties.

Highways/Access

The County Highway Authority (CHA) is satisfied that sufficient visibility is available along the A373, both from and of prospective vehicles manoeuvring to and from the site, in both directions for the road speed (30 mph) can be achieved in line with the best practice guidance set out in Manual for Streets (MfS). A condition securing the layout of the visibility splays in line with MfS standards is recommended.

It is also advised that the scale of development would not be so great as to trigger a requirement for the submission of a travel plan.

However, the submission is lacking in detail as to the bell mouth layout, dropped kerb provision and cycle priority at the junction of the road through the development with the A373. The CHA also advise that the access would need to be of sufficient width to allow simultaneous access and egress for the scale of the proposed development.

Given that the application is seeking the discharge of access details at this stage, this is considered to represent a shortcoming in the submission. On this basis therefore, it cannot be concluded that the proposed development would satisfy the relevant provisions of Local Plan Policy TC7 (Adequacy of Road Network and Site Access) that stipulate that permission for new development will not be granted if it cannot be concluded that the proposed access would not be detrimental to the safe and satisfactory operation of the local highway network.

Drainage

It is proposed that foul drainage from the development be discharged via the main sewer.

A surface water drainage assessment has been provided in response to the consultation comments of Devon County Council's Flood Risk Management Group, as Local Lead Flood Authority (LLFA). This proposes the use of soakaways or, in the event that they do not work (there is no evidence of any percolation testing having been carried out), an attenuated system with a controlled discharge into the watercourse.

This assessment has been referred back to the LLFA for further comments and, at the time of writing, these remain awaited. However, there is a requirement, set out in Local Plan Policy EN22 (Surface Run-Off Implications for New Development) for 'major' schemes such as this to incorporate the use of sustainable drainage systems for the management of surface water with, sequentially, above ground measures, such as swales, ponds, wetlands, permeable surfaces, etc.

It is not considered that it has been adequately proven that these options have been actively considered and/or reasons provided to demonstrate that they are inappropriate. However, as stated, it is not yet known as to whether the LLFA shares this position.

Trees

There are no mature trees within the site. However, the field boundaries feature some mature oaks along with native hedge species, including Blackthorn, Hawthorn, Ash, Field Maple, Hazel and Holly. It is considered that development could be accommodated on the site without adverse impact to important trees along the site boundaries.

It is not therefore anticipated that the scheme would be contrary to the provisions of Local Plan Policy D3 (Trees and Development Sites) that principally require that development does not result in a net loss in the quality of trees or hedgerows.

Ecology

The application is accompanied by an ecological assessment report that has been informed by desk studies of previous extended phase 1 habitat and bat activity survey reports.

This identifies the 'low' suitability of mature hedgerow trees for roosting bats alongside the suitability of hedges for dormice and hedge margins for hedgehog and more widespread reptile and amphibian species. However, further survey efforts are not considered necessary due to the absence of anticipated impacts.

The report recommends biodiversity enhancements in the form of the installation of building-integrated bat roosts and bird boxes together with the long-term management of all retained and newly created habitats via a landscape and ecological management plan.

Measures to prevent damage to retained hedges and trees are also recommended alongside additional mitigation in the form of the maintenance of bat flight corridors and sensitive lighting design to minimise adverse effects on nocturnal wildlife.

It is accepted therefore that the proposal would not contravene the provisions of Local Plan Policy EN5 (Wildlife Habitats and Features).

Loss of Agricultural Land

The site occupies land that is designated as grade 3 agricultural land and therefore potentially falling outside the category of best and most versatile agricultural land. However there is no detailed survey to assess if the land is Grade 3a (BMV) or 3 b. Even if the site were to fall within the higher classification of land, the site comprises a relatively small area of land and, whilst its loss weighs as an environmental consideration against the proposal, it is considered to attract only limited weight. Nevertheless, this weighs negatively in the planning balance.

Conclusion

It is acknowledged that, notwithstanding the recent changes to the NPPF, the Council 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.

As set out earlier in the report, this proposal involves 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 policies that explicitly permit this type of development in this countryside location. In the subsequent breakdown of the material considerations, conflict with policy has been identified in terms of its unsustainable location, adverse landscape impact and loss of best and most versatile agricultural land. This would outweigh any benefits arising from the scheme, including the shorter term economic benefits resulting from the construction of development and any social enhancement that might be derived from the provision of the proposed farm shop, land for a village hall, community parking facility or the laying out of a village green, none of which are justified in policy or other terms.

As such, the proposal is therefore recommended for refusal.

23/1271/FUL

In the event that the recommendation to refuse planning permission for the proposals to which application 23/1276/MOUT relates is accepted, there would be no

permission in place for the residential (and other uses) development associated with the proposed recreation area/football pitch.

This proposal would therefore need to be considered on its own merits as a standalone facility.

Principle of Development

Policy RC4 (Recreation Facilities in the Countryside and on the Coast) of the Local Plan states that 'planning permission will be granted for outdoor recreation facilities in the countryside provided that the nature of the activities undertaken or the space requirements of the proposal require a countryside or coastal location and:

- o The facilities or development proposals are in scale with the character, environmental characteristics and setting of the area and do not conflict with countryside, nature or landscape policies, nor detract from the amenities of the area.
- o The proposals allow for safe access and discreet parking arrangements, particularly in environmentally sensitive areas, and do not result in the loss of or cause unacceptable disruption to existing public rights of way.
- o On site facilities should be appropriate to meet the needs of the proposal and links with adjacent footpaths and bridleways should be suited to any proposed site uses.'

The proposed recreation area/football pitch would be located outside of the built-up area boundary of any defined settlement and is therefore in the countryside where development is strictly controlled. No justification for the need for the recreation area, in the form of a football pitch or otherwise, has been provided in support of the application. In the absence of any justified need for the proposed recreation area it is not considered to be in scale with the character, environmental characteristics or setting of the area and would conflict with countryside policies which seek to restrain development outside of built-up area boundaries.

Furthermore, no details of the access or parking facilities identified on the location plan have been provided with the application. As such, there is uncertainty whether the proposal would provide safe access or appropriate parking arrangements for the proposed facility.

An essentially identical proposal was the subject of application ref. 15/1579/FUL referred to in Planning History above. The officer report for that application referenced concerns raised by Sport England, notwithstanding its position of no objection, at the absence of any proposed changing facilities to serve the proposed pitch along with issues relating to the pitch size, its construction and future maintenance/management.

The same issues of concern have not been addressed as part of the current submission.

As such, as no on-site facilities have been proposed with the development to support its needs, and neither are there any links with adjacent footpaths and bridleways, the proposal is again considered to be unacceptable in this regard.

These alone are considered to represent significant issues of concern in relation to this proposal, irrespective of the acceptability or otherwise of the development proposals for the adjacent land to the north to which application 23/1276/MOUT relates.

There would therefore be conflict with a number of the Policy RC4 criteria set out above such that, even if considered wholly independently, the proposal would be considered to be unacceptable.

Other Matters

In relation to the other contextual issues that are material to the assessment of the proposal, namely landscape impact, ecology, highways, access/parking and drainage, it is considered that the assessment of these set out above in relation to the proposals to which application 23/1276/MOUT relates applies equally to this proposal.

Documents such as the illustrative masterplan for the overall scheme (i.e. including the proposed recreation area/football pitch) flood risk assessment, landscape visual impact assessment and ecological impact assessment, some of which are referred to above, have been provided for both applications and considered by officers in tandem.

There is therefore thought to be commonality between the two proposals in regard to these matters and it is not therefore considered necessary to separately repeat the comments set out above.

Conclusion

Based on the above considerations, in view of the location of the site in isolation of any compatible land use, the absence of any evidence as to the suitability of the pitch (recognized size and associated facilities required for the it to function as such) and the proximity to the designated National Landscape there is no assessment or reassurance over the likely need or impact for the proposed recreation area/football pitch. The proposal is therefore considered unacceptable and is itself recommended for refusal.

RECOMMENDATIONS

23/1276/MOUT

REFUSE for the following reasons:

1. The site is located within the countryside outside of any Built-up Area Boundary identified in either the adopted East Devon Local Plan 2013-2031 or Villages Plan (2018) where there are no development plan policies that explicitly permit the proposed development. The proposal would be contrary to the spatial strategy of the development plan for the distribution of new housing in the District and contrary to the aim set out in the National Planning Policy Framework (NPPF) for development to be genuinely plan led. The resulting development would not align with the spatial approach to the distribution of housing and would result in unregulated development in the countryside that

would fail to accord with the objectives of sustainable development. It would be poorly located in relation to, and divorced from, services and facilities and the substandard pedestrian and cycle linkage and excessive distance between the site and these services and facilities would mean that future occupants of the proposed development would be dependent upon the private car for most journeys to and from the site. The site does not therefore occupy a sustainable location for residential development. As such, and in the absence of promotion of the development through any neighbourhood plan policy or other community-led model that might otherwise outweigh these concerns, the proposal would not be compatible with the overall strategy for the distribution of housing in the District. As a consequence, the proposal would be contrary to the provisions of Strategies 1 (Spatial Strategy for Development in East Devon), 5B (Sustainable Transport), 7 (Development in the Countryside) and 27 (Development at the Small Towns and Larger Villages) and Policy TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the NPPF (2023).

2. The proposal would contribute to ribbon development in effectively extending the built form of Awliscombe to the east of Weston Lane to connect to the existing outlying cluster of development beyond the eastern site boundary. In so doing, it would close off views of attractive open countryside to the south and represent a physical incursion into a green field that is clearly distinguishable as part of the open countryside. As a consequence, it would result in a significant adverse effect upon local landscape character, the character of the setting of the adjacent designated Blackdown Hills National Landscape and the overall character and appearance of the area more generally. The proposal would therefore fail to preserve the special qualities of the area contrary to the provisions of Strategies 5 (Environment) and 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the National Planning Policy Framework (2023).
3. The application fails to provide an appropriate mechanism to secure the delivery of the proposed affordable housing. In the absence of such a mechanism, it is considered that the proposed development would have an unacceptable impact on infrastructure. As a consequence, the proposal would be contrary to the provisions of Strategies 34 (District Wide Affordable Housing) and 50 (Infrastructure Delivery) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the National Planning Policy Framework (2023).
4. On the basis of the information submitted, the Local Planning Authority is not satisfied that the proposed development would not result in the loss of best and most versatile agricultural land. In the absence of any demonstration that the land is not classified as best and most versatile agricultural land, sufficient land of a lower grade is unavailable for the proposed development, available lower grade land has an environmental value that is recognised and constrained by statutory wildlife, landscape, historic or archaeological designations or that the benefits of the development justify the potential loss of high quality agricultural land, the proposal would be contrary to the provisions of Policy EN13

(Development on High Quality Agricultural Land) of the adopted East Devon Local Plan 2013-2031 and guidance contained within the National Planning Policy Framework (2023).

23/1271/FUL

REFUSE for the following reasons:

1. The proposal, by reason of its location outside of the built up area boundary of any settlement and being divorced from any compatible land use, would occupy an unsustainable countryside location which is poorly related to the main built form of the village and would have limited access to alternative means of transport. The proposal is therefore considered contrary to Policies D1 (Design and Local Distinctiveness), RC2 (Open Space, Sports Facilities and Parks), RC4 (Recreation Facilities in the Countryside and on the Coast) and TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the National Planning Policy Framework (2023).
2. In the absence of any justified need for the proposal, including providing reasons for the pitch size proposed, and its sensitive location, the scheme is sited in the countryside where it would affect the character of the setting of the adjacent designated Blackdown Hills National Landscape. Furthermore, the proposal is considered to be out of scale with the character, environmental characteristics and setting of the area and would conflict with countryside, nature and landscape protection policies. In addition, the proposal does not provide details of a safe access, suitable parking or on-site facilities that are appropriate or likely to be needed to meet the needs of its users. As such, it has not been demonstrated how the facility would meet local need nor allowed a true assessment of the likely visual impact on the adjacent landscape which is designated as a National Landscape and enjoys the highest level of protection. The proposal is therefore considered to be contrary to Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policies RC2 (Open Space, Sports Facilities and Parks) and RC4 (Recreation Facilities in the Countryside and on the Coast) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the National Planning Policy Framework (2023).
3. On the basis of the information submitted, the Local Planning Authority is not satisfied that the proposed development would not result in the loss of best and most versatile agricultural land. In the absence of any demonstration that the land is not classified as best and most versatile agricultural land, sufficient land of a lower grade is unavailable for the proposed development, available lower grade land has an environmental value that is recognised and constrained by statutory wildlife, landscape, historic or archaeological designations or that the benefits of the development justify the potential loss of high quality agricultural land, the proposal would be contrary to the provisions of Policy EN13 (Development on High Quality Agricultural Land) of the adopted East Devon Local Plan 2013-2031 and guidance contained within the National Planning Policy Framework (2023).

NOTE FOR APPLICANT

Informative:

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

Biodiversity Net Gain

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 means that this planning permission is deemed to have been granted subject to "the biodiversity gain condition" (BG condition).

The Local Planning Authority cannot add this condition directly to this notice as the condition has already been applied by law. This informative is to explain how the biodiversity condition applies to your development.

The BG conditions states that development may not begin unless:

- (a) a Biodiversity Gain Plan (BG plan) has been submitted to the planning authority, and
- (b) the planning authority has approved the BG plan.

In this case the planning authority you must submit the BG Plan to is East Devon District Council.

There are some exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case exemption 1 from the list below is considered to apply:

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or

(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- (i) the application for planning permission was made before 2 April 2024;
- (ii) planning permission is granted which has effect before 2 April 2024; or
- (iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- (i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- (ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- (i) consists of no more than 9 dwellings;
- (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- (iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Plans relating to both applications:

4050 001A	Location Plan	25.07.23
4050 002C: masterplan	Proposed Site Plan	14.08.23

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:

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

APPENDIX – Technical Consultations - Full consultation comments

23/1276/MOUT

Housing Strategy/Enabling Officer - Cassandra Pressling

Support with conditions

Percentage of Affordable Housing - under current policy Strategy 34, a requirement for 50% affordable housing would be required. However, given the lack of a 5 year land supply and out of date policies, a pragmatic approach is being taken with sites adjacent to an existing built up area boundary and the level of affordable housing to

be sought. The applicant is proposing to provide 40% affordable housing which equates to 8 units and this is acceptable.

Housing Need - There are currently 5 households registered on the Council's housing register Devon Home Choice, who live in Awliscombe. There are 531 households on Devon Home Choice who live in Honiton. This application would help meet some of this need.

Tenure - Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership

Housing Mix - will be agreed at Reserved Matters stage. We expect the applicant to engage with the Housing Team to ensure a mix that meets housing need. All affordable units must meet M4(2) standards.

Parking - the applicant states each property would have 2 parking spaces each, along with storage for cycles.

Council Plan 2021 - 2023 - East Devon District Council wants to increase access to social and affordable homes and this is one of the Council's highest priorities. This application will provide 8 affordable homes, so will help us to meet this priority.

Section 106 requirements - the 8 affordable homes need to be prioritised to households with a local connection to Awliscombe parish in the first instance, before cascading out to meet a district wide housing need. The percentage of affordable housing and tenure mix also needs to be included in the section 106 agreement.

EDDC Landscape Architect

1 INTRODUCTION

This report forms the EDDC's landscape response to the full applications for the above site.

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

2 LOCATION, SUMMARY PROPOSALS, SITE DESCRIPTION AND CONTEXT

2.1 Location and brief description of proposals

The site is situated adjacent to the A373 Honiton-Cullompton Road approximately 100m east of the main settlement of Awliscombe.

The proposals comprise the construction of 20 dwellings together with a village hall, farm shop, football field and associated infrastructure, utilising an existing field access off the highway. The application is very similar to a scheme refused under application 19/0472/FUL apart from an increase in housing from 15 to 20 units and some minor layout tweaks.

2.2 Site description and context

The site comprises some 2/3 of a larger, open field extending to 3.4 Ha and bounded by Devon hedge banks to its western, southern and eastern sides with some mature oaks to the southwestern corner. The northern boundary adjacent to the A373 is

open and marked by a post and rail fence. Access is off the A373 from the northeastern corner of the field. A water course follows immediately to the west of the western field boundary.

The application site itself abuts the northern, western and southwestern field boundaries and extends partway along the southern boundary. The boundary between the application site and retained field portion is presently open.

The site has a south-westerly aspect sloping gently from the main road at a gradient of approximately 1:17. Surrounding landform is gently undulating, sloping to the southwest to the River Wolf, 450m from the site and rising beyond to a low ridge, Buckerell Knap/ Bushy Knap (180m AOD). To the north of the site the land rises more steeply to a densely wooded scarp slope below St Cyres Hill (260m AOD).

Surrounding land use is predominantly agricultural, comprising mostly grassland with well treed hedgerows and scattered woodland clumps. The village of Awliscombe lies to the west. There is a pair of 19th century attached cottages on the opposite side of the A373 and a couple of further houses to the east of these set further back behind roadside hedgerow and trees. A cluster of mid-20th century properties is prominently situated on a low ridge of ground adjacent to the A373 immediately to the east of the site.

There is no public access within the site. A footway runs along the northern boundary which, east of the field access, becoming separated from the carriageway by a widening and rising verge/ bank with mature trees.

There are views from the site to St Cyres Hill to the northeast, Bushy and Buckerell Knap to the south west, Awliscombe and Hembury Fort to the north and a view to the southeast down the valley to the western edge of Honiton and rising hills beyond.

There are clear views over and beyond the site from the A373 and from Awliscombe Footpath 1 to the southwest. There are also views from the minor road to the south and west through field openings and filtered views from a field entrance on Greenway Lane to the north of the village.

PHOTO HERE

Figure 1- View looking southwest across site towards Bushy Knap and the eastern edge of Awliscombe from the eastern end of the footway adjacent to the northern site boundary

PHOTO HERE

Figure 2 - View from Bushy Knap on Awliscombe footpath 1 looking north east over site

With the exception of the pair of attached cottages opposite the site entrance, which have views directly over the site, views from other nearby properties are limited due to intervening vegetation or the extent or orientation of windows facing towards the site.

2.3 Landscape, Conservation and planning designations

There are no landscape or conservation designations within the site but the Blackdown Hills AONB boundary lies immediately to the north of the A373.

The site itself is a green field surrounded by other fields outside of the BUAB and as such is considered to be countryside as defined in the Local Plan.

3.0 RELEVANT NATIONAL, REGIONAL AND LOCAL LANDSCAPE RELATED POLICY

The following landscape policies and guidelines are considered relevant to the application:

National Planning Policy Framework 2018

176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

East Devon Local Plan 2013-2031

Strategy 3 - Sustainable Development

The objective of ensuring sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that [inter-alia] the following issues and their inter-relationships are taken fully into account when considering development:

- a) Conserving and Enhancing the Environment - which includes ensuring development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape.
- b) Prudent natural resource use - which includes minimising fossil fuel use therefore reducing carbon dioxide emissions. It also includes minimising resource consumption, reusing materials and recycling. Renewable energy development will be encouraged
- c) Promoting social wellbeing - which includes providing facilities to meet people's needs such as health care, affordable housing, recreation space and village halls.

Strategy 7 - Development in the Countryside

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.

Strategy 46 - Landscape Conservation and Enhancement and AONBs

Development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty.

Development will only be permitted where it:

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

D1 Design and Local Distinctiveness

Proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
3. Do not adversely affect inter alia:
 - Important landscape characteristics, prominent topographical features and important ecological features.
 - Trees worthy of retention.
4. Have due regard for important aspects of detail and quality and should incorporate inter alia:
 - Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO2 reduction.
 - Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.

Landscaping

21.4 Natural and artificial landscaping can enhance the setting of new buildings and enable them to be assimilated into surroundings. Landscaping can also assist in nature conservation and habitat creation particularly in urban areas.

21.5 Tree planting and retention should form an integral part of a landscaping scheme submitted with a development proposal either initially or at a detailed planning stage. Such a scheme may include ground and shrub cover together with hard surfaces and paving materials, adequate lighting and grass verges. Continuity

of fencing, walling or hedging with existing boundary treatments, which contributes to the street scene, will be sought where appropriate. Schemes will need to include integration of areas of nature conservation value and provision of new areas into proposals.

D2 Landscape Requirements

Landscape schemes should meet all of the following criteria:

1. Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
2. Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
3. Measures to ensure safe and convenient public access for all should be incorporated.
4. Measures to ensure routine maintenance and long term management should be included.
5. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
6. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

D3 - Trees and Development Sites

Permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees. The recommendations of British Standard 5837:2012 (or the current revision) will be taken fully into account in addressing development proposals.

No building, hard surfacing drainage or underground works will be permitted that does not accord with the principles of BS 5837 or Volume 4 National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees - Issue 2 (or the current revision or any replacement) unless, exceptionally, the Council is satisfied that such works can be accommodated without harm to the trees concerned or there are overriding reasons for development to proceed.

The Council will as a condition of any planning permission granted, require details as to how trees, hedges and hedge banks will be protected prior to and during and after construction. The Council will protect existing trees and trees planted in accordance with approved landscaping schemes through the making of Tree Preservation Orders where appropriate or necessary.

Planning permission will be refused for development resulting in the loss or deterioration of ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

4 REVIEW OF SUBMITTED INFORMATION

4.1 Landscape and visual impact Assessment (LVIA)

While generally following the methodology within the industry standard Guidelines for Landscape and Visual Impact Assessment 3rd edition, the assessment tends to underestimate the landscape and visual impacts of the development and is inconsistent or erroneous in places. Detailed comments are noted in the sections below.

Description of development

Construction phase - the assessment fails to consider construction phase effects of the proposed development.

Operational phase - the assessment does not give a clear indication of the likely landscape and visual effects of the completed scheme or how these would change with time or seasonally and it is unclear whether the assessment of effects is based on initial conditions post-construction, at maturity of mitigation planting or some intermediate time.

Although the LVIA states the proposed access requires no substantial works, as there is no detail of the required visibility splays and access arrangements included with the application, it is not possible to verify this claim.

Landscape effects (changes to physical landscape setting)

Baseline landscape data and evaluation of value, sensitivity and capacity

- At para. 10 the assessment wrongly states that the site is defined by hedgerow on its northern side and also that there is a north south running dividing hedgerow across the site.

- At para 11 the assessment states the only trees are on the northeastern boundary. In fact there are also three mature oaks situated in hedgerow on the far southwestern corner of the site.

Identification of effects on landscape receptors

The LVIA does not consider the effects of the proposal on the AONB. While there is limited visibility to the site from the AONB, the site is very much part of the AONB setting and the local pastoral landscape character, with medium sized irregular fields bounded by Devon hedge banks extends across the A373 into the AONB beyond.

Impact of proposed development on existing settlement pattern

Para. 52 of the assessment correctly describes existing late 20thC development along the main road east of the historic core of the village as ribbon development. However, in its consideration of the impact of the proposed development on the village settlement pattern, para. 145 of the assessment notes the proposed development would not constitute piecemeal or ribbon development. This is despite the fact that the built elements of the proposal would extend along an open roadside frontage linking it with existing development further to the east.

Historically Awliscombe developed as a clustered settlement which has been extended somewhat to the south side of the main road in an easterly direction by late 20th century housing as far as the junction with Weston Lane. This marks the eastern built edge of the main village and is screened and softened by mature trees (figure 2). East of this is a swathe of countryside with views north to St Cyres Hill within the AONB and views to the south over the Wolf valley. Development of the site would effectively extend the built form of Awliscombe along the main road east of Weston Lane, closing off views to attractive countryside to the south and connecting the eastern village edge with the outlying cluster of properties beyond the eastern site boundary.

This would be contrary to guidance given in the East Devon landscape character type that covers the site (LCT 3b: Lower rolling farmed and settled slopes) to resist development that would contribute to coalescence of settlements, including ribbon development. Similar guidance is given within the Clyst Lowland Farmland Devon Landscape Character Area assessment which also covers the site area to 'Protect the sparse settlement pattern of clustered hamlets, villages and farmsteads, preventing the linear spread of development along river valleys and roads wherever possible.'

Visual effects (changes which may be seen by visual receptors - those using or passing by the site)

Baseline data on site visibility and evaluation of visual sensitivity

The photographs embedded within the assessment and included in Annexe C do not conform with guidance set out in Photography and Photomontage in Landscape and Visual Impact Assessment, Landscape Institute Advice Note 01/11 and are generally of poor quality - those included in the main report being generally too dark to be readily legible, while viewpoints 8 and 9 are taken into the light creating glare effects that obscure detail.

The photographs in Annexe C are all in wide panoramic format. While this can be useful in providing some context, the wide field of view tends to exaggerate the scale of the edges of the image at the expense of the mid view and does not accurately represent the experience of a viewer standing at the same location.

It is surprising that a photograph of a view from Buckerell (viewpoint 5) is included in Annexe C even though it has no inter-visibility with the site, while the clear view over the site from the top of Bushy Knap on Awliscombe footpath 1 (figure 1 above) is not included.

All photographs are taken in summer when trees and hedgerow are in full leaf. It is established good practice for photographs within LVIA to be taken in winter and so represent worst case scenario. The site would be noticeably more visible in winter from viewpoints 1 and 9 in particular.

Identification of effects on visual receptors

In identifying the effects on visual receptors the assessment fails to consider the impact on pedestrians using the footway adjacent to the northern site boundary. The footway is regularly used both as a link between the village and outlying properties to the east and also for recreational purposes. Along the length of the site boundary it provides very attractive panoramic views over the Wolf valley to the Bushy/ Buckerell Knap ridge and the western edge of Awliscombe (figure 2). These views will be entirely screened from the footway by buildings and associated boundary planting as a consequence of the proposed development. In addition to the loss of views from the footway there would be a distinct change in local character from open rural to semi-urban. The sensitivity of footway users should be considered high and the resulting magnitude of effect should be considered high adverse and significant for users of the path.

In considering the impact of development on users of Awliscombe footpath 1 over Bushy Knap, the assessment states the development would be visible for a distance of just 50m. My opinion is that it would be visible over a distance of some 250m. In this attractive view towards the AONB the proposal would be seen as a band of development linking the eastern edge of Awliscombe with the western edge of Hill Crest and further properties to the east that would break the attractive flow of open rural landscape between St Cyres Hill and the River Wolf (ref figure 1). As noted in the LVIA the sensitivity of path users of footpath 1 would be high, however, the magnitude of effect should be considered moderate resulting in a moderate - high adverse impact which would be significant.

In assessing the effects of development on motorists using the A373 the assessment omits to note their sensitivity to change or the significance of effect. The conclusion that the effects for this receptor group would be moderate to substantial should be considered significant.

4.2 Other reports and surveys

4.2.1 Design and Access Statement (DAS)

The DAS is inadequate containing numerous factual errors and fails to demonstrate the need for the proposals or how site context, constraints and opportunities have informed the design.

In the introduction, the statements that the site is within the village of Awliscombe and bordered by development on two sides are misleading as the site is outside the built envelope of the village and surrounded by green fields with the exception of adjoining residences in the northeast corner and on the opposite side of the A373. The site is described as flat when it is in fact sloping. The statement that the site is enclosed by Devon banks is also incorrect as the eastern and south-eastern

boundaries are presently completely open and the northern boundary is marked by a post and rail fence affording clear views over and beyond the site from the adjacent footway.

4.2.2 Tree survey, impact assessment and protection

No tree survey is submitted with the application. Should the application be approved a BS tree survey, arboricultural impact assessment and tree protection plan should be provided for existing trees and hedgerow within and adjacent to the site perimeter.

4.3 Layout and landscape details

4.3.1 Highways

As access is a reserved matter there is no indication in the submitted details of the entrance visibility splay requirements on to the main road. Visibility splay details should be submitted with the application in order to demonstrate that adequate visibility can be provided without adverse effect on roadside trees/ hedgerow.

4.3.2 Levels

Overall there is a level difference of some 12 metres between the northeast and southwest corners of the site which will entail extensive ground works particularly in respect of the proposed sports pitch. There is no indication of levels or grading works on the illustrative masterplan and it is unclear whether the necessary cut and fill slopes likely to be necessary to the northern and southern edges of the pitch could be accommodated within the available space.

5 CONCLUSIONS

The submitted Landscape and Visual Impact Assessment and Design and Access statement have a number of shortcomings as noted above. The application also lacks detailed information on the proposed site access arrangements, visibility splay requirements and levels.

It is considered that the proposal would contribute to ribbon development along the A373 linking the settled eastern edge of Awliscombe to an outlying cluster of houses to the east. This is contrary to clear guidance given for the East Devon landscape character type and Devon Landscape character areas which cover the site. The proposals are likely to give rise to significant adverse effects on local landscape character and on the setting of the Blackdown Hills AONB.

The proposals would also have significant adverse visual effects on views from the adjacent footway, A373 and from Awliscombe footpath 1 in particular.

As such the proposals are also considered to be in conflict with Local Plan Strategy 7 - Development in the Countryside and Strategy 46 - Landscape Conservation and Enhancement and AONBs, due to the harm it would cause to the existing pattern of settlement of Awliscombe and the disruption of views from a public place which form

part of the distinctive character of the area. The proposed scheme is consequently unacceptable in terms of landscape and visual impact.

DCC Flood Risk SuDS Consultation

Recommendation:

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

Observations:

The applicant have submitted Proposed Residential Development, A Shop, Land for A New Village Hall and Playing Field At Land Adjacent to Hillcrest Awliscombe Flood Risk Assessment Report.

The applicant do not provide any information of the surface water flood map. It is mentioned that there is an existing watercourse to the western boundary of the proposed development site, on the opposite side of a substantial hedge.

It is proposed to discharge the surface water runoff from the site to soakaways. Others option like rainwater harvesting, untanked permeable paving options are also mentioned.

The applicant, however, has not provided sufficient information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at the following address:

<https://www.devon.gov.uk/floodriskmanagement/planning-and-development/suds-guidance/>.

The submitted Illustrative Masterplan Drawing (Drawing No. 4050.002, Rev. C, dated May 2022) only shows the proposed layout of the dwelling and no clear drainage plan indicating all proposed components of the surface water drainage network was submitted.

Should the applicant is not intending to carry out any infiltration testing at this Outline stage, the applicant would be required to submit an alternative above ground attenuation option for consideration. The associated calculations and model outputs shall also be submitted for both infiltration and attenuation options.

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system.

The applicant must submit information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.

County Highway Authority

Observations:

I have visited the site in question and reviewed the planning documents. As the application is only outline, I will concentrate on the access concept and not the internal layout such as parking, sustainable travel provision and off-carriageway turning.

The proposed access can obtain a visibility of 43m in either direction for this 30mph speed road, this accords to our current best practice guidance, Manual for Streets 1 and 2.

This application of 20 dwellings would not trigger our requirement for a Travel Plan, which is usually around 40 dwellings, however some thought needs to be given to the bell-mouth access of dropped kerbs or cycle priority junction.

The access would also need to be wide enough to allow simultaneous access and egress for the size of the proposed development.

Recommendation:

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

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

REASON: To provide adequate visibility from and of emerging vehicles.

Police Architectural Liaison Officer - Kris Calderhead

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

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

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

o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets with accessible space to the rear of plots avoided. Plots 1-8 appear to have rear accessible space to the rear, if this is to remain, it is recommended that the space is lit and adjoining boundaries offer some surveillance for example by using 1.5m fencing with .3m trellis topping.

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

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

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

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

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

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

Rear parking courts are discouraged as they provide legitimate access to the rear of plots and are often left unlit with little surveillance, see above with regards to plots 1-8.

The community parking space should have clear rule setting with regards to usage.

o Open space / village green should be well overlooked and located so as not to cause disturbance or conflict with nearby dwellings. They should also be afforded an appropriate boundary treatment to prevent vehicle access.

o The farm shop and village hall should have windows and doors that meet with nationally recognised security standards.

Should the application progress, please don't hesitate to contact me again to review any updated plans and designs.

DCC Historic Environment Officer
Application No. 23/1276/MOUT

Land Adjacent to Hillcrest Awliscombe - Outline planning permission for residential development of 20 no. dwellings with some matters reserved including access: Historic Environment

My ref: ARCH/DM/ED/38720a

I refer to the above application. The proposed development site occupies a substantial area in a prominent position within a landscape where the Historic Environment Record shows there to be prehistoric and Romano-British activity in the wider landscape. Groundworks associated with the construction of the new residential development have the potential to expose and destroy archaeological and artefactual deposits associated with this known archaeological activity. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with an archaeological geophysical survey, followed - if required - by the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

NHS Cranbrook/Primary Care Team

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

23/1276/MOUT | Outline planning permission for residential development of 20 no. dwellings with some matters reserved including access | Land Adjacent To Hillcrest Awliscombe (eastdevon.gov.uk)

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

However, due to the nature of the planning process, please be advised that this response from NHS Devon is a snapshot of the capacity assessment at the date of this letter. Should there be any change to this position, as a result of any current planning applications that may or may not affect the capacity at Honiton Surgery being approved prior to a final decision on this particular development, then this will potentially initiate a further review on the NHS's position. Such factors could include but are not limited to:

- o Increases in the patient list size which then exceed the practices' capacity during the period between this application being validated and prior to a planning decision
- o Consideration for future 'consented or commenced' planning applications that lead to an increase in the patient list size which then exceed the existing practices' capacity during the period between this application being validated and prior to a planning decision

Therefore, at this stage, it is important to highlight the NHS reserve the right to re-assess and respond to this application at any time, as a result of any planning application(s) received and approved subsequently by the Council that will have an associated impact on the assessed GP Practice(s) linked to this application, which in turn, could have the potential to initiate an NHS contribution request in accordance to regulatory and legislative obligations.

With this in mind, whilst at this time there is no requirement for a Section 106 contribution towards NHS Primary Care from this application, as a contingency, we would recommend you take this into consideration, factoring in an estimated sum of £580 per dwelling towards NHS Primary Care to any viability assessments.

Furthermore, please note this does not reflect any operational pressures, such as workforce or patient activity levels, that might be affecting the surgery/ies and is purely based on an assessment in relation to the current premises' capacity for infrastructure only.

23/1271/FUL

DCC Historic Environment Officer

My ref: ARCH/DM/ED/38721a

I refer to the above application. The proposed development site occupies a substantial area in a prominent position within a landscape where the Historic Environment Record shows there to be prehistoric and Romano-British activity in the wider landscape. The site appears from map evidence to slope down some 5m

north-east to south-west, and the illustrative Masterplan shows a football pitch roughly aligned north to south in this area. However, there does not appear to be any information on whether the site will be levelled for the pitch or, if required, what the scope of any groundworks will be.

Should the proposed change of use to recreational area involve groundworks these will have the potential to expose and destroy archaeological and artefactual deposits associated with this known archaeological activity. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and

archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with an archaeological geophysical survey, followed - if required - by the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Ward Broadclyst

Reference 24/0226/FUL & 24/0227/LBC

Applicant Mr & Mrs Stewart

Location Town Tenement Farm Clyst Hydon Cullompton EX15 2NB

Proposal (24/0226/FUL) Demolition of lean-to structure, proposed part conversion to 1no. residential dwelling with garden and associated works, and the rebuild, repair and conservation of the existing barns.
 (24/0227/LBC) Demolition of lean-to structure and the rebuild, repair and conservation of the existing barns.



RECOMMENDATION:
24/0226/FUL
 a) **ADOPT** the Appropriate Assessment.
 b) **REFUSE** the application.
24/0227/LBC
Approval with conditions



		Committee Date: 20.08.2024
Broadclyst (Clyst Hydon)	24/0226/FUL	Target Date: 05.04.2024
Applicant:	Mr & Mrs Stewart	
Location:	Town Tenement Farm Clyst Hydon	
Proposal:	Demolition of lean-to structure, proposed part conversion to 1no. residential dwelling with garden and associated works, and the rebuild, repair and conservation of the existing barns.	

RECOMMENDATION:

- a) **ADOPT the Appropriate Assessment.**
- b) **REFUSE the application.**

EXECUTIVE SUMMARY

This application is before members today because the recommendation to refuse planning permission is contrary to the views of the Ward Member and Parish Council.

The application site is located at Town Tenement Farm within the Clyst Hydon Parish of East Devon. The site comprises of a 16th century Grade II* Listed Farmhouse which sits within a farmyard complex and includes a number of historic and modern barns and is accessed via a private driveway from the main road through Clyst Hydon.

The proposed development seeks to remove an existing lean-to, repair and restore the Linhay and Cob Range and rebuild and convert the South Barn into a three-bedroom residential dwelling. The barns are in a state of disrepair and the South Barn has partially collapsed. The application is also in conjunction with 24/0227/LBC which seeks Listed Building Consent for the works.

The principle of the physical works to the barns are supported and would enhance the barns themselves as non-designated heritage assets and the setting of the Grade II* Listed Farmhouse. The proposed works would be supported by the National Planning Policy Framework (NPPF) (2023) which sets out that great weight should be given to the asset's conservation (P. 205) and East Devon Local Plan (EDLP) Policies EN8 and EN9. The works also have support from EDDC Conservation and no objections from Historic England.

The creation of a new dwelling in this location is not fully supported by Policy D8 of the EDLP as the South Barn is not capable of conversion and the site is not located close to a range of day-to-day services. The site is located within the countryside

outside of an identified built-up area boundary and as the proposal fails to fully comply with Policy D8, there are no development plan or neighbourhood plan policies that explicitly permits the change of use to a new dwelling here. This also means that the proposal would be contrary to Strategy 7 which restricts new development in the countryside.

Furthermore, the proposed dwelling would be in a location that at present does not benefit from a range of services and facilities that would render the site a sustainable location. The substandard pedestrian and cycle linkages and lack of public transport between the site and any services and facilities would mean that future occupants of the proposed development would be dependent upon the private car for most journeys to and from the site. The proposal would therefore fail to comply with Strategy 5B and Policy TC2 of the EDLP (2016).

The proposal has been assessed in relation to amenity, ecology and climate change and is considered to be acceptable subject to conditions. Habitat Mitigation Contributions have been secured via a S111 legal agreement.

The proposed works to restore the barns and enhance the setting of the Grade II* Listed Farmhouse is given considerable weight in the planning balance however it is not clear whether these works could be independent of any new dwelling. Whilst the conversion of the South Barn into a new dwelling may be the most viable use, the physical works to the barns and creation of a new dwelling in the countryside are separate planning issues and the benefits and harm of both must be given consideration.

The EDLP and NPPF have a presumption in favour of sustainable development and new dwellings in the countryside which do not benefit from a range of services and facilities and lack of public and active transport links are not supported in principle. Whilst it is acknowledged that Policy D8 could support the reuse of buildings in the countryside, in this case, the South Barn is not capable of conversion and the site is not located close to a range of day-to-day services. Policy D8 is very clear that the building must be capable of conversion to comply with the criteria of the policy. This means that the creation of a new dwelling is not supported by the NPPF or EDLP.

Any recommendation therefore requires the consideration of the heritage benefits of the scheme against the creation of a new dwelling in the countryside and reliance on private car travel, it is recognised that the issues are finely balanced however it is the view of officers that the proposed heritage benefits would on balance fail to outweigh the harm and would not justify a departure from adopted policies.

The proposal is therefore recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council – 5 June 2024

Clyst Hydon Parish Council fully support this planning application as documented in council meeting minutes dated 6th March 2024

Broadclyst - Cllr Eleanor Rylance – 2 July 2024

I'd like to comment on this application, despite the comments window having passed for councillors. I have received a call from the applicant, who has talked me through their project for the barn. I know that over the years this barn has considerably deteriorated. I also understand that the only reason this application was submitted as an LBC application, not a PDQ, was that it is within sight of a listed building, namely the house to which it currently relates. I have been told however that this proposal would sever the connection between the two buildings. In fact, the building in its current state is within the curtilage of the listed building and must surely be adding nothing whatsoever to the assembly of buildings as it is now in extremely poor condition.

It seems unlikely that it will ever be renovated as a barn- it is of a very dated design and appears unsuitable for most modern farming purposes (unlike a modular modern type barn, which can be dismantled and reassembled elsewhere, or removed entirely). I suggest that the next best use for this particular is for is to be repurposed- this proposal would go some way to achieve that, although every passing month of bad weather leaves it ever more degraded and precarious. If the only solution on offer to this deterioration is to transform it into a house, then I agree with the conservation team and would support the application.

Technical Consultations

Environmental Health – 13 February 2024

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

Conservation – 4 April 2024

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The submitted Heritage Statement provides a very detailed assessment of the barns the subject of this application. The barns are in poor condition and appear to have deteriorated considerably since the visits by Historic England & EDDC in 2014 & 2016 with notable changes even between June & September last year. It is worth noting that concerns for the deterioration of the barns requiring 'urgent and significant repair work' was raised in April 2016 by the Conservation Officer at that time. In addition, whether the works would result in the loss of further historic fabric and without substantial reconstruction.

A Structural survey has been submitted to accompany this application undertaken in August 2023 by Simon Bastone Associates Ltd. This is a detailed assessment including Mark-up Drawings giving an outline scheme of the structural repairs and rebuilding of walls for the south barn and the north barn.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

Generally the best way of securing the upkeep of historic buildings and areas is to keep them in active use. For the great majority this must mean economically viable uses if they are to survive, and new, and even continuing, uses will often necessitate some degree of adaptation. The range and acceptability of possible uses must therefore usually be a major consideration when the future of a designated or non-designated heritage asset is in question.

The best use will very often be the use for which the building was originally designed, and the continuation or reinstatement of that use should certainly be the first option when the future of a building is considered. It is appreciated that not all original uses will now be viable or even necessarily appropriate. However, here maybe other use more appropriate than residential accommodation and consideration given to these first, even if eventually discounted.

The proposed works relate to the conversion of the southern end of the complex to create a two-storey separate dwelling and the repair of the lincay and cob range for storage. It is noted that the new dwelling is to be separated from the farmhouse, but that the lean-to, lincay and stable range will remain with the farmhouse.

It is understood that Historic England provided pre-application advice on this scheme last year and were broadly supportive of the works. In their comments, they have already requested the following 'a detailed specification needs to be provided for the repairs as well as structural works. Furthermore, in order secure these benefits consideration, the council may want to give further consideration to the phasing and occupation of the site to ensure that the repairs are secured as part of the wider conversion'.

There is no objection in principle to the proposed works and detailed comments from the Conservation Team are set out below:

Record Photographs: taken in April 2023. Considerable deterioration has now occurred, with further collapse, particularly at the southern end. It is noted that the photographs will form the basis of any re-build construction;

Site Plan: this clearly shows the existing buildings to be retained and their context, the proposed new dwelling, including the addition of the engine shed and boot room to the south, the demolitions and the repair of the lincay and cob range and lean-to at the northern end. It is also noted that a garden area for the dwelling is to be created to the south of the barn and this should be conditioned to ensure that any surfacing/boundary treatment is appropriate to the rural and heritage setting;

Ground floor: the lean-to, lincay and cob range are to be retained and repaired as tack room, open storage, and stable. This is welcomed, but full details of the repairs will be required as suggested by Historic England, see above. The part brick/part cob barn to the south is in extremely poor condition with the loss of much of the walls and the roof. It is to be 'converted/reconstructed' to form a separate 3no. bedroom dwelling with the addition of an engine shed and boot room lean-to based on historical evidence (mapping & photographic) to a similar footprint. This element is not entirely convincing in terms of its complete reconstruction and overall 'glazed' appearance, but given the loss of historic fabric and the intention to retain what remains is accepted;

First Floor: as ground floor with slate roof to engine shed, lead to flat roof of boot room and slate to the lean-to. The latter subject to repairs and structural assessment;

Roof plan: it is noted that all roof trusses and purlins are to be retained and repaired as required, subject to structural assessment. Roofs to be mainly natural slate and conservation rooflights to face south away from the Grade II* listed building;

West elevation: this utilises existing openings within the lean-to and linhay/cob range and an original first floor opening in the brick barn. A further new ground floor opening is to be installed in the brick barn to provide light and ventilation to Bedroom 3;

East elevation: this again utilises existing openings within the lean-to and linhay/cob range. The brick barn is largely to be re-built with the new engine room. A new flue is to be located in the engine house roof.

North elevation: agricultural appearance to courtyard retained and repaired utilising the existing opening into brick barn as new entrance door to dwelling;

South elevations: the main changes to the barn are on the south side away from the farmhouse. The structure will need to be re-built using photographic evidence and salvaged materials wherever possible.

Sections: no specific comments.

Structural survey: see above, but a more detailed Schedule of repairs including specifications, engineers drawings will be required by condition to fully clarify the works;

Conclusion: the overall scheme appears to be inline with guidance and advice received from Historic England and will ensure the proper care and repair of the linhay/cob range, subject to submitted details of the works. There is some concern relating to the poor and deteriorating condition of the barns, noted previously 8-10 years ago. Part of the building is certainly not capable of repair and now requires taking down and re-building. However, this should be mindful of para 202 of the NPPF23. Whilst this is not necessarily deliberate (see D & A), little appears to have been done to protect the buildings, although it is noted in the Heritage Statement para 4.19 and seen on site that some temporary works have been installed to prevent further collapse. In view of the current situation and the condition of the buildings, it is felt that more needs to be done immediately to protect the historic fabric and to store and protect any salvageable materials for re-use in the project.

There is certainly heritage gain in terms of the listed building and its setting (in line with para 212 NPPF23). It is appreciated that the barns would be repaired and renovated and that the present farmhouse is currently in use. However, there is an expectation that the part to provide a new dwelling should not overtake the need to repair and renovate the cob range which holds considerable value in their own right as well as contributing to the significance of the house as part of the associated complex.

This needs further discussion to ascertain the effectiveness of the phasing of works and conditions. There are certainly heritage benefits in the repair and use of the barns and securing their future. However, there is considerable concern relating to how this is

managed effectively, and further discussion and consideration needs to be given to how this can be achieved.

PROVISIONAL RECOMMENDATION - PROPOSAL
ACCEPTABLE in principle, subject to conditions.

Natural England – 21 February 2024

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

Natural England notes that the Habitats Regulations Assessment (HRA) has not been provided with the application. As competent authority, and before deciding to give permission for the project which is likely to have a significant effect on a European Protected Site, you must carry out a HRA and adhere to its conclusions.

For all future applications within the zone of influence identified by your authority, please only consult Natural England once the HRA has been produced.

Natural England – 17 July 2024

DESIGNATED SITES [EUROPEAN] – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

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

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development. This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

EDDC District Ecologist – 11 March 2024

The application is supported by an Ecological Appraisal (Bats and Birds) including one bat emergence survey and one dawn re-entry survey, undertaken in the most recent optimal survey period, and supported by night vision aids. The surveys determined the buildings are used by common pipistrelle, serotine, and long-eared bats as a day roost. The buildings are also used by nesting birds. A European Protected Species Licence (EPSL) will be required for the works.

The report (section 2.3) indicates that bat droppings were collected for DNA analysis, but section 4.1.1 indicates that DNA analysis of bat droppings is required to determine the species of long-eared bat present. No ecological mitigation is proposed in section 4.1.2 for bird mitigation, although suitable measures are proposed in Table 4.1 including the provision of five bird nest boxes and swallow nesting provision. The open-fronted linhay is likely to provide suitable nesting provision for swallows once re-roofed. The other bird nesting provision should consist of integrated bird bricks within the buildings, rather than timber bird boxes on trees.

Recommendations are made to provide two bat voids for long-eared bat species (section 4.1.1). The report indicated these voids should be 0.5 m deep to the ridge. Ideally, replacement bat lofts should be 5 m x 5 m x 2.8 m (loft floor to ridge), with a minimum ridge void no smaller than 2 m. There would be sufficient area/height for a bat void/loft above the linhay/cob range and any loft would need to have a suitable roofing membrane, as stated within the report.

The site lies within 10km of East Devon Pebblebed Heaths SPA. A Habitat Mitigation contribution, as set out on the EDDC website, would be required to off-set potential impacts from the works on the designated site.

If minded for approval, conditions are recommended:

Historic England – 2 April 2024

Town Tenement Farmhouse is a multi-phased Devon farmhouse, which originated as a three-room cross passage with an open hall, before a chimney was introduced and the hall was floored over by the 17th century. Built from cob, the building retains a number of important surviving features including a plank and muntin screen which helps to articulate the evolution of a moderate status vernacular property.

Due to its more than special architectural and historic interest, the house has been listed at grade II* and forms the top 8% of all listed buildings in England.

The application relates to the range of ancillary cob outbuildings. These form an L shape plan to the west of the courtyard and are a component piece in respect of the setting of the main house. The barn has evolved over various phases but of greatest value is the cob range which includes the linhay and is evident on the tithe map (circa 1841).

The linhay and barn were robustly built and of a solid traditional construction. Linhays began to appear from the 17th century onwards. Due to the shared materiality with the main house and its overall quality of construction, the range is likely to be of some age. Therefore, the cob range holds considerable value in their own right as well as contributing to the significance of the house as part of the associated complex.

The proposed works relate to the conversion of the southern end of the complex and the repair of the linhay and cob range.

Historic England provided pre-application advice in respect of the proposals. The information presented in terms of the conversion is in line with that earlier advice and we have no further comment to make.

In respect of the restoration of the Linhay and Cob Barn, these works offer an exciting opportunity to secure the repair of these important structures. We consider that a detailed specification needs to be provided for the repairs as well as structural works. Furthermore, in order secure these benefits consideration, the council may want to give further consideration to the phasing and occupation of the site to ensure that the repairs are secured as part of the wider conversion.

Recommendation

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 37 (Community Safety)

Strategy 38 (Sustainable Design and Construction)

Strategy 47 (Nature Conservation and Geology)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D8 (Re-use of Rural Buildings Outside of Settlements)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

EN14 (Control of Pollution)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

OFFICER REPORT

SITE LOCATION

The application site is located at Town Tenement Farm within the Clyst Hydon Parish of East Devon. The site comprises of a 16th century farmhouse which sits within a farmyard complex and includes a number of historic barns including an 'L' shaped barn to the south of the house. The site also includes a number of extensions to existing buildings and barns and more modern barns and is accessed via a long private driveway from the main road through the village of Clyst Hydon.

The main farmhouse is Grade II* Listed and is not located within a Conservation Area. There are no TPO protected trees on or around the site.

The surrounding area is rural and includes the village of Clyst Hydon including a primary school as well as a number of farms and/or employment uses.

PLANNING HISTORY

The site has the following planning history:

- o 87/P1891 | Roadside Sign | APPROVED (05.01.1988)
- o 89/P1522 | Stock Building | APPROVED (11.08.1989)
- o 92/P1468 | Timber Frame Agricultural Building | APPROVD (19.10.1992)
- o 01/H0029 | Remove Existing Render & Replace | CLOSED (01.01.2005)
- o 03/P1165 | Replace 'Tunnerised' Slate Roof With New Slate.remove Chimney And Fit Skylight | APPROVED (20.10.2003)
- o 14/2103/FUL | Construction of single storey extension to north elevation | APPROVED (24.12.2014)
- o 14/2104/LBC | Replacement windows and doors; internal alterations, construction of single storey extension to north elevation | APPROVED (24.12.2014)
- o 18/1216/LBC | Extension of rear (north) elevation; replace 1 no. skylight and install 1 no. new skylight on existing rear (north) elevation; rebuild staircase; various internal works to include removal of partition walls and construction of partition walls and to include new door openings; create 3 no. new window openings in plant room side (east) elevation; create 1 no. new window opening in rear elevation; replace and re-configure 3 no. windows on rear elevation and replace 8 no. windows on front (south) elevation; insert 2 no. double garage doors on front elevation; re-render all elevations | APPROVED (11.09.2018)
- o 20/1207/FUL | Construction of an all-weather equestrian exercise arena for private use | APPROVED (11.09.2020)

APPLICATION

The application seeks planning permission for the demolition of lean-to structure, proposed part conversion to 1no. 3-bedroom residential dwelling and associated works, and the rebuild, repair and conservation of the existing barns. The proposed works relate to the L shaped barn to the south of the farmhouse and no works are proposed to the farmhouse. The proposal would also include two extensions to the South Barn - the engine shed and boot room as well as the creation of a private amenity garden with new fences and gates, air source heat pump, bin and bike storage and car parking. Please see the application form and submitted plans for further information.

The application is in conjunction with 24/0227/LBC which seeks listed building consent for internal and external works to the barns.

NEIGHBOUR CONSULTATION

No responses from neighbouring properties were received.

ASSESSMENT

A) THE PRINCIPLE OF DEVELOPMENT

Strategy 1 (Spatial Strategy for Development in East Devon) of the adopted East Devon Local Plan (EDLP) (2016) sets out the planned provision (including existing commitments) will be made in East Devon for: 1. A minimum of 17,100 new homes in the 2013 to 2031 period; and 2. Development on around 150 hectares of land for employment purposes. The overall spatial development approach is as set out below: 1. East Devon's West End will accommodate significant residential development and major employment development to attract strategic inward investment along with supporting infrastructure and community facilities. 2. The seven main towns of East Devon will form focal points for development to serve their own needs and the needs of surrounding rural areas. 3. The Local Plan will set out how development in smaller towns, villages and rural areas will be geared to meeting local needs.

Strategy 7 (Development in the Countryside) of the adopted EDLP (2016) states that 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.

Policy D8 (Re-use of Rural Buildings Outside of Settlements) of the adopted EDLP (2016) states that the re-use or conversion of buildings in the countryside outside of Built-up Area Boundaries will be permitted where:

1. The new use is sympathetic to, and will enhance the rural setting and character of the building and surrounding area and is in a location which will not substantively add to the need to travel by car or lead to a dispersal of activity or uses on such a scale as to prejudice village vitality.
2. The building is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and any alterations protect or enhance the character of the building and its setting;
3. The form, bulk and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials;
4. The proposed use would not harm the countryside by way of traffic, parking, storage, pollution or the erection of associated structures;

5. The proposal will not undermine the viability of an existing agricultural enterprise or require replacement buildings to fulfil a similar function.

Policy D8 (Re-use of Rural Buildings Outside of Settlements) of the adopted EDLP (2016) also states that for residential proposals it must be established that: a) the building is no longer required for agricultural use or diversification purposes; and b) that its conversion will enhance its setting - e.g. through removal of modern extensions and materials, outside storage, landscaping etc. c) Development is located close to a range of accessible services and facilities to meet the everyday needs of residents.

The application seeks approval for the demolition of a lean-to structure, repair and restoration to a number of barns and the re-build and conversion of the South Barn to a residential dwelling. The demolition and repair works to the Linhay and Cob Range would not seek to amend the use of these barns and therefore no concerns are raised in principle. The conversion of the South Barn would result in a change of use and therefore consideration must be given to whether the change to a dwelling would be suitable in land use terms.

The application site is located outside of any Built-Up Area Boundary (BUAB) and is therefore located within the countryside. Strategy 7 of the EDLP sets out that development in the countryside is resisted except where it is explicitly supported by a specific Local or Neighbourhood Plan policies and where that development would not harm the distinctive landscape, amenity, and environmental qualities of the area in which it is located. Strategy 1 of the Local Plan sets out the scale and distribution of residential development in the district for the period 2013-2031 with the main focus is on the 'West End' and the seven main towns. Development in the smaller towns, villages and other rural areas is geared to meet local needs and represents a much smaller proportion of the planned housing development. The Local Plan does not allocate any housing for the parish of Clyst Hydon. Additionally, at the time of determination, Clyst Hydon has not adopted a Neighbourhood Plan.

Policy D8 (Re-use of redundant rural buildings) of the EDLP could potentially offer support for such development and sets out that re-use or conversion of buildings in the countryside outside of BUAB will be permitted, subject to a number of criteria. The policy sets out amongst other things that the new use will be sympathetic to the setting, is in a location which will not substantively add to the need to travel by car, the building is structurally sound and capable of conversion, the design is in keeping with its surroundings and the proposal would not undermine the viability of an existing agricultural enterprise. The proposed design and materials shall be discussed later in the report however these are considered to be acceptable. Given the current condition of the barns, they are not currently in active use and the proposal would seek to bring a number of them back into a more active use therefore the proposal is not considered to undermine the viability of the farm or require replacement buildings.

The conversion of the South Barn into a new dwelling has raised concerns with Officers as to whether the use is the most appropriate use. The barn was traditionally used as part of the farm and the most appropriate use would be similar to the previous uses such as agricultural or storage. Policy D8 (1) sets out that the new use should be sympathetic to and will enhance the rural setting and character of the building and surrounding area. The proposed re-building of the South Barn has heritage benefits and would enhance the setting

of the Grade II* Listed Farmhouse and is therefore supported. The applicant submitted information assessing various alternative uses for the South Barn including Class E, Class B2/B8, Class F1/ F2, Sui Generis and Residential Uses. The size, scale and location of the Barn and availability of car parking meant that it would not have been entirely appropriate for commercial, industrial, or educational uses and concluded that residential uses were the most viable. The applicant also indicated that due to the size of the barn and proposed openings, the barns have outlived their usefulness for agricultural purposes. The Local Planning Authority (LPA) has questioned whether the works to the barns could be completed independently to the conversion to a dwelling or whether the works are enabling works however responses from the applicant have not given a clear response. In any case, Historic England and EDDC Conservation do not object to the change of use to a dwelling however the conversion to a new dwelling should not overtake the need to repair and renovate the cob range and the phasing of works shall be controlled via a condition. Therefore, it is considered that whilst the physical works to the Barn would enhance the setting, the change of use to a dwelling is not considered to harm or enhance the setting or character of the area.

As already established, the site is located outside of a BUAB and is located in the countryside. The proposal would be located approximately 500m from a Bus Stop (weekly service from Exeter to Awliscombe), 500m from Clyst Hydon Primary School and 750m from The Five Bells Inn (currently closed). There are no convenience stores, doctor's surgeries or train stations within walking or cycling distance from the site. The site's location and distances to services is likely to result in the use of private car travel for day to day needs especially when there are no pedestrian pavements or streetlights between the site and existing services in the local area which would further deter walking and cycling. The proposal is therefore not considered to have support from Policy D8 (1).

As set out in the Heritage Statement submitted as part of the application, the South Barn has partially collapsed and is not capable of conversion. The policy is clear that re-use or conversion of buildings in the countryside will only be permitted where the building is structurally sound and capable of conversion. As the proposal would require substantial works to form a new dwelling, the proposal would not have support from Policy D8 (2).

Policy D8 also sets out that for residential proposals it must be established that: a) the building is no longer required for agricultural use or diversification purposes; and b) that its conversion will enhance its setting - e.g. through removal of modern extensions and materials, outside storage, landscaping etc. c) Development is located close to a range of accessible services and facilities to meet the everyday needs of residents. As noted above, the current barns are not in use and works would restore a number of barns into use by the main farmhouse. The proposed works to the barns would help to enhance the setting of the farm and Grade II* Listed Building and removal of the modern lean-to would be of benefit. The use of the barn as a dwelling would neither harm or enhance the setting of the listed building but the proposal is not considered to meet the needs of future residents due to the location of the proposal in the countryside and poor pedestrian and cycling opportunities. The proposal therefore would not be fully supported by Policy D8 here.

Strategy 7 of the EDLP sets out that development in the countryside is resisted except where it is explicitly supported by a specific Local or Neighbourhood Plan. The proposal subject to criteria could have support from Policy D8 however as set out above, the proposal does not comply with a number of the criteria such as its location and need to

travel by car and as the South Barn is not structurally sound and capable of conversion. The proposal therefore would be in conflict with Strategy 7 and Policy D8 when read as a whole.

In relation to public benefits, the proposed conversion into a new dwelling would contribute a dwelling to the district's housing stock and would be liable for Council Tax and Community Infrastructure Levy contributions. The proposed works would also restore the barns and enhance the setting of the Grade II* Listed Building which should be given considerable weight in the planning balance. The proposal would result in economic benefits associated with the construction and internal works. However as noted above, it is not clear whether the works could be completed independently of a new dwelling.

In summary, the proposed works to the barns are supported in principle and would enhance the setting of a Grade II* Listed Building and non-designated heritage asset. However, the proposal would result in a residential dwelling located in the countryside which would lead to an increase in private car travel. The proposal would fail to comply with the sustainability objectives of the Local Plan and NPPF which sets out that new development should be located close to a range of accessible services and facilities to meet the everyday needs of residents. The proposal would not be fully supported by Policy D8 and therefore would fail to have support from Strategy 7 of the EDLP which restricts development in the countryside. The proposed public benefits would on balance fail to outweigh the harm and therefore the proposal is not supported in land use terms.

B) DESIGN, SCALE AND LAYOUT AND IMPACT ON THE SPECIAL ARCHITECTURAL OR HISTORIC INTEREST OF THE GRADE II* LISTED BUILDING

Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) (December 2023) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Development should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and development that is not well designed should be refused.

Section 16 (Conserving and Enhancing the Historic Environment) of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

The Authority is required under Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, is to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is therefore considered that the proposed work will preserve the character and historic fabric of the listed building and duly recommended for consent subject to conditions.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The case of R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin) ("Forge Field") has made it clear where there is harm to a listed building or a conservation area the decision maker "must give that harm considerable importance and weight."

Strategy 49 (The Historic Environment) of the adopted EDLP (2016) states that the physical and cultural heritage of the district, including archaeological assets and historic landscape character, will be conserved and enhanced and the contribution that historic places make to the economic and social well-being of the population will be recognised, evaluated and promoted. We will work with our partners and local communities to produce or update conservation area appraisals and conservation area management plans.

Policy D1 (Design and Local Distinctiveness) of the adopted EDLP (2016) states that in order to ensure that new development, including the refurbishment of existing buildings to include renewable energy, is of a high quality design and locally distinctive, a formal Design and Access Statement should accompany applications setting out the design principles to be adopted should accompany proposals for new development.

Policy D2 (Landscape Requirement) of the adopted EDLP (2016) states that landscape schemes should meet all of the following criteria:

- a) Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
- b) Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
- c) Measures to ensure safe and convenient public access for all should be incorporated.
- d) Measures to ensure routine maintenance and long term management should be included.
- e) Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
- f) The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

Policy EN8 (Significance of Heritage Assets and their Setting) of the adopted EDLP (2016) states that when considering development proposals the significance of any heritage assets and their settings, should first be established by the applicant through a proportionate but systematic assessment following East Devon District Council guidance notes for

'Assessment of Significance' (and the English Heritage guidance "The Setting Of Heritage Assets"), or any replacement guidance, sufficient to understand the potential impact of the proposal on the significance of the asset. This policy applies to both designated and non-designated heritage assets, including any identified on the East Devon local list.

Policy EN9 (Development Affecting a Designated Heritage Asset) of the adopted EDLP (2016) states that the Council will not grant permission for developments involving substantial harm or total loss of significance of a designated heritage asset unless it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site.
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.
- c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible.
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance should be wholly exceptional. Where total or partial loss of a heritage asset is to be permitted the Council may require that:

- e) A scheme for the phased demolition and redevelopment of the site providing for its management and treatment in the interim is submitted to and approved by the Council. A copy of a signed contract for the construction work must be deposited with the local planning authority before demolition commences.
- f) Where practicable the heritage asset is dismantled and rebuilt or removed to a site previously approved.
- g) Important features of the heritage asset are salvaged and re-used.
- h) There is an opportunity for the appearance, plan and particular features of the heritage asset to be measured and recorded.
- i) Provision is made for archaeological investigation by qualified persons and excavation of the site where appropriate.

Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use. Favourable consideration will be given for new development within the setting of heritage assets that enhance or better reveal the significance of the asset, subject to compliance with other development plan policies and material considerations.

The application site comprises of a Grade II* Listed Farmhouse as well as the farmyard complex which includes a L shaped barn (Linhay and Cob Range) and a number of outbuildings. The works proposed related to the L shaped barn and there are no works proposed for the farmhouse or other outbuildings. The L shaped barn is home to the South Barn, Linhay, Stable, Open Store and Tack Room.

The L shaped barn sits to the south of the farmhouse with an open courtyard separating the two and the main farm access leads from the main road into this courtyard. The Linhay and Cob Range are evident on the tithe map (circa 1841) and are considered to be of the greatest value of range of outbuildings associated with Town Tenement Farmhouse. These

barns are of a locally distinctive character in their form, function, construction methods and use of materials and are a component piece in respect of the setting of the main house. Whilst the L shaped barn is not listed itself, given its age, former uses, location and relationship with the main farmhouse, they are considered to be curtilage listed in line with Historic England Advice Note 10 (Section 2.2). It is acknowledged that the Heritage Statement concludes that the barns would not be curtilage listed however given that a separate Listed Building Consent has been applied for, the LPA is of the view that they are curtilage listed. Furthermore, in any case, given the age of the barns and relationship with the main farmhouse they would also be considered as non-designated heritage assets.

The barns which are the subject of this application are in a poor condition especially the South Barn which is in an extremely poor state of repair and large sections have collapsed including the roof. The barns have been subject to a number of alterations which have negatively impacted them such as the loss of the engine house, loss of internal features, modern lean-to as well as the general poor condition. The lean-to which is north of the barns has also partially collapsed.

The proposed development seeks to demolish an existing modern lean-to structure to the east of the Linhay and to repair and restore the Linhay and Cob Range. A lean-to structure to the north of the range would also be repaired and restored. The proposal also seeks to re-build and convert the South Barn into a two storey, 3-bedroom residential dwelling. The proposal would also include two extensions to the South Barn - the engine shed and boot room as well as the creation of a private amenity garden with new fences and gates, air source heat pump, bin and bike storage. It is considered that details of boundary treatments, gates and fences could be secured via a condition to ensure they reflect the local character.

The removal of the modern lean-to structure is considered to be positive as well as the repair and restoration of the Linhay and Cob Range which would remain with the farmhouse. The works would include the replacement of rotten posts, new natural slate roof, new lime rendered walls, new timber windows and doors, replacement cladding and new timber boarding to replace the existing opening in the stable. The proposals would keep these barns in a more active use which is important for their up-keep. The proposal would also involve repairing and restoring an existing lean-to to the north of the L shaped barn (also known as The Extension) including new rendered block work, new slate roof and new windows and doors. The proposed works are considered to preserve and enhance the range of historic barns and which would better reveal their significance and will enhance the setting of the Grade II* Listed farmhouse.

The South Barn as noted above, has collapsed and is in need of works to restore it. The proposal would include the re-building of the barn as well as the addition of an engine shed and boot room lean-to. The re-building of the barn would be very similar to the original barn in terms of its form and surviving sections of cob would be reinstated. The roof would be reconstructed with natural slate tiles with a number of conservation roof lights on the southern elevation. The proposed boot room would be approximately 2m in width, 2m in depth and 2.34m in height and would be finished in aluminium glazed panels, timber boarding and timber door with a lead flat roof. The proposed engine shed would be approximately 5.4m in width, 5m in depth and 5.1m in total height and would be finished in render with a natural slate roof. The proposed engine shed would be in part a replacement of the engine wheelhouse which previously existed on the farm and is evident of the tithe

map (circa 1841). The engine wheelhouse would be finished glazing which is not traditional for these buildings and concerns were raised by EDDC Conservation regarding the complete reconstruction and overall 'glazed' appearance however given the loss of historic fabric and the intention to retain what remains, the proposal would be acceptable. This glazed appearance is not considered to result in any material harm to the asset and in any case, would be outweighed by the conservation of the barns. The proposed extensions would be considered an appropriate scale and design in this instance.

The proposal would also include landscaping within the private amenity space to the south of the proposed dwelling. At present, limited information has been provided however details of hard and soft landscaping could be secured via a condition.

The application was reviewed by Historic England who stated that they provided pre-application advice in respect of the proposals and the information presented in terms of the conversion is in line with that earlier advice. In respect of the restoration of the Linhay and Cob Barn, these works offer an exciting opportunity to secure the repair of these important structures.

The application was also reviewed by EDDC Conservation who stated that the barns are in poor condition and appear to have deteriorated considerably since the visits by Historic England & EDDC in 2014 & 2016 with notable changes even between June & September last year. The proposed works appears to be in line with guidance and advice received from Historic England and will ensure the proper care and repair of the linhay/cob range, subject to submitted details and phasing of the works. EDDC Conservation concluded that there is certainly heritage gain in terms of the listed building and its setting from the proposed works.

In summary, the proposed works are considered to be appropriate and would help to restore the existing barns. The proposed works would help to enhance the setting of the Grade II* Listed Farmhouse which is given considerable weight. The proposal is considered to be in line Section 16 of the NPPF and Policies D1, D2, EN8 and EN9 of the EDLP.

C) THE AMENITY OF NEIGHBOURING PROPERTIES/USERS

Section 12 (Achieving Well-Designed Places) of the NPPF (Dec 2023) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for existing users.

Policy D1 (Design and Local Distinctiveness) of the adopted EDLP (2016) states that proposals will only be permitted where they do not adversely affect the amenity of occupiers of adjoining residential properties.

Policy EN14 (Control of Pollution) of the adopted EDLP (2016) states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including. smell, fumes, dust, grit, smoke and soot.
2. Pollution of surface or underground waters including:
 - a) Rivers, other watercourses, water bodies and wetlands.
 - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas.
 - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in

areas of open countryside and areas of nature conservation value. 5. Fly nuisance. 6. Pollution of sites of wildlife value, especially European designated sites or species. 7. Odour

The development would be located between 10m and 30m to existing Farmhouse. The development closest to the Farmhouse would involve repairing and restoring the existing barns and the proposed works would not involve any change to the height, width or depth to the barns and any external material changes are considered to result in any harm to the existing Farmhouse. The removal of the lean-to structure adjacent to the Linhay would not result in any harm. The Linhay and Cob range would remain in use by the Farmhouse and the use of these barns would be ancillary to the Farmhouse.

The South Barn would be located approximately 30m from the existing Farmhouse and the rebuilding of the South Barn is not considered to result in any harm to the Farmhouse in terms of overbearing or overshadowing impacts and the proposal and form would be similar to previous barn. The proposed extensions to the barn would be to the south and therefore would be screened by the South Barn itself. The South Barn would include a rear or north facing door with glazed panel which would be towards the Farmhouse however this would serve the hallway and not a habitable room and would be partially screened by other barns. The proposal would include windows and/or door which face to the east, south and west however these would face an adjacent barn, the courtyard and to towards the private amenity space. The proposal would not result in outlook towards the Farmhouse or its private amenity space however it is acknowledged that the South Barn would be within the farm complex and therefore views towards the farm, courtyard and outbuildings would be achieved. The proposal is not considered to result in any significant harm to the Farmhouse in relation to overbearing, overshadowing, or overlooking impacts.

The proposal would be located between 71m to 112m from Whimbrel, The Twinnies, Frogspool and Ennore, approximately 94m from Blampins Farm and 155m from Osmonds Cottage. These neighbouring properties would all be to the north of the barns and new dwelling and given the separation distance, location of outbuildings and existing landscaping, the proposal is not considered to result in harm to these neighbouring properties in relation to overbearing, overshadowing, or overlooking impacts.

The proposal would result in the change of use of the South Barn to a new dwelling. The proposal would generate some additional noise and disturbance compared to the existing barn however the proposal would be located approximately 30m from the Farmhouse and any noise or disturbance is unlikely to be harmful given the proposed use.

Overall, the proposal is acceptable in this instance and subject to conditions, the proposal would comply with Policy D1 of the East Devon Local Plan (2016).

D) THE AMENITY OF FUTURE OCCUPIERS/USERS

Section 12 (Achieving Well-Designed Places) of the NPPF outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for future users.

Strategy 37 (Community Safety) of the adopted EDLP (2016) states that through the East and Mid Devon Community Safety Partnership the Council will work to reduce crime and

the fear of crime in the District. The Council will encourage new development that has been designed to minimise potential for criminal activity and incorporates the principles of 'Secured by Design' and will support development proposals aimed specifically at improving community safety.

Policy D1 (Design and Local Distinctiveness) of the adopted EDLP (2016) states that proposals will only be permitted where they do not adversely affect the amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; these considerations can be especially important in respect of proposals for conversions into flats.

The proposed dwelling would measure approximately 137m² internally and bedroom sizes would be between 13.5m² and 9.7m². The overall internal floor space would comply with the Nationally Described Space Standard for a three-bedroom, five-person, two storey dwelling (93m²). The proposed bedroom sizes would also be sufficient, and storage would exceed the standard. The internal floor to ceiling height would also be acceptable.

The proposal would include windows to serve all habitable rooms which would offer sunlight/daylight throughout the day and the dwelling would benefit from private amenity space to the south of the barn. As the barn and amenity space would be located within the farm complex and adjacent to access ways, it is recognised that glimpses into the amenity space and dwelling may be achieved from surrounding areas however these are likely to be passing views and landscaping and trees are proposed within the private amenity area to help screen views and protect the privacy of future occupiers.

The proposed development is overall considered to protect the interests of future occupiers in accordance with Policy D1.

E) TRANSPORT, ACCESS, MOVEMENT AND WASTE

Strategy 5B (Sustainable Transport) of the adopted EDLP (2016) states that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

Policy TC2 (Accessibility of New Development) of the adopted EDLP (2016) states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car. Where proposals are likely to attract large numbers of visitors they must be accessible by public transport available to all sectors of the community. Development involving the creation of public open space, car parking area, highways and other areas to which the public have access, must provide adequate provision for persons with reduced mobility.

Policy TC4 (Footpaths, Bridleways and Cycleways) of the adopted EDLP (2016) states that development proposals will be required to include measures to provide, improve and extend facilities for pedestrians and cyclists commensurate with the scale of the proposal. Footways and routes for pedestrians and cyclists within and through new development

schemes will be encouraged. These measures may include both shared and exclusive surfaces to provide safe, convenient and attractive routes, and must be designed to take account of the needs of persons with restricted mobility. Wherever possible the opportunity should be taken to join, upgrade and extend existing or proposed networks. Development which would result in the loss, or reduce the convenience or attractiveness of an existing or proposed footpath, cycleway or bridleway, will not be permitted unless an acceptable alternative route is provided.

Policy TC7 (Adequacy of Road Network and Site Access) of the adopted EDLP (2016) states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network. Where new development requires off-site highway improvements any planning permission granted will be subject to a planning obligation requiring these works to be carried out either by the developer, or through an agreement with the Highway Authority to ensure that: 1. The required highway improvements are included in, and, will be constructed as an integral part of the development or are part of a programmed improvement scheme to be undertaken by the Highway Authority. In the case of programmed schemes the planning permission will be subject to a condition delaying its implementation until the highway improvements have been carried out, unless otherwise agreed by the Highway Authority. 2. The applicant is in a position to secure the implementation of the required highway improvements.

Policy TC9 (Parking Provision in New Development) of the adopted EDLP (2016) states that spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home. In town centres where there is access to public car parks and/or on-street parking lower levels of parking and in exceptional cases where there are also very good public transport links, car parking spaces may not be deemed necessary. All small scale and large scale major developments should include charging points for electric cars.

The application site is located outside of the built-up area boundary and is located within the countryside. The proposal would be located approximately 500m from a Bus Stop, 500m from Clyst Hydon Primary School and 750m from The Five Bells Inn.

The site itself would be accessed via the existing private drive to the farm complex. The private drive measures approximately 140m, is a shared surface and does not include any street lighting. The main road through the village of Clyst Hydon does not have any dedicated pedestrian or cycling pavements and does not include street lighting. The lack of pavements and streetlights and means that future residents are likely to favour travel by private car over sustainable modes of transport. It is acknowledged that the site is within 500m of a bus stop however the lack of walking/cycling infrastructure and very limited bus service means that the use of the bus is unlikely to be convenient for future users. As previously noted, there are limited day to day services in the local area which would mean that future residents are reliant on the private car for services, employment, healthcare and other needs. The proposal would therefore fail to comply with Strategy 5B which states that development proposals should contribute to sustainable modes of transport and Policy TC2 which seeks to minimise the need to travel by car.

In terms of vehicle access, the entrance and private drive is existing and the proposal is not considered to result in any harmful increases in traffic movements in this instance. The proposal would include two dedicated car parking spaces within the open courtyard which would be suitable given the number of bedrooms proposed. It is expected that an EV charging point would be provided for the new dwelling and details can be secured via a condition. If an approval was forthcoming, it would be necessary to condition that the use of the new dwelling remains as Use Class C3 unless agreed with the Local Planning Authority. The use of the South Barn for other uses such as commercial or for holiday accommodation could lead to increases in traffic movements could negatively impact the amenity of neighbouring properties and would lead to additional trips within the local area.

The proposal would include three cycle parking spaces within the modern timber barn. Whilst the level of cycle parking is supported, the location is not accessible, could potentially be in different ownership and would deter the use of cycling. Further details of the cycle parking would be secured via a condition.

The proposal would include a dedicated waste storage area within the private amenity space. The waste would be collected from the main road which would be over 140m from the store. This would generally be unacceptable however given the context this would be suitable, and the existing farmhouse would also need transport waste to the collection point.

Overall, whilst the level of car parking and cycle parking is acceptable, the application site is in a location that at present does not benefit from a range of services and facilities that would render the site a sustainable location. The substandard pedestrian and cycle linkages and lack of public transport between the site and these services and facilities would mean that future occupants of the proposed development would be dependent upon the private car for most journeys to and from the site. The proposal would therefore fail to comply with Strategy 5B and Policy TC2 of the East Devon Local Plan (2016).

F) SUSTAINABILITY AND CLIMATE CHANGE

Strategy 3 (Sustainable Development) of the adopted EDLP (2016) states that sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following issues and their inter-relationships are taken fully into account when considering development:

- a. Conserving and Enhancing the Environment
- b. Prudent natural resource use
- c. Promoting social wellbeing
- d. Encouraging sustainable economic development
- e. Taking a long term view of our actions.

Strategy 38 (Sustainable Design and Construction) of the adopted EDLP (2016) states that encouragement is given for proposals for new development and for refurbishment of, conversion or extensions to, existing buildings to demonstrate through a Design and Access Statement how:

- a) Sustainable design and construction methods will be incorporated, specifically, through the re-use of material derived from excavation and demolition, use of renewable energy technology, landform, layout, building orientation, massing, use of local materials and landscaping;
- b) The development will be resilient to the impacts of climate change;

- c) Potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction, are to be mitigated.
- d) Biodiversity improvements are to be incorporated. This could include measures such as integrated bat and owl boxes, native planting or green roofs.

As part of this application, limited information has been provided regarding sustainable design and construction. The proposal would seek to re-use of the existing materials on site which is supported. The proposal would also include an Air Source Heat Pump for heating and hot water which is also supported by Strategy 38. The ASHP would be located to the south of the new dwelling and further details and screening would be secured via a condition. The proposal would also include dedicated waste and cycle storage, additional soft landscaping and trees, and the proposal would incorporate bat and bird boxes within the elevations and roof of the proposal. The proposed dwelling would have windows facing towards the south to maximise solar gain. Given the scale of the development, the proposal is considered to acceptable in terms of sustainability and climate change.

G) NATURE CONSERVATION AND BIODIVERSITY

Strategy 47 (Nature Conservation and Geology) of the adopted EDLP (2016) states that all development proposals will need to:

1. Conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats.
2. Maximise opportunities for restoration, enhancement and connection of natural habitats.
3. Incorporate beneficial biodiversity conservation features.

Development proposals that would cause a direct or indirect adverse effect upon internationally and nationally designated sites will not be permitted unless:

- a) They cannot be located on alternative sites that would cause less or no harm.
- b) The public benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats.
- c) Prevention, mitigation and compensation measures are provided.
- d) In respect of Internationally designated sites, the integrity of the site will be maintained.

Strategy 47 (Nature Conservation and Geology) of the adopted EDLP (2016) states that where development or the occupants of development could lead to adverse biodiversity impacts due to recreational or other disturbance, we will require mitigation measures and contributions to allow for measures to be taken to offset adverse impacts and to create new habitats. All residential development schemes within a straight line 10 kilometres distance of any part of the SAC and/or SAC designated areas of the Exe Estuary or Pebblebed Heaths will be required to provide mitigation. Off-site provision in the form of SANGS should aim for a target level of provision of around 8 hectares of open space provision for every net new 1,000 residents accommodated through development

Policy EN5 (Wildlife Habitats and Features) of the adopted EDLP (2016) states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive

opportunities for habitat creation will be encouraged through the development process. Where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

The site is located within 10km of the East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA. The proposal seeks to repair and rebuild the existing barns including new roofs and the creation of a single dwelling.

An Ecological Appraisal by Devon Wildlife Consultants was submitted alongside the application including one bat emergence survey and one dawn re-entry survey. The surveys determined the buildings are used by nesting birds, common pipistrelle, serotine, and long-eared bats as a day roost.

Given the scale of the development a number of mitigation and enhancement measures are proposed including bat roof voids, roost tubes and boxes and five bird nest boxes. The proposal would include new soft landscaping and tree planting. These mitigation measures would be secured via a condition.

Due to the presence of Bats, the proposed works would require a European Protected Species Licence from Natural England. In these circumstances the Local Planning Authority (LPA) has a statutory duty under Regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species (EPS) may be affected. The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations. The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application.

The three tests are:

- i. the activity must be for imperative reasons of overriding public interest or for public health and safety;
- ii. there must be no satisfactory alternative
- iii. favourable conservation status of the species must be maintained

In this case it is considered that there are public benefits to repairing and rebuilding the barns which would enhance the setting of the Grade II* Listed Building. The barns are currently in a poor state of repair and works to restore them would safeguard them for the future.

In considering whether there is a satisfactory alternative, it is considered that due to the poor and deteriorating condition of the barns, works are required to the barns to repair and restore them. The South Barn has collapsed so can only be rebuilt.

To mitigate for the loss of habitats, the proposal would include the provision of two internal bat roof voids into the new dwelling with two bat access slate tiles and two raised ridge tiles each within the new roof of the dwelling, the installation of five bat roost tubes into the southern aspect of the new dwelling and the inclusion of three roosting boxes on mature trees within the grounds of the property. The proposal would also include some soft landscaping and tree planting to the south of the barns. The full suite of mitigation measures would be secured via a condition.

With appropriate conditions to secure details of the mitigation, it is considered that the ecological status of the protected species can be maintained in a favourable condition. Having regard to the above assessment, the LPA considers that the three tests would be met and that Natural England are likely to grant an EPS licence.

The District Ecologist reviewed the application, commented on the mitigation measures and recommended conditions in the event of any approval.

The proposed development and mitigation and enhancement measures recommended is considered to be acceptable on balance and the impacts on habitats and protected species can be appropriately managed and mitigated. The application is therefore considered to comply with the provisions of policy EN5 (Wildlife Habitats and Features) of the Local Plan subject to conditions.

BIODIVERSITY NET GAIN

The application was submitted on 1 February 2024 meaning that the requirements of the Environment Act 2021 are not required for this application.

HABITAT MITIGATION

The site is located within 10km of the East Devon Pebblebed Heaths SAC and East Devon Heaths SPA. During the operational phase, the development is likely to increase recreational pressures on this European sites which will likely have both direct and indirect significant effects when considered alone or in combination. This therefore requires the authority to undertake an Appropriate Assessment (AA) in accordance with the Conservation of Habitats and Species Regulations 2017. This has been undertaken which also concludes that the proposed development, as it is within 10km, is likely to have significant effects on the interest features of these European sites. The joint approach for mitigation by the relevant local authorities relies on a mechanism by which developers can make contributions to mitigation measures delivered by the South East Devon Habitat Regulations Partnership. The mitigation contribution has been secured through a S111 form, currently at £198.81 per dwelling.

Natural England were consulted on the AA and have advised that on the basis of the appropriate financial contributions being secured to the South-east Devon European Sites Mitigation Strategy, they would concur with this authority's conclusion in the AA that the proposed development will not have an adverse effect on the integrity of the European Sites. It is for the LPA to adopt the AA and accordingly there is a further recommendation on this at the end of the report.

CONCLUSION

The proposed development seeks to remove an existing lean-to, repair and restore the Linhay and Cob Range and rebuild and convert the South Barn into a three-bedroom dwelling. The principle of the physical works to the barns are supported and would enhance the barns themselves as non-designated heritage assets and the setting of the Grade II* Listed Farmhouse. The proposed works would be supported by the National Planning Policy Framework (2023) and East Devon Local Plan Policies EN8 and EN9. The works also have support from EDDC Conservation and no objection from Historic England.

The creation of a dwelling in this location is not fully supported by Policy D8 of the East Devon Local Plan as the South Barn is not capable of conversion and the site is not located close to a range of day-to-day services. The site is located within the countryside outside of an identified built-up area boundary and as the proposal fails to fully comply with Policy D8 there are no development plan or neighbourhood plan policies that explicitly permits the change of use to a new dwelling here. This also means that the proposal would be contrary to Strategy 7 which restricts new development in the countryside.

Furthermore, the proposed dwelling would be in a location that at present does not benefit from a range of services and facilities that would render the site a sustainable location. The substandard pedestrian and cycle linkages and lack of public transport between the site and these services and facilities would mean that future occupants of the proposed development would be dependent upon the private car for most journeys to and from the site. The proposal would therefore fail to comply with Strategy 5B and Policy TC2 of the East Devon Local Plan (2016).

The proposed works to restore the barns and enhance the setting of the Grade II* Listed Farmhouse is given considerable weight in the planning balance however it is not clear whether these works could be independent of the new dwelling. Whilst the conversion of the South Barn into a new dwelling may be the most viable use, the physical works to the barns and creation of a new dwelling in the countryside are separate planning issues and the benefits and harm of both must be given consideration.

The Local Plan and NPPF have a presumption in favour of sustainable development and new dwellings in the countryside which do not benefit from a range of services and facilities and lack of public and active transport links are not supported in principle. Whilst it is acknowledged that Policy D8 could support the reuse of buildings in the countryside, the South Barn is not capable of conversion and the site is not located close to a range of day-to-day services. Policy D8 is very clear that the building must be capable of conversion to comply with the criteria of the policy. This means that the creation of a new dwelling is not supported by the NPPF or Local Plan.

Any recommendation therefore requires the consideration of the heritage benefits of the scheme against the creation of a new dwelling in the countryside and reliant on private car travel, it is recognised that the issues are finely balanced however it is the view of officers that the proposed heritage benefits would not outweigh the harm and would not justify a departure from adopted policies.

The proposal is therefore recommended for refusal.

RECOMMENDATION

a) ADOPT the Appropriate Assessment.

b) REFUSE the application for the following reasons:

1. The site is located within the countryside outside of an identified Built-Up Area Boundary and there are no development plan or neighbourhood plan policies that explicitly permits the change of use to a new residential dwelling here. The proposal would not be fully supported by Policy D8 of the East Devon Local Plan (2016) as the South Barn is not capable of conversion and the site is not located close to a range of day-to-day services which also means that the proposal would also be contrary to Strategy 7 of the East Devon Local Plan (2016). The development would not align with the spatial approach to the distribution of housing, would result in the unregulated development in the countryside and would not accord with the objectives of sustainable development and the material considerations do not justify a departure from adopted policies.
2. The site is in a location that at present does not benefit from a range of services and facilities that would render the site a sustainable location. The substandard pedestrian and cycle linkages and lack of public transport between the site and day to day services and facilities would mean that future occupants of the proposed development would be dependent upon the private car for most journeys to and from the site. The proposal would therefore fail to comply with Strategy 5B and Policy TC2 of the East Devon Local Plan (2016).

Biodiversity Net Gain

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 means that this planning permission is deemed to have been granted subject to "the biodiversity gain condition" (BG condition).

The Local Planning Authority cannot add this condition directly to this notice as the condition has already been applied by law. This informative is to explain how the biodiversity condition applies to your development.

The BG conditions states that development may not begin unless:

- a) a Biodiversity Gain Plan (BG plan) has been submitted to the planning authority, and
- b) the planning authority has approved the BG plan.

In this case the planning authority you must submit the BG Plan to is East Devon District Council.

There are some exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will **not require** the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case exemptions 4.1 from the list below are considered to apply:

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or
 - (ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- (i) the application for planning permission was made before 2 April 2024;
- (ii) planning permission is granted which has effect before 2 April 2024; or
- (iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- (i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- (ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- (i) consists of no more than 9 dwellings;

- (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- (iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

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:

823.20.a.	Proposed Site Plan	11.06.24
823.11	Proposed Floor Plans	01.02.24
823.12	Proposed Floor Plans	01.02.24
823.13	Proposed roof plans	01.02.24
823.14	Proposed Elevation	01.02.24
823.15	Proposed Elevation	01.02.24
823.16	Sections	01.02.24
823.21	Location Plan	01.02.24

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.

		Committee Date: 20.08.2024
Broadclyst (Clyst Hydon)	24/0227/LBC	Target Date: 05.04.2024
Applicant:	Mr & Mrs Stewart	
Location:	Town Tenement Farm Clyst Hydon	
Proposal:	Demolition of lean-to structure and the rebuild, repair and conservation of the existing barns.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members today as the proposal is in conjunction with application 24/0226/FUL which seeks full planning permission for the proposed development and conversion of the South Barn into a new dwelling.

The application site is located at Town Tenement Farm within the Clyst Hydon Parish of East Devon. The site comprises of a 16th century Grade II* Listed Farmhouse which sits within a farmyard complex and includes a number of historic and modern barns and is accessed via a private driveway from the main road through Clyst Hydon.

The proposed development seeks to remove an existing lean-to, repair and restore the Linhay and Cob Range and rebuild and convert the South Barn. The barns are in a state of disrepair and the South Barn has partially collapsed. The conversion of the South Barn to a residential dwelling and extensions to the South Barn require planning permission under the Town and Country Planning Act 1990 which falls outside of this Listed Building Consent.

Whilst concerns have been raised regarding the deteriorating condition of the barns, the principle of the physical works to the barns are supported and would ensure a sympathetic repair and restoration of the barns. The proposed works would result in a heritage gain, would enhance the barns themselves which are curtilage listed and non-designated heritage assets and enhance the setting of the Grade II* Listed Farmhouse.

The National Planning Policy Framework NPPF (2023) sets out that great weight should be given to an asset's conservation and the proposal would be in line with guidance and advice received from Historic England. The proposal is also supported by EDDC Conservation subject to conditions relating to phasing, further details and recording of historic fabric. The proposal would therefore comply with Strategy 47 and Policies EN8 and EN9 of the East Devon Local Plan (EDLP) which seeks to

conserve and enhance physical and cultural heritage of the district.

The proposal is therefore recommended approval subject to conditions.

CONSULTATIONS

Local Consultations

Parish/Town Council – 5 June 2024

Clyst Hydon Parish Council fully support this planning application as documented in council meeting minutes dated 6th March 2024

Broadclyst - Cllr Eleanor Rylance – 2 July 2024

I'd like to comment on this application, despite the comments window having passed for councillors. I have received a call from the applicant, who has talked me through their project for the barn. I know that over the years this barn has considerably deteriorated. I also understand that the only reason this application was submitted as an LBC application, not a PDQ, was that it is within sight of a listed building, namely the house to which it currently relates. I have been told however that this proposal would sever the connection between the two buildings. In fact, the building in its current state is within the curtilage of the listed building and must surely be adding nothing whatsoever to the assembly of buildings as it is now in extremely poor condition.

It seems unlikely that it will ever be renovated as a barn- it is of a very dated design and appears unsuitable for most modern farming purposes (unlike a modular modern type barn, which can be dismantled and reassembled elsewhere, or removed entirely). I suggest that the next best use for this particular is for is to be repurposed- this proposal would go some way to achieve that, although every passing month of bad weather leaves it ever more degraded and precarious. If the only solution on offer to this deterioration is to transform it into a house, then I agree with the conservation team and would support the application.

Technical Consultations

Conservation – 4 April 2024

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The submitted Heritage Statement provides a very detailed assessment of the barns the subject of this application. The barns are in poor condition and appear to have deteriorated considerably since the visits by Historic England & EDDC in 2014 & 2016 with notable changes even between June & September last year. It is worth noting that concerns for the deterioration of the barns requiring 'urgent and significant repair work' was raised in April 2016 by the Conservation Officer at that time. In addition, whether the works would result in the loss of further historic fabric and without substantial reconstruction.

A Structural survey has been submitted to accompany this application undertaken in August 2023 by Simon Bastone Associates Ltd. This is a detailed assessment including Mark-up

Drawings giving an outline scheme of the structural repairs and rebuilding of walls for the south barn and the north barn.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

Generally the best way of securing the upkeep of historic buildings and areas is to keep them in active use. For the great majority this must mean economically viable uses if they are to survive, and new, and even continuing, uses will often necessitate some degree of adaptation. The range and acceptability of possible uses must therefore usually be a major consideration when the future of a designated or non-designated heritage asset is in question.

The best use will very often be the use for which the building was originally designed, and the continuation or reinstatement of that use should certainly be the first option when the future of a building is considered. It is appreciated that not all original uses will now be viable or even necessarily appropriate. However, here maybe other use more appropriate than residential accommodation and consideration given to these first, even if eventually discounted.

The proposed works relate to the conversion of the southern end of the complex to create a two-storey separate dwelling and the repair of the lincob and cob range for storage. It is noted that the new dwelling is to be separated from the farmhouse, but that the lean-to, lincob and stable range will remain with the farmhouse.

It is understood that Historic England provided pre-application advice on this scheme last year and were broadly supportive of the works. In their comments, they have already requested the following 'a detailed specification needs to be provided for the repairs as well as structural works. Furthermore, in order secure these benefits consideration, the council may want to give further consideration to the phasing and occupation of the site to ensure that the repairs are secured as part of the wider conversion'.

There is no objection in principle to the proposed works and detailed comments from the Conservation Team are set out below:

Record Photographs: taken in April 2023. Considerable deterioration has now occurred, with further collapse, particularly at the southern end. It is noted that the photographs will form the basis of any re-build construction;

Site Plan: this clearly shows the existing buildings to be retained and their context, the proposed new dwelling, including the addition of the engine shed and boot room to the south, the demolitions and the repair of the lincob and cob range and lean-to at the northern end. It is also noted that a garden area for the dwelling is to be created to the south of the barn and this should be conditioned to ensure that any surfacing/boundary treatment is appropriate to the rural and heritage setting;

Ground floor: the lean-to, lincob and cob range are to be retained and repaired as tack room, open storage, and stable. This is welcomed, but full details of the repairs will be required as suggested by Historic England, see above. The part brick/part cob barn to the south is in extremely poor condition with the loss of much of the walls and the roof. It is to

be 'converted/reconstructed' to form a separate 3no. bedroom dwelling with the addition of an engine shed and boot room lean-to based on historical evidence (mapping & photographic) to a similar footprint. This element is not entirely convincing in terms of its complete reconstruction and overall 'glazed' appearance, but given the loss of historic fabric and the intention to retain what remains is accepted;

First Floor: as ground floor with slate roof to engine shed, lead to flat roof of boot room and slate to the lean-to. The latter subject to repairs and structural assessment;

Roof plan: it is noted that all roof trusses and purlins are to be retained and repaired as required, subject to structural assessment. Roofs to be mainly natural slate and conservation rooflights to face south away from the Grade II* listed building;

West elevation: this utilises existing openings within the lean-to and linhay/cob range and an original first floor opening in the brick barn. A further new ground floor opening is to be installed in the brick barn to provide light and ventilation to Bedroom 3;

East elevation: this again utilises existing openings within the lean-to and linhay/cob range. The brick barn is largely to be re-built with the new engine room. A new flue is to be located in the engine house roof.

North elevation: agricultural appearance to courtyard retained and repaired utilising the existing opening into brick barn as new entrance door to dwelling;

South elevations: the main changes to the barn are on the south side away from the farmhouse. The structure will need to be re-built using photographic evidence and salvaged materials wherever possible.

Sections: no specific comments.

Structural survey: see above, but a more detailed Schedule of repairs including specifications, engineers drawings will be required by condition to fully clarify the works;

Conclusion: the overall scheme appears to be inline with guidance and advice received from Historic England and will ensure the proper care and repair of the linhay/cob range, subject to submitted details of the works. There is some concern relating to the poor and deteriorating condition of the barns, noted previously 8-10 years ago. Part of the building is certainly not capable of repair and now requires taking down and re-building. However, this should be mindful of para 202 of the NPPF23. Whilst this is not necessarily deliberate (see D & A), little appears to have been done to protect the buildings, although it is noted in the Heritage Statement para 4.19 and seen on site that some temporary works have been installed to prevent further collapse. In view of the current situation and the condition of the buildings, it is felt that more needs to be done immediately to protect the historic fabric and to store and protect any salvageable materials for re-use in the project.

There is certainly heritage gain in terms of the listed building and its setting (in line with para 212 NPPF23). It is appreciated that the barns would be repaired and renovated and that the present farmhouse is currently in use. However, there is an expectation that the part to provide a new dwelling should not overtake the need to repair and renovate the cob

range which holds considerable value in their own right as well as contributing to the significance of the house as part of the associated complex.

This needs further discussion to ascertain the effectiveness of the phasing of works and conditions. There are certainly heritage benefits in the repair and use of the barns and securing their future. However, there is considerable concern relating to how this is managed effectively, and further discussion and consideration needs to be given to how this can be achieved.

PROVISIONAL RECOMMENDATION - PROPOSAL
ACCEPTABLE in principle, subject to conditions.

Historic England – 2 April 2024

Town Tenement Farmhouse is a multi-phased Devon farmhouse, which originated as a three-room cross passage with an open hall, before a chimney was introduced and the hall was floored over by the 17th century. Built from cob, the building retains a number of important surviving features including a plank and muntin screen which helps to articulate the evolution of a moderate status vernacular property.

Due to its more than special architectural and historic interest, the house has been listed at grade II* and forms the top 8% of all listed buildings in England.

The application relates to the range of ancillary cob outbuildings. These form an L shape plan to the west of the courtyard and are a component piece in respect of the setting of the main house. The barn has evolved over various phases but of greatest value is the cob range which includes the linhay and is evident on the tithe map (circa 1841).

The linhay and barn were robustly built and of a solid traditional construction. Linhays began to appear from the 17th century onwards. Due to the shared materiality with the main house and its overall quality of construction, the range is likely to be of some age. Therefore, the cob range holds considerable value in their own right as well as contributing to the significance of the house as part of the associated complex.

The proposed works relate to the conversion of the southern end of the complex and the repair of the linhay and cob range.

Historic England provided pre-application advice in respect of the proposals. The information presented in terms of the conversion is in line with that earlier advice and we have no further comment to make.

In respect of the restoration of the Linhay and Cob Barn, these works offer an exciting opportunity to secure the repair of these important structures. We consider that a detailed specification needs to be provided for the repairs as well as structural works. Furthermore, in order secure these benefits consideration, the council may want to give further consideration to the phasing and occupation of the site to ensure that the repairs are secured as part of the wider conversion.

Recommendation

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 49 (The Historic Environment)
EN8 (Significance of Heritage Assets and their setting)
EN9 (Development Affecting a Designated Heritage Asset)

Government Planning Documents

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

OFFICER REPORT

SITE LOCATION

The application site is located at Town Tenement Farm within the Clyst Hydon Parish of East Devon. The site comprises of a 16th century farmhouse which sits within a farmyard complex and includes a number of historic barns including an 'L' shaped barn to the south of the house. The site also includes a number of extensions to existing buildings and barns and more modern barns and is accessed via a long private driveway from the main road through the village of Clyst Hydon.

The main farmhouse is Grade II* Listed and is not located within a Conservation Area. There are no TPO protected trees on or around the site.

The surrounding area is rural and includes the village of Clyst Hydon including a primary school as well as a number of farms and employment uses.

LISTING

CLYST HYDON ST 00 SW 2/32 Town Tenement Farmhouse - GV II*

Farmhouse. Early C16 with major later C16 and C17 improvements, some C19 modernisation. Plastered cob on stone rubble footings, much brick patching in the rear wall; stone rubble and cob stacks topped with c19 and C20 bitumen-brick; coated slate roof, formerly thatch. Plan and development: 3-room-and-through-passage plan house facing south-south-west, say south, and built on level ground. The left (west) end room is a small inner room parlour with a gable-end stack. Next to it is the former hall which has an axial stack backing onto the passage. The passage has been widened to accommodate the C19 stair at the expense of the lower end room which is now the kitchen and has a gable-end stack. In fact the present room functions are the result of the C19 modernisations. The original early C16 house was an open hall house. Only the inner room was floored over at

the time and then the chamber jettied into the upper end of the hall. The inner room itself was slightly smaller and unheated; probably a dairy or buttery. The rest of the house was open to the roof, divided by low partitions and heated by an open hearth fire. The lower end appears to have been lengthened at an early stage since there are 2 phases of the smoke-blackened roof. Around the mid or late C16 an oak-framed fire hood or smoke bay was built over the hall fireplace backing onto the passage. The service end was probably floored over about the same time but there is no evidence of this since that end was much altered in the late c17 when the service end room was converted to a parlour with a new gable-end stack. The hall itself was floored over in the early - mid C17. At the same time that the parlour was built the smoke hood/smoke bay was replaced by a stone rubble stack and a new kitchen fireplace was built below. In the c19 a stair was inserted alongside the passage taking out part of the C17 parlour. It was probably at this time that the parlour was converted to kitchen use and the former hall/late C17 kitchen became the dining room. Also the inner room was given a stack and converted to a parlour. It was apparently enlarged by moving the upper hall partition to sit below the jetty bressumer. The farmhouse is 2 storeys with C19 lean-to outshots across the rear. Exterior: irregular 5-window front of C19 and C20 casements, most without glazing bars. The passage front doorway is right of centre and it contains a late C19 - early C20 part-glazed 4-panel door. The roof is gable-ended. Interior: is well preserved and includes features from all the main building phases. The passage was lined both sides with oak plank-and-muntin screens. The screen on the lower side is of uncertain date since most of the planks and muntins were removed in the C19 when the present staircase was inserted. The upper side screen is much better preserved and it is an original low partition screen. The hall stack was built behind it. The lower end room, the C17 parlour/present kitchen, has late C17 crossbeam and half beams; they are chamfered with bar roll stops. The fireplace here is blocked although its chamfered and scroll-stopped oak lintel shows. The cupboards alcove to right was built for a newel stair. In the hall the early - mid C17 crossbeam has deep chamfers and pyramid stops. In the back wall the beam is propped by a chamfered and scroll-stopped post. It is C17 but maybe secondary. An alcove in the back wall may represent the position of a former stair turret. The fireplace is late C17; it has local brick jambs and a chamfered and scroll-stopped oak lintel. It includes an oven. The back wall of the fireplace is stone rubble. It maybe earlier since the oak screen behind would have needed protection during the smoke hood/smoke bay phase. Part of the mid - late C16 oak-framed smoke hood/smoke bay survives at first floor level over the back wall of fireplace. The studs have individual holes drilled in their sides to take individual lathes and provide a ladder backing for the cob infill. It is heavily sooted on the hall side. Unfortunately too little remains of the structure to enable a reconstruction of its original form. At the upper end of the hall is another original oak plank-and-muntin screen. The posts are chamfered with cut diagonal stops (the pointed arch is a C20 insertion). It appears that this screen was moved forward a short distance in the C19. There is no carpentry detail showing in the inner room. It probably had its ceiling raised in the C19. The roof was built in 2 phases. The original roof remains over the passage, hall and inner room. It is carried on side-pegged jointed crucks in which the cruck feet apparently descend right to the ground. There is an original closed truss between the hall and inner room chambers. The roof structure is clean on the inner room side. The rest is smoke-blackened from the original open hearth fire. The 2-bay section of the roof over the lower end has timbers of lighter scantling and there are minor constructional differences here. Nevertheless the whole structure is smoke-blackened. It must have been built before the smoke bay. Town Tenement is a good example of a multi-phase Devon farmhouse with late medieval origins.

Listing NGR: ST0336401485

PLANNING HISTORY

The site has the following planning history:

- o 87/P1891 | Roadside Sign | APPROVED (05.01.1988)
- o 89/P1522 | Stock Building | APPROVED (11.08.1989)
- o 92/P1468 | Timber Frame Agricultural Building | APPROVD (19.10.1992)
- o 01/H0029 | Remove Existing Render & Replace | CLOSED (01.01.2005)
- o 03/P1165 | Replace 'Tunnerised' Slate Roof With New Slate.remove Chimney And Fit Skylight | APPROVED (20.10.2003)
- o 14/2103/FUL | Construction of single storey extension to north elevation | APPROVED (24.12.2014)
- o 14/2104/LBC | Replacement windows and doors; internal alterations, construction of single storey extension to north elevation | APPROVED (24.12.2014)
- o 18/1216/LBC | Extension of rear (north) elevation; replace 1 no. skylight and install 1 no. new skylight on existing rear (north) elevation; rebuild staircase; various internal works to include removal of partition walls and construction of partition walls and to include new door openings; create 3 no. new window openings in plant room side (east) elevation; create 1 no. new window opening in rear elevation; replace and re-configure 3 no. windows on rear elevation and replace 8 no. windows on front (south) elevation; insert 2 no. double garage doors on front elevation; re-render all elevations | APPROVED (11.09.2018)
- o 20/1207/FUL | Construction of an all-weather equestrian exercise arena for private use | APPROVED (11.09.2020)

APPLICATION

The application seeks listed building consent for the demolition of lean-to structure and the rebuild, repair and conservation of the existing barns. The proposed works relate to the L shaped barn to the south of the farmhouse and no works are proposed to the farmhouse. Please see the application form and submitted plans for further information.

The application is in conjunction with 24/0226/FUL which seeks planning permission for the change of use and extensions to the South Barn.

NEIGHBOUR CONSULTATION

No responses from neighbouring properties were received.

ASSESSMENT

A) DESIGN AND IMPACT ON THE FEATURES OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST OF THE GRADE II* LISTED BUILDING.

Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) (December 2023) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Development should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming

and distinctive places to live, work and development that is not well designed should be refused.

Section 16 (Conserving and Enhancing the Historic Environment) of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

The Authority is required under Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, is to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is therefore considered that the proposed work will preserve the character and historic fabric of the listed building and duly recommended for consent subject to conditions.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The case of R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin) ("Forge Field") has made it clear where there is harm to a listed building or a conservation area the decision maker "must give that harm considerable importance and weight."

Strategy 49 (The Historic Environment) of the adopted EDLP (2016) states that the physical and cultural heritage of the district, including archaeological assets and historic landscape character, will be conserved and enhanced and the contribution that historic places make to the economic and social well-being of the population will be recognised, evaluated and promoted. We will work with our partners and local communities to produce or update conservation area appraisals and conservation area management plans.

Policy EN8 (Significance of Heritage Assets and their Setting) of the adopted EDLP (2016) states that when considering development proposals the significance of any heritage assets and their settings, should first be established by the applicant through a proportionate but systematic assessment following East Devon District Council guidance notes for 'Assessment of Significance' (and the English Heritage guidance "The Setting Of Heritage Assets"), or any replacement guidance, sufficient to understand the potential impact of the proposal on the significance of the asset. This policy applies to both designated and non-designated heritage assets, including any identified on the East Devon local list.

Policy EN9 (Development Affecting a Designated Heritage Asset) of the adopted EDLP (2016) states that the Council will not grant permission for developments involving substantial harm or total loss of significance of a designated heritage asset unless it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site.
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.
- c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible.
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance should be wholly exceptional. Where total or partial loss of a heritage asset is to be permitted the Council may require that:

- e) A scheme for the phased demolition and redevelopment of the site providing for its management and treatment in the interim is submitted to and approved by the Council. A copy of a signed contract for the construction work must be deposited with the local planning authority before demolition commences.
- f) Where practicable the heritage asset is dismantled and rebuilt or removed to a site previously approved.
- g) Important features of the heritage asset are salvaged and re-used.
- h) There is an opportunity for the appearance, plan and particular features of the heritage asset to be measured and recorded.
- i) Provision is made for archaeological investigation by qualified persons and excavation of the site where appropriate.

Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use. Favourable consideration will be given for new development within the setting of heritage assets that enhance or better reveal the significance of the asset, subject to compliance with other development plan policies and material considerations.

The application site comprises of a Grade II* Listed Farmhouse as well as the farmyard complex which includes a L shaped barn (Linhay and Cob Range) and a number of outbuildings. The works proposed related to the L shaped barn and there are no works proposed for the farmhouse or other outbuildings. The L shaped barn is home to the South Barn, Linhay, Stable, Open Store and Tack Room.

The L shaped barn sits to the south of the farmhouse with an open courtyard separating the two and the main farm access leads from the main road into this courtyard. The Linhay and Cob Range are evident on the tithe map (circa 1841) and are considered to be of the greatest value of range of outbuildings associated with Town Tenement Farmhouse. These barns are of a locally distinctive character in their form, function, construction methods and use of materials and are a component piece in respect of the setting of the main house. Whilst the L shaped barn is not listed itself, given its age, former uses, location and relationship with the main farmhouse, they are considered to be curtilage listed in line with Historic England Advice Note 10 (Section 2.2). It is acknowledged that the Heritage Statement concludes that the barns would not be curtilage listed however given that a Listed Building Consent has been applied for, the LPA is of the view that they are curtilage listed. In any case, given the age of the barns and relationship with the main farmhouse they would also be considered as non-designated heritage assets.

The barns which are the subject of this application are in a poor condition especially the South Barn which is in an extremely poor state of repair and large sections have collapsed including the roof. The barns have been subject to a number of alterations which have negatively impacted them such as the loss of the engine house, loss of internal features, modern lean-to as well as the general poor condition. The lean-to which is north of the barns has also partially collapsed.

The proposed development seeks to demolish an existing modern lean-to structure to the east of the Linhay and to repair and restore the Linhay and Cob Range. A lean-to structure to the north of the range would also be repaired and restored. The proposal under application 24/0226/FUL also seeks to re-build and convert the South Barn into a two storey, 3-bedroom residential dwelling. The proposal would also include two extensions to the South Barn - the engine shed and boot room as well as the creation of a private amenity garden.

Listed Building Consent is required to demolish or to alter a listed building in a way that affects its character as a building of architectural or historic interest. Whilst application 24/0226/FUL seeks to convert the South Barn into a residential dwelling, is it not possible to change the use of a building or land under a Listed Building Consent application. The principle of a residential dwelling, rebuilding of the South Barn as well as the proposed boot room and engine shed extensions would require planning permission separately to this consent if approved. Therefore, this application only assesses the physical internal and external works to the barns in relation to the impact on the Listed Building.

The removal of the modern lean-to structure is considered to be positive as well as the repair and restoration of the Linhay and Cob Range which would remain with the farmhouse. The works would include the replacement of rotten posts, new natural slate roof, new lime rendered walls, new timber windows and doors, replacement cladding and new timber boarding to replace the existing opening in the stable. The proposals would keep these barns in a more active use which is important for their up-keep. The proposal would also involve repairing and restoring an existing lean-to to the north of the L shaped barn (also known as The Extension) including new rendered block work, new slate roof and new windows and doors. The proposed works are considered to preserve and enhance the range of historic barns, and which would better reveal their significance and will enhance the setting of the Grade II* Listed farmhouse.

The South Barn as noted above, has collapsed and is in need of works to restore it. The proposal would include the re-building of the barn as well as the addition of an engine shed and boot room lean-to. The re-building of the barn would be very similar to the original barn in terms of its form and surviving sections of cob would be reinstated. The roof would be reconstructed with natural slate tiles with a number of conservation roof lights on the southern elevation. The proposed boot room would be approximately 2m in width, 2m in depth and 2.34m in height and would be finished in aluminium glazed panels, timber boarding and timber door with a lead flat roof. The proposed engine shed would be approximately 5.4m in width, 5m in depth and 5.1m in total height and would be finished in render with a natural slate roof. The proposed engine shed would be in part a replacement of the engine wheelhouse which previously existed on the farm and is evident of the tithe map (circa 1841). The engine wheelhouse would be finished glazing which is not traditional for these buildings and concerns were raised by EDDC Conservation regarding the complete reconstruction and overall 'glazed' appearance however given the loss of historic

fabric and the intention to retain what remains, the proposal would be acceptable. This glazed appearance is not considered to result in any material harm to the asset and in any case, would be outweighed by the conservation of the barns. As noted above, these extensions would also require planning permission.

The application was reviewed by Historic England who stated that they provided pre-application advice in respect of the proposals and the information presented in terms of the conversion is in line with that earlier advice. In respect of the restoration of the Linhay and Cob Barn, these works offer an exciting opportunity to secure the repair of these important structures.

The application was also reviewed by EDDC Conservation who stated that the barns are in poor condition and appear to have deteriorated considerably since the visits by Historic England and EDDC in 2014 and 2016 with notable changes even between June and September last year. The proposed works appears to be in line with guidance and advice received from Historic England and will ensure the proper care and repair of the Linhay and Cob range, subject to further details and the phasing of the works. EDDC Conservation concluded that there is certainly heritage gain in terms of the listed building and its setting from the proposed works and supported the application subject to conditions.

In summary, the proposed works as set out under this Listed Building Consent are considered to be appropriate and would help to restore the existing barns. The proposed works would help to enhance the setting of the Grade II* Listed Farmhouse which is given considerable weight. The proposal is considered to comply with Section 16 of the NPPF and Strategy 49 and Policies EN8 and EN9 of the EDLP.

CONCLUSION

The proposed development is considered to be acceptable, would improve the setting of the Grade II* Farmhouse and secure the restoration of the barns, considered to be curtilage listed and non-designated heritage assets. The NPPF sets out that great weight should be given to an asset's conservation and the proposal would be in line with guidance and advice received from Historic England. The proposal would comply with Strategy 49 and Policies EN8 and EN9 of the EDLP as well as the NPPF.

The proposal is therefore recommended approval subject to conditions.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which this consent is granted.
(Reason - To comply with Sections 18 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)

2. The works 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. Safety and Stability Works

Before any work is undertaken to remove any part of the building, the applicant shall take such steps and carry out such works as shall, during the process of the works permitted by this consent, secure the safety and the stability of that part of the building which is to be retained. Such steps and works shall, where necessary, include, in relation to any part of the building to be retained, measures as follows:-

- a) to strengthen any wall or vertical surface;
- b) to support any wall, roof or horizontal surface;
- c) to provide protection for the building against the weather during the progress of the works, and
- d) in the case of cob buildings, the details of cob repairs.

Details of any additional necessary repairs required as a result of the works, including methodology, specification or schedule shall be submitted to and approved in writing by the Local Planning Authority before continuing with the works.

(Reason - This is pre-commencement to safeguard the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

4. Materials

All external works of alterations in the existing fabric of the building shall be carried out in matching materials, as appropriate. A trial area or a sample panel of a minimum 1 sqm. shall be constructed on site for inspection and approval by the Local Planning Authority prior to commencement of any works. The works shall be carried out and in full in accordance with the approved sample and specification.

(Reason - This is pre-commencement to safeguard the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

5. Repointing and Rendering

All stonework/brickwork repointing and rendering shall be carried out using a lime-based mix, the specification of which shall be submitted to approved in writing by the Local Planning Authority. The colour, texture, type of bond and joint, and finish shall match original work, and a small trial area shall be prepared in a non-prominent location for inspection and approval by the Local Planning Authority prior to commencement of any works.

(Reason - This is pre-commencement to safeguard the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

6. Further Details

Before the relevant parts of the works begin on the items specified below, the following details and specification for these items shall be submitted to and approved in writing by the Local Planning Authority:

- Roofing materials including product details, sample and method of fixing.
- Size, type and manufacturers model of all roof lights, including method of flashing.
- New rainwater goods including profiles, materials and finishes.
- Lead work, including profiles and details of any ornamentation.
- Roof ventilation systems.
- New windows including sections, mouldings, profiles and paint colour. Sections through casements, frames and glazing bars should be at a scale of 1:2 or 1:5.
- New doors including sections, mouldings, profiles and paint colour. Sections through panels, frames and glazing bars should be at a scale of 1:2 or 1:5.
- Eaves and verge details including construction and finishes.
- External vents, flues and meter boxes.

The works shall be carried out in accordance with the approved details and specification.

(Reason - This is pre-commencement in the interests of the architectural and historic character of the building in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

7. Specification of Works

Any salvaged materials, including bricks, slates, and tiles from the barns (specified with location or in schedule) shall be removed and stored under cover (or in a location approved in writing by the Local Planning Authority) for re-use in the building as part of the works permitted in this consent or in a location to be agreed by the Local Planning Authority. In addition, the preparation of a detailed specification of works for the repairs to the barns shall be submitted to the Local Planning Authority for approval prior to the commencement of development.

(Reason - This is pre-commencement to safeguard the architectural and historic character of the building in accordance Policy EN9 - Development Affecting a Designated Heritage Asset of the Adopted East Devon Local Plan 2013-2031.)

8. New Roof Structures

Prior to the commencement of works, details of the new roof structures to supplement the existing roof structures and details to construct the new roof of the barns, including any Structural Engineers Drawings shall be submitted to and approved in writing by the Local Planning Authority along with a record of the original timbers, including a schedule of repairs. So far as is reasonably possible the historic timbers e.g. 'A' frame trusses and purlins are to be retained in situ as non- load bearing structures.

(Reason - This is pre-commencement to safeguard the architectural and historic character of the building in accordance with Policy EN9 (Development Affecting a Designated Heritage Asset) of the Adopted East Devon Local Plan 2013-2031.)

9. Written Scheme of Investigation

No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority in consultation with Devon County Council Historic Environment.

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

(Reason - This is pre-commencement to ensure, in accordance with Policies EN6 - Nationally and Locally Important Archaeological Sites and EN9 - Development Affecting a Designated Heritage Asset of the East Devon Local Plan 2013 - 2031 and paragraph 205 of the National Planning Policy Framework (2021) that an appropriate record is made of the historic building fabric that may be affected by the development.)

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.

Application for Planning Permission Needed:

This permission does not act as Planning Permission and you are accordingly advised of the need to submit a separate Planning Application under the Town and Country Planning Act 1990 in respect of the works shown on the drawings hereby approved.

Plans relating to this application:

823.20.a	Proposed Site Plan	11.06.24
823.11	Proposed Floor Plans	01.02.24
823.12	Proposed Floor Plans	01.02.24
823.13	Proposed roof plans	01.02.24
823.14	Proposed Elevation	01.02.24
823.15	Proposed Elevation	01.02.24
823.16	Sections	01.02.24

823.21	Location Plan	01.02.24
R230710/S1/00	Structural Survey	01.02.24

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.

Ward Woodbury And Lymstone

Reference 23/1269/MFUL

Applicant Mr Nick Yeo (3West Strawberry Hill Ltd)

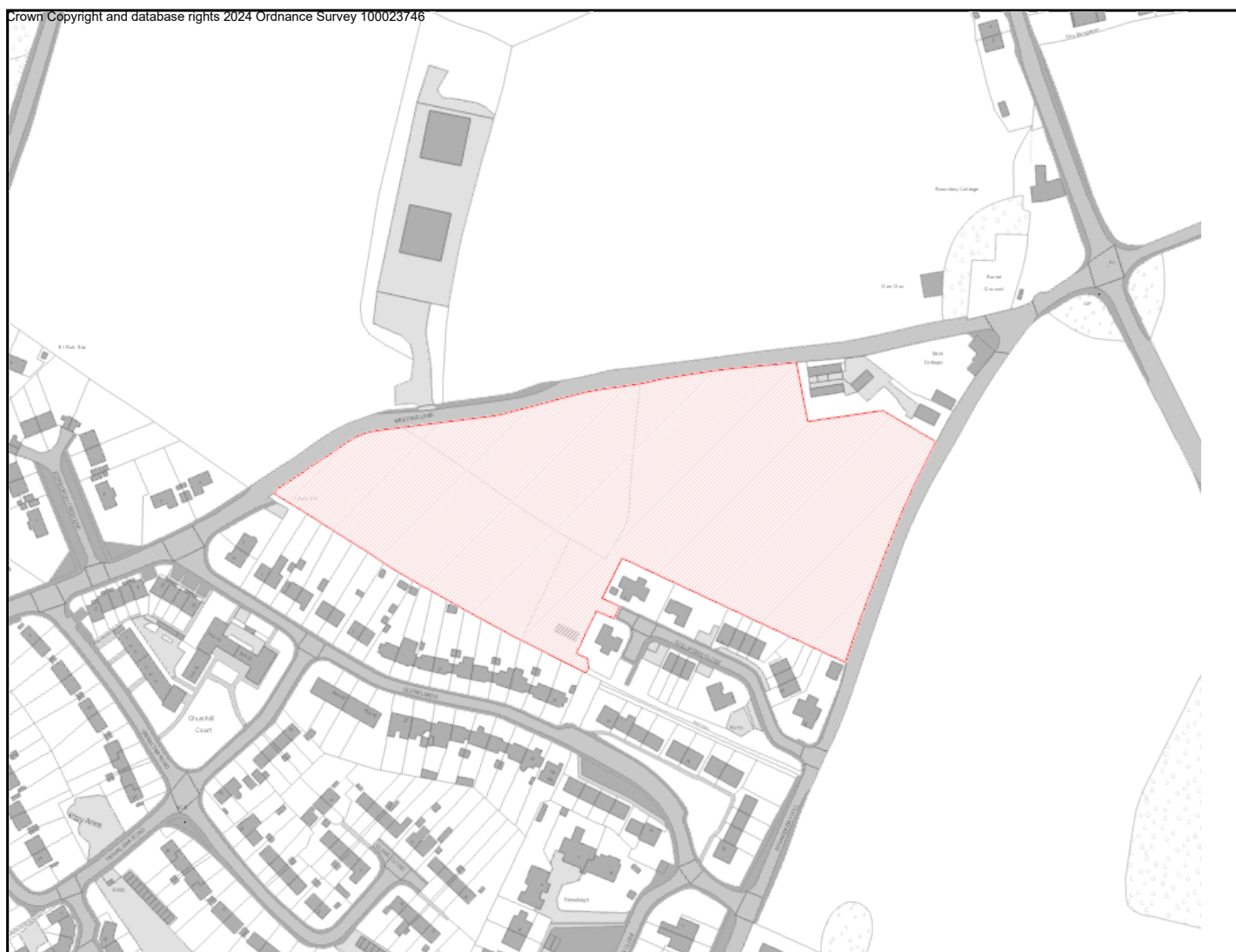
Location Land South Of Meeting Lane Lymstone

Proposal Construction of 42 residential units, affordable housing, new vehicular accesses from Meeting Lane and Strawberry Lane, pedestrian access onto Meeting Lane, associated internal roadways, SUDS features and landscaping



RECOMMENDATION:

1. Adopt the appropriate assessment forming part of the report
2. Approve subject to a legal agreement and conditions



		Committee Date: 20.08.2024
Woodbury And Lympstone (Lympstone)	23/1269/MFUL	Target Date: 28.09.2023
Applicant:	Mr Nick Yeo (3West Strawberry Hill Ltd)	
Location:	Land South Of Meeting Lane Lympstone	
Proposal:	Construction of 42 residential units affordable housing, new vehicular accesses from Meeting Lane and Strawberry Lane, pedestrian access onto Meeting Lane, associated internal roadways, SUDS features and landscaping	

RECOMMENDATION:

- 1. Adopt the appropriate assessment forming part of the report**
- 2. Approve subject to a legal agreement and conditions**

EXECUTIVE SUMMARY

This application is before Members as it represents a departure from the adopted Development Plan and objections have been raised by Ward Members and the Parish Council.

The site is located adjoining the built-up area boundary for Lympstone, as identified in the Villages Plan, to its north eastern boundary and is currently gently sloping agricultural land in the countryside to the south of the northern access to the village, Meeting Lane.

The application seeks full planning permission for the construction of 42 residential units on a site area of 2.58ha, proposing 35% affordable on site housing and a 15% off site affordable housing contribution.

Two vehicular accesses are proposed one onto Meeting Lane serving 37 units and the other onto Strawberry Hill serving 5 units, County Highways are in agreement with the Transport Assessment submitted with the application and consider the access to be safe and suitable, subject to provision of a right turn lane on the A376 and appropriate safeguarding conditions. Even though some impact upon the local highway network will result, this would not be considered by the Highway Authority to be severe enough to justify refusal of planning permission.

There is a clear need for more housing, both market and affordable, within the district. The current and projected levels of housing delivery do not meet this need in the long term under the current policy climate. This unmet need is a significant factor for decision-makers in planning applications and appeals, particularly pertinent for otherwise sustainable sites outside current settlement boundaries. Given the lack of significant constraints to development on this site, the sustainable location of the site and provision of 35% affordable housing on site and 15% contribution towards off site affordable housing, it is considered that the principle of development can, on balance, be supported.

Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement. As such the Landscape Architect considers that the proposal could be considered acceptable in principle for housing development in terms of landscape and visual impact, subject to conditions.

Matters of flood risk, ecology, archaeology, drainage and disturbance during the construction period can be adequately addressed through conditions.

The application is therefore recommended for approval subject to securing the appropriate obligations, including 35% on site affordable housing and an off site contribution of £292,925, on site open space, travel plan and habitat mitigation payment secured through a Section 106 Agreement, together with the provision of a right turn lane on the A376 secured by a Section 38 highways agreement.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Ben Ingham

At this time I object to this application for the following reasons:

Lympstone has met and exceeded its EDDC target for 2030 already via LNP.

Unnecessary access onto Strawberry Hill which is too narrow for this.

Poor layout design, very basic

Segregated housing types instead of integrated

No small live/work units included

Woodbury And Lympstone - Cllr Geoff Jung

23/1269/MFUL

I have viewed the documents for the planning application 23/1269/MFUL for the proposed construction of 42 residential units (14 affordable), new vehicular accesses from Meeting Lane and Strawberry Lane, pedestrian access onto Meeting Lane, associated internal roadways, SUDS features and landscaping on land south of Meeting Lane Lympstone.

Last year there was a consultation for sites coming forward for a proposed East Devon new local plan based on the Government requirement for 940 new dwelling to be built each year in East Devon. This site was considered the most appropriate

from the various sites put forward for Lympstone, but since the consultation the Government has removed the housing number policy, but as yet not replaced the policy, and therefore all work on the housing requirements for East Devon are on hold.

Therefore, my view is this application should be determined on the current local plan which would consider the application outside the built-up area boundary and therefore not compliant to the existing local plan.

Therefore, I do not support this application. However, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung 8/8/24

I apologise for not picking this up before, but the original application was so long ago it was prior to the Exmouth, sewage issues and I didn't consider the sewage implication from this site at the time. I also note that SWW have never made a comment on this site!

To explain the issue the sewage infrastructure at this location is at the head of the start of infrastructure that is a combined pipe that heads to the bottom of Lympstone and then connects to a rising main at Phear Park and then to Mear Lane Exmouth. The previous smaller development at Gulliford Close had an issue and required pump and tank system prior to the sewage connecting into mains pipe! (I understand the residents management company and SWW are in continued discussions on this arrangement and the management company is paying for the tank to be emptied twice a year!)

Therefore I would be concerned that this application goes to committee without a Grampian order on it to ensure this application does not adversely effect the sewage infrastructure.

Parish/Town Council

Recommendation: Object

Lympstone Parish Council object to the proposed housing development for the following reasons:

- ' The site is outside the BUAB.
- ' The site is in the coastal protection zone.
- ' The site is in the green wedge.
- ' The proposed plans contravene the current Lympstone Neighbourhood Plan, EDDC local plan and NPPF policies.
- ' Local schools and health services are unable to cope with increased numbers.

Current submitted plans/documents are objected to for the following reasons:

- ' Irreparable damage to the ecology and biodiversity of the site including unnecessary removal of established hedges and trees (online ecology plan is out of date).
- ' Additional Flooding issues have not been mitigated to the current flooding problem (unclear whether draining across Highway and adjacent sites is permissible).
- ' Incapable sewage infrastructure.

- ' Dangerous access onto surrounding highways ' Meeting Lane, Strawberry Hill and Harefield Cross.
- ' Invasion of privacy, noise disturbance from internal road layout to current neighbouring properties.
- ' Lack of car parking.
- ' No safe footways for pedestrians.
- ' The proposed design plan submitted is divisive and will not promote village/community cohesion.

Adjoining Parish Council (Woodbury)

This proposal is actually two developments in one with poor access to the site, additionally,

- o Strawberry Hill is a narrow lane that cannot accommodate an additional access which is also unnecessary and would ruin an existing Devon Bank / ancient hedgerow.
- o Lowering biodiversity and wildlife corridor between the River Exe SSSI site and the pebble bed heath (AONB)
- o Incohesive community with an us / them divide
- o No footway link with existing village along Strawberry Hill.
- o Strawberry Hill is extremely narrow and this access would be dangerous to other road users and pedestrians.
- o Meeting Lane is slightly wider, but access and visibility is still of concern.
- o Harefield cross is a difficult junction to navigate, this proposed development will increase traffic at this location.

If this development is favoured by EDDC then there is an easily remedy to not having two developments / access points. By rotating the 5 executive dwellings by 180 degrees and having an access drive in-between plots 35 and 36 with their garages relocated to the rear of their plot. This would still provide exclusivity, but be more cohesive with the whole site; the Devon Bank / ancient hedgerow would remain and safety concerns eliminated from Strawberry Hill.

This proposal is of unimaginative basic design, the layout is lacking thought; with the open space not planned to its fullest potential, neither does it bring additional facilities to enhance the existing village; there are no speed calming measures (a 20-mph scheme would be a benefit to the village); nor an enhanced gateway to the village incorporating the 17th Century historic Dissenters Gulliford Burial Ground.

Woodbury Parish Council will not be supporting this application on the above grounds and will also be supportive of Lympstone Parish Council with their observations.

Technical Consultations

Police Architectural Liaison Officer - Kris Calderhead

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

Whilst I have no objection to the proposal, I would like to make the following comments and recommendations for consideration:

o The vegetation that abuts the rear boundaries of plots for example 1-21, 25, 26 and 37 must be robust enough to prevent access to the rear boundary. Accessible space to the rear of plots should be avoided as it leaves them vulnerable to burglary attempts, trespassing etc. therefore the buffer must be sufficient enough to prevent such risk.

o Similarly, where 1100mm post & rail fencing supplemented with hedging is used to divide gardens backing on to one another, the hedging must be sufficient all year around to prevent access between the two as 1100mm fencing is not sufficient on its own.

o Where the ownership of parking spaces is not obvious, ensure they are clearly marked to reduce the potential for disputes.

o Presumably the site will be lit in accordance with relevant British Standards (BS 5489), this should include pedestrian routes which must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided as shrubs and trees have a tendency to grow over the path creating pinch points, places of concealment and unnecessary maintenance.

County Highway Authority

Observations:

I have visited the site in question and reviewed the planning documents. The site has been allocated in the forthcoming district local plan for development. The site has two proposed accesses, one off Strawberry Hill for 5 properties and the remaining properties off Meeting Lane. The proposed access visibility splay has been informed by a speed survey, which produces a more appropriate visibility splay due to the conflict of a national speed in this location but with a restricted geometry and topography. The site layout provides sufficient space for off-carriageway turning and off-carriageway parking together with suitable swept paths for fire and refuse vehicles facilitating the free-flow of traffic.

The existing site has permitted agriculture use, therefore this planning application proposal will represent a trip generation intensification, therefore the County Highway Authority (CHA) has worked with the developer to secure preferably a half right turn box upon the A376/Meeting Lane junction, should this application be granted, through a separate Section 106 agreement, in order to maintain the free-flow of traffic upon the A376 and help avoid rear shunts upon queuing traffic turning right onto Meeting Lane. However it is the intention that the Section 106 funding will be viable for alternative betterment improvement schemes should the half right turn box not be necessary.

Devon County Councils (DCC) existing recorded collision data which is currently 2018-2022, shows no recorded collisions upon the proposed access's of this development. It is DCC's policy that for all developments over 40 houses a Travel Plan is produced and though this development is only just over this threshold, we appreciate the Travel Plan. This includes a Travel Plan co-coordinator to analyse and assess travel plans from the commencement of this site and coordinating the mitigation measures including sustainable travel incentives and sustainable travel

information including information on the Exe-estuary trail, Lypstone Railway Station, bus timetable and nearest car sharing club.

Addendum

It should be noted that the current proposal to drain the surface water from this development into the highway network infrastructure is currently under review by the CHA due to liabilities and the involvement of third party land north of Meeting Lane. However we are satisfied that an engineering solution is possible for this proposed development, if not the current proposed solution. We therefore believe the drainage technical information can be conditioned and is not beholden to the planning application outcome.

Recommendation:

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

Conservation

On the basis of the information provided through the application, the proposed development would result in slight harm to glimpsed views from Thorn Farm and Gulliford Cottages, Grade II heritage assets located to the northeast and east of the site. In this re-spect, the development proposal is considered to continue to preserve the contribution the site as a setting makes to the significance of these heritage assets. Conservation do not therefore wish to offer any comments. Case Officer to assess on planning merit.

EDDC District Ecologist

The application is supported by an Ecological Impact Assessment (EclA), supported by a biological records centre data search and ecological surveys including phase 1 habitat survey, bat activity survey, and partial cirl bunting survey, undertaken between 2021 and 2023.

The report was updated following previous comments regarding bats, dormice and cirl buntings and these issues have been addressed in the updated report.

The submission has also been supported by a revised biodiversity metric calculation undertaken using the Biodiversity Metric 4.0. The submitted metric predicts a gain of 0.53 habitat units (9.23% gain) and 9.54 hedgerow units (267.66% net gain).

A significant gain in habitat units is attributed to the provision of a Pond (non-priority habitat) approximately 1.6 ha in area. The preliminary drainage layout (01-PDL-1001 Rev G) and surfaces plan (1781/PL105 Rev C) indicated this area is a Sustainable Urban Drainage System (SUDS) area. Both these plans indicate the amount of retained water within the feature is approximately 530 m² (0.053 ha). Therefore, if assessing the proposal using the metric with a pond area of 0.053 ha and the

remaining area as a SUDS feature, the metric indicates the site design would result in a net loss of 0.47 habitat units or a -8.21% loss.

Therefore, there is a doubt whether the proposed site design could deliver a quantified ecological enhancement.

3. Conclusions and recommendations

1.1. Acceptability of the proposals

The submitted ecological survey information including ecological avoidance, mitigation, and enhancement measures are generally considered acceptable notwithstanding the above comments regarding the likely loss in habitat value of the site once developed.

It is recommended that the site design/landscaping be revisited to achieve a realistic net gain for habitat provision to make the proposal acceptable.

Tree Officer

The RPA of trees adjacent to both Strawberry Lane and Meeting Lane have not been offset to take into consideration the changes in levels between the field, boundary bank and road and associated restrictive rooting environment that the differences in levels and roads will pose. The RPA's of trees along both boundaries therefore need to be offset to reflect the more favourable rooting conditions within the field and likely rooting area of the trees. This will therefore likely require nearby plots / roads / attenuation pond to be repositioned.

Plots along the south western boundary (in particular 5, 8 to 16, including the structure adjacent to G4 and A2 in the western corner) will be significantly affected by shading. Plots 2,4, 18, 20 & 21 are also close to large trees which will overhang a large proportion of nearby gardens. Furthermore the RPA of these trees extends over significant proportion of the gardens which will likely result in compaction of the soil and therefore be detrimental to the health of the tree in the long-term. The close proximity of the trees will result in pressure to prune or fell due to concerns over safety, proximity, shading and debris fall.

Many of the plots also require ground protection to facilitate construction or no dig solutions. This is not appropriate. There should be at least 2m clearance between the edge of the RPA and structures to enable construction without impacting on the RPA. The RPA should be sacrosanct and only in exceptional circumstances should development take place.

T16, Ash – this is an important wildlife habitat with significant cavities throughout its main structure and as such should be retained within a wildlife area albeit in a reduced size.

Between T15 & T16, running roughly north-east to south-west and from the east of T15 along the line of the new proposed access route, two hedgerows have recently been reduced to ground level (Winter 2020 / 2021). During a site visit at the time, both hedges were characterised by being overgrown, not stock proof with gaps and some

individual trees. It was noted that little management had taken place and that appropriate management was required. Subsequently rather than coppicing and hedge laying, it appears that many of the shrubs and trees have been grubbed out and the bank re-profiled. Coppicing and layering should have resulted in dense regrowth in both hedges. Onsite, apart from regrowth of approx. 1m on one Ash coppice, there was no sign of any regrowth of hedgerow trees. One other internal hedgerow on site has similarly been managed. In contrast, the boundary hedge along Strawberry Lane has responded with dense regrowth. Both hedges have therefore in effect been removed and should be reinstated. Both hedgerow are marked on old Ordnance Survey maps dating from 1888-1890. There does not appear to be any reference to these hedgerows within the Landscape and Visual Impact Assessment though the boundary lines are clearly visible within the maps referred to in the Historic Environment Impact Assessment. It is considered that the proposed access route should be aligned adjacent to the original hedgerow.

Environmental Health

No objections subject to conditions

Landscape architect

The proposals are likely to introduce built elements and alter existing historic hedgebanks that will erode the rural character of both Meeting Lane and Strawberry Hill although with a more sensitive design approach these impacts could be reduced.

The proposals give rise to significant concerns in relation to the impact of development on the character of the adjacent rural lanes and existing important site trees.

For development within the southwestern parcel of the site to be acceptable a significant reduction in the number of units is required with the access road taken along the northern side and housing limited to the south side of this facing northwards and the foul pumping station more discretely sited.

Minor amends are required to the northern development parcel in respect of plot 24 and access details as noted above.

Detailed levels plans are required at 1:250 scale and two 1:200 scale north-south sections should be provided through the attenuation basin and extending to the southwestern boundary showing proposed and existing levels.

The drainage plans should be amended to show details of invert and cover levels and attenuation basin levels.

Royal Society for The Protection Of Birds

This RSPB submission sets out our serious concerns that the proposed development on this c2.6 ha site will have adverse impacts on protected sites and makes inadequate proposals for ecological mitigation and biodiversity net gain. At this stage the RSPB objects to the proposal. In our view, your authority should not determine

this application until further information has been provided on the issues raised below and your authority is satisfied that necessary measures for mitigation and biodiversity net gain have been secured.

Devon County Archaeologist

The Historic Environment Team has no comments to make on this planning application.

DCC Flood Risk Management Team

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

South West Water

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

For Highway run off please contact the Highway Authority to agree disposal method

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

South West Water are not responsible for Highway Drainage and our comments do not relate to accepting any of these flows. The applicant should discuss and agree with the Highway Authority, where the highway water connects to.

If the applicant wishes to connect this to South West Water network, then they should engage with us separately to see if we can accommodate this. No highway

drainage will be permitted to be discharged to SWW foul or combined public sewer network either directly or indirectly.

Clean Potable Water

To supply this development South West Water will require to carry out upgrades to the water distribution network along Meeting Lane. The extent and location of the upgrade works will depend upon the detail design of the development. The estimated time to deliver the upgrade works is up to 18 months from when the development starts.

The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

Foul Sewerage Services

This and other local development sites are being assessed to determine whether they will have a significant impact on the pumping station downstream from this development and if any upgrades are required, it will take South West Water approximately 18 months.

Housing Strategy/Enabling Officer - Cassandra Harrison

SUPPORT

I note the percentage of affordable housing has been changed to 35%. Under current policy Strategy 34, a requirement of 50% affordable housing is required. However, given the lack of a 5 year land supply I feel this is a reasonable offer. We could insist on a viability appraisal, however I feel this could result in a lower percentage of affordable housing in the current economic climate with high interest rates.

Other Representations

60 representations have been received as a result of this application raising the following concerns:

- Lympstone has no need for an estate of this scale;
- There needs to be a strategic approach to housing growth;
- This area is not highlighted for development in the Neighbourhood or Local Plans, both statutory document;
- The school is Victorian, has been extended with no further room for development and is at capacity;
- The train station is a long walk, including lack of footpaths, particularly around a narrow double bend. There is limited parking at the station and the busy cycle path also uses the station access road;
- Meeting Lane floods. There is also a natural spring on the site;
- Harefield Cross on the A376 is very dangerous with limited visibility;
- Narrow roads are not suitable to accommodate the increase in traffic;

- The doctor's surgery, built in the 1980's, has no room to extend, no parking and is a long walk from the site. It is unlikely that it could service an additional 100plus patients.
- Further urbanisation, interference with the natural ecosystem and the green corridor from Woodbury Common;
- Despite the analysis of village character this is a typical suburban scheme with no attempt to create a village type streetscape (as achieved in the development opposite the Church)
- The access to Strawberry Hill will result in the destruction of the hedge and the rural approach to the village . Access should only be from Meeting Lane.
- The sustainability report identifies that heat pumps and PV panels would be an appropriate means of providing carbon neutral energy. There are no indications that such measures are being incorporated in the scheme. There is also no indication of provision for recycling grey water;
- Surface water from the site drains to a culvert on the opposite side of Meeting Lane and then across the field to Nutwell Road and then across Nutwell Park to the Estuary. Meeting Lane frequently floods at the point where the site drains across to the culvert. The applicant has no control of the culvert and subsequent drainage route.;
- Impact on wildlife;
- Size and scale of buildings close to other existing residential properties;
- Noise and disturbance form footpath link;
- Impact on trees.

PLANNING HISTORY

None relevant to the determination of this application.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 27 (Development at the Small Towns and Larger Villages)

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 5B (Sustainable Transport)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

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

EN22 (Surface Run-Off Implications of New Development)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

Neighbourhood Plan

Lympstone Neighbourhood Plan (Made)

ANALYSIS

Site Location and Description

The site lies on the edge of the settlement of Lympstone to the south of Meeting Lane which is the one of the main routes into the village when travelling from the north, it lies outside of the recognised built-up area boundary of the village.

The site comprises a single, L-shaped grazing field extending to 2.58 ha immediately to the south of Meeting Lane and west of Strawberry Hill.

The topography is slightly undulating, with a northerly aspect. The site is bounded by native hedgebanks and mature trees adjacent to the road boundaries to the north and southeast. There is belt of TPO'd trees to the west of the site and a handful towards the middle of the site. The southern boundary abuts the recent Gulliford Close housing development and the more established Glebelands development.

There is currently a field gate access to the site from the north and a closed off access through Gulliford Close that is in different ownership.

Proposed Development

This application seeks full planning permission for the construction of 42 residential units 14 affordable(35%) would be constructed on site and a contribution of £292,925 (15%) would be provided as an offsite contribution.

Two new vehicular accesses are proposed, one from Meeting Lane which would serve 37 units and the other serving 5 units from Strawberry Lane. Pedestrian access onto Meeting Lane and into the existing network of footpaths and pavements are proposed.

An attenuation pond would be formed on site to capture surface water and then release it at a controlled rate into an existing ditch to the north of the site.

Planning Considerations

The main considerations in the determination of this application relate to:

- The principle of the proposed development;
- Affordable housing;
- Agricultural land classification;
- Impact on highway safety;
- Residential amenity;
- Landscape and visual impact;
- Trees;
- Ecology and habitats;
- Flood risk and drainage;
- Heritage impacts; and
- Planning balance and conclusion.

Principle of Development

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

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of Lympstone, 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.

In strategic policy terms therefore, the site is within the 'countryside' as defined in Local Plan Strategy 7 (Development in the Countryside), the provisions of which would not ordinarily facilitate new build housing in the absence of any other local or neighbourhood plan policy that would explicitly permit such development.

Residential development of this nature and in this location conflicts with the spatial approach to development as expressed within the development plan. This conflict is attributed significant weight given that this is one of the main objectives of the local plan.

Planning legislation is clear that planning applications should be determined in accordance with the development plan, unless other material considerations suggest otherwise. One such consideration is the National Planning Policy Framework (NPPF). The NPPF states that plans and decisions should apply a presumption in favour of sustainable development.

The National Planning Policy Framework (December 2023) (NPPF) 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. The emerging new Local Plan is therefore sufficiently progressed to benefit from this provision.

On this basis, and as the Council can currently 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 presumption in favour of sustainable development (the 'tilted balance') set out at paragraph 11d) of the NPPF need not be applied.

The need to maintain a healthy housing supply and trajectory going forward

The "tilted balance" in the NPPF is not the only basis for planning decisions, it is a material consideration but does not displace the development plan nor the requisite planning balance established under section 38(6) of the Planning and Compulsory Purchase Act 2004.

The need for housing over the next five years is a crucial consideration in planning decisions. According to paragraph 69 of the National Planning Policy Framework (NPPF), local planning authorities must identify specific sites for housing for the next five years and broader areas for growth for the subsequent 10-15 years. This means that a responsible and proactive council should be looking beyond the mere 4 and 5 year timescales and should instead recognise the implications of decision making on both medium and longer term housing delivery.

If the Council cannot demonstrate a five-year housing supply when adopting a new local plan, it would conflict with paragraph 69(a) of the NPPF. Without an adequate supply of housing an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of paragraph 35 of the NPPF. Therefore, on this basis alone the Council should not rely solely on a short-term, four-year housing supply, as providing robust reason enough for resisting further housing as a matter of principle.

Appeal decisions have shown that even if a site is not allocated in the current plan or is outside development boundaries, it can still nevertheless be considered to be 'sustainable development' if there are no site specific technical objections and it is located within reasonable reach of an appropriate level of services and facilities. This is especially relevant given the Council's current and future housing supply challenges, regardless of the 'tilted balance'.

National policy, prior to December 2023 required a continuous five-year housing supply. Some other authorities have struggled to maintain this, leading to weaker positions when trying to defend planning appeals. These decisions often relied on overly optimistic policy assessments, resulting in a compounded effect on future planning. The experience of these authorities shows that it takes time to recover (so to claw back an appropriate supply of housing) making it very hard to successfully defend against appeals for sites deemed by the Council to be wholly unacceptable.

The Council's Housing Monitoring Update shows that the forthcoming five-year housing trajectory will fall below the required numbers and it is notable that affordable housing delivery has also been below the required levels. Currently, about 6,000 households are on the Council's housing register. The district's identified affordable housing need is 272 dwellings per year, totalling 4,896 dwellings over the 18-year plan period. Delivery in recent years has fallen well short of this annual target.

This issue was considered by Stratgic Planning Committee on 15/7/2024 following the receipt of advice from Kings Counsel. The committee resolved to advise Planning Committee that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position. This is in order to ensure that the council has a robust housing land supply and as a result a sound local plan in respect of housing land supply for examination of the Local Plan.

Summary

There is a clear need for more housing, both market and affordable, within the district. The current and projected levels of housing delivery do not meet this need in the long term under the current policy climate. This unmet need is a significant factor for decision-makers in planning applications and appeals, particularly pertinent for otherwise sustainable sites outside current settlement boundaries.

To be in a strong position now, and remain so in the future, the Council must boost its supply of market and affordable housing and develop a local plan that ensures the realistic delivery of sufficient homes over the plan period. A robust approach in this regard would mean the adoption of a local plan which both expresses and reflects the needs of the district, provides the ability to defend unsustainable sites for development at appeal, prevent speculative planning applications afflicting local communities and meet the social elements at a national scale by delivering the right type of housing at the right time. Accordingly, the need to boost the supply of housing is a material consideration that can be attributed significant weight given the strategic importance maintaining a healthy supply of housing means to the council and its ability to retain control over key planning decisions.

Affordable housing

Lack of affordable housing is a critical issue in East Devon and in order to retain younger people in our neighbourhoods and communities, as well as housing others in need, we need more affordable homes.

Strategy 34 of the EDDC Local Plan indicates that in villages and rural areas applications should provide 50% affordable housing on site. It further elaborates by stating:

Where a proposal does not meet the above targets, it will be necessary to submit evidence to demonstrate why provision is not viable or otherwise appropriate. An overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets.

The application in its heads of terms indicates that the proposal would provide 35% affordable housing to be built on site, equating to 14 units and pay a 15% off site contribution of £292,925, equating to a total affordable blended housing percentage of 50%.

The Housing Enabling Officer has the following comments to make:

Tenure - Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership. For the proposed 14 units, this would amount to 9 rented units and 5 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon.

It is acknowledged that the affordable housing would not be 'pepper potted' throughout the development, however, on such small sites it is much easier for estate management for the affordable housing provider to service the units, furthermore, the estate is laid out in three component parts, the affordable units would enjoy uninterrupted views over the open space and countryside beyond such they would enjoy a high level of amenity.

Accordingly, whilst the proposal fails to achieve a policy compliant level of affordable housing on site, the addition of a contribution to achieve the 50% provision overall the must be seen as a benefit especially at a time where there is a critical need for more

affordable homes, it will be a matter than needs to be weighed in the planning balance at the end of the report.

Agricultural land classification

The site is currently an agricultural field, and where the loss of agricultural land is proposed an assessment must be made as to whether it is the best and most versatile agricultural land (Grades 1, 2 and 3a). Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available or the benefits of development justify the loss of the high-quality land.

The majority of the site constitutes grade 3 agricultural land (with a small pocket of grade 2) which is the not the highest-grade land but one where an on-site survey would be needed to determine whether it is 3a or 3b. No such survey has been submitted with this application and so a cautious approach is to consider that the site could be Grade 3a, which does fall within the category of best and most versatile agricultural land. The field is currently farmed but is constrained by housing developments on 3 sides and a water course on the other side and therefore is not connected to other similar grades of land which reduces its agricultural viability and value.

Whilst it is considered that the loss of 2.58 hectares of the agricultural land is regrettable, where it is not physically connected to land of a similar quality or higher quality (as in this instance) and as there are large amounts of other land in the locality of higher quality, it is considered that the loss would not significantly harm agricultural interests or the national food supply. Nevertheless, the loss of this agricultural land weighs negatively in the planning balance.

Highway Impact and Access

The proposal for 42 residential units would be accessed through two new accesses, one from Strawberry Hill and the other from Meeting Lane. The design, layout and impacts from each of these accesses will be addressed in turn:

Meeting Lane access

The main part of the site for 37 houses would be served by a new adopted roadway from Meeting Lane through what is presently a roadside verge and mature hedgerow to an agricultural field. The existing hedgerow would be removed to create the access and appropriate visibility splays and a footway adjacent to the road to enable access the estate; a new bank with planting on which follows the line of an historic bank would be re-provided to the south of the access point running towards a group of mature trees and surround the attenuation pond area. Once the access road has entered the site in a southerly direction, adoptable standard roads are shown on the site plan that lead out to all of the 37 proposed units from this access.

Strawberry Hill access

The eastern most part of the site would be accessed from Strawberry Hill which is an unclassified road that leads in a southerly direction into the heart of Lympstone, this access would serve 5 dwellings and provide a tarmacked turning head with 2 no. private drives leading from it. The existing roadside hedge bank would be removed and create the access and appropriate visibility spays, though the amount of hedge lost would be returned into the site. There have been a number of new accesses formed onto Strawberry Hill in recent years, most notably immediately to the south of the site to form the estate of houses known as 'Gulliford Close'.

In terms of the accesses and the development's impact on the wider road network where it generates additional vehicular traffic onto Meeting Lane, which is a C class road which runs along the northern edge of Lympstone close to its junction with the A376, the Highway Authority have considered the scheme in detail and the additional details that have been provided by the applicant's agent. The County Council as Highway Authority recommend approval of the scheme with specific conditions applied to create an off site dedicated right turning lane on the A376 when approaching from the north, this would be dealt with by a Section 278 agreement between the applicant and the Highway Authority and would need to be provided and capable of use prior to first occupation of any dwelling on this site. A further condition is required to agree a suitable construction management plan for routing of construction vehicles prior to any development on site taking place.

The development will inevitably generate additional vehicular activity on local roads. This traffic will accumulate at pinch points with the new traffic being generated by other recent development in the village and further afield. The Highway Authority are satisfied that the new junctions of the accesses will not suffer undue congestion at peak flows and has appropriate visibility that can be controlled and maintained together with a new dedicated right turn lane onto Meeting Lane towards the site from a northerly. They specifically do not consider there will be a significant denigration of highway safety. For these reasons the proposals are considered to accord with Policy TC7.

In terms of wider accessibility, Policy TC2 and the NPPF seek residential development that is located in positions where there are viable alternatives to the private car allowing pedestrian, cycle and public transport access to jobs, services and amenities. The application site is accessible to a range of services including bus services, schools, church, village hall and jobs (predominantly in further afield settlements by bus or train). There are suitable and safe walking routes into the village centre, the development would join into the pedestrian network in the far western and southwestern corners of the site. In short, the site is considered to be accessible and future residents would have viable and attractive sustainable alternatives to using the private car both on foot or by bus or train.

The parking is indicated as a mixture of parking spaces and garages and these would be conditioned to be provided prior to first use of the property they serve, cycle parking is also indicated though additional details regarding the location and design of how they relate to each plot is required by condition.

In conclusion, the proposals are considered to be in an accessible location with suitable and safe access. Vehicular traffic would enter an, at times, busy local road network, but these trips would naturally dissipate onto alternative routes that are safe and appropriate. There are viable alternatives to the use of the car with pedestrian and cycle links as well as walkable bus stops and train station with regular services in the locality. The submitted Transport Assessment and the Residential Travel Plan are considered acceptable by Devon County highway Authority and the overall the scheme considered to accord with Policies TC2 and TC7 of the EDDC Local Plan and the guidance in the NPPF.

Residential amenity

The proposal site adjoins the existing built up area boundary of Lypstone where gardens of existing houses back onto the proposal site, such that it is important to consider the impact that the proposal would have on the living conditions of existing occupiers, it is also important to consider the living conditions of potential future occupiers of the proposed residential units to ensure that they have a good standard of living.

Residents in Gulliford Close

All of the dwellings on the northern part of Gulliford Close, nos. 6-15 inclusive, have their back gardens facing onto the application site, the existing boundary is formed by post and rail fencing with limited amounts of vegetation and as such these houses have a full and open view across the majority of the application site that is currently an agricultural field. For the most part the dwellings in Gulliford Close are sited around 7 metres at their closest point to the boundary with the application site, however no. 6 has recently constructed a conservatory which reduced the distance to 4.5 metres. The proposed dwellings would be sited 16 metres from the rear elevations of nos. 7,8,9,10 and 11 Gulliford Close (no. 6 would be 13.5 metres due to recent conservatory) with direct views towards blank side elevation of the proposed dwellings, there would also be single storey garages closer to the boundaries of nos. 6 and 9 Gulliford Close. Nos. 12, 13,14 and 15 Gulliford Close have rear elevations facing away from the application site. A new hedgerow would be formed between the existing and proposed properties.

No. 5 Gulliford close would have its side elevation facing onto a blank elevation of a new property to the west 12.5 metres away.

There would undoubtedly be an impact upon the outlook from the aforementioned properties in Gulliford Close with a change from an agricultural field to an estate of houses, however, due to the distances involved and the fact that there would be no openings on the elevations of the proposed houses facing the houses in Gulliford Close, it is not considered that there would be a detrimental impact on their living conditions through overlooking, loss of light or from the proposed two storey units being overbearing.

Residents in Glebelands

To the south west of the site lie the properties in Glebelands, Nos 1-18 inclusive have their gardens backing onto the application site, however, there is a mature belt of trees which are protected by a tree preservation order (TPO) between the site and aforementioned properties together with separation distances ranging from 20 metres to 35 metres such that it is considered that there would not be a detrimental impact on the living conditions of the properties in Glebelands

Higher Stables

A new dwelling to replace redundant stables was approved under application number 21/3077/FUL immediately adjacent the north eastern corner of the site, this dwelling has not yet been implemented but the permission remains extant and therefore must be treated as a material consideration, that single storey dwelling would have windows facing toward the site from its main living area. Plot 37 would be located 18 metres from the front elevation of Higher Stables and would be single storey being a dormer bungalow with the dormer on the front elevation facing away from the aforementioned property. Given the distance between the properties and the fact that the extant dwelling would have an outlook onto a sloping roof (for part of its outlook, fields for the other part) it is considered that there would not be a detrimental impact on the living conditions of the occupiers of Higher Stables.

All of the houses satisfy and the majority exceed the minimum standards set out in the Nationally Described Space Standards (NDSS) and all property have good access to natural light and private garden areas of sufficient size in relation to the size of the dwelling they relate to.

For these reasons the proposals are considered to be acceptable in terms of residential amenity and accord with Policy D1 of the EDDC Local Plan together with advice contained in the NPPF.

Landscape and Visual Impact

The application site is currently a pleasant green field, sloping gently up as it leaves the edge of Lymptone. Development of the site as proposed would result in the loss of an open and relatively prominent field on its northern periphery when viewed from Meeting Lane to built form but sensitivity is reduced by the presence of existing modern residential development to the south. Gradients are sufficiently gentle not to entail major terracing of the site. The location of the proposed access would result in the removal of some of the existing roadside hedge. Although the hedge will be returned into the site in the form of a bank with planting on it would be set further back from the site boundary, the proposed highway works will lead to a change in character along Meeting Lane and to a lesser extent Strawberry Hill due to other recent developments, creating a much wider highway corridor and changing its character from semi-rural to urban.

The Council's Landscape Architect concludes by stating:

'The proposals are likely to introduce built elements and alter existing historic hedgebanks that will erode the rural character of both Meeting Lane and Strawberry Hill although with a more sensitive design approach these impacts could be reduced.'

The proposals give rise to significant concerns in relation to the impact of development on the character of the adjacent rural lanes and existing important site trees.

For development within the southwestern parcel of the site to be acceptable a significant reduction in the number of units is required with the access road taken along the northern side and housing limited to the south side of this facing northwards and the foul pumping station more discretely sited.

Minor amends are required to the northern development parcel in respect of plot 24 and access details as noted above.

Detailed levels plans are required at 1:250 scale and two 1:200 scale north-south sections should be provided through the attenuation basin and extending to the southwestern boundary showing proposed and existing levels.

The drainage plans should be amended to show details of invert and cover levels and attenuation basin levels'.

Amended plans have been received which have addressed most of the Landscape Architects concerns expressed above through amendments to layout, softening of boundary treatments, moving houses away from trees and redesigning certain plots, however, his concerns regarding the southwestern section, namely:

The southwestern section, plots 1-20, is heavily constrained by important existing trees and levels and the quantum of development proposed here is too great to fit comfortably within the developable footprint. The consequences of this are a compromised layout with a high risk of damage to the existing trees both during construction and post occupation by residents seeking to reduce shade effects and increase light to their rooms.

A considerable effort has been made and shadow impacts of tree canopies have been undertaken to the point where, whilst some plots will be in shade at certain points of the day at certain times of the year, these will be for parts of the day and not the whole day with gardens being achieved which will not be in shade at all leading to an improvement to the living conditions of those plots following the amendments. It is considered that a more harmonising development has been produced protecting the trees and important corridors and providing a quantum of development that would be viable to be brought forward. Through appropriate conditioning the landscape mitigation measures can be secured together with biodiversity benefits that will be discussed later in this report.

The proposed layout of the estate is considered to be appropriate taking into account the various constraints to development, chiefly amongst these are the existing trees. The scale of the houses being predominantly two storey is appropriate and the palette of materials and finishes is consistent with the adjacent recently constructed estate to the southeast.

Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Meeting

Lane and Strawberry Hill and the visual impact on Gulliford Close residents would be significant adverse, the density of development is considered acceptable and the design of houses appropriate complementing those recently constructed to the south, the development can be accommodated without wider significant adverse impact to the host landscape character.

Accordingly, the proposal is considered to be acceptable in accordance with Policies D2 and D3 of the EDDC Local Plan.

Trees

There is a belt of protected trees on the western boundary of the site, together with a number of mature oak trees set to the east of this belt of trees, the Council's Tree Officer initially raised a number of concerns relating the proximity of the dwellings to the trees and the lack of available light due to large canopies causing detriment to the living conditions of potential occupiers and the pressure to need to undertake future works to protected trees to improve the living conditions.

Amended plans have been received which indicate that at least 50% of the gardens of each plot would be outside the crown spread of the trees and that shading will only take place during certain times of the day, not all day. Special attention has been paid to the tree officer comments by the applicant and their tree consultant so that the vast majority of trees can be retained save for some poor specimens in the larger group. This loss of a small number of trees is regrettable, however, the proposed landscaping scheme compensates for this loss and has long term objectives to manage the trees.

Concerns were also expressed regarding the recent removal by a former landowner of (tree officer comments as follows):

two hedgerows have recently been reduced to ground level (Winter 2020 / 2021). During a site visit at the time, both hedges were characterised by being overgrown, not stock proof with gaps and some individual trees. It was noted that little management had taken place and that appropriate management was required. Subsequently rather than coppicing and hedge laying, it appears that many of the shrubs and trees have been grubbed out and the bank re-profiled. Coppicing and layering should have resulted in dense regrowth in both hedges. Onsite, apart from regrowth of approx. 1m on one Ash coppice, there was no sign of any regrowth of hedgerow trees. One other internal hedgerow on site has similarly been managed. In contrast, the boundary hedge along Strawberry Lane has responded with dense regrowth. Both hedges have therefore in effect been removed and should be reinstated. Both hedgerows are marked on old Ordnance Survey maps dating from 1888-1890. There does not appear to be any reference to these hedgerows within the Landscape and Visual Impact Assessment though the boundary lines are clearly visible within the maps referred to in the Historic Environment Impact Assessment. It is considered that the proposed access route should be aligned adjacent to the original hedgerow.

The applicant has responded with amended plans to re-introduce these features, it is considered appropriate to condition that a LEMP (Landscape and Ecological Management Plan) is submitted during the construction works to ensure that the features are appropriate and that they are managed in a meaningful and protective way.

Overall, it is considered that whilst there will be some tensions between development and the existing trees, the amended scheme proposed a harmonising that will enable future occupiers to enjoy the existing setting with appropriate management of the trees to safeguard loss of trees and maintain living conditions, therefore the proposal is considered to be acceptable in relation to Policy D3 of the EDDC Local Plan.

Ecology and Habitats

An ecological impact assessment has been submitted in support of this application which builds upon an initial preliminary ecological assessment undertaken on the site in 2021. Bat activity transect and static surveys were subsequently undertaken from August 2023 to October 2023. The following comments on protected species is relevant in the determination of this application:

Bats - At least eight species of bat have been recorded foraging and commuting over the site during manual and static bat detector survey, however there was no evidence of roosting bats on the site was found.

Badgers - There are no badger setts on the site or suitably close to pose a potential constraint to development, however, badgers do forage across the site and therefore mitigation would be required especially during the construction period. The long-term retention of grassland within the landscape plan surrounding the site and around the attenuation basin will likely benefit badger foraging.

Breeding birds - The trees on site offer opportunistic nesting habitat for common species birds especially in the mature oak trees, the grassland due to it being grazed offers little opportunity for ground nesting.

Dormice - It is not considered that dormice use the site, however, that is the present situation which may change, therefore a dormice licensed ecologist will need to make a fingertip search of the hedgerow prior to any works taking place to them.

Hedgehogs - There are no hedgehog setts on the site or suitably close to pose a potential constraint to development, however, hedgehogs do forage across the site and therefore mitigation would be required especially during the construction period. The provision of planted bunds within the landscape plan will likely benefit hedgehog foraging.

The loss of 20 m of species-poor hedgerow for access into the site is considered likely to result in a minor adverse ecological impact at the site level. The hedgerow removal and some potential translocation could result in the killing or injury of dormice, though at present there is no evidence to suggest that there are any dormice on site if any are found a European protected species licence (EPSL) from Natural England would be required. Applicants can only apply for an EPSL once planning approval has been

granted and any conditions pertaining to protected species, which are capable of being discharged, have been discharged.

Mitigation and ecological enhancement measures include:

- retention of grassland areas around site boundaries together with a new SuDS drainage pond
- the provision of ecological buffers to avoid the illumination of hedgerows,
- ecological supervision of hedgerow removal and translocation,
- sensitive timing of works to avoid harm to nesting birds and dormice,
- angled planks across any excavations to assist in foraging badgers and hedgehogs,
- a lighting plan, including lux contours across the site, will be required. Lighting design should be in accordance with 'Bats and artificial lighting in the UK' (BCT and ILP 2018) to minimise light spill and potential negative effects upon foraging and commuting bats.
- bat boxes (on 50% of the dwellings) and bird boxes (one box on each house)
- Payment of a standard Habitat Mitigation Contribution per house (£367.62) would also be payable to 'deliver' mitigation for recreational impacts on the nearby SPAs.

A Landscape and Ecological Management Plan (LEMP) should be produced, detailing the planting specifications and the ongoing management of the proposed and retained habitats.

The proposed development would not require a European Protected Species Licence from Natural England for bats as no roosting habitats would be lost, however, similarly to the dormice, if any roosting bats are found that are likely to be affected by the works a European protected species licence (EPSL) from Natural England would be required.

The Council's Ecologist has commented on the proposal as follows:

The submitted ecological survey information including ecological avoidance, mitigation, and enhancement measures are generally considered acceptable notwithstanding the above comments regarding the likely loss in habitat value of the site once developed. It is recommended that the site design/landscaping be revisited to achieve a realistic net gain for habitat provision to make the proposal acceptable.

A pre-commencement condition requiring submission of further biodiversity calculations has been agreed between the ecologist and the applicant to overcome his concerns.

Accordingly, as a package of protection and biodiversity enhancement, the site during and following development will benefit from a net gain and the measures are suitable mitigation. These measures are encapsulated in the Ecological Impact Assessment dated July 2023 and submitted with the application.

Habitats Regulation Assessment

The nature of this application and its location close to the Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and a financial contribution will be secured through an appropriately worded legal agreement. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

For these reasons the proposals are considered to accord with Policy EN5 of the EDDC Local Plan, the NPPF and the stipulations of the Habitat Regulations.

Flooding and drainage

The site lies in Flood Zone 1 and is therefore not prone to flooding. Residential development is 'more vulnerable' to flooding, but is directed to Flood Zone 1 in national guidance and the development as proposed is considered appropriate. There is a roadside ditch down the northern side of the site which has been confirmed to be of no substantive flood risk to the site.

Devon County Flood Risk department originally objected to the proposal stating the following:

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

On submission of additional information, DCC Flood Risk Team have removed their objection subject to conditions with the following comments to make:

The applicant have revised Land off Strawberry Hill, Lympstone Flood Risk Assessment (Report Ref. 1414, Rev. C, dated 6th October 2023).

The outcome of the ground investigation carried out in August 2022 has preclude the use of soakaways option as mean to manage the surface water runoff from this development site. The applicant are proposed a detention basin with attenuated discharge to the 'onsite surface water ditch' in the lower reaches of the shallow valley. This ditch feeds through a piped connection to an existing highway gully immediately

outside the site. This connection was objected by Devon Highways due to liabilities and the involvement of third party land north of Meeting Lane.

The runoff from Plots 1 to 4 is impractical to discharge to the new detention basin and it is proposed to drain to a small private cellular attenuation with separated controlled discharge rate of 1l/s to the ditch. The applicant subsequently submitted a covering letter entitled 23/1269/MFUL - Land South of Meeting Lane, Lympstone (Letter Ref. 1414, dated 24th November 2023) stating that the controlled discharge is to outfall to an existing on-site watercourse. We disagreed to their reference that the current easement is a watercourse.

The applicant sought legal advice regarding this connection and it was agreed with Devon Highways that the proposed drainage arrangements would require further discussion. The Advice Note from the applicant's legal team is yet to be reviewed and it is advisable that Devon Highways review this piece of information.

Due to the above uncertainty, the applicant proposed a backup pump surface water runoff option to pump the water to the existing adopted surface water network at Jackson Meadow. This option has been agreed with South West Water (SWW) and could be implemented if all other options are exhausted. Devon Lead Local Flood Authority (LLFA) are not keen for this unsustainable option to be implemented.

The applicant confirmed that the freeboard capacity within the proposed SuDS pond is far exceeds the emergency storage required for a pumped arrangement and therefore would be easily accommodated by the current proposal. No supporting calculation has been submitted at this stage and hence this piece of information has not been reviewed at this stage.

The applicant should also review the Long Term Storage (LTS) calculation and confirm how the LTS is incorporated into the detention basin.

The proposal is therefore considered acceptable, subject to pre-commencement conditions to provide a detailed design strategy in relation to Policy EN22 of the EDDC Local Plan.

In terms of foul water drainage, the proposal would connect into the mains system. South West Water have not objected to the proposal but have commented that this and other local development sites are being assessed to determine whether they will have a significant impact on the pumping station downstream from this development. If any upgrades are required it will take South West Water approximately 18 months to complete them. It is important that we have confidence about the need for any upgrade works before any development should commence and that any upgrades to the sewage system that may be identified to be necessary are implemented in full prior to occupation of any dwelling. As such a Grampian style condition is proposed to secure this.

Subject to the proposed conditions the proposal is considered acceptable and in accordance with Policy EN19 of the EDDC Local Plan.

Heritage Impact

As well as the policies of the Development Plan, the Planning Authority must give special consideration to the significance of any Listed Buildings or Conservation Areas affected by this development as required by Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

On the basis of the information provided through the application, the proposed development would result in slight harm to glimpsed views from Thorn Farm and Gulliford Cottages, Grade II heritage assets located to the northeast and east of the site. In this respect however the impact will be minimal and overall the development proposal is considered to continue to preserve the contribution the site as a setting makes to the significance of these heritage assets.

There are 2no. Grade II Listed Buildings Thorn Farm and Gulliford Cottages, Grade II heritage assets located to the northeast and east of the site.

Accordingly, whilst there would be a slight impact on the setting of the heritage assets, where weight should be given to the preservation of the significance of the assets, this impact would be a less than substantial harm, in such circumstances Paragraph 208 of the NPPF indicates that this harm should be weighed against the public benefits of the proposal. In this instance the less than substantial harm needs to be measured against the provision of much needed housing in the district including a blended 50% affordable housing provision such that the benefits of the proposal are considered to outweigh the slight harm identified.

The Planning Balance and Conclusion

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

In this scheme, weight is attached to the offer of 14 affordable housing units (35%) to be built on site that would provide social sustainability benefits, whilst not a policy compliant level of affordable housing 14 units a significant benefit, added to this the applicant has indicated that they are willing to pay an off site contribution equating to the remaining 15% affordable housing. Similar importance is attached to the 42 new residential units. Strategic Planning Committee have advised that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position. This is in order to ensure that the council has a robust housing land supply and as a result a sound local plan in respect of housing land supply for examination of the Local Plan.

The economic benefits of building, furnishing and living in 42 new homes and the filter down effect this would have on the local and regional economy weigh in favour of the proposal.

The development would be accessible by a range of transport means to Lympstone's amenities and facilities without the need to place sole reliance on the private car,

together with transport links to further afield settlements. Although the local road network would receive additional pressure, the impact is not considered severe and there are no objections from the County Highway Authority. This also weighs in favour of the proposal.

There is not a significant adverse impact on local residential amenity and an acceptable impact on the local and wider rural landscape and the setting of the village. Although there will be an inevitable erosion of the countryside with the new housing being built, the Landscape Officer's assessment does not consider the visual impact to be significantly adverse. A similar conclusion is drawn on local heritage assets where special consideration has been given and whose significance would not be harmed.

Ecological impacts are fully mitigated ensuring compliance with planning policy and the Habitat Regulations. There would be retention of the primary hedgerows around the site save for some loss of the roadside hedge with minimal tree or hedge removal overall.

The development could result in the loss of Grade 2/3 agricultural land and this weighs negatively in the planning balance.

The development is outside of the floodplain with a site that can be drained by sustainable means (subject to conditions).

The proposals offer an appropriate package of mitigating measures to offset the impact that the new housing would have on local infrastructure through payment of CIL which is also of benefit to the parish of Lympstone through receiving 15% of the total CIL monies to use in the parish.

It is considered that there are substantial social and economic benefits to development. The 35% provision of affordable housing on site plus 15% contribution off site, the open market housing and the benefit to the local economy should be given great weight. The environmental impacts are limited, the most significant being the erosion of countryside on the edge of Lympstone and possible loss of BMV agricultural land. However, given the current housing and affordable housing supply position, and given that the impact is not so harmful in light of the comments from the Landscape Officer, the environmental impact is not so adverse that it outweighs the substantial housing offer being tabled to help meet the current identified need for housing.

On balance the proposals are considered to represent sustainable development in the light of the guidance in the National Planning Policy Framework and the up-to-date policies of the Development Plan and the significant public benefit of providing additional housing, including affordable housing is a material consideration that justifies approving this development as a departure to Strategy 7 of the Local Plan.

RECOMMENDATION

- 1. Adopt the appropriate assessment.**
- 2. APPROVE subject to a legal agreement securing the following matters:**

- **Habitat mitigation contribution of £367.62 per residential unit.**
- **35% affordable housing to be 9 social rented units and 5 units for affordable home ownership.**
- **15% off site affordable housing contribution of £292,925**
- **Management company to maintain common areas on site.**
- **Travel Plan.**

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 development a Construction and Environment Management Plan must be submitted to and approved by the Local Planning Authority, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. The plan shall also consider construction vehicle routing and delivery arrangements. Construction working hours and all site deliveries shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.
(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution from the outset (required to be pre-commencement) in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan.)

The conditions should be pre-commencement since it is essential that the proposed details are provided before any construction impacts on the environment commence.

4. No development shall take place on site until the site's drainage output in so far as it relates to the highway has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority. The development shall thereafter be carried out in accordance with the agreed details.
Reason: To minimise the impact of the development on the highway network before any development commences in accordance with Policy TC7 of the East Devon Local Plan 2013-2023.
The conditions should be pre-commencement since it is essential that the proposed highway drainage details are provided before any construction impacts commence.

5. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- Reason: To minimise the impact of the development on the highway network in accordance with Policy TC7 of the East Devon Local Plan 2013-2023.

The conditions should be pre-commencement since it is essential that the proposed details are provided before any construction impacts commence.

6. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- (a) A detailed drainage design based upon the approved Land off Strawberry Hill, Lympstone Flood Risk Assessment (Report Ref. 1414, Rev. C, dated 6th October 2023) and covering letter entitled 23/1269/MFUL - Land South of Meeting Lane, Lympstone (Letter Ref. 1414, dated 24th November 2023).
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

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

(e) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals, the scope of which shall be agreed with the local planning authority in consultation with the lead local flood authority. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(f) Evidence there is agreement in principle from SWW/ landowner/DCC Highways to connect into their system.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above and the approved drainage system shall be retained and maintained as such for the lifetime of the development

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

7. No external lighting shall be installed on site until a Lighting Impact Assessment (LIA) including lux contours, based on the detailed site design, most recent guidelines (currently GN08/23 and DCC 2022), and recommendations within the Ecological Impact Assessment (Encompass Ecology, October 2023), has been submitted and approved in writing by the local planning authority. The LIA should clearly demonstrate that dark corridors are achievable without the attenuation of habitat features which long-term management cannot be guaranteed. All lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. No other external lighting be installed unless otherwise agreed in writing with 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.

8. 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. The LEMP shall include biodiversity measures as referred to in the Ecological Impact Assessment (Encompass

Ecology, October 2023), in particular those that refer to a Biodiversity Enhancement Plan (BEP), and 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 - 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.

This needs to be a pre-commencement condition to ensure any environmental impacts are mitigated from the onset of development.

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

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising

arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason : A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required from the outset of development 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.)

10. No development shall commence until a Biodiversity Management Plan to ensure that there is a quantifiable net gain in biodiversity of at least 10% within a 30-year period as a result of the development has been submitted to, and approved in writing by, the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time, and the Biodiversity Management Plan shall include:

1. Proposals for on-site biodiversity net gain (full details of which will be provided in relation to each phase of development (where applicable) and/or for off-site offsetting);

2. A management and monitoring plan for any on-site and off-site biodiversity net gain, including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2, 5, 10, 15, 20, 25 and 30 from commencement of development, demonstrating how the biodiversity net gain is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;

3. A methodology for the identification of any site(s) to be used for offsetting measures and the identification of any such offsetting site(s); and/or

4. Details of any payments for offsetting measures including the biodiversity unit cost and the agreed payment mechanism.

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan and shall be retained as such thereafter.

Reason: In the interests of ensuring measurable net gains to biodiversity 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.

The condition should be pre-commencement since it is essential that the proposed improvements to biodiversity are measurable before habitats are removed and any construction impacts commence.

11. 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.
 - 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: In the interests of ensuring protection of biodiversity 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.

The condition should be pre-commencement since it is essential that the proposed details are provided before any construction impacts commence and any biodiversity/ecological features are removed from the site.

12. Each dwelling shall not be occupied until the dwelling specific ecological mitigation and enhancement features (where applicable) have been installed/constructed in accordance with the submitted LEMP and CECoMP Prior to the Occupation of 80% of the residential units, the site wide ecological measures must be installed/constructed in accordance with the submitted LEMP and CECoMP

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

13. Prior to first occupation of any of the residential units hereby approved, the off site highway works to create a right turn lane on the A376, which shall have first been the subject of a successful 278 highway agreement, shall be fully implemented and capable of use. The off site highway works shall thereafter be retained and maintained for such purposes at all times.

(Reason: To ensure that the off site highway works are fully implemented and mitigate impact that the proposal would have on the highway network in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within the Schedule 2 Part 1 Classes A, B, or E on plots 5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,25,37 for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure swimming or other pool, other than any enclosure approved as part of the landscape management scheme
(Reason - The space available would not permit such additions without detriment to the surrounding trees and their root protection areas in accordance with Policy D3 – Trees and Development of the Adopted East Devon Local Plan 2013-2031.)
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse on plots 1,2,3,4 without a prior grant of planning permission
(Reason - To retain the landscaped buffer between the house and Meeting Lane in accordance with Policy D1 – Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031).
16. Development shall proceed in accordance with Section 5 (impact of proposed works, mitigation and enhancement) detailed in the Ecological Impact Assessment dated October 2023 undertaken by Encompass Ecology Ltd.
(Reason: To ensure that the mitigation measures are in place to safeguard the biodiversity and protected species displaced by the development in accordance with Policy EN5 (Wildlife Habitats and Features).
17. No development above foundation level shall take place until the locations of the air source heat pumps and solar panels for each unit as indicated in Section 10 of the Design and Access Statement have been identified and the designs of the air source heat pumps have been submitted to and approved in writing by the Local Planning Authority. The dwellings to which they relate shall not be occupied until the approved solar panels and/or air source heat pumps have been installed in accordance with the approved details.
Reason: To ensure that the developments sustainability credentials are realised in accordance with Strategy 38 - Sustainable Design and Construction of the East Devon Local Plan.
18. The garages and parking spaces indicated on the approved site plan - drawing number PL102 Rev V shall be provided prior to first use of the property they

serve and thereafter retained for parking purposes only (except for the approved first floor on certain plots).

Reason: To ensure that adequate parking is provided for residents and visitors to the site in accordance with Policy TC9 (Parking Provision in New Development) of the East Devon Local Plan.

19. Notwithstanding the details provided prior to first occupation of each dwelling, details of the location and appearance of the proposed cycle stores shall be submitted to and approved in writing by the Local Planning Authority, the cycle stores as approved shall be provided prior to first occupation of the dwelling they serve and thereafter retained and maintained for such purposes.
Reason: To ensure that adequate cycle parking is provided for residents and visitors to the site in accordance with Strategy 5B (Sustainable Transport) of the East Devon Local Plan.
20. Notwithstanding the details provided, no development above foundation level shall take place until samples of the proposed materials to be used externally on each plot have been submitted to and approved in writing by the Local Planning Authority, development shall thereafter be carried out in accordance with such agreed details only.
Reason: To ensure that the materials to be used are of sufficient quality and would assimilate well with their surroundings in accordance with Policy D1 (Design and local Distinctiveness) of the East Devon Local Plan.
21. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
- A) The main road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The main road and cul-de-sac footways and footpaths which provide direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the main road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the main road and cul-de-sac have been provided and erected.
 - H) The pedestrian links to the existing footpath network have been provided as indicated on the approved site plan.

(Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with Policies TA7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

22. Prior to the commencement of development it shall be evidenced to, and agreed in writing by the Local Planning Authority, whether or not the South West Water foul sewerage infrastructure that this development would link into has adequate capacity to deal with the foul sewage generated by this development. If it is identified that upgrade works are required to ensure adequate foul sewage capacity, no dwelling shall be occupied until the upgrades to the foul sewage infrastructure have been completed to the satisfaction of the Local Planning Authority unless alternative means of adequately dealing with foul drainage have been agreed in writing by the Local Planning Authority and implemented in full.

(Reason: In the interests of pollution control, the environment and amenity in accordance with Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the East Devon Local Plan. This needs to be a pre-commencement condition to ensure that the impact and therefore control of sewage outputs from the site are fully understood and any necessary upgrades to the sewage infrastructure identified and agreed, together with a time scale for implementation)

Plans relating to this application:

PL200 B : A+B	Street Scene	20.10.23
PL201 B : C+D	Street Scene	20.10.23
01-ATR-1001 C : refuse tracking	Other Plans	20.10.23
01-ATR-1101 C : fire tender tracking	Other Plans	20.10.23
01-PDL-1001 G : preliminary drainage layout	Layout	20.10.23
01-PHL-1001 C : levels	Other Plans	20.10.23
01-RP-1001 A : long section (1 of 2)	Additional Information	20.10.23
01-RP-1002 A : long section (2 of 2)	Additional Information	20.10.23

PL310 E : HT24P	Proposed Combined Plans	20.10.23
PL320 E : HT3B A	Proposed Combined Plans	20.10.23
PL322 HT2B P+HT3BA (proposed combined)	Additional Information	20.10.23
PL323 : HT2B3P+HT3BA (proposed combined)	Additional Information	20.10.23
PL325 C: HT3B B	Proposed Combined Plans	20.10.23
PL330 D : HT3B C (proposed combined)	Additional Information	20.10.23
PL331 : HT38B C (proposed combined)	Additional Information	20.10.23
PL332 B : HT3B C	Proposed Combined Plans	20.10.23
PL335 E : HT3B D	Proposed Combined Plans	20.10.23
PL342 : HT3B F (proposed combined)	Additional Information	20.10.23
PL343 : HT3B F (proposed combined)	Additional Information	20.10.23
PL345 E : HT4B A type 1 (plot 27)	Proposed Combined Plans	20.10.23
PL347 C : HT48A type 2 (plot 26 33)	Proposed Combined Plans	20.10.23

PL347 C : HT48A (plots 26 33)	Proposed Combined Plans	20.10.23
PL349 C : HT48 A type 3 (plot 20)	Proposed Combined Plans	20.10.23
PL350 E : HT48 B	Proposed Combined Plans	20.10.23
PL351 E : HT4B B	Proposed Elevation	20.10.23
PL352 E : HT 48B B (type 2)	Proposed Combined Plans	20.10.23
PL353 E : HT4B B (type 2)	Proposed Elevation	20.10.23
PL354 B : HT4B B (type 2)	Proposed Elevation	20.10.23
PL375 D : single garage/office	Proposed Combined Plans	20.10.23
PL380 E : doubl egarage/office (HT 4B B	Proposed Combined Plans	20.10.23
PL385 E : single garage	Proposed Combined Plans	20.10.23
936/01 B : planting (west)	Landscaping	20.10.23
935/02 A : planting (east)	Landscaping	20.10.23
936/03 B : details and notes	Landscaping	20.10.23
PL202 B : A - D	Sections	20.10.23
PL203 A : E - F	Additional Information	20.10.23
PL100 A	Location Plan	20.10.23
PL102 V	Proposed Site Plan	20.10.23

PL103 C : materials	Other Plans	20.10.23
PL104 E : enclosures	Other Plans	20.10.23
PL105 C : surfaces	Other Plans	20.10.23
PL106 C : parking	Other Plans	20.10.23
PL107 C : refuse collection	Other Plans	20.10.23
PL108 B : green infrastructure	Other Plans	20.10.23

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:

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

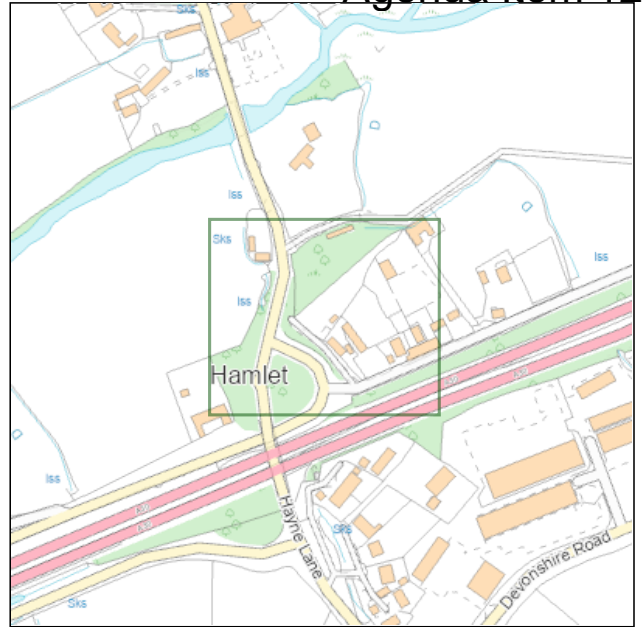
Ward Feniton

Reference 24/1197/PIP

Applicant Mr Graham Braddick

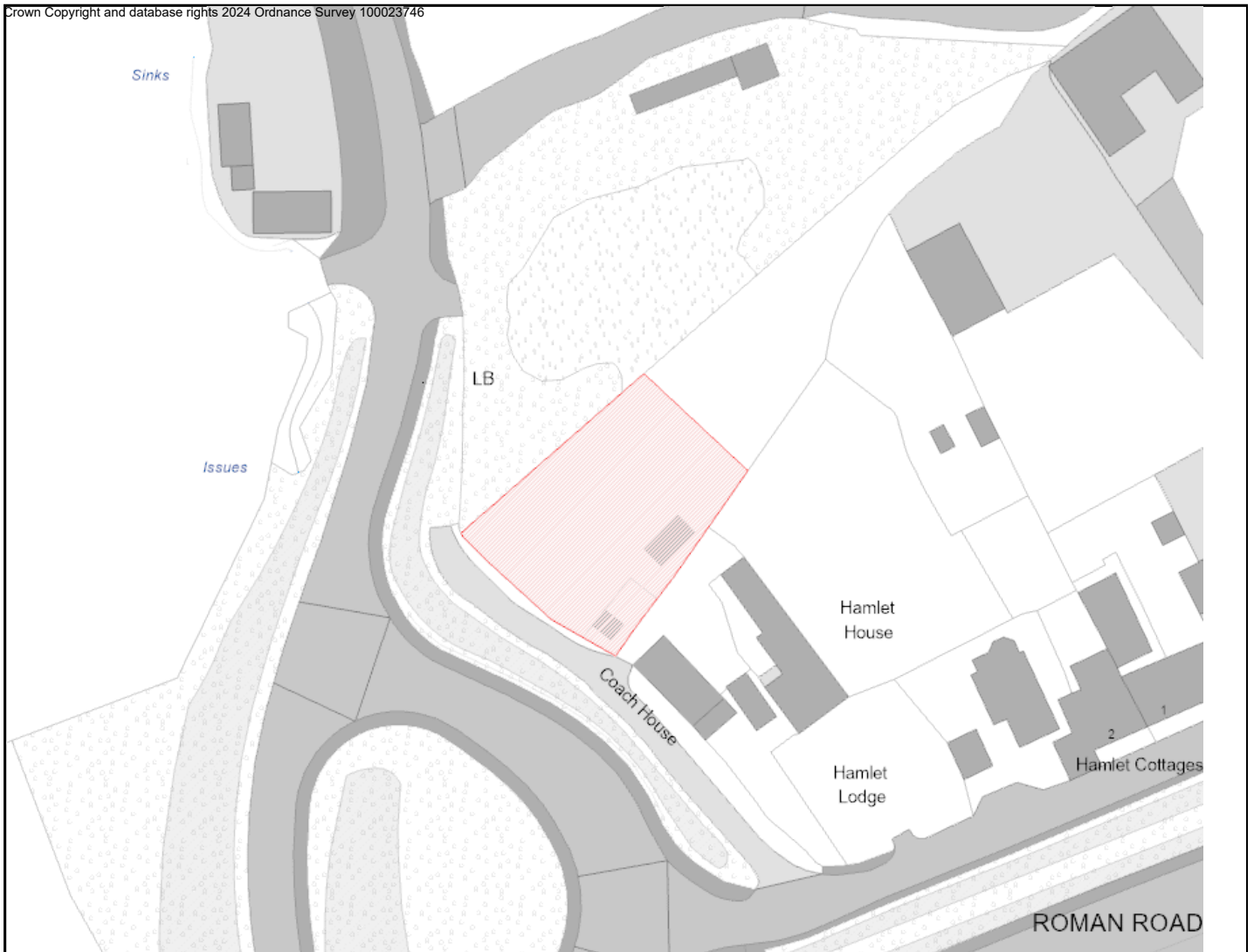
Location Land Adjacent To Hamlet House Nags Head Road Gittisham

Proposal Permission in principle application for the conversion of an existing building into a single dwelling



RECOMMENDATION: Refusal

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		Committee Date: 20.08.2024
Feniton (Gittisham)	24/1197/PIP	Target Date: 18.07.2024
Applicant:	Mr Graham Braddick	
Location:	Land Adjacent To Hamlet House Nags Head Road	
Proposal:	Permission in principle application for the conversion of an existing building into a single dwelling	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is brought before the Planning Committee owing to the officer recommendation being in conflict with comments received from the Ward Councillor.

The application site is just to the north of the A30, opposite Heathfield Industrial Park, and outside of any built-up area boundary (BUAB). The site comprises a field which contains a building with a footprint of just under 24 square metres in area. Both the field and building are located within flood zone 2.

The application is a 'Permission in Principal' which is a two stage process. At this stage the relevant considerations are limited to an assessment of the land use, the location and the amount of development proposed. All other matters are reserved for consideration at the second 'Technical Details Consideration' Stage.

The proposal involves the extension of the existing outbuilding to provide a one bedroom one person dwelling. The creation of a new dwelling within flood zone 2 would require the application of the sequential test. On the basis that EDDC can demonstrate a 4.5 year housing land supply it is considered that there would be land and buildings available for a single dwelling to be provided which would not be in the flood zone. The Council considers that the search area for the sequential test for an additional dwelling should be District wide. The fact that the applicant owns this site is not sufficient to overcome local and national planning policy in respect of flooding.

The proposed development is located in planning terms within the countryside, where there are no development plan policies which explicitly permit this form of development. The proposed development would be divorced from necessary services and facilities and would lead residents to rely on travel by car.

In addition, the proposal would require a substantial extension in order for the proposed dwelling to comply with the Nationally Described Minimum Space Standards for a one person dwelling. The proposal would therefore be contrary to the provisions of Strategy 7 - Development in the Countryside and Policy D8 - Re-use of Rural Buildings Outside of Settlements.

On this basis the scheme is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

Gittisham parish councillors resolved to have no objections to this application. Members had however possible concerns over potential flooding as the property is described as in a flood risk zone.

Ward Councillor: Councillor Bruce

As I understand it this building has been in the ownership of the applicant for many years, and the main driver for him converting it to a dwelling is a desire to return to the village he was brought up in. I note the reasons for objection, one being the arbitrary statement that there are less flood prone areas nearby. He owns this land already. I believe the dwelling size is to accommodate one person. In terms of size I wonder how this equates to a single occupancy flat?

We have seen developments allowed in recent past that have been 'just' outside the development boundary. This application is very close indeed to the boundary.

Finally, as ward member I support this application and regard it as a small sympathetic development which will do no harm to the area and buildings around it.

Technical Consultations

EDDC Trees

I have no objection but a potential future planning application may require submission of arboricultural information, to comply with BS5837.

Other Representations

No third party representations have been received.

PLANNING HISTORY

20/1380/PDQ - Conversion of agricultural building to dwelling. Refused 27.08.2020

APP/U1105/W/21/3267702 - Appeal dismissed 10.06.2021

22/1600/FUL - Extension of an existing commercial building on the land north of Hamlet House. Refused 18.10.2022

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

D8 (Re-use of Rural Buildings Outside of Settlements)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

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

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

ANALYSIS

Site Location and Description

The application site sits to the west of Hayne Lane, and to the north of the A30, opposite Heathfield Industrial Park. The site is accessed off a small private lane running parallel and just to the north of the A30, off which are a number of dwellings, which include the Grade II listed Hamlet House.

The application site comprises a small single storey building, located within an elongated field to the north of Hamlet House. The field is accessed off a section of the former Hayne Lane, which is now a cul de sac, that previously extended north towards Weston.

The building, which has a footprint of just under 24 square metres in area, has part rendered and part horizontal timber boarded external walls, with a gabled clay pantile pitched roof, oriented north east/south west. The field and building are located within flood zone 2.

Proposed Development

Permission in principle is sought for the conversion of an existing building into a single dwelling. The proposed development would include the extension of the existing building to provide a single storey dwelling.

The proposal does not envisage any alterations to the existing vehicular or pedestrian access to the site, which is accessed via a private drive off Hayne Lane.

Procedure

The permission in principle (PiP) process was introduced through the Town and County Planning (Permission in Principle) Order 2017. It provides an alternative means of obtaining planning permission for housing-led development. It is a two stage process; the first being the permission in principle stage and the second technical details consent (TDC) stage. The PiP route can only be used for housing led development and cannot be used for major development.

Planning obligations cannot be secured at the permission in principle stage.

Considerations and assessment

At PiP stage the relevant considerations are limited to assessment of the land use, location and amount of development proposed with other matters reserved for consideration at TDC stage.

Land Use

The site lies just outside of the Built -up Area Boundary of Honiton. The BUAB to Honiton runs along the south of the A30 dual carriageway, 100 metres to the south of the site. In planning policy terms this places the site within the countryside and the provisions of Strategy 7 therefore apply. This strategy states that development outside BuABs will only be permitted if it is in accordance with a specific local or neighbourhood plan policy and where it would not harm the area's distinctive landscape, amenity and environmental qualities. Policy D8 'Re-use of Rural Buildings Outside of Settlements' permits the re-use or conversion of buildings in the countryside outside of Built-up Area Boundaries subject to the proposal satisfying a number of criteria. These criteria are as follows:

1. The new use is sympathetic to, and will enhance the rural setting and character of the building and surrounding area and is in a location which will not substantively add to the need to travel by car or lead to a dispersal of activity or uses on such a scale as to prejudice village vitality.

This is discussed in more detail under the heading 'accessibility'.

2. The building is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and any alterations protect or enhance the character of the building and its setting;

The existing building has an internal area of 20 square metres. As a conversion this would fall well below the space standards required for a dwelling. The nationally described minimum space standards for a one bed one person single storey dwelling with a shower room is 37 square metres. As such, a significant extension would be required to the existing building to provide additional habitable space to allow the proposal to meet these standards. The proposed extension would need to provide almost as much floor space as the existing building in order for the building to function as a habitable dwelling. The amount of additional floor space required would be considered to be 'substantial' in this context, which is in conflict with this criterion of Policy D8.

The remaining criteria of Policy D8, in respect of the building's design and the landscape impact of the proposal would be considered under the technical details consent stage.

Whilst the proposal therefore would re-use an existing building outside of an existing settlement boundary, the substantial size of the extension required in order for the building to achieve minimum space standards for the smallest residential unit possible would mean the proposal would fail to meet the criteria of policy D8. There are no other provisions for rural dwellings which would apply in this case, therefore the use of the land for residential purposes would be contrary to Strategy 7 of the Local Plan.

The proposed development would therefore represent a departure from the local plan, it is therefore necessary to consider if there are material consideration that would justify allowing this as a departure to the plan.

Location

In relation to location a number of factors need to be considered in this case: accessibility, landscape impacts, the impacts to the setting of the nearby listed buildings and the flood risk.

Accessibility

As already stated, the site's location outside of any BuAB means that its location is remote from the main centres of population that provide a range of services to meet the day-to-day needs of residents. Strategy 5B and Policy TC2 of the Local Plan require development to be located where it would encourage walking, cycling and the use of public transport so as to minimise the need to travel by car.

However, the application site is in relative close proximity to the built-up area of Honiton. Honiton is accessible by bus, and there are bus stops very close to application site with reasonably frequent services to the town centre. The submitted Planning Statement says it is 'realistic that occupants would not need to rely on private motor car'. In terms of distance, Honiton town centre is 1.6 miles from the application site. There are footpaths and streetlighting between Devonshire Road within the Heathpark Industrial Estate to the town centre, however between Hayne Lane to the application site there are no streetlights, including where the bus stops are sited. Additionally, there are no pavements for a 150 metre stretch of road

between the end of Devonshire Road and the bridge over the A30. These factors would all deter walking and cycling, and encourage reliance on travel by car. It is noted that the site is relatively close to employment and other facilities such as supermarkets within the Heathpark Industrial Estate, but again the lack of street lighting and footpaths between the two sites would discourage travel on foot or by bicycle. Overall, it is considered that the distance between the application site and the location of services to meet the day-to-day needs of residents, coupled with the lack of street lighting and footpaths along the route, would deter walking and cycling and encourage reliance on travel by car.

The location is therefore contrary to Strategy 5B and Policy TC2 of the Local Plan.

Landscape impacts

The proposed residential use would be sympathetic to the surrounding cluster of principally residential buildings. The site is well screened from Hayne Lane by a belt of mature trees which would limit the visual impact of any scheme. EDDC's tree officer has no objections to the proposal but states that a potential future planning application may require submission of arboricultural information, to comply with BS5837.

There is no objection on the grounds of landscape impact.

Flood risk

The application site is within flood zone 2, defined as land having a 0.1% or greater annual probability of river flooding. Policy EN21 of the East Devon Local Plan seeks to direct development to areas of the district within Flood Zone 1 wherever possible, as it is at a low risk of flooding. A sequential approach is advocated regarding the location of most development. Various types of development are exempt from the sequential test as specified by the NPPF, including some minor development and changes of use. Minor development is defined as non-residential extensions of less than 250 sqm, changes of use and householder development with the exception of development that would create a separate dwelling. The application states that the sequential test would not be required given that the proposal involves a change of use. However, given that material operations would be involved in creating an extension in order for the building to be converted into a dwelling, the proposal could not be considered to be a change of use.

On this basis a sequential test would be required during the technical details consent stage. The Council considers that the search area for the sequential test for an additional dwelling should be District wide, and this approach has been considered appropriate by The Planning Inspectorate on a number of appeals within the Local Authority Area. Both policy EN21 and the NPPF state that only if there are no reasonably available sites in Flood Zone 1 locating the development in Flood Zone 2 and then Flood Zone 3 can be considered.

The council can currently demonstrate a 4.5 year housing land supply therefore it is considered that there would be land and buildings available for a single dwelling to be provided which would not be in the flood zone. As such the proposal would fail

the sequential test at technical details consent stage and on this basis the Permission in Principle should be refused.

The increased vulnerability of the development would put the resident of the dwelling at risk of danger in a flood event. Given the above, the proposal would be contrary to local plan policy EN21.

Heritage

Grade II listed Hamlet House sits to the south of the site. The house is a two storey building of C17 origins which was remodelled in the C19. A smaller coach house, also Grade II listed, sits to the south west of Hamlet House, and to the south of the application site. The building is composed of external cob and rubble whitewashed rendering, with thatched roofing, and has a mixture of sash and casement windows. The building's significance derives from its historic and architectural significance as a good example of Devon rural vernacular architecture.

The proposed development has the potential to affect the setting of Hamlet House and consequently there is a statutory duty to pay special regard to the desirability of preserving its setting. A full assessment of the impact upon the setting could not be carried out until further details of the proposed extension and conversion have been finalised. Subject to the location of any proposed extension and the materials to be used within the conversion it is considered that there is potential for the changes to not result in any harm to the setting or significance of Hamlet House.

Amount of Development

The site's location outside of any Built-Up Area Boundary and the provisions of Strategy 7 mean that development would only be permitted if it is in accordance with a specific local or neighbourhood plan policy. The proposal would not comply with Policy D8 - Re-use of Rural Buildings Outside of Settlements given the size of the extension required in order for the building to function as a dwelling. There are no other local plan policies that would facilitate the development of the building into a dwelling on this site. In addition, the Parish of Gittisham in which the site is located does not have a neighbourhood plan and as such there are also no neighbourhood plan policies that would allow such development. Therefore, no amount of residential development would be acceptable on the site.

Other matters

Considerations in respect of the potential impacts to habitats which would arise as a result of the scheme have not been considered during the principle stage but would be considered under the Technical Details Consent Stage.

Conclusion

The provision of a dwelling in this location is not in accordance with the housing or transport policies of the Local Plan and this conflict means that the principle of developing the site is not supported by the development plan. The site's location within Flood Zone 2 would require the application of the Sequential Test during the

Technical Details Consent Stage and given that the Council can demonstrate a 4.5 year housing land supply the proposal would fail this test. While some weight can be given to the economic benefits of the development, these would be small as the proposal would likely only provide accommodation for one person. There is also a positive benefit in that the proposal would result in an additional dwelling where the Council is seeking to increase housing provision, however one dwelling will not make a significant contribution to this. In conclusion, having regard to the balance of the material considerations set out above, it is considered that the benefits of providing a single dwelling are demonstrably outweighed by the unsustainable location of the development which includes its location within a flood zone, and is therefore recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposal would lie in flood zone 2 where there is a high probability of flooding. There are other reasonably available sites within the district of East Devon with a lower probability of flooding that would be appropriate to the type of development proposed. The proposal therefore fails the sequential test and would, as such, be contrary to the provisions of Policy EN21 (River and Coastal Flooding) of the adopted East Devon Local Plan 2013-2031 as well as guidance set out in the National Planning Policy Framework (2023) and National Planning Practice Guidance.
2. The site is located within the countryside outside of an identified built-up area boundary where there are no development plan policies that explicitly permit this form of development. As such the development would be in conflict with Strategy 7 of the LP which states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan that explicitly permits such development. The resulting development would not align with the spatial approach to the distribution of housing, result in the unregulated development in the countryside and not accord with the objectives of sustainable development. The proposed development would be divorced from necessary services and facilities and the absence of pedestrian footpaths and lighting and the distance between the site and the nearest services and facilities would lead residents to rely on travel by car. The proposal is therefore contrary to the requirements of Strategy 5B - Sustainable Transport and TC2 - Accessibility of New Development of the Adopted East Devon Local Plan and Paragraphs 108 and 116 of the National Planning Policy Framework.
3. The proposal would require a substantial extension in order for the proposed dwelling to comply with the Nationally Described Minimum Space Standards for a one person dwelling. The proposal would therefore be contrary to the provisions of Strategy 7 - Development in the Countryside and Policy D8 - Re-use of Rural Buildings Outside of Settlements of the Adopted East Devon Local Plan.

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

Location Plan

12.06.24

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.

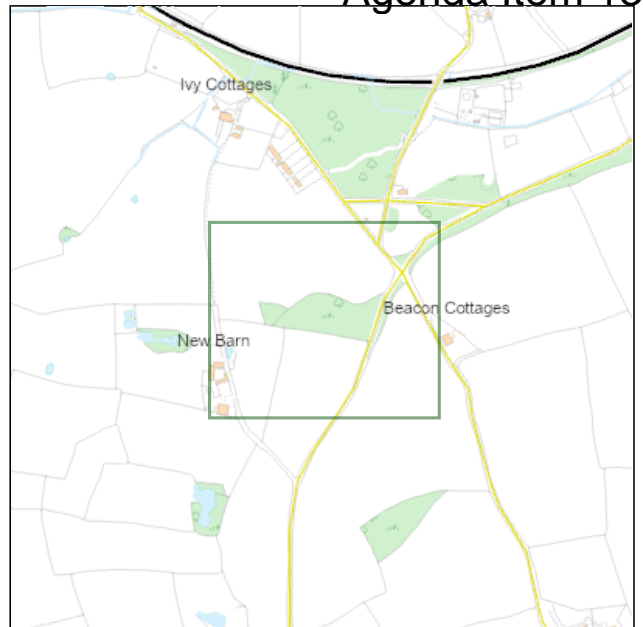
Ward Tale Vale

Reference 24/0603/FUL

Applicant Mr Craig Davies

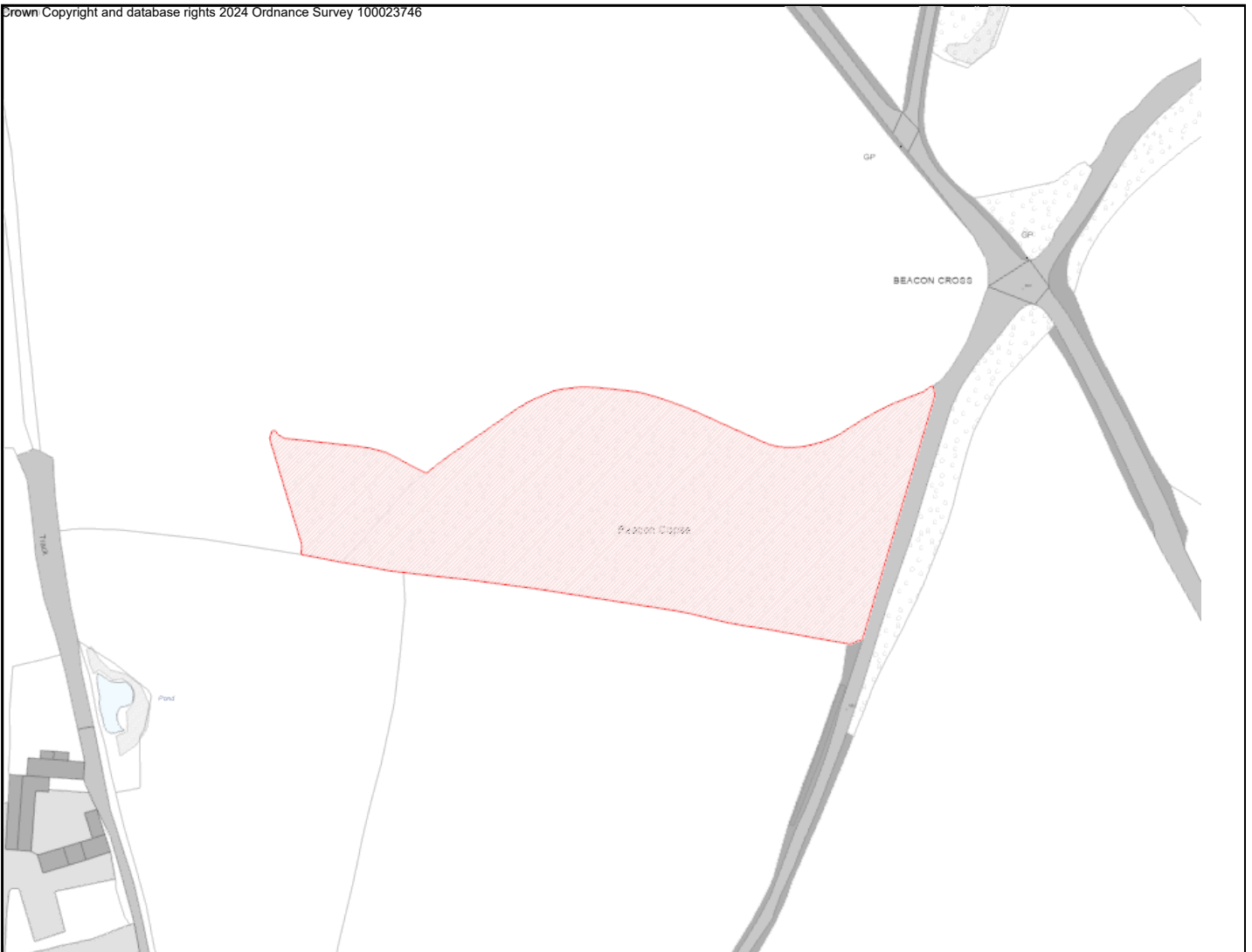
Location Beacon Copse Talaton

Proposal The erection of 4 x military tents; installation of 20ft container for storage of equipment; installation of 2 person compost toilet



RECOMMENDATION: Approval with conditions

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		Committee Date: 20.08.2024
Tale Vale (Talatan)	24/0603/FUL	Target Date: 13.06.2024
Applicant:	Mr Craig Davies	
Location:	Beacon Copse, Talaton	
Proposal:	Retrospective permission for the change of use of land from agricultural to an educational facility (F.1) and the erection of 4 x military tents, siting of two storage containers and installation of a compost toilet.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application is before members as the development would be a material departure from the Development Plan.

The application seeks planning permission for the change of use of Beacon Copse to an educational facility for children and young adults between the ages 11 – 16. The applicant, South West Alternative Provision (SWAP), operate a military inspired educational base for those with Special Educational Needs and Disabilities (SEND).

Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013 - 2031 (EDLP) states that development shall only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy. However, there are no policies within the East Devon Local Plan or an adopted Neighbourhood Plan that would support the principle of this type of development.

Notwithstanding this, the provisions of paragraph 99 of the National Planning Policy Framework offers support for the provision of educational facilities and states that ‘great weight’ should be given to create, expand and alter schools.

The primary issues for consideration are the environmental impact of the proposals, owing the applications site’s countryside location, and weighing this against the social and economic benefits that the proposals would provide.

Having reviewed the visual impact of the proposals, officers are satisfied that the scale and orientation of the tents, storage containers and compost toilet would not harm the character and appearance of the area.

However, it is considered that development would conflict with the provisions of

Strategy 5b and Policy TC2 of the Local Plan due to the site's remoteness from nearby public transport links and the subsequent need for staff and pupils to be dependent on private modes of transport to attend school. The development would therefore result in a degree of environmental harm.

Notwithstanding this, evidence available to the LPA indicate that there is a local and national shortage of educational facilities for SEND pupils. It is therefore the position of officers that the social benefits of the scheme weigh significantly in favour of development despite the identified environmental harm. The application is therefore recommended for approval subject to conditions listed at the end of this report.

CONSULTATIONS

Local Consultations

Parish/Town Council

The Council RESOLVES to support the application for the following reasons:-

- ' Excellent traffic management plan in place, allaying any highway or safety issues
- ' No impact on residents or the environment ' nothing is visible outside of the site and all infrastructure is temporary and will leave no trace if the venture closes
- ' The applicants are working closely with the landowner's forestry and land experts to ensure that Beacon Copse is preserved in its natural state with no tree/stump/hedge removal
- ' the need for Alternative Provision for young adults who struggle to cope with traditional education is vitally important, and this seems an ideal location to provide a much needed resource

Technical Consultations

County Highway Authority

Observations:

I have visited the site and reviewed the planning documents.

The access is established with suitable visibility that can be taken into the middle of the carriageway due to the lane from Beacon Cross being a single vehicle width.

The Design and Access statement incorporates measures to restrict the trip generation including only having student numbers of 12 and 4 members of staff, restricted arrival and departure times, combined transported students, restricted travel routes and 4 vehicle spaces on-site with additional visitors parking at Escot Park Cafe and being collected, whilst it may be difficult to enforce some of these policies, these policies combined I believe will ensure that the sites trip generation will not become excessive for the vicinity.

However, I do recommend whilst respecting the natural environment that the first 5m of the access is laid with a sealed surface in order to reduce drainage and debris being brought onto the highway network.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

EDDC Trees

No objection. It is noted that within the tents ground protection will be provided via wooden pallets which is considered suitable. It is considered that it may also be necessary to mulch areas of heavy footfall - entrances to tents, footpaths, around outdoor seating etc to help reduce ground compaction.

Environmental Health

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

Ecological Officer

No objection, application is retrospective and therefore outside scope of BNG.

Other Representations

None

Planning History

19/1909/FUL - Change of use of woodland and agricultural land to educational base for children aged 3-6, including creation of a car parking area and the creation of a classroom and toilet. REFUSED

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)
Strategy 7 (Development in the Countryside)
Strategy 47 (Nature Conservation and Geology)
D1 (Design and Local Distinctiveness)
D3 (Trees and Development Sites)
EN5 (Wildlife Habitats and Features)
TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)
EN9 (Development Affecting a Designated Heritage Asset)
EN14 (Control of Pollution)
EN13 (Development on High Quality Agricultural Land)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

OFFICER REPORT

Site Location and Description

The application site relates to a small woodland known as Beacon Copse, approximately a hectare in size just south west of Beacon Cross between Whimple and Feniton. The immediate area is inherently rural character with sunken rural lanes that subdivide parcels of agricultural land. The application site sits above the level of the adjacent highway to Larkbeare and is accessed via a break in the verge in the north eastern corner of the application site.

Proposed Development

The application seeks retrospective planning permission for the change of use of Beacon Copse to an educational facility for children and young adults between the ages 11 – 16. The applicant, South West Alternative Provision (SWAP), operate a military inspired educational base for those with Special Educational Needs and Disabilities (SEND). The submitted Design and Access Statement emphasises that the proposal is not for a forest school and the purpose of SWAP is to engage young people in hands-on practical learning to reintegrate them back into mainstream school.

To facilitate the change of use of the land, four military tents have been erected at the site alongside two storage containers and a compost toilet. Access and egress is provided in north eastern corner onto the road between Beacon Copse and Larkbeare. A small parking area has been roped off to the east of the two storage containers.

The school shall operate four days a week during term time and be limited to 12 young people, three instructors and a site caretaker on any given day.

Principle of Development

Beacon Copse is located in the open countryside as defined within the East Devon Local Plan where development is strictly controlled so that it does not impact unreasonably on its surroundings. In this instance, the provision of an education facility at this countryside location does not accord with any policies within the East Devon Local Plan. As such, the principle of the development is contrary to the development plan; it is therefore necessary to consider if there are any material planning considerations that would justify allowing this proposal as a departure from the plan.

Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013 - 2031 (EDLP) states that development shall only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy. In addition to this, development shall need to ensure that it is not harmful to the countryside; this may be by virtue of visual harm, increase in traffic, pollution or other factors.

The NPPF is a material consideration and officers are mindful of an appeal against the Local Authority's decision to refuse planning permission 20/0848/FUL for the conversion of a residential dwelling into an independent school for students with Autistic Spectrum Disorder or with Social Emotional Mental Health Needs at Windrush in Poltimore. The appeal was allowed where the inspector considered that the provisions of Paragraph 94 of the NPPF weighed in favour of the proposals. At paragraphs 9 & 10 of the decision the inspector identifies that the proposals would be contrary to Strategies 5B (Sustainable Transport), Strategy 7 and Policy TC2 (Accessibility of New Development) of the Local Plan. Notwithstanding this he went on to conclude:

'9. That said, Paragraph 94 of the Framework identifies the importance that a sufficient choice of school places is available to meet the needs of communities. It goes on to say that the decision maker should give great weight to the need to create, expand or alter schools. It is evident that Devon has a significant need for this type of school, much of which is concentrated around the wider Exeter area. Student numbers are also expected to rise considerably, particularly in East Devon, Exeter and the South Hams. The proximity of Windrush to Exeter and to the M5 motorway make it well placed in this regard.

10. It is also logical that the predication of the facility on outdoor learning requires it to be within a rural location, where it will invariably be beyond the reach of public transport. I also accept that the relatively wide geographical spread of pupils in comparison to mainstream schools and the specific needs of pupils would lead to specialist or private vehicles being the predominant method of school transportation regardless of the school's location. These factors weigh significantly in the scheme's favour. I return to them in the planning balance.'

The NPPF has since been amended and the provisions of the former paragraph 94 are now contained at paragraph 99, the wording of which is provided below:

'99. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and

b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

As such, the provisions of paragraph 99 of the NPPF not only supports the principle of the current proposals but also attributes great weight to the provision of

educational facilities. However, notwithstanding this, the inspector in the Windrush case also attributed weight to the appeal site's accessibility due to the site's 'well placed' proximity to the M5 and Exeter. The application site shares a different relationship to nearby settlements and arterial routes and therefore the accessibility of the site shall need to be reviewed. Secondly, as the appeal decision was issued over three years ago, a review into the current need of such a facility shall be undertaken'.

Justification for Development

In terms of demonstrating whether there is a need for the proposed educational facility, SWAP are currently operating from the site and have limited capacity to 12 students on any given day. As they are already operating at capacity, there is clearly currently a demand for the facility. The applicant has also detailed within the submitted Design and Access Statement and letter received 20th June that the responsibility for providing alternate types of schooling for young people is contained within the Children and Families Act 2014 at Section 21.

Furthermore, the Strategic Review of Special Educational Needs Provision 2017-2018 report by Devon County Council shows that the number of pupils in Devon with special educational needs has increased and is expected to exceed 4000 by March 2018. There is no evidence before the LPA to demonstrate that this need has been met and, having given the recent reporting that mainstream school provision for SEND has been significantly underfunded within the district, it is the position of officers that there is likely still an outstanding need for such provision to come forward through the private sector.

The Devon Education Infrastructure Plan 2016-2033 advises that the County's maintained special school provision stands at 1 school for the whole of East Devon, and that there are no specialist school centres attached to any of the schools in the district and no recorded independent special schools.

Furthermore, in March 2024, The Department for Education stated that at least two in three of schools that provide places for SEND students were either at or over capacity.

Having considered the provisions of paragraph 99 of the NPPF, information submitted from the applicant, information available on Devon County Council's website and information published by Central Government, it is considered that there is a need to provide facilities for those learners with special educational needs nationally and across Devon. This justifies the need for the proposals and highlights social benefits that development of such facilities can provide. This weighs heavily in favour of the application.

Location of the Application Site

Beacon Copse is located approximately 1.5km to the north of the A30, 6Km away from the A373 and 8km away from the M5. The nearest bus stops are in Newtown and Talaton which are not walkable for all to or from the application site. To access

the site, individuals would have to utilise private modes of transport to navigate the network of rural lanes.

Due to the lack of nearby public transport opportunities, the LPA has sought further details from the applicant regarding why the application site's rural location was chosen and necessary to operate from. In response to this, the following points were raised:

- The need for the site to be away from the general public.
- Located where there are several permissible paths, woodland and water features in order to undertake aspects of SWAP's educational programme and omitting the need to travel elsewhere.
- The site itself needs to be free from permissive paths to safeguard the security of the site and equipment.
- Some of the needs of the students requires avoiding any potential engagement with the general public.
- An area that can be controlled, where instructors can closely monitor students within the site's boundaries.
- Physically separate from nearby residential properties to avoid noise disturbance.

Despite the above bullet points, by virtue of the site's location and remoteness from settlements, services or public transport, and accessed by narrow unlit roads, the development would lead to an increase in vehicle movements to and from the site due to the fact that it is unlikely to be desirable to walk or cycle to the site on a regular basis. Application 19/1909/FUL was partly refused on these grounds. However, this decision predated the Windrush appeal, where the inspector attributed significant weight to the provisions of paragraph 99 despite the site being remote from nearby settlements. Whilst Beacon Copse is not as well related to the M5 or Exeter as the appeal case, the scale of the operation and number of students on hand is much smaller. Additionally, the applicant has provided a detailed Transport Plan to demonstrate how students and staff shall access the site.

The applicant has confirmed that young people placed with SWAP come from surrounding schools or through a referral from the local authority. Once a referral has been made, they consider the home address of that young person and will decide whether it is feasible, distance and time wise, for them to attend.

The Transport Plan details that SWAP staff shall collect and transport students to and from the site therefore limiting the footfall of traffic to three vehicles for drop offs and collections. Furthermore, the time frame within which drop offs and collections shall be restricted between 09:15 – 09:45 in the morning and 14:15 -14:45 in the afternoon. Appendix 3 of the Design and Access Statement also communicates that staff shall not approach or leave the site for drop offs via Larkbeare road to the south which is particularly narrow and lacks passing points.

The applicant has provided further details regarding the catchment area that students shall come be accepted from. It is understood that all young people shall

usually be within a 20 mile radius, currently the school has students from Exeter, Tiverton, Exmouth, Sidmouth, Axminster and Honiton. Overall, if the Transport Plan is to be adhered to, it is acknowledged that this would go some distance in reducing the environmental impact of the scheme by lessening the number of private vehicles depended on to transport young people to and from the site.

However, due to the sites remote location, effective implementation of the Transport Plan still results in their being need to depend upon at least four vehicles to access and egress the site. Consequently, the site cannot be said to meet the provisions of Strategy 7 (Development in the Countryside), and Policies D1 (Design and Local Distinctiveness), RC6 (Local Community Facilities) and TC2 (Accessibility of New Development) of the East Devon Local Plan. This harm shall be factored into the overall planning balance at the end of the report.

Access and Impact on Local Highway Network

The County Highway Authority has reviewed the proposals and considered the submitted transport measures referred to within the former section of the report. Firstly, the access and visibility for those accessing and exiting the site onto the road south of Beacon Cross is considered acceptable.

Whilst it is indicated that the level of anticipated traffic would be acceptable from a highway safety perspective, it is alluded to that ensuring that the site is operated within the parameters of the Transport Plan could be difficult to enforce. Notwithstanding this, the County Highway Authority have not raised any objection to the proposals subject to a condition requiring further details concerning the surface of the access road to avoid water run off or debris being carried onto the public highway.

The proposals would provide parking spaces for four vehicles which is considered to be the maximum number of cars needed to be onsite at any given time. This is an element of the scheme that can be controlled via planning condition to ensure that development would have an acceptable impact on the safety of the local highway network and to ensure that footfall of traffic to and from the site is in line with the level envisaged within the Transport Plan. It is therefore recommended that if permission is forthcoming that no more than four cars shall be parked onsite at any given time and that no more than twelve students and four members of staff are present at the site.

Given the above, the proposals are considered to meet the provisions of Policy TC2 and Policy TC7 (Accessibility of New Development) of the Local Plan.

Impact on Character and Appearance of the Area

The From Beacon Cross there are long reaching southerly views towards East Hill, however the application site is much more enclosed and private despite being elevated above the adjacent highway. This is due to the dense vegetation and trees that border the boundaries and characterise the copse which prevent public views into the site. The copse is also a distinct landmark in the landscape and is visible

from multiple long distant views from public vantage points. It is therefore considered pertinent to the acceptability of the proposals that the contribution the woodland makes to landscape character is not compromised.

The submitted drawings communicate the siting of four tents, two storage containers and a compost toilet. All of which shall be sited within the woodland and screened from public view. The tents are constructed of dark green cotton/polyester as indicated at appendix 1 of the submitted Design and Access Statement. Tents 1 & 2 shall be used as classrooms for instructors to deliver activities, Tent 3 used as for shelter around the fire pit and Tent 4 as a hub for those students who may struggle with a particular course and need to be provided their own space. The pair of storage containers along the northern boundary shall be used to store activity equipment and clothing.

The proposed siting, scale and mass of tents, containers and the toilet avoid pressure to prune or remove any of the trees within the copse ensuring that they continue to contribute to landscape character whilst also screening the development. The parking area is situated within a clearing and screened by existing tree cover. The Local Planning Authority's Tree Officer has reviewed the proposals who notes that the tents ground protection will be provided via wooden pallets avoiding any intrusive development within the tree's Root Protection Areas, which is considered appropriate. As a result, officers are satisfied that use of the site for educational purposes shall not jeopardize the health of existing trees and ensure the copse continues to make a positive contribution to the character and appearance of the area.

As such, despite short distance views being available of the copse from the highway just west of Talaton Farm and from the PROW that runs from Ivy Cottages south towards New Barn Farmhouse, the development itself would not cause any harm to the character and appearance of the area. The development is therefore considered to meet the objectives of Policy D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the Local Plan.

Economic Impact

The submitted application form indicates that three full-time employees and two part time jobs shall be created by the proposals, assumedly in the form of three full time instructors and two part time site managers. Longer term economic benefits are anticipated by way of equipping the students with skills that they would otherwise potentially struggle to obtain through mainstream schools, assisting them in increasing their chances of successful employment in the future.

The short term and long-term economic benefits are attributed modest weight in the planning balance.

Ecological Impact

As already detailed within the report, the proposals seek to retain all the existing trees and therefore no existing habitat for protected species is anticipated to be lost. However, any external lighting has the potential to disrupt flight paths for any bats

that may utilise the site for foraging. Whilst it is unlikely that external lighting shall be required due to operating hours stated within the application form, if any is required, details of this shall need to be submitted to and approved in writing by the Local Planning Authority.

The Local Planning Authority's Ecologist has also reviewed the proposals and raised no objections and it has been established that the proposals shall not be required to provide a Biodiversity Net Gain metric as the works are retrospective. As a result, the proposals are considered to meet the provisions of Policy EN5 (Wildlife Habitats and Features).

Impact on Neighbouring Amenity

The nearest residential properties to the application site are located at Beacon Cottages to the east, Hillside to the north and New Barn Farmhouse to the south west, all are located within 200 metres of the application site. The proposed use, by virtue of the increase in footfall of traffic to and from the site and noise caused during school hours has the potential to impact the amenity of adjacent properties.

However, the LPA's Environmental Health officer has been consulted, no concerns have been raised.

Impact on Designated Heritage Assets

Ivy Cottages consist of three Grade II properties orientated in a terrace with thatched roofs located 340 metres to the northwest of the application site. Owing to the separation distances between the properties and the application site, the development would not impact the setting or significance of these heritage assets. The development is therefore considered to meet the provisions of Policy EN9 (Development Affecting a Designated Heritage Asset).

Other Matters

Surface Water Attenuation - All surface water generated shall be attenuated within a nearby water course.

Foul Sewage – Foul sewage generated shall be dealt with via a compost toilet.

Conclusion

It is established in planning law and the National Planning Policy Framework that proposals are to be determined against the development plan unless material considerations indicate otherwise. As highlighted within the report, it is the position of officers that the development would conflict with the provisions of Strategy 7, Strategy 5b and Policy TC2 of the Local Plan due to the site's location within the countryside, it's remoteness from nearby public transport links and the need for staff and pupils to be dependent on private modes of transport to attend school. The development would therefore result in a degree of environmental harm.

However, it is also acknowledged that the submitted Transport Plan has implemented measures to ensure that students are transported with SWAP's own fleet of vehicles to reduce the number of overall vehicular movements to and from

the site. Including a site caretaker's vehicle, operation of the school on a day-to-day basis would only require four vehicles to be on site. The subsequent movements of vehicles to collect and drop off students would be limited. As such, whilst implementation of the Transport Plan does not eliminate the identified conflict with Strategy 5b and Policy TC2 all together, it does reduce the level of environmental harm that would be caused by the development in the absence of the Transport Plan.

Additionally, the LPA is mindful of the provisions of paragraph 99 and the 'great weight' planning decisions should attribute to proposals that meet needs to create, expand or alter schools whilst providing 'a sufficient choice of school places to meet the needs of existing and new communities'. Evidence put forward by the applicant suggests that the number of young people diagnosed with ADHD, ASD, SEMH is increasing. Furthermore, in March 2024, The Department for Education stated that at least two in three of schools that provide places for SEND students were either at or over capacity. In response to the Government's publication on school capacity which also looked at SEND provision, the National Association of Head Teachers (NAHT) have stated that 'these figures reflect the complete mismatch between the needs of the growing numbers of pupils with SEND and the funding available to schools and local authorities to support them'.

As such, whilst the findings of the strategic review conducted by Devon County referred to within the report could be seen as outdated, there is still considered an outstanding national shortage of educational facilities for SEND students. It is therefore the position of officers that the social benefits of the scheme weigh significantly in favour of development despite the identified environmental harm and the conflict with the spatial strategy for development set out in the Local Plan. The application is therefore recommended for approval subject to conditions listed below.

RECOMMENDATION

APPROVE subject to the following conditions:

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. The site shall be used as an educational facility for students with Special Educational Needs and Disabilities and for no other purpose (including any other purpose in Schedule 2, Part, Class F.1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

(Reason: The development seeks to meet an identified need for the provision of a specialist educational facility in a location where development is usually

restricted in accordance with Strategy 7 - Development in the Countryside of the East Devon Local Plan.)

4. No more than 12 students and 4 members of staff shall be on the site at any one time. Furthermore, no more than 4 vehicles shall be parked on the site at any given time.

(Reason: The application site is located in the countryside where an unrestricted educational use would not usually be supported, in accordance with Strategy 7 - Development in the Countryside of the East Devon Local Plan 2013 - 2031).

5. Within four months of the date of planning permission having been granted for the development hereby approved, details of how the site access road shall be hardened, surfaced, drained and maintained thereafter shall have been submitted to and approved in writing by the Local Planning Authority. The hardened surface shall extend for a distance of no less than 5 metres back from its junction with the public highway. The development of the access shall be carried out in accordance with the approved details and within three months of the details having been approved.

(Reason: To prevent mud and other debris being carried onto the public highway in accordance with Policy TC7 - Adequacy of Road Network and Site Access of the East Devon Local Plan).

6. The two storage containers annotated as 'Storage 1' and 'Storage 2' on the submitted Site Plan, shall be used for storage purposes associated with the school hereby approved only and not for any standalone commercial purposes.

(Reason: The application site is located in the countryside where unrestricted commercial use would not usually be supported, in accordance with Strategy 7 - Development in the Countryside of the East Devon Local Plan 2013 - 2031).

7. Prior to installation of any lighting a lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. All lighting at the site shall accord with the approved lighting scheme.

(Reason: to ensure the development is sympathetic to the character and appearance of the area and to avoid detrimental impacts to nearby ecological habitat in accordance with Policy D1 - Design and Local Distinctiveness and EN5 - Wildlife Habitats and Features of the East Devon Local Plan.)

NOTE FOR APPLICANT

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

Biodiversity Net Gain

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 means that this planning permission is deemed to have been granted subject to "the biodiversity gain condition" (BG condition).

The Local Planning Authority cannot add this condition directly to this notice as the condition has already been applied by law. This informative is to explain how the biodiversity condition applies to your development.

The BG conditions states that development may not begin unless:

- (a) a Biodiversity Gain Plan (BG plan) has been submitted to the planning authority, and
- (b) the planning authority has approved the BG plan.

In this case the planning authority you must submit the BG Plan to is East Devon District Council.

There are some exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case the development had already been undertaken on the date the application was made to the Local Planning Authority. It is not possible for the Local Planning Authority to impose the BG condition and therefore the development is exempt.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or
 - (ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- (i) the application for planning permission was made before 2 April 2024;
- (ii) planning permission is granted which has effect before 2 April 2024; or
- (iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- (i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- (ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- (i) consists of no more than 9 dwellings;
- (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- (iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Plans relating to this application:

Location Plan	18.03.24
Proposed Site Plan	18.03.24

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.