

Agenda for Planning Committee Tuesday, 19th November, 2024, 10.00 am

Members of Planning Committee

Councillors B Bailey, I Barlow, K Bloxham, 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 and E Wragg



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(or group number 01395 517546)

Issued: Friday, 8 November 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, 12 November 2024 up until 12 noon on Friday, 15 November 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 and revised running order for the applications** (Pages 4 - 5)

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

Minutes of the Planning Committee meeting held on Tuesday, 22 October 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 - 28)

Update from the Development Manager

Applications for Determination

8 **24/0721/FUL (Minor) WOODBURY & LYMPSTONE** (Pages 29 - 52)

Land north east of Grange Close, Lympstone.

9 **24/1278/FUL (Minor) OTTERY ST MARY** (Pages 53 - 84)

Land adjacent Upper Spilsby, Exeter Road, Ottery St Mary.

10 **24/1491/FUL (Minor) BUDLEIGH & RALEIGH** (Pages 85 - 112)

Site of Penny Park, Kersbrook Lane, Kersbrook.

11 **24/0632/FUL (Minor) BEER & BRANSCOMBE** (Pages 113 - 133)

Sea Chimneys, Southdown Road, Beer.

The applications below will not be considered before 2pm

12 23/2166/MOUT (Major) WOODBURY & LYMPSTONE (Pages 134 - 210)

Land south of Gilbrook House, Woodbury.

13 24/0301/MOUT (Major) WOODBURY & LYMPSTONE (Pages 211 - 261)

Land south of Meeting Lane, Lympstone.

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

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

[Decision making and equalities](#)

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

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 22 October 2024

Attendance list at end of document

The meeting started at 10.10 am and ended at 4.45 pm. The Committee adjourned for lunch at 1.20 pm and recommenced at 1.50 pm.

210 Minutes of the previous meeting

The minutes of the Planning Committee held on 24 September 2024 were confirmed as a true record.

211 Declarations of interest

Minute 218. 23/2749/MFUL (Major) WOODBURY & LYMPSTONE

In accordance with the Code of Good Practice for Councillors and Officers dealing with planning matters as set out in the constitution, the Chair, Councillor Olly Davey, on behalf of Committee Members, advised lobbying in respect of this application.

212 Matters of urgency

There were none.

213 Confidential/exempt item(s)

There were none.

214 Planning appeal statistics

The Committee noted the appeals statistics report.

Members' attention was drawn to an appeal allowed for the site of Spillers Cottage, Shute – reference 22/1377/FUL for the construction of a dwelling for occupation while the dwelling permitted under reference 21/0535/VAR was constructed. The Inspector allowed the appeal determining that as the dwelling had already been approved the temporary dwelling would not increase in occupancy.

215 23/0727/MOUT (Major) WEST HILL & AYLESBEARE

Applicant:

Blue Cedar Homes.

Location:

Land north of Eastfield, West Hill.

Proposal:

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

RESOLVED:

1. The Appropriate Assessment be adopted.

2. Approved with conditions in accordance with officer recommendation subject to a Section 106 Agreement and an amendment to Condition 14 requiring the landscaping to be maintained for a period of 10 years.

216 **23/1143/MFUL (Major) WEST HILL & AYLESBEARE**

Applicant:

Mr Bill Richardson (Strongvox Ltd).

Location:

Land south of Windmill Lane, West Hill.

Proposal:

Erection of 34 dwellings (35% of which will be provided as affordable housing), formation of access, open space and associated infrastructure on land to the south of Windmill Lane, West Hill.

RESOLVED:

Deferred by Committee to allow the applicant the opportunity to reduce the site density and to prepare a scheme that is more in keeping with the character of the area.

217 **24/1154/VAR (Major) BROADCLYST**

Applicant:

Mr Stevenson (Persimmon Homes Ltd).

Location:

Mosshayne, land north of Tithebarn Lane, Clyst Honiton.

Proposal:

Variation of Condition 13 (Construction and Environment Management Plan) of planning permission reference 17/1019/MOUT for the demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) which was accompanied by an Environmental Statement Amendment to construction hours on Saturdays.

RESOLVED:

Approved with conditions subject to a Section 106 Deed of Variation in accordance with officer recommendation including revisions to two further conditions to reflect recently discharged conditions.

218 **23/2749/MFUL (Major) WOODBURY & LYMPSTONE**

Councillor Kim Bloxham and Councillor Sarah Chamberlain advised that as they did not attend the site visit they would not take place in the discussion or vote for this application.

Applicant:

Mr Paul James.

Location:

NHS Vaccination Centre, Greendale Business Park, Woodbury Salterton.

Proposal:

Permanent use of the building and car park for use Class E(e) medical and health facility and ancillary parking.

RESOLVED:

Approved contrary to officer recommendation with powers delegated to the Development Manager to agree conditions which will include restricting the use of the building to Class E(e) medical and health only, in consultation with the Chair, Vice Chair and Ward Members.

Members determined that their previous concerns regarding flooding had been addressed and that the landscape impact was not substantial and that the public benefit of retaining the building for use as a NHS Covid Surge Centre if a pandemic reoccurred demonstrated exceptional circumstances to depart from the Local Plan.

219 **24/0674/FUL (Minor) WOODBURY & LYMPSTONE**

Applicant:

C & E Wintrell.

Location:

Land at 22 Underhill Crescent, Lympstone.

Proposal:

Construction of two dwellings.

RESOLVED:

Approved with conditions in accordance with officer recommendation.

Attendance List

Councillors present:

B Bailey
I Barlow
K Bloxham
C Brown
J Brown
S Chamberlain
M Chapman
O Davey (Chair)
P Faithfull
S Gazzard
D Haggerty
A Hall
M Hall (Vice-Chair)

Councillors also present (for some or all the meeting)

B Ingham
G Jung
R Collins

Officers in attendance:

Wendy Harris, Democratic Services Officer
Gareth Stephenson, Principal Planning Officer
Liam Fisher, Senior Planning Officer
Lynne Shwenn, Senior Development Control Officer
Paul Golding, Senior Planning Officer

Councillor apologies:

M Howe
S Smith
E Wragg

Chairman

Date:

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

Ref: 24/0892/FUL **Date Received** 07.10.2024
Appellant: Mr Mathew Swabey
Appeal Site: Beachcroft Burrow Road Seaton Devon EX12 2NF
Proposal: Change of use from ancillary accommodation to holiday let (retrospective)
Planning Inspectorate Ref: APP/U1105/W/24/3353308

Ref: 24/0556/FUL **Date Received** 08.10.2024
Appellant: Mr P Groves
Appeal Site: Land to West of Marles Close Awliscombe
Proposal: Erection of a dwelling, to include a detached single garage, creation of a driveway and associated soft and hard landscaping.
Planning Inspectorate Ref: APP/U1105/W/24/3353376

Ref: 23/2422/FUL **Date Received** 16.10.2024
Appellant: Mr & Mrs Brinton
Appeal Site: Land To Rear of Great Halls Aylesbeare EX5 2FD
Proposal: Erection of highly sustainable self-build dwelling with associated landscaping and biodiversity enhancements.
Planning Inspectorate Ref: APP/U1105/W/24/3353886

Ref: 24/F0125 **Date Received** 21.10.2024
Appellant: Mr Graham Willett-DalGLISH
Appeal Site: Land adjoining Harcombe Farm, Harcombe, Lyme Regis.
Proposal: Appeal against enforcement notice served in respect of the unauthorised siting of a residential caravan on the land.
Planning Inspectorate Ref: APP/U1105/C/24/3354198

Ref: 24/0640/FUL **Date Received** 27.10.2024
Appellant: Mr William Pratt
Appeal Site: Lily Farm Vineyard Dalditch Lane Budleigh Salterton EX9 7AH
Proposal: Construction of managers' accommodation and extension to Lily Farm Vineyard business premises
Planning Inspectorate Ref: APP/U1105/W/24/3354532

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

Ref:	22/0686/MFUL	Appeal Ref:	23/00020/REF
Appellant:	Mr Troy Stuart		
Appeal Site:	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)		
Decision:	Appeal Allowed (with conditions)	Date:	07.10.2024
Procedure:	Written representations		
Remarks:	Officer recommendation to refuse, Committee refusal. Countryside protection and amenity reasons overruled (EDLP Policies D1, D2, E4, E5, E7, Strategy 7).		

The Inspector found that the site is not a suitable location in terms of access to services and facilities and the development harms the intrinsic character and beauty, including tranquillity, of the landscape. It also harms the living conditions of occupiers of neighbouring dwellings with particular regard to light, noise and disturbance, although this can be overcome through the use of appropriate conditions. The proposal would conflict with policies of the development plan and, as a result, it conflicts with the development plan as a whole.

The Inspector also found that there is a demonstrable and significant shortfall in the provision of employment land in the area and businesses within Hill Barton Business Park require additional space to enable their operation. The emerging Local Plan and draft Framework indicate support for this type of business and seek to find additional land to meet those needs. The appeal site can assist with meeting the identified need and contributing to the logistics sector in the short term. The appeal site and other land around Hill Barton Business Park may be allocated for development of a new settlement through the emerging Local Plan.

Taking account that the application is for use of the land for a temporary period of 3 years that would be removed at the end of that period, he considered that the above factors outweigh the harm arising from the conflict with the development plan for that period.

BVPI 204:	Yes
Planning	APP/U1105/W/23/3323252
Inspectorate Ref:	

Ref: 21/F0364 **Appeal Ref:** 22/00012/ENFAPP
Appellant: Mr Troy Stuart
Appeal Site: Hill Barton Business Park Sidmouth Road Clyst St Mary
Proposal: Appeal against an Enforcement Notice served in respect of the carrying out of a material change of use of the land from agriculture to a mixed use agricultural and commercial parking area used by Lorries, Commercial Vehicles, Cars, Plant and Machinery and the siting of skips and shipping containers by the importation of aggregate, hard-core and underlying synthetic membrane.

Decision: **Appeal Dismissed** **Date:** 07.10.2024
Procedure: Written representations
Remarks: Enforcement Notice corrected and upheld.

This is a redetermination of the appeal following a judicial review. This decision supersedes that issued on 26 June 2023 which was quashed by order of the High Court.

BVPI 204: **No**
Planning APP/U1105/C/22/3295011
Inspectorate Ref:

Ref: 24/0017/FUL **Appeal Ref:** 24/00014/REF
Appellant: Ms Sam Knighton
Appeal Site: 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
Decision: **Appeal Dismissed** **Date:** 09.10.2024
Procedure: Written representations
Remarks: Delegated refusal, conservation and amenity reasons upheld (EDLP Policies D1, EN8, EN9, EN10).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3340283
Inspectorate Ref:

Ref: 24/0325/FUL **Appeal Ref:** 24/00031/REF
Appellant: Mr D J Blackmore
Appeal Site: Southlands Gardens King Street Honiton
Proposal: Demolition of storage building and erection of a one-bedroom bungalow.
Decision: **Appeal Dismissed** **Date:** 09.10.2024
Procedure: Written representations
Remarks: Delegated refusal, access and amenity reasons upheld (EDLP Policy D1).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3345160
Inspectorate Ref:

Ref: 23/1115/FUL **Appeal Ref:** 24/00012/REF
Appellant: Antony Paul
Appeal Site: 24 Cherry Close Honiton Devon EX14 2XT
Proposal: Construction of a new dwelling.
Decision: **Appeal Dismissed** **Date:** 15.10.2024
Procedure: Written representations
Remarks: Officer recommendation to refuse, Committee refusal.
Amenity and parking reasons upheld (EDLP Policies D1, TC9, Strategy 6).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3339579
Inspectorate Ref:

Ref: 23/1317/LBC **Appeal Ref:** 24/00024/LBCREF
Appellant: Mr & Mrs Halse
Appeal Site: Combehayes Farm Buckerell Devon EX14 3ET
Proposal: Demolition of existing extension and proposed replacement single storey extension, reconfiguring external stone wall and hard landscaping
Decision: **Appeal Dismissed** **Date:** 15.10.2024
Procedure: Written representations
Remarks: Delegated refusal, conservation reasons upheld (EDLP Policies EN8, EN9).
BVPI 204: **No**
Planning APP/U1105/Y/24/3343238
Inspectorate Ref:

Ref: 23/1670/FUL **Appeal Ref:** 24/00038/REF
Appellant: Mr Michael Stevens
Appeal Site: Coxes Farm Sidmouth Road Clyst St Mary Devon EX5 1DN
Proposal: Proposed two storey 2 bed house with parking.
Decision: **Appeal Dismissed** **Date:** 18.10.2024
Procedure: Written representations
Remarks: Delegated refusal, conservation, amenity and countryside protection reasons upheld (EDLP Policies D1, EN8, EN9, Strategy 7. NP Policy BiC07).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3342434
Inspectorate Ref:

Ref:	22/2582/FUL	Appeal Ref:	23/00049/REF
Appellant:	Mr Justin Werb		
Appeal Site:	Barnards (land Adjoining) Harepath Hill Seaton EX12 2TF		
Proposal:	Erection of one dwelling and associated works.		
Decision:	Appeal Allowed	Date:	22.10.2024
	(with conditions)		
Procedure:	Written representations		
Remarks:	Officer recommendation to refuse, Committee refusal. Accessibility and amenity reasons overruled (EDLP Policies D1, TC2, Strategies 5B,7,8).		

Whist acknowledging that the site is in a countryside location outside of the built-up area boundary for Seaton, the Inspector considered that future occupiers of the proposed dwelling would likely be able to walk or cycle to various services and facilities, including a local shop, a primary school, a hospital and a day nursery. Furthermore, regular bus services into the town centre can be accessed via bus stops only a short walk from the site.

The Inspector concluded that the site is in a sustainable location and the proposal would conform with Strategy 5B and Policy TC2, which in part seek to ensure that development is located in areas that promote the use of sustainable forms of transport.

The Inspector found conflict with Strategy 7 in terms of the location of the site, however, considered that there would be no resulting harm to the character or the appearance of the area.

BVPI 204:	Yes
Planning	APP/U1105/W/23/3332347
Inspectorate Ref:	

Ref: 24/0525/COU **Appeal Ref:** 24/00032/REF
Appellant: M Stephen Hartwell
Appeal Site: Land Adjacent to Grange Farm Newton Poppleford EX10 0BY
Proposal: Change of use of agricultural land to residential garden
Decision: **Appeal Allowed** **Date:** 22.10.2024
(with conditions)
Procedure: Written representations
Remarks: Delegated refusal, Countryside protection and amenity reasons overruled (EDLP Policy D1, Strategies 7,46).

The Inspector noted that the site itself is undeveloped, and as such, its openness and verdancy ensure that it contributes positively to the character of the area. The site is, however, well contained by mature hedgerows and given the extensive planting on the boundaries of the site, any views of it from public spaces are very limited.

The Inspector concluded that the development would not result in harm to the character and appearance of the area and would therefore conform with Strategies 7 and 46, and Policy D1 of the Local Plan.

BVPI 204: **Yes**
Planning APP/U1105/W/24/3345084
Inspectorate Ref:

Ref: 23/2167/FUL **Appeal Ref:** 24/00037/REF
Appellant: Churchill Estates Management
Appeal Site: Tanyards Court Beer Road Seaton Devon EX12 2PA
Proposal: Erection of seagull netting on roof of Tanyard's Court [Retrospective]
Decision: **Appeal Dismissed** **Date:** 22.10.2024
Procedure: Written representations
Remarks: Delegated refusal, conservation reasons upheld (EDLP Policies D1, EN9, EN10).

BVPI 204: **Yes**
Planning APP/U1105/W/24/3345882
Inspectorate Ref:

Ref: 24/0217/FUL **Appeal Ref:** 24/00041/HH
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.
Decision: **Appeal Dismissed** **Date:** 22.10.2024
Procedure: Written representations
Remarks: Delegated refusal, amenity and green wedge reasons upheld (EDLP Policy D1, Strategy 8).

BVPI 204: **Yes**
Planning APP/U1105/D/24/3347667
Inspectorate Ref:

Ref: 23/2548/COU **Appeal Ref:** 24/00034/REF
Appellant: Paul FitzHenry
Appeal Site: Ivy Green Farm Chardstock EX13 7BY
Proposal: Change of use of existing annexe accommodation to enable dual use as either annexe and/or holiday accommodation
Decision: **Appeal Dismissed** **Date:** 23.10.2024
Procedure: Written representations
Remarks: Delegated refusal, accessibility reasons upheld (EDLP Policies E16, TC2, Strategy 5B). Application for a full award of costs against the Council refused.
BVPI 204: **Yes**
Planning APP/U1105/W/24/3345720
Inspectorate Ref:

Ref: 23/2373/PIP **Appeal Ref:** 24/00033/REF
Appellant: Mr David Selway
Appeal Site: Land West of Backwells Mead Northleigh
Proposal: Permission in principle for 4no. dwellings
Decision: **Appeal Dismissed** **Date:** 24.10.2024
Procedure: Written representations
Remarks: Delegated refusal, accessibility and landscape reasons upheld (EDLP Policy TC2, Strategies 55, 7, 46).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3345706
Inspectorate Ref:

Ref: 22/0349/OUT **Appeal Ref:** 23/00058/NONDET
Appellant: Mr & Mrs Reeves
Appeal Site: Kilmore House Poltimore Exeter EX4 0AT
Proposal: Outline application for an exception site comprising of 4 affordable houses and 2 open market houses
Decision: **Appeal Dismissed** **Date:** 30.10.2024
Procedure: Written representations
Remarks: Delegated resolution to refuse, accessibility and amenity reasons upheld (EDLP Policies D1, D2, TC2, Strategy 35).
BVPI 204: **No**
Planning APP/U1105/W/23/3334118
Inspectorate Ref:

East Devon District Council List of Appeals in Progress

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: 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: 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: 22/1973/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: 23/1472/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: 23/2262/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: 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: 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: 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: 23/1050/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

App.No: 24/0926/FUL
Appeal Ref: APP/U1105/D/24/3347872
Appellant: Mr Justin Wright
Address: 2 The Barnfield Jerrard Close Honiton EX14 1DX
Proposal; Raising of roof and conversion to habitable accommodation.
Start Date: 6 August 2024
Procedure:
Householder
Questionnaire Due Date: 13 August 2024

App.No: 24/0110/FUL
Appeal Ref: APP/U1105/W/24/3347347
Appellant: Mulberry Architectural Services
Address: 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
Start Date: 13 August 2024
Procedure:
Written reps.
Questionnaire Due Date: 20 August 2024
Statement Due Date: 17 September 2024

App.No: 23/2523/FUL
Appeal Ref: APP/U1105/W/24/3347765
Appellant: Mr & Mrs Eccles
Address: Northcombe Farm Salcombe Regis EX10 0JQ
Proposal; Proposed annexe (conversion of redundant rural building)
Start Date: 19 August 2024
Procedure:
Written reps.
Questionnaire Due Date: 26 August 2024
Statement Due Date: 23 September 2024

App.No: 24/0605/FUL
Appeal Ref: APP/U1105/W/24/3346991
Appellant: Mr Nigel Morgan
Address: Clapperentale Farm Escot Park Ottery St Mary Devon EX11 1LU
Proposal; Siting of rural workers dwelling (static caravan) in support of rural business (retrospective)
Start Date: 23 August 2024
Procedure:
Hearing
Questionnaire Due Date: 30 August 2024
Statement Due Date: 27 September 2024
Hearing Date: 29 October 2024

App.No: 23/1064/FUL
Appeal Ref: APP/U1105/W/24/3347829
Appellant: Mr and Mrs A Brewer
Address: 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.
Start Date: 23 August 2024
Procedure:
Written reps.
Questionnaire Due Date: 30 August 2024
Statement Due Date: 27 September 2024

App.No: 23/2774/FUL
Appeal Ref: APP/U1105/D/24/3348516
Appellant: Mr Alex Watson
Address: Bramblecot Gate Hawkchurch Devon EX13 5TZ
Proposal; Addition of detached double garage to property.
Start Date: 29 August 2024
Procedure:
Householder
Questionnaire Due Date: 5 September 2024

App.No: 24/0175/FUL
Appeal Ref: APP/U1105/D/24/3348571
Appellant: Miss Clare Humphreys
Address: 58 St Andrews Drive Axminster Devon EX13 5EZ
Proposal; Fencing erected to replace hedging (retrospective)
Start Date: 29 August 2024
Procedure:
Householder
Questionnaire Due Date: 5 September 2024

App.No: 24/0136/FUL
Appeal Ref: APP/U1105/D/24/3349925
Appellant: Mr David Gillingham
Address: Tinkers Barn Payhembury EX14 3JQ
Proposal; Part garage conversion, first floor extension over existing garage and single storey rear extension and the introduction of solar panels
Start Date: 6 September 2024
Procedure:
Householder
Questionnaire Due Date: 13 September 2024

App.No: 23/2725/FUL
Appeal Ref: APP/U1105/W/24/3348938
Appellant: Mr Mark & Lisa Clouter
Address: 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.
Start Date: 10 September 2024
Procedure:
Written reps.
Questionnaire Due Date: 17 September 2024
Statement Due Date: 15 October 2024

App.No: 23/1890/FUL
Appeal Ref: APP/U1105/D/24/3349359
Appellant: Mrs Alison Beresford
Address: Ratclyffe House Clyst Hydon Cullompton EX15 2NQ
Proposal; Reinstatement of main drive lights and gate pillar lights.
Start Date: 17 September 2024
Procedure:
Householder
Questionnaire Due Date: 24 September 2024

App.No: 24/0542/FUL
Appeal Ref: APP/U1105/D/24/3349512
Appellant: Mr Stephen Condell
Address: Littlebrook Venlake End Uplyme DT7 3SF
Proposal; Demolition of existing single storey garage and storeroom, erection of two storey side extension, and new external materials.
Start Date: 17 September 2024
Procedure:
Householder
Questionnaire Due Date: 24 September 2024

App.No: 24/0913/PIP
Appeal Ref: APP/U1105/W/24/3349912
Appellant: Mr Jake Huntley
Address: 2 Lime Grove Exmouth EX8 5NN
Proposal; Permission in principle for 1 no. dwelling.
Start Date: 24 September 2024
Procedure:
Written reps.
Questionnaire Due Date: 1 October 2024
Statement Due Date: 29 October 2024

App.No: 23/2604/FUL
Appeal Ref: APP/U1105/W/24/3350271
Appellant: Mr S Hallett & M Conibear
Address: Lower Sweetcombe Farm Sidbury EX10 0QR
Proposal; Change of use of land from agricultural to holiday/tourism accommodation including the retention of a shepherd's hut, shed (housing a kitchen/store and shower) and toilet (retrospective)
Start Date: 2 October 2024
Procedure: Written reps.
Questionnaire Due Date: 9 October 2024
Statement Due Date: 6 November 2024

App.No: 24/0320/LBC
Appeal Ref: APP/U1105/Y/24/3350909
Appellant: Mr C Smith
Address: 2 School Cottages Woodbury Salterton EX5 1PG
Proposal; Replace 1no. rooflight with Fakro rooflight on rear north west elevation
Start Date: 2 October 2024
Procedure: Written reps.
Questionnaire Due Date: 9 October 2024
Statement Due Date: 6 November 2024

App.No: 23/2506/MFUL
Appeal Ref: APP/U1105/W/24/3350852
Appellant: P Quincey
Address: Winslade Park Clyst St Mary
Proposal; Installation of solar array with associated infrastructure, access and landscaping
Start Date: 3 October 2024
Procedure: Written reps.
Questionnaire Due Date: 10 October 2024
Statement Due Date: 7 November 2024

App.No: 22/1813/LBC
Appeal Ref: APP/U1105/Y/24/3351417
Appellant: Mr Mel Ziziros
Address: Podburys Cottage Higher Way Harpford Devon EX10 0NJ
Proposal; Construction of a Two storey side extension, construction of a detached garage with office space above, retrospective approvals for both the widening of the existing vehicular access to the boundary wall and a greenhouse and reparations to a retaining wall
Start Date: 15 October 2024
Procedure: Written reps.
Questionnaire Due Date: 22 October 2024
Statement Due Date: 19 November 2024

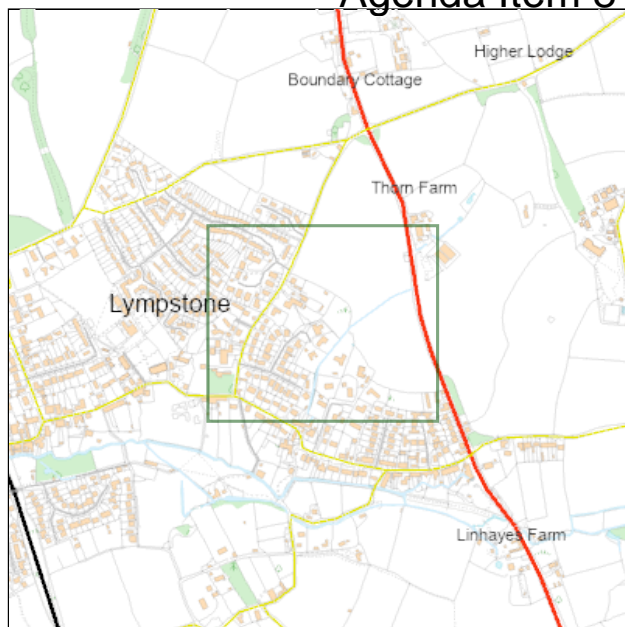
App.No: 24/0164/FUL
Appeal Ref: APP/U1105/W/24/3351943
Appellant: Simon Barry
Address: 15 Harepath Road Seaton EX12 2RP
Proposal; Planning permission and listed building consent for the demolition of a section of boundary wall, creation of access and parking space, construction of retaining walls and installation of an electric car charging unit to the front, east, elevation.
Start Date: 18 October 2024
Procedure: Written reps.
Questionnaire Due Date: 25 October 2024
Statement Due Date: 22 November 2024

App.No: 24/0165/LBC
Appeal Ref: APP/U1105/Y/24/3351944
Appellant: Simon Barry
Address: 15 Harepath Road Seaton EX12 2RP
Proposal; Listed building consent for the demolition of a section of boundary wall, creation of access and parking space, construction of retaining walls and installation of an electric car charging unit to the front, east, elevation.
Start Date: 18 October 2024
Procedure: Written reps.
Questionnaire Due Date: 25 October 2024
Statement Due Date: 22 November 2024

App.No: 24/0673/OUT
Appeal Ref: APP/U1105/W/24/3352696
Appellant: Mr and Mrs Padget
Address: Cory Hill Combe Raleigh EX14 4TQ
Proposal; Outline permission sought (with all matters reserved other than access) for construction of a single storey dwelling
Start Date: 23 October 2024
Procedure:
Written reps.
Questionnaire Due Date: 30 October 2024
Statement Due Date: 27 November 2024

App.No: 22/0508/MFUL
Appeal Ref: APP/U1105/W/24/3351691
Appellant: HB825AXM Limited
Address: Land At Pound Farm Hawkchurch
Proposal; Battery energy storage scheme and associated development.
Start Date: 24 October 2024
Procedure:
Written reps.
Questionnaire Due Date: 31 October 2024
Statement Due Date: 28 November 2024

App.No: 24/0512/FUL
Appeal Ref: APP/U1105/W/24/3352912
Appellant: Teresa Loynd
Address: Woodentop Littledown Lane Newton Poppleford
Proposal; Alteration to design of agricultural building approved under ref. 17/1130/COU (retrospective), change of use of part of the land holding for amenity use including retention of a timber amenity hut.
Start Date: 28 October 2024
Procedure:
Written reps.
Questionnaire Due Date: 4 November 2024
Statement Due Date: 2 December 2024



RECOMMENDATION: Approval with conditions



		Committee Date: 19.11.2024
Woodbury And Lympstone (Lympstone)	24/0721/FUL	Target Date: 12.07.2024
Applicant:	Mr I White	
Location:	Land North East Of Grange Close	
Proposal:	The erection of two detached dwellings with integral double garages, to include associated hard and soft landscaping.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members of the Planning Committee because it is a departure from the East Devon Local Plan and the made Lympstone Neighbourhood Plan.

The application seeks planning permission for the construction of two detached dwellings. Access shall be provided via the existing private driveway that stems from Grange Close to the west, a short internal road shall extend past the principal elevation of Plot 1 to Plot 2. The proposed dwellings shall have integral garaging and be finished in brick, cladding and artificial slate.

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development, the majority of which is outside of a BUAB, the site is considered to be in a sustainable location on the northern edge of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

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.

In the absence of any adverse impacts to the character and appearance of the area, neighbouring amenity, protected species or on highway grounds the application is considered acceptable and recommended for approval.

CONSULTATIONS

Parish/Town Council

Recommendation: Object

Lympstone Parish Council object to the planning application due to being outside the BUAB, outside the approved outline planning application and the lack of detail on environmental protection.

County Highway Authority

I have looked at the CEMP and am satisfied that it would meet our requirements.

Environmental Health

Thank you for submitting the additional drawings regarding the location of the ASHP.

I have reviewed the plans and technical data regarding the air source heat pumps and do not anticipate any Environmental Health concerns.

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 the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

Woodbury And Lympstone - Cllr Geoff Jung

06.11.2024

Having reviewed the report and the recommendation I withdraw my objection and support the officers support.

I have viewed the planning application for 24/0721/FUL for the erection of two detached dwellings with integral double garages, to include associated hard and soft landscaping at Land North East off Grange Close Lympstone.

Although this location has outline permission for one dwelling, I believe the application for 2 dwellings at the end of this cul-de-sac would be overdevelopment of at this location.

Therefore, I do not support this development, but I reserve my final views for this application until I am in full possession of all the relevant arguments for and against. I note that SWW have commented on the provision of surface water treatment proposals which I support but I note that they have not commented on the proposed connection of foul sewage to existing SWW infrastructure.

As there is an apparent problem resulting in various failures to SWW infrastructure between the connection point and Maer Lane sewage treatment works at Exmouth I would like to see a Grampian order attached as a condition if this application goes forward as a recommendation to approve. This would require that SWW to overcome these failures with improved infrastructure prior to any occupation of these properties.

EDDC Trees

The proposal is supported by an Arboricultural Survey by Advanced Arb dated the 26/03/2024 including TCP, TPP, AIA and AMS.

The proposal involves removal of G2 (group of Hawthorn, Elm Ash), T7 (Rowan), T8 (Silver Birch), T9 (Rowan) all cat C to facilitate development.

It should be noted that pre-emptive tree felling of a Cat A Oak located centrally within the site has taken place. This tree would have been a significant constraint to both the outline and current proposal. The outline proposal showed one property located centrally with a greater amount of replacement / mitigation planting. The current proposal shows a more constrained site which increases the pressure on the retained tree due to ground level changes and gives less opportunities for replacement planting. From the Foul and Surface Water Drainage Plan it appears that level changes are proposed within the RPA of T10 and T5, both of which are Cat A trees. It also appears that tree protective fencing is located within the RPA of a number of trees though no ground protection is provided.

Mitigation planting has been provided though the amount of replacement planting is considered low for the number of trees already removed / proposed for removal and in comparison to the outline app (it is noted some tree removal will benefit the long term development of retained trees. It is also noted that the retention basin for Plot 2 happens to be located within what would have been the RPA of removed G2).

Overall I would suggest that if amendments to the drainage plan could be made so that no work takes place within the RPA then I would have no objection to the proposal.

We originally made a TPO following the Outline app. This has now lapsed and I would recommend that a new TPO is made.

EDDC District Ecologist

No objection subject to conditions.

Environment Agency

Overall, we have no objections in-principle to this proposal based on the information submitted with the planning application. Whilst the flood map indicates that an area of flood zone 3 encroaches within the red line boundary there does not appear to be any development taking place within that area. However, if there is to be any development or land raising within the area at risk of flooding please reconsult us for further comments.

Other Representations

At the time of publication of this report 14 third party comments. 6 objections, 7 in support and 1 representation.

Of those objecting, the main concerns:

- Concerns regarding surface water run-off into the nearby watercourse.
- Permission was granted for a single dwelling only.
- Sewage flowing into the River Exe.
- Construction noise and traffic.
- Increase in flood risk to Harefield Stream.
- Need for more detailed CEMP.
- Need for long term maintenance Surface Water Drainage Scheme.

Of those comments received in support, the following points were raised:

- Highly reputable company. Care and consideration has been taken with the plans for the site. The development sits comfortably within the site.
- Design of the properties fits in well with the site.
- Development would be in keeping with the local area.
- Care and detail put into the drainage scheme.
- Development shall add two houses to the village's housing stock.

PLANNING HISTORY

98/P0223 – Erection of a single dwelling. Refusal. 23/04/1998

23/1079/OUT – Outline consent for the construction of a single dwelling.
Approval.01/09/2023

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
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)
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
EN22 (Surface Run-Off Implications of New Development)
Strategy 5B (Sustainable Transport)

Lympstone Neighbourhood Plan (Made)

Policy 4 - Need
Policy 5 – Density & Scale
Policy 6 – Density & Scale
Policy 7 – Design
Policy 11 – Parking
Policy 14 – Flood Risk

Government Planning Documents

NPPF (National Planning Policy Framework 2021)
National Planning Practice Guidance

OFFICER REPORT

Site Location and Description

The site refers to land to the north east of Grange Close, an undeveloped paddock extending to approximately 0.3 ha in area which is accessed off a private drive off Grange Close. The site is bordered by residential properties on its south western boundary and agricultural land to the north, east and north west.

The majority of the site is located outside of the built-up area boundary (BUAB) of Lympstone as defined by the East Devon Local Plan and the 'made' Lympstone Neighbourhood Plan. A small portion of the south west of the site does however fall within the BUAB as defined by the Lympstone Neighbourhood Plan. The site is not the subject of any national or local landscape designations and falls within an area designated as flood zone 1 (at lowest risk of flooding).

Proposed Development

The application seeks planning permission for the construction of two detached dwellings. Access is to be provided via the existing private driveway that stems from

Grange Close to the west, a short internal road would extend past the principal elevation of Plot 1 to Plot 2. The proposed dwellings are proposed with integral garaging finished in brick, cladding and artificial slate.

Due to the sloping nature of the ground level, which falls away to the south east, a degree of cut and fill would be required to facilitate the development. The application is supported by a fully detailed landscaping scheme and Surface Water Drainage Strategy that propose two detention basins towards the north eastern corner of the site.

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 proposes new build residential development outside of the defined settlement boundary of Lymptone, 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 Strategic 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.

Location and Accessibility

Strategy 5B (Sustainable Transport) of the Local Plan 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. These objectives are further echoed within policy TC2 (Accessibility of New Development) of the Local Plan which 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.

The site is located on the northern edge of the settlement and is considered to be well related to existing dwellings, facilities and services within the village. These include the Pre-School, Parish Church, Redwing Inn and a number of other facilities located along The Strand. The village also has a train station and a number of bus stops in walking distance from the site. Whilst the majority of the site is located outside of the BUAB of Lympstone, it does immediately adjoin its northern boundary where it would be possible to safely access these services, facilities and public transport links on foot or by cycling and thus reducing any over reliance on the use of the private car.

It is therefore the position of officer's that the application site is well related to services and facilities within Lympstone and therefore accords with the provisions of Strategy 5B and policy TC2 of the Local Plan.

Impact on Character and Appearance

The application site is well related to the built form of Lympstone. The north eastern boundary is characterised by a number of mature trees which form a natural boundary to the village and open countryside. The land falls away relatively quickly from east to west towards a watercourse that borders the site to the south east. Despite the lawful use of the site being considered agricultural, it does not appear that the land has been used for agricultural purposes for at least 20 years. Whilst the Agricultural Land Classification indicates the site has 'good to moderate' value, the sloping character and limited size of the site does not make it an attractive parcel to actively farm.

The proposals seek to construct two large four-bedroom properties with integral garages. The dwellings are to be two storey with the garaging within a flat, sedum roof. External walls are to be finished in a mix of brick and oak cladding with aluminium framed openings. Artificial slate is proposed for the pitched roofs with black lindab guttering along the eaves line and downpipes.

The character of Grange Close consists of detached bungalows constructed of brick, render and tiles. The character of Grange Close is largely medium density albeit No. 10, 12 and 14 are larger bungalows with larger gardens. Concerns have been raised by the Local Ward Member and third parties with regards to overdevelopment of the site. However, it is the position of officers that the dwellings sit comfortably within their respective plots and provide an appropriate level of external amenity space whilst also orientated in a manner that provides sufficient relief between boundaries.

However, it is appreciated that the overall scale of the buildings and the use of cladding doesn't conform to the established pattern of development of Grange Close which is underpinned by pitched roof bungalows with gable ends that front the highway. Notwithstanding this, the site is self-contained and well screened by existing vegetation and trees which would minimise any longer distance views from outside of

the site, particularly from the north east along the A376. In the event that glimpsed views are available, the proposals would still be read against the back drop of the village edge. Furthermore, the variety of architectural forms and materials varies beyond Grange Close, this is evident along Birch Road, Strawberry Hill and Orchard Close.

Despite the scale of the proposal dwellings, the development would not harm the character and appearance of the area or result in landscape visual harm. The proposals are considered to meet the provisions of Policy D1 (Design and Local Distinctiveness) of the Local Plan and Policy 7 of the Neighbourhood Plan.

Impact on Neighbouring Amenity

The sloping topography of the site and wider area would result in the internal floor levels being above the level of The Acorns and Harefield of Harefield Drive. Comments received from the occupants of The Acorns have requested that appropriate landscaping details are secured along southeastern boundary to ensure any overlooking is adequately mitigated. DRWG 1016/02 REV E communicates the construction of a hedgebank along this boundary alongside additional hedgerow planting and retention of a mature oak (T6). Implementation and retention of the landscaping scheme will go some distance to screen outlook from the first floor wrap around window that serves bedroom 1 of Plot 1.

Notwithstanding this, despite the changes in levels, the most southern part of Plot 1 is approximately 28 metres from the boundary shared with The Acorns, it is then another 35 metres to the northernmost part of their property. These separation distances are significant and, even if line of sight is possible from first floor windows, the resulting impact would not result in a significant loss of privacy at The Acorns.

A number of first floor windows that serve Plot 1 on the south western elevation would also have outlook towards 10 Grange Close. The two closest windows serve two ensembles, would therefore be obscured, and appear on the submitted elevations (DRWG 326:4:01 REV D) as high-level windows. Two windows serving bedroom 1 and the landing area of Plot 1 have outlook towards No.10. The distance between these windows and the boundary shared with No.10 is approximately 18 metres, with line of sight being largely screened by the mixed species hedge.

There are a handful of properties that back onto the site located on Strawberry Hill to the northwest. However, these properties are elevated above the application site and benefit from large external amenity areas that provide spatial relief between these areas and the proposal buildings.

Some local comments have raised concern over the impact of the construction phase on the amenity of local residents. The proposals are supported by a Construction Environment Management Plan which has modelled the anticipated frequency and type of construction traffic that shall be accessing the site and operating hours of construction. The County Highway Authority and Environmental Health Team have raised no objections to this document.

The proposals include the provision of Air Source Heat Pumps, one for each property. Further information has been provided as requested by the Local Planning Authority's Environmental Health Officer by way of manufacturer details in order to assess the impact of ASHP on adjacent properties. These have been provided and considered acceptable.

Having considered the development's impact on adjacent neighbours and the amenity afforded to prospective occupants of the proposal dwellings, the development is considered to meet the objectives of Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.

Surface Water Attenuation and Flood Risk

The application site is located in Flood Zone 1 and is at a 'very low' risk of surface water flooding. The site is not at risk from reservoir flooding or groundwater flooding. However, land either side of an adjacent watercourse, known as Harefield Stream, is located within flood zones 2 and 3.

The application is supported by a Foul and Surface Water Drainage Strategy prepared by Aqua-Tech Consultancy that states results from percolation testing show that the provision of soakaways would not be viable. As such, the application details the construction of two detention basins to attenuate and disperse surface water generated by the development into the adjacent watercourse that borders the application site to the southeast. The technical report states that the greenfield run off rate is 0.1 l/s unless during a 1 in 100 year flooding event in which this figure would rise to 0.2l/s.

Surface water run-off from each plot drains to a dedicated detention basins which are landscaped depressions. The technical report states that a vortex control unit shall restrict the discharge rate to 1.5 l/s which is the anticipated run off rate for a 1 in 100 year event plus 40% for climate change. The report states that this is in accordance with the Environment Agency's Policy Document SC030219 and the Water UK Publication Sewer Adoption Guidance.

Several third party comments have raised concerns over the proposed detention basins and the potential for the development to cause flooding elsewhere within the village. The Local Lead Flood Authority were consulted but declined to comment. South West Water have commented on the application where, in the absence of soakaways being appropriate, the proposed detention basins and discharge into the nearby local watercourse is deemed acceptable.

Furthermore, the Environment Agency were approached to advise whether the development could, bearing in mind the proposals to discharge surface water into the ordinary watercourse, potentially cause flooding elsewhere in the village. The EA responded that they have no concern that the proposals would cause flooding elsewhere.

As such, despite concerns raised by local residents, it is the position of officers that the application cannot be refused on flood risk grounds. The proposals therefore meet

the provisions of EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development of the Local Plan.

Foul Sewage

Policy EN19 - Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems of the Local Plan states that new development will not be permitted unless a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the development.

Development where private sewage treatment systems are proposed will not be permitted unless ground conditions are satisfactory and the plot is of sufficient size to provide an adequate subsoil drainage system or an alternative treatment system. Foul drainage is proposed to be via the existing mains in the road via a sewage pump solution. It is understood that the foul drainage would connect with the main sewer at the east end of Birch Road or Grange Close. This would accord with the provisions of policy EN19 of the Local Plan.

Some concerns have been expressed by the Local Ward Member and third parties regarding the capacity of the Maer Lane Waste Water Treatment Works. South West Water are in the process of investing and upgrading several treatment plants within the district. However, South West Water have not objected to the proposals. Furthermore, whilst the LPA has sought to impose grampion conditions on other residential schemes in the district to restrict occupation of dwellings until upgrading works are completed, this would not apply to a scheme of this scale.

The proposals are therefore considered to be compliant with Policy EN19 of the Local Plan.

Arboricultural Impact

Policy D3 (Trees and Development Sites) of the Local Plan states that 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.

The LPA's Tree Officer has observed some pre-emptive tree felling during the assessment of the former outline permission and there are a number of Category A individuals, primarily oak, that characterise the site's South and Eastern boundaries. Initial concerns raised by the LPA's Tree Officer with regards to the proximity of the detention basins to the RPA of T5 (Oak) and T6 (Oak) were relayed to the applicant. An amended Surface Water Drainage Plan was submitted and five oaks (including T5 and T6) have been served with a Tree Preservation Order.

The submitted Planting Plan details native hedging around the site's perimeter alongside shrub and replacement tree planting just inside north western boundary. Overall, the submitted arboricultural information and Planting Plan are considered acceptable.

Notwithstanding this, any permission granted shall include conditions to ensure development is carried out in accordance with the Tree Protection Plan, the Arboricultural Method Statement and that no ground level changes shall occur within the RPAs of trees to be retained. Overall, subject to compliance with these conditions, the development is considered to meet the objectives of Policy D3 of the Local Plan.

Ecological Impact

The application is supported by an Ecological Impact Assessment (EIA) and Landscape Ecological Management Plan (LEMP) prepared by Richard Green Ecology. The EIA includes surveys for foraging and commuting bats, hazel dormice, breeding birds, badgers, great crested newts, reptiles and Cirl bunting.

It was observed that the scrub, hedge and line of trees provided foraging resource and commuting routes for bats and hazel dormice. The existing grassland also provides suitable habitat for slow worms and limited habitat for amphibians albeit unlikely for great crested newts. No evidence of badgers, Cirl Bunting or hedgehogs were observed.

The main ecological impact results from development and loss of neutral grassland, scrub and tree removal. The EIA recommends that a Construction Ecological Management Plan is provided and adhered to and that an external lighting plan is submitted. These have therefore been required via planning condition and should be submitted prior to commencement on site. Further mitigation measures include the planting detailed within the submitted Planting Plan.

It is not anticipated that a European Species License shall be needed and due to the proposals being for two self build properties, the proposals are exempt from requiring a BNG Metric. The EIA and LEMP has been reviewed by the LPA's Ecologist who has raised no concerns subject to conditions securing implementation of mitigation measures and submission of a Construction and Ecological Management Plan (CECoMP). The proposals are therefore considered to accord with Policy EN5 (Wildlife Habitats) of the East Devon Local Plan.

Habitat Regulations Assessment

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

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

Conclusion

The site was dismissed as an allocation at Strategic Planning Committee 03.09.24 as part of the HELAA to inform the emerging East Devon Local Plan. Reasons for not allocating the site for three houses were based on ecological impact and access.

However, the site already has outline consent for the construction of one dwelling and an EIA and LEMP have been submitted in order to demonstrate that development can take place without causing harm to protected species. Furthermore, no objection has been received by the County Highway Authority.

At Planning Committee 22.08.2023 members resolved to approve 23/1079/OUT agreeing with the officer's recommendation and took the view that the site was adequately served by nearby services and facilities. As detailed within the current report, this position remains and despite being able to now demonstrate a 4.5 years of housing land supply, the LPA has a requirement to continue to bolster its housing stock. It is also the position of officers that the design, scale and form of the two dwellings are acceptable and would not cause undue harm to the amenity enjoyed by adjacent neighbours.

The development would provide ample space for parking, external amenity areas and bin storage. The submitted EIA and Landscaping Scheme shall mitigate some tree removal already undertaken and provide replacement habitat.

In light of the above the proposals is considered acceptable and therefore recommended for approval.

RECOMMENDATION

1. Adopt the Appropriate Assessment
2. APPROVE subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
4.
 - a) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures detailed within Arboriculture Report prepared by Advanced Arboriculture dated 26th March.
 - b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
 - c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
 - d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
 - e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
 - f) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written

approval of the Local Planning Authority.

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

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

5. The works shall be carried out in strict accordance with section 4 and appendix C of the Ecological Impact Assessment (Richard Green Ecology, March 2024) and the Landscape and Ecological Management Plan (Richard Green Ecology, March 2024), including any maintenance, management, and adaptive requirements of these documents, and any reporting requirements to the LPA.

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

6. Prior to first occupation of the buildings, a written record should be submitted to the local planning authority including a toolbox talk sheet detailing the result of the removal of trees and scrub, details of any protected species (if found) and measures taken to avoid any wildlife offences. The record shall include photographs of the installed ecological mitigation and enhancement measures detailed within the submitted Ecological Impact Assessment, including integrated bat tubes, bat box, nesting bird boxes, bee bricks, and reptile habitat pile and hibernaculum.

(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),

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

7. 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:
 - o Risk assessment of potentially damaging construction activities
 - o Identification of "biodiversity protection zones"
 - o 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)
 - o The location and timing of sensitive works to avoid harm to biodiversity features
 - o The times during construction when specialist ecologists need to be present on site to oversee works
 - o Responsible persons and lines of communication, including reporting compliance of actions to the LPA
 - o The role and responsibilities on site of an ecological clerk of works (ECoW), if applicable, including any licence requirements
 - o Use of protective fences, exclusion barriers and warning signs

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

(Reason - A pre-commencement condition is required to ensure retention and protection of trees and other biodiversity features on the site prior to and during construction in accordance with Strategy 47 (Nature Conservation and Geology), Policy EN5 (Wildlife Habitats and Features), and Policy EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.

8. The development hereby approved shall be carried out in accordance with the Foul and Surface Water Drainage Strategy Plan (DRWG 01 REV C) prepared by Aqua Tech dated 29th August 2024 and all drainage infrastructure shall be installed in accordance with the details prior to occupation of the dwelling to which they relate and shall be retained and maintained as such for the lifetime of the development.

(Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with the provisions of policy EN22- Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031).

9. The development hereby permitted shall be carried out in accordance with the Construction Management Plan (CMP) and Construction Environment Management Plan (CEMP) prepared by RBL Homes dated 12th March 2024.
(Reason: to ensure that adequate facilities are available for construction and other traffic attracted to the site and that a precautionary approach to site clearance and to ensure that the impacts on habitats and protected species can

be appropriately managed and mitigated and that appropriate ecological mitigation measures are in place in accordance with Policy TC7 - Adequacy of Road Network and Site Access and Policy EN5 - Wildlife and Habitats and Features of the Adopted East Devon Local Plan 2013-2031.)

10. The dwelling hereby permitted shall be constructed as a self-build dwelling within the definition of self-build and custom build housing in the Self-build and Custom Housebuilding Act 2015 Act:
- i.) The first occupation of each unit in the development hereby permitted shall be by a person or persons who had a primary input into the design and layout of the unit and who intends to live in the unit for at least 3 years;
 - ii.) The Council shall be notified of the persons who intend to take up first occupation of each unit in the development hereby permitted at least two months prior to first occupation.

(Reason: To ensure the development is for a self-build dwelling and therefore exempt from providing biodiversity net-gain in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Strategy 47 (Nature Conservation and Geology) of the East Devon Local Plan, 2013 - 2031.)

11. Under no circumstances should any external lighting be installed without prior consent from the local planning authority. Any lighting design should be fully in accordance with BCT/ILP Guidance Note 08/2023. The development shall be carried out 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), Policy EN5 (Wildlife Habitats and Features), and Policy EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

12. The development shall be carried out with the Hardworks Plan (1016/01 REV F) and Planting Plan (1016/02 REV E). The Planting Plan shall be carried out in the first planting season after completion of the groundworks and the building construction works or prior to first occupation whichever is the earlier unless otherwise agreed in writing by the Local Planning Authority and all soft landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) and Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031.)

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within the Schedule 2 Part 1 Classes A, B, C, E or F for the enlargement,

improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool or hard surfaces.

(Reason - Such additions would be detrimental to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

14. Notwithstanding the approved drawings, the two first floor windows on the south west elevation that serve the two ensuites as annotated on Floor Plan 326:2:02 REV A and Proposed Elevation 326:4:01 REV D shall be obscured to Pilkington Level 4 or equivalent prior to occupation of the dwelling and remain so in perpetuity.

(To protect the amenity of adjacent neighbours in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan. 2013-2031).

NOTE FOR APPLICANT

Informative:

In accordance with the 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.

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 4.5 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.

Plans relating to this application:

& Site Plan	Location Plan	17.05.24
1016/01 Rev F: Hardworks	Landscaping	02.04.24
1016/02 Rev E: Planting Plan	Landscaping	02.04.24

326:2:01 REV A: Ground Plot 1	Proposed Floor Plans	02.04.24
326:2:02: Rev A: First Plot 1	Proposed Floor Plans	02.04.24
326:2:03 Rev A: Ground Plot 2	Proposed Floor Plans	02.04.24
326:2:04 Rev A: First Plot 2	Proposed Floor Plans	02.04.24
326:2:05: Plot 1	Proposed roof plans	02.04.24
326:2:06: Plot 2	Proposed roof plans	02.04.24
326:4:02 D : plot 2	Proposed Elevation	08.08.24
326:3:01 E : site levels	Sections	08.08.24
326:4:01 D : plot 1	Proposed Elevation	08.08.24

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,

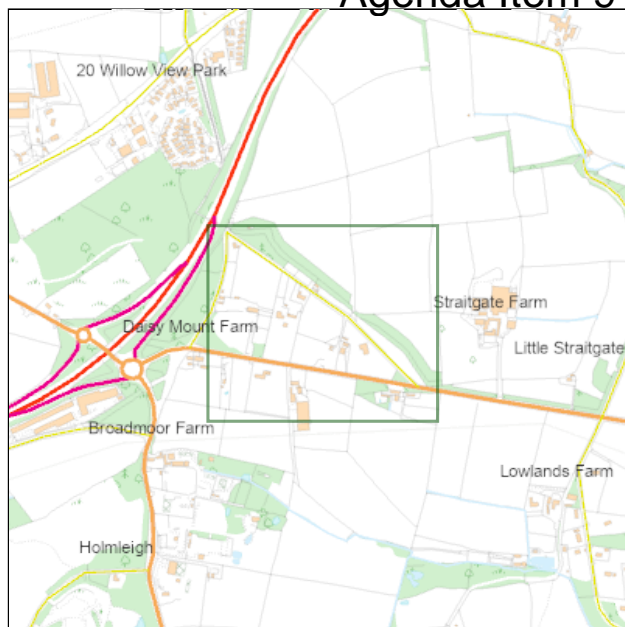
disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Reference 24/1278/FUL

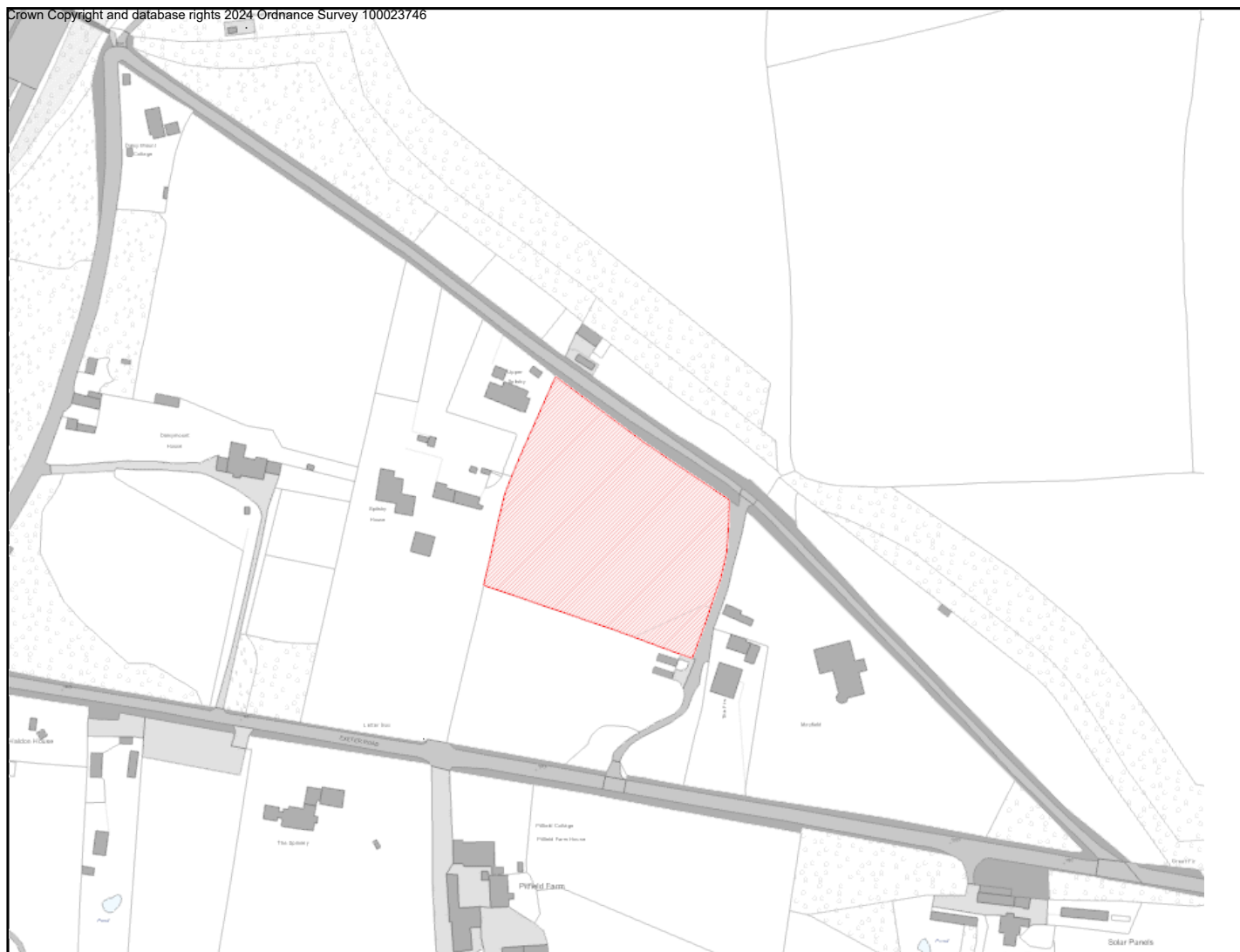
Applicant Tim and Libby Read

Location Land Adjacent Upper Spilsby Exeter Road
Ottery St Mary

Proposal Construction of a new dwelling and associated landscaping



RECOMMENDATION: Approval with conditions



		Committee Date: 19.11.2024
Ottery St Mary (Ottery St Mary)	24/1278/FUL	Target Date: 09.09.2024
Applicant:	Tim and Libby Read	
Location:	Land Adjacent Upper Spilsby Exeter Road	
Proposal:	Construction of a new dwelling and associated landscaping	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before the Planning Committee as the scheme, which is recommended for approval, represents a departure from the local development plan.

The application site is a field two miles west of the centre of Ottery St Mary, 70 metres north of the B3174 Exeter Road and 300 metres to the south east of the A30. Around the site are a number of individual houses, set within spacious plots. The site is approached from the north along a narrow lane, and is surrounded by large, mainly beech trees, some of which are protected by a TPO. The site slopes gently towards the south and has long reaching views towards the coast, Peak Hill and Woodbury Common.

The application is proposed under the exceptions criteria for new homes in the country set out at Paragraph 84 of the National Planning Policy Framework which allows for the development of homes in the countryside where the design is of exceptional quality. The proposed building is planned as a contemporary and minimalist country house.

The scheme has been informed by several design concepts. The building is planned as an 'upside down' house to maximise the views from the first floor living spaces. The ground floor of the house is proposed as being constructed from hemp, which is similar to cob construction but has the advantage that it sequesters carbon unlike cob. The first floor of the building is conceived of as a lightweight Devon oak framed glazed pavilion. A central theme of the building is water, used as a design element to engage with the senses through light and sound, through a series of pools which allow water to travel through the building and into the landscape. The water is also harvested for used within the building as grey water and for the irrigation of the proposed landscaping. The building proposes a muted palette of colours to allow the building to blend with the

landscape setting.

The proposed landscaping scheme is a significant part of the proposal which aims to frame vistas from the building throughout the landscape. A circular route travels through the landscape and links different 'rooms' within the landscape. The scheme provides an open grassed area at the centre, around which are planned vegetable growing beds, orchard areas with Devon species of trees, reed beds, a wildlife pond and areas of wildflower planting. The proposed hard landscaping uses locally sourced material.

The proposed dwelling would be constructed to very high standards of sustainability to reduce its carbon footprint and energy consumption. The dwelling would be constructed to passivehaus standards of air tight construction and thermal insulation values in excess of those required by the building regulations. The building proposes the use of photovoltaic panels to the roof, waste water heat recovery, a ground source heat pump and several energy storage methods including Lithium Ion batteries and newer technology including Hydrogen-Oxygen Fuels cells and phase change materials.

The scheme has been reviewed by 'The Design Review Panel', an independent national multi-disciplinary panel, three times in the course of its development and during the final review the panel stated that it considered the proposal was truly outstanding, and as such the local authority should have regard to the outcome from this process.

It is considered that the application reflects the highest standards in architecture and would significantly enhance its immediate setting. As such, it is considered that subject to appropriate conditions the application meets the necessary standards set within Paragraph 84 of the NPPF and the application is recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

The Council object to this application which is outside of the built up area and in open countryside, not a settlement. The Council support the holding objection from Exeter Airport for a wildlife hazard assessment to be completed and a management plan submitted. The Council is concerned this house would be directly in the path of the aircrafts.

Technical Consultations

South West Water

Proposal acceptable

Environmental Health

Proposal acceptable subject to condition

DCC Historic Environment Officer

Proposal acceptable subject to conditions

EDDC Trees

Proposal acceptable subject to condition

Exeter & Devon Airport - Airfield Operations+Safeguarding

Holding objection pending submission of suitable Wildlife Management plan

Other Representations

One third party representation has been received, in objection to the proposal. A summary of grounds for objection are as below:

- The gross size and relatively simple aesthetics of the dwelling would not meet the required standard as an exceptional example of innovative design quality with unprecedented levels of sustainability.
- Whether the architect is capable of completing such a project
- Potential damage to beech trees and devon hedge during the construction phase
- There has been no consultation with the owners of the land over the proposed widening of the entrance way.

PLANNING HISTORY

22/0009/PREAPP - Construction of a dwelling at Land East of Spilsby House

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 38 (Sustainable Design and Construction)

Strategy 39 (Renewable and Low Carbon Energy Projects)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)

Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP1: Development in the Countryside

Policy NP2: Sensitive, High Quality Design

Policy NP6: Valued Views

Policy NP8: Ecological Impacts

Policy NP11: Small Scale Renewable and Low-carbon Energy Projects

Policy NP13: Accessible and Adaptable Homes

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

Site Location and Description

The application site is a field 2 miles west of the centre of Ottery Saint Mary, and around 900 metres by road from the Daisymount junction onto the A30 dual carriageway. As the crow flies the site sits 300 metres to the south east of the A30. Around the site are a number of individual houses, most of which are set within large plots. The site itself is approximately 0.85 hectares, with the southern part of its western boundary adjacent to the boundary of the existing Spilsby House. A narrow lane runs along the northern boundary that connects at either end to the B3174 Exeter Road and then on to the A30 forming a triangle of land within which this cluster of plots sit.

The area is surrounded by large mature trees, mainly beech. There are several open areas among the plots which appear not to be put to any particular agricultural or other commercial use and remain as open grassed areas that provide private recreational spaces for their owners. The proposed site would be one of those spaces and is currently used by the owners of Spilsby House to walk their dog.

The site is on a south-facing slope and falls around 8 metres from the northwest corner to the southeast corner. Just off the northwest corner is a neighbouring house, upper Spilsby, separated by a hedge along the boundary. Spilsby House is off the southern part of the western boundary, where the boundary comprises a hedge with large mature trees that form a substantial screen. These boundary trees are protected by a Tree Preservation Order.

The site is not subject to any landscape designations.

Proposed Development

Planning permission is sought for the construction of a new five bedroom dwelling and garage and associated landscaping works. The application is proposed under the exceptions criteria for new homes in the country set out at Paragraph 84 of the National Planning Policy Framework which allows for the development of homes in the countryside where the design is of exceptional quality.

The proposed building is planned as a contemporary and minimalist country house, which is designed to integrate into the landscape through planned views.

The building is orientated due south towards distant views of Peak Hill and the coast. The building is also planned as an 'upside down house' so that the views from the living space at first floor level are maximised.

The proposed dwelling is 'L' shaped with dimensions of approximately 30 metres wide by 23 metres deep at its largest point, and has a flat roof with a height of 7.1 metres. The building has 4 bedrooms, a double garage, and a plant room to the ground floor, and a large open plan living space to the first floor containing living dining and kitchen areas, as well as a self-contained one bedroom apartment. A terrace and balcony wraps around the south elevation of the living space. The proposed dwelling would provide 678 square metres of living accommodation.

The ground floor of the dwelling is constructed of hemp, finished in a lime render. The first floor of the dwelling is a lightweight oak framed and glazed pavilion. The proposed building has a flat roof which is designed to capture water for use within the landscaping scheme and as grey water within the building. The roof is also designed to accommodate a large array of photovoltaic panels.

The site is accessed via a curved driveway with access from a widened existing access to the north east of the site. The driveway terminates under a porte cochere to the north elevation of the building.

The application is accompanied by a detailed landscaping scheme which frames views from the house towards the landscape. The scheme includes orchards containing native Devon species, new devon hedgebanks, and vegetable planting beds.

The proposal also includes a reflecting pool which wraps around the south elevation of the house, and also extends through to the main entrance of the house. The proposal also includes below ground attenuation tanks, reed beds and a pond. A number of sustainability measures have been incorporated into the scheme to reduce the carbon footprint of the building both during its construction and for the long term.

Analysis

The principal issues for consideration are:

- The principle of the proposed development
- Design and impact on the character and appearance of the area and wider landscape impact
- Sustainability Credentials
- Ecology and BNG
- Impact upon existing trees
- Heritage Impacts
- Highway Issue

Principle of Development

The site lies in the open countryside where there is a presumption against new residential development. This is set out in Strategy 7 (Development in the Countryside) of the Adopted East Devon Local Plan which only permits development in the countryside where it is in accordance with a specific Local or Neighbourhood Plan policy and where it would not harm the distinctive landscape amenity and environmental qualities within which it is located. Bearing this in mind the proposal is considered to be contrary to Local Plan policy and has been advertised as such.

However, Government Guidance, as set out in the National Planning Policy Framework (NPPF) makes provision at paragraph 84 for special circumstances whereby new isolated country homes might be acceptable. The full text of paragraph 84 is as below:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential building;*
or
- e) the design is of exceptional quality, in that it: - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

Isolated

It is necessary to consider whether the site is considered 'isolated' in order to ascertain whether paragraph 84 of the NPPF is applicable. The meaning of 'isolated' within the context of paragraph 84 of the NPPF is addressed in *Bramshill Ltd v SOS, CLG & Ors* (2021). The court concluded that the concept of "isolated homes in the countryside" requires the decision maker to consider whether the development would be physically isolated, in the sense of being isolated from "a settlement" rather than being isolated from "other dwellings". As such it is therefore a matter of planning judgement for the decision-maker to assess;

- What is a 'settlement'.
- Whether the development would be isolated from a settlement.

The site is physically separated from the nearest settlement of West Hill which is located approximately 1.2 kilometres south east. However the site is located near a number of properties, some of which adjoin the site, with Upper Spilsby and Stables Cottage having windows that overlook the site.

Despite the proximity of existing development however, taking into account the findings of the Bramshill case, the site is physically separate from any settlement and is considered to be 'isolated' in the context of the provision of Paragraph 84 of the NPPF.

Exceptional Design Quality

This proposal is submitted under the exceptional quality of the dwelling.

In this respect a number of additional criteria are imposed that must all be met for a proposal to meet the very high benchmark that this policy sets, these are considered below and expanded on as necessary elsewhere in the report, and, must meet both criteria of paragraph 84:

- *The design is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas;*
- *The design would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

In terms of being truly outstanding, this is necessarily a subjective judgement, however, in an aim to apply some measure of objectivity the scheme was presented to 'The Design Review Panel', an independent National review panel, pursuant to paragraph 138 of the NPPF, which suggests that Local authorities should have regard to the recommendations from Design Review Panels.

The proposal has been presented to the local Design Review Panel three times, in December 2021, July 2023, and April 2024, with the design having changed considerably since its original iteration.

The final feedback from the Design Review Panel stated that the panel commended the intellectual rigor and considerable effort that is evident in the proposal, with multiple influences and references informing the scheme. In terms of the scale of the building, the panel noted that the scale of the architecture reflected the purpose of the creation of a country house.

The panel concluded that the first criteria had been met and that the design was truly outstanding. The panel also concluded that the design would significantly enhance its immediate setting. The panel did consider however that the landscape design could give further clarity as to how the proposed landscape design relates to the local landscape characteristics. This has been addressed within the planning submission and is discussed in more detail further in the report.

As per the provisions of the NPPF, the local authority should have regard to the outcome from this process. A further assessment of the design and impact on the

character and appearance of the area is made within the report, but the principle of development under Paragraph 84 of the NPPF is therefore given weight through the support of the Design Review Panel.

Design impact on character of site

There are several themes that run throughout the design of the scheme.

Water is used throughout the scheme to engage with the senses through light and sound. Water is collected off the roof and descends down chains into pools either side of the front entrance door. The pools extend throughout the entrance hall of the building and are on axis with the garden pond. The water also extends to the reflecting pools which sit in front of the bedrooms, providing privacy to the bedrooms from users of the terrace beyond, as well as providing attractive reflections upon the rendered hempcrete walls. The use of water throughout the house is intended to provide a calming environment which is deeply connected to nature.

The ground floor of the proposed building would be constructed out of cast in-situ hempcrete walls to create intimate interiors that have a connection to the landscape. This is a low carbon material with excellent acoustic and thermal properties, and would be finished with a hand floated lime render. The south facing ground floor walls have a concertinaed form which allows each room to be oriented towards a particular views whilst retaining privacy between the bedrooms.

The enclosed and very solid nature of the ground floor of the building provides a strong contrast to the lightweight first floor. The first floor of the building has a visual connection to the tree line and is conceived of as a delicate timber pavilion to reflect this connection. The irregular and non-uniform patterns of trees surrounding the site have inspired the non-uniform structural pattern at first floor and the irregular timber structure has also been designed to 'baffle' traffic noise from the nearby A30. The use of natural oak continues throughout the interior of the building with exposed ceiling joists which add interest and character to the interior spaces. In line with the country house tradition, the proposal aims to provide sweeping vistas from the piano noble towards the surrounding coast, Woodbury Common and Peak Hill.

The porte cochere to the north of the dwelling forms part of the arrival sequence. The Design Review Panel stated that 'The introduction of a double height covered courtyard provides a bold and innovative architectural solution, enhancing the spatial hierarchy and bringing appropriate scale to the house'.

The building would have a colour palette of muted natural colours to blend with the landscape setting. The flat roofed form of the building is uncharacteristic of the setting, which is surrounded by predominately pitched roofed buildings, but is however more typical of a contemporary modern and minimalist country house. The form is also dictated by the sustainability aspirations of the scheme, through the collection of the rainwater and the provision of solar photovoltaic panels to provide power for the dwelling.

The use of lime render and devon oak in the external elevations of the house, which are all locally distinctive materials, are considered to respect the key characteristics

and special qualities of the area in which the development is proposed. The overall footprint of the house is large, but is not completely out of kilter with other, larger houses within the vicinity of the plot. In the context of the creation of the dwelling as a contemporary country house, the massing is considered appropriate.

A condition would be imposed requiring details of all materials to be used externally in the proposed dwelling to ensure the quality of the finished building. With the condition in place, the proposal is considered to be in line with policy D1 of the local plan and Policy NP2 of the Ottery St Mary and West Hill Neighbourhood Plan.

Landscape Impact

The East Devon and Blackdown Hills Landscape Character Assessment places the site within Landscape Character Type (LCT) 1C. Pebblebed Heaths. This LCT is unique within Devon, and forms a north-south ridge running north from Budleigh Salterton. Since the 1930s the majority of the area has been managed for recreation and wildlife conservation, with much of the LCT being internationally-designated for its nature conservation importance. It is also rich in archaeology. The site itself falls outside of the boundary of the Sites of Special Scientific Interest (SSSI). The LCT is a naturally beautiful rural setting.

In line with the characteristics of the LCT, the site contains many beech and oak trees to its boundaries. The scheme looks to retain and enhance the existing planting to the boundaries of the site as part of an overall landscaping scheme for the site.

The proposed scheme has been designed to frame vistas throughout the landscape, out towards the surrounding countryside and coast, and back towards the house. The entrance driveway to the house is hidden from the views, and the landscaping is designed around an open meadow heart at the centre of the garden that will be preserved as an open meadow, which will be punctuated by vernacular tree planting and mown paths through the grass to accentuate the vistas from the house. A circular route has been created around the house which also contains a series of framed views back to the house, and also provides a route between the different 'rooms' within the landscape.

Run off rainwater and greywater would be used on site through a system of pools and a reed bed filtration system. The scheme provides growing spaces in the form of raised vegetable beds, and orchards planted with Devon species of apple trees. Alongside this, the flora and fauna of the site will be enhanced through the planting of species rich woodland, wetland and meadow across the site. The woodland wildlife pool which is directly on access with the front entrance to the house at the end of a long vista will provide wetland and aquatic habitat.

The hard landscaping proposed for the site would allow for a high degree of water permeability and would use locally sourced materials with a conscious reference to the underlying geology of the site, used in both traditional and more contemporary ways within the scheme. A detailed outline hard landscaping plan has been submitted with the scheme which includes the specification of the proposed materials. The terrace around the house is proposed in recycled Plymouth Limestone, with pedestrian footpaths in self binding gravel paths, also of Plymouth

limestone. The driveway is proposed as resin bound gravel with a drainage swale running alongside which is to be infilled with wildflower meadow seed mix. Areas around the raised vegetable beds would be treated with recycled reinforced grid infilled with grass or seeding mix. The landscaping scheme includes sustainable hardwood benches, softwood raised planters, cold frames and composting bins, and an area of decking to the pool.

The proposal also looks to introduce a mosaic of indigenous low maintenance wildflower to support human wellbeing, invertebrate populations and foraging corridors for bats. The proposals include details of the various seed mixes proposed throughout the landscape design. This includes wildflower meadow seeding mix, woodland wildflower seeding mix, wildflower footpath mix and amenity lawn seeding. New trees and areas of woodland would also be planted to frame the vistas through the landscaping.

Areas of new and refurbished Devon bank hedgebank are proposed to the north and north east of the site around the entrance and the proposal includes the detailed specification for the construction of this element. This would help to screen the building in views from the north and would also use native tree species.

The proposed landscaping scheme would help to bed the proposed building into its surroundings and would make considerable biodiversity enhancements to the existing site. As such it is considered that the proposal would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area as required by Para 84e of the NPPF.

Sustainability

As part of demonstrating the highest standards of architecture, the proposal has set high standards for the sustainability of the scheme.

The proposed building would be designed to Passivhaus standards, which set a very high bar in terms of both the thermal standards of the building and in terms of the level of air tightness and thermal bridging. The proposal would use a Waste Water Heat Recovery System (WWHRS) to ensure that energy from waste hot water is not lost. A mechanical ventilation with heat recovery system (MVHR) would also be installed which would recover at least 75% of residual heat energy compared to a standard dwelling.

The photovoltaic panels to the roof are estimated to generate up to 27,000kWhr per annum. Thermodynamic panels (a form of air source heat pump) are proposed for heat energy generation for hot water, and space heating will be provided using a ground source heat pump.

During the summer months the building would be a net exporter to the grid. The proposal also includes power storage within the scheme, which takes a number of different forms. TESLA Powerwall Lithium-Ion home storage batteries are proposed, with 3 fully charged packs providing 7kWhr of electricity which would be sufficient energy to run the house for one day. Electrical Energy Storage is also proposed by means of Proton Exchange Membrane (PEM) Fuel Cells (hydrogen-oxygen fuel

cells), which are now becoming commercially viable and have the advantage of providing a longer storage life than lithium ion batteries. Thermal storage would also be provided through the use of Phase Change Materials such as Du Pont's Energain, which allow the storage of energy in a material that changes from a solid to a semi-liquid state when it absorbs heat. The proposal for the building includes a plant room to house water storage tanks, fuel cells and batteries.

The building materials proposed have also been designed to reduce the embodied carbon of the scheme. Unlike cob, hemp has the added benefit that it sequesters massive amounts of carbon from the atmosphere whilst growing. The use of a locally grown oak for the first floor framing, and the use of low carbon concrete for the foundations, which uses lower cement content than standard concrete would also lower the environmental impact of the building.

The re-use of water is also central to the energy strategy of the building. Grey water from the building will be fed into the reed bed treatment system. Rainwater run-off from the roof will be directed by gravity towards an underground tank, where it will be treated with UV light and silt filters before being fed into the reflecting pools and other storage pools within the garden. Any overflow from the storage pools will be channelled to the reedbed system and be used to dilute the domestic grey water, or to provide irrigation of the fruit and vegetable garden. Water from the reed beds is directed back towards the existing borehole where it is re-treated and re-used within the house.

As such it is considered that in terms of the sustainability of the proposal the scheme demonstrates the highest standards of architecture and would comply with paragraph 84 E of the NPPF, as well as Strategy 39 of the local plan and Policy NP11 of the Ottery St Mary and West Hill Neighbourhood Plan.

Heritage

There are no listed buildings in the vicinity of the application site therefore it is not considered that the proposal would have the potential to adversely impact the setting of any listed buildings.

In terms of below ground heritage, the proposed new dwelling lies in an area of archaeological potential with regard to known prehistoric settlement in this landscape. It is therefore recommended that 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 have recommended that should the proposals be recommended for approval, the archaeological work should be conditioned in accordance with Policy EN6 of the East Devon Local Plan. A second condition has been suggested to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe.

With the required conditions in place to ensure the necessary archaeological work is undertaken, the proposal therefore complies with Policy EN6 of the local plan.

Residential / Neighbour Amenity

The sound of traffic from the nearby A30 causes above average noise disturbance. The design and construction of the house aims to mitigate the impact of this noise. The house is designed with the habitable rooms facing predominately south and east away from the source of the noise. The timber structure to the first floor forms a 'baffle' against the noise and the semi-irregular spacing of the structure has a higher success rate of sound absorption compared to regularly spaced timber sections.

From an amenity perspective, both the building and the landscaping scheme has been designed with accessibility in mind. The landscaping scheme has considered the topography of the site and where there are changes in level, gently sloping access routes have been provided in addition to any stepped access. The house also includes provision for a lift to be installed in the future if required.

The proposed building is placed sufficiently away from the existing plot boundaries to the extent that it is not considered that the proposed would give rise to any adverse impact to the residential amenity of any neighbouring dwellings. Upper Spilsby to the north east of the site would be the closest dwelling to the proposed building, which would be 26 metres away at its closest point. New tree planting is proposed to the boundary within this corner of the site although it is acknowledged that it would take time for new trees to grow.

Environmental Health have commented that as the site is close to nearby residents who may be impacted during the construction process, working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. The applicant is also requested to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

With the required condition in place in respect of working hours, the proposal would comply with policy D1 and EN14 of the local plan.

Highways, access and parking

The proposal looks to use an existing access within the north east corner of the site. Highways have commented that the trip generation of a single family dwelling on the site is considered to be negligible and therefore the proposal would be acceptable. The proposal would provide two parking spaces, and bicycle parking would be provided within the garage.

A neighbour comment related to the access, stating that they had not been made aware of the application. Notice has subsequently been served by the applicant upon the owner of the land and the correct ownership certificates submitted.

As such it is considered that the proposal would comply with policies TC7 and TC9 of the local plan.

Ecology / biodiversity

The application is accompanied by a Preliminary Ecological Appraisal (PEA). The site was surveyed in July 2021 and again in March 2024. The report states that the proposals would result in the loss of approximately 0.26 ha of neutral grassland and approximately 20 native tree saplings.

In terms of the proposed mitigation, the landscape design would provide habitat enhancements for protected and notable species. The design includes the planting of at least 66 individual native trees, approximately 18 indigenous fruit trees, enhancement of the existing young woodland, the creation of a 84 square metre wildlife pond with native aquatic planting, and over 0.52 hectares of enhanced wildflower grassland throughout the site.

The report makes recommendations regarding the management of the existing hedgerows on site. In addition, the report also makes recommendations about the proposed lighting, and states that any proposed internal and external lighting should follow the guidance in 'Bats and artificial lighting in the UK' (BCT and ILP, 2023) to avoid potential impacts on foraging and commuting bats. It is also recommended that the boundaries of the site remain dark, to avoid impacts on foraging and commuting bats, and that external lighting is minimised to where strictly required. A lighting study has also been provided with the application, demonstrating that even in the worst case scenario with no curtains fitted to the dwelling, the site boundaries would still be below the recommended light level to avoid disturbance to wildlife.

The report recommends the provision of bat roosting provision to mature trees on the boundaries of the site. The report also recommends keeping the grass at a low height prior to works to reduce the risk to reptiles and amphibians, and that during works, excavations should be covered to prevent wildlife becoming trapped. Controls should also be put in place to prevent the spread of cotoneaster and rhododendron.

The recommendations of the ecology report shall be conditioned as part of any approval to ensure that the works are carried out in accordance with the requirements of the report. With the required condition in place the proposal would be in compliance with policy EN5 of the local plan and policy NP8 of the Ottery St Mary and West Hill Neighbourhood Plan.

Biodiversity Net Gain

Although the proposed dwelling is a self build development, the site area is over 0.5 hectares and as such the exemption for self build within the provisions of the Biodiversity Net Gain legislation would not apply to the scheme.

The applicant has provided a pre and post development statutory biodiversity metric calculation which demonstrates a 10% uplift in biodiversity across the site. However, the statutory biodiversity metric guidance states that land within private garden has no public access, therefore biodiversity net gains cannot be legally secured. As such it has not been demonstrated that the proposal would provide the required 10% uplift in biodiversity net gain.

Planning Practice Guidance states that it would be inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met, however decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged. As stated above it would not be possible for the gains to be secured on site given that the application boundary would all be within private gardens, but it would be entirely feasible for the condition to be met through the purchase of statutory biodiversity credits. Therefore, the proposal is considered acceptable subject to the determination of the Biodiversity Gain Plan following the grant of any planning approval.

Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of the designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured.

Trees

An Arboricultural Report to BS5832:2012 has been provided in support of the application, confirming that overall, the proposal is likely to have limited impact upon the retained trees. The proposals have been designed to complement the existing tree stock and allow for the retention of all key specimens. There is minor incursion into the RPA from the drive and a wall adjacent to the parking area. Ideally given the size of the site, these could have been located outside the RPA, though as the incursion is only minor EDDC's tree officer has not raised any objection to the proposal.

The tree report includes a detailed tree protection plan and arboricultural method statement, which shall be conditioned as part of any approval to ensure compliance with the submitted document. As such, with the recommended condition in place, the proposal complies with policy D3 of the local plan and Policy NP1 of the Neighbourhood Plan.

Drainage

Foul waste will be dealt with by a package treatment plant with the system having been designed to discharge to a drainage field designed and constructed in accordance with BS 6297:2007. The water supply to the site is via an existing on site borehole. Surface water will be disposed or recycled as discussed under 'Sustainability' above. As such the proposal complies with local plan policies EN19 and EN22.

Other matters

The proposal is within 4 miles of Exeter Airport, who raised a holding objection to the scheme in respect of Aerodrome Safeguarding. The development is situated within an area of higher ground in the Type A airspace, and the creation of new permanent water bodies risks the increase of bird activities within the airspace. Exeter Airport requested a Wildlife Hazard assessment management plan be submitted in respect of the proposed water features.

The ecologist has prepared a statement in response. This states that flocking or large birds present the highest likelihood of resulting in flight safety concerns. The common hazardous birds found in the UK include waterfowl, large birds of prey and flocking species such as starlings, lapwings, pigeons and gulls.

The pools in question are the series of six individual reedbed parcels, one smaller reflecting pool with an area of 32 square metres and a larger pond of 90 square metres. These are in addition to the reflecting pools around the house.

The ponds have been designed following guidance produced in association with Natural England 'Designing wildlife ponds to minimise the risk of birdstrike', which advises the creation of a series of smaller ponds varying in size from 1 square metre to 300 square metres rather than a single large pond, and creating shallow ponds with tall marginal vegetation, in sheltered locations.

The reed beds would be infilled with planting therefore the only open water bodies, at 32 square metres and 90 square metres respectively, are significantly less than the 300 square metre maximum area recommended within the Natural England guidance. The larger pond also has a timber deck extending over it, reducing the area to 84 square metres. The ponds would be edged with planting to reduce access to the water's edge and trees are also proposed as being planted around the ponds to interfere with lines of flight. The site itself is also surrounded by tall trees.

The reflective pools around the house are extremely unlikely to be attractive to any bird species, given their position adjacent to the building and associated disturbance from human activity in and around the building. The report concludes that the ponds are therefore extremely unlikely to attract any bird species that would contribute to a significant increase in the risk of birdstrike over the current background risk.

However Exeter Airport have maintained their holding objection that due to the development's location and height above sea level, any potential increase in bird

activities cannot be supported and must be mitigated by way of a Wildlife Management Plan.

EDDC consider that given the size of the proposed ponds and the mitigation already in place to dissuade hazardous birds from using the ponds, the potential hazard could be mitigated by imposing a pre-commencement condition requiring the completion of a Wildlife Management Plan prior to the commencement of any development, to secure appropriate mitigation and minimise any risks associated with the water features.

With the required condition in place, it is considered that the proposal would comply with Policy TC12 of the local plan.

Conclusion

The NPPF allows for the development of isolated homes in the countryside when the design is of exceptional quality and would enhance the immediate setting. The proposal has been presented to the Design Review Panel who concluded that the proposal did meet the criteria of the policy.

There are several themes running throughout the design of the building, such as the use of water, to engage the senses and as a resource to be used in the building, the connection with the landscape, and the use of high quality locally sourced materials throughout both the building and the landscaping scheme to anchor the building to the site and to ensure the proposal is locally distinctive. The proposal seeks to achieve the highest standards in terms of the construction of the dwelling to reduce the energy consumption of the building and to maximise opportunities for the building to use renewable energy.

The holding objection requesting a Wildlife Management Plan from Exeter Airport is considered unreasonable given the size of the proposed pond and the number of existing and proposed trees and planting around the pond.

The proposal seeks to create a high quality contemporary country dwelling with strong links to nature and its surroundings. With the required conditions in place, the proposal complies with Paragraph 84 of the NPPF and policies contained within the local plan and the Ottery St Mary and West Hill Neighbourhood Plan and is recommended for approval.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved. (Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. 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: A 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. To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.
4. 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 211 of the NPPF (2023), which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.)
5.
 - a) Prior to commencement of any works on site (including demolition), the Tree Protection measures including site monitoring and supervision shall be carried out as detailed within the Arboricultural Report and Arboricultural Method Statement submitted by Advanced Arboriculture on the 18th April 2024. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority.
 - b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
 - c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
 - d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning,

Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

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

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

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

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

6. Prior to their installation, details of the materials, finishes and colours to be used in the construction of the external surfaces of the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. This should include the hemp walling, low carbon concrete foundations, external windows and doors, lime render coating, oak frame and infill timber cladding, rooflights, eaves cladding and roofing membrane. The development shall be carried out in accordance with the approved details.

(Reason - The site is located in a rural area where planning permission for new housing would not normally be allowed. The proposed use of locally distinctive materials and the sustainability credentials of the development provide special justification for the development, and to ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area, in accordance with paragraph 84 of the National Planning Policy Framework and Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

7. Prior to their installation, the following details shall be submitted to an approved in writing by the Local Planning Authority. This should include; elevation and section drawings of photovoltaic panels and framing, and details of any external vents, vent grilles, flues and meter boxes. The photovoltaic panels shall be installed in accordance with the approved details prior to the occupation of the development.

The development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with

Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

8. The landscaping scheme hereby approved shall be carried out in the first planting season after completion of the groundworks and the building construction works or prior to first occupation whichever is the earlier unless otherwise agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) and Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031.)
9. No works for the construction of the development hereby permitted shall be undertaken on Sundays or Public Holidays. On other days no construction work shall be undertaken outside of the following hours: 08:00 hours and 18:00 hours Mondays to Fridays inclusive and 08:00 hours and 13:00 hours on Saturdays.
(Reason - To protect adjoining occupiers from excessive noise in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)
10. The development shall be carried out in accordance with the recommendations and mitigation measures contained within the Preliminary Ecology Appraisal carried out by Richard Green Ecology dated March 2024.
(Reason - In the interests of ecology in accordance with Policy EN5- (Wildlife Habitats and Features) of the East Devon Local Plan.)
11. Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. Development shall be carried out in accordance with the approved details.
(Reason - In the interest of the character and appearance of the locality, to protect habitats and to limit light intrusion within the countryside in accordance with Policy D1 -Design and Local Distinctiveness, Policy EN5 - Wildlife Habitats and Features and Policy EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)
12. No development shall take place until the developer has prepared and submitted a Wildlife Management Plan which should be approved in writing by the Local Authority. The plan should ensure the risks to aviation associated with the proposed ponds have been mitigated to an acceptable level and that a plan is in place to deal with any issues arising. The development shall be carried out in accordance with the approved details.
(Reason –A pre-commencement condition is required to ensure that risks are mitigated to an acceptable standard prior to construction, and to ensure the development does not compromise air safety in accordance with Policy TC12 -

Aerodrome Safeguarded Areas and Public Safety Zones of the Adopted East Devon Local Plan 2013-2031).

13. The foul and surface water treatment is to be installed in accordance with the approved details prior to the occupation of the development hereby approved and shall be maintained and retained as such for the lifetime of the development.
(Reason - The site is located in a rural area where planning permission for new housing would not normally be allowed. The proposed use of innovative technologies and the sustainability credentials of the development provide special justification for the development in accordance with paragraph 84 of the National Planning Policy Framework.)
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 within the Schedule Part 1 Classes A, B, C, D, E, F, G or H for the enlargement, improvement or other alterations to the dwellings hereby permitted, the provision of hard surfaces, chimneys, flues or microwave antennae, or for the provision within the curtilage of any building, enclosure or storage tank [other than any enclosure approved as part of the landscape management scheme]
(Reason - To enable the Local Planning Authority to retain control over the provision of any such development in the interests of the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 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 site other than any agreed under any approved landscaping scheme.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the Adopted East Devon Local Plan 2013 - 2031.)
16. The attached apartment hereby permitted shall be used only in conjunction with, and incidental to, the use of the single dwelling house and shall not be used as a separate dwelling, or for any commercial, industrial or business purpose.
(Reason: To ensure that the accommodation hereby permitted may not be used as a separate dwelling in this open countryside location where new development is restricted and a commercial use could cause undue noise to adjoining occupiers in accordance with the requirements of Strategy 7 - Development in the Countryside and Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013 - 2031.)
17. The building hereby approved shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plans.

(Reason - In the interests of highway safety in accordance with the requirements of Policy TC7 – Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)

18. The building hereby approved shall be constructed in accordance with the Energy Strategy prepared by EDP Environmental dated 26th May 2023 unless otherwise approved in writing by the Local Planning Authority.
(Reason - The site is located in a rural area where planning permission for new housing would not normally be allowed. The proposed use of innovative technologies and sustainability credentials of the development provide special justification for the development in accordance with paragraph 84 of the National Planning Policy Framework.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

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 require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed 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 applies (planning permission for development already carried out).
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.

Where there are losses or deterioration to irreplaceable habitats a bespoke compensation package needs to be agreed with the planning authority, in addition to the Biodiversity Gain Plan.

For information on how to prepare and submit a Biodiversity Gain Plan please use the following link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk)

Plans relating to this application:

A.01	Proposed Block Plan	21.06.24
A.02	Proposed Site Plan	21.06.24
A.04 : ground	Proposed Floor Plans	21.06.24
A.05 : first	Proposed Floor Plans	21.06.24
A.06	Proposed roof plans	21.06.24
A.07 : A-A	Sections	21.06.24

A.08 : B-B	Sections	21.06.24
A.09 : C-C	Sections	21.06.24
A.10 : D-D	Sections	21.06.24
A.11 : north	Proposed Elevation	21.06.24
A.12 : south	Proposed Elevation	21.06.24
A.13 : east	Proposed Elevation	21.06.24
A.15 : courtyard	Proposed Elevation	21.06.24
A.15 : west	Proposed Elevation	21.06.24
A.16 : NW	Proposed Elevation	21.06.24
A.17 : back lane (summer)	Proposed Elevation	21.06.24
A.19	Proposed Elevation	21.06.24
A.20	Proposed Elevation	21.06.24
A.21 : coloured	Proposed Elevation	21.06.24
A.22 coloured	Proposed Elevation	21.06.24
A.23 coloured	Proposed Elevation	21.06.24
A.24 : coloured	Proposed Elevation	21.06.24
A.25 : coloured NW	Proposed Elevation	21.06.24
A.26 : coloured back lane	Proposed Elevation	21.06.24
A.27 : proposed external view facing west	Perspective Drawing	21.06.24
SH23 S2 REV 1- 7 11 2023 ILLUSTRA TIVE SITE SECTION C-C	Other Plans	21.06.24
SH23 M1 REV	Landscaping	21.06.24

11-24 03 2024
LANDSCAPE STRATEGY
MASTERPLAN

SH23 M2 REV 11-24 03 2024 HARD LANDSCAPE SURFACING LANDFORM + FURN	Landscaping	21.06.24
SH23 M3 REV 10-07 12 2023 SITE GROUNDWATER R/GREY WATER TREATMENT	Other Plans	21.06.24
SH23 M4 REV 10-07 12 2023 TREE + SHRUB PLANTING MGT MASTERPLAN	Landscaping	21.06.24
SH23 M5 REV 11-24 03 2024 SEEDING + SWARD MGT MASTERPLAN	Other Plans	21.06.24
SH23 S1 REV 2 10-07 12 2023 DEVON HEDGEBANK SCREEN BUND/SWALE	Other Plans	21.06.24
T.02	Location Plan	21.06.24

List of Background Papers

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

Technical Consultations

South West Water

Proposal: Construction of a new dwelling and associated landscaping

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

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 the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Environmental Health

I have considered the application and note that this site is close to nearby residents who may be impacted during the construction process. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

DCC Historic Environment Officer

I refer to the above application. The proposed new dwelling lies in an area of archaeological potential with regard to known prehistoric settlement in this landscape. Prehistoric flint artefacts have been found in the field to the north of the application area and excavations in advance of the construction of the A30 revealed the presence of a substantial Iron Age settlement some 300m to the north-west. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known prehistoric activity here. 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 211 of the National Planning Policy Framework (2023) 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 211 of the National Planning Policy Framework (2023), 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 211 of the NPPF (2023), 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 the programme of archaeological work for this scheme as taking the form of the archaeological control and supervision of topsoil stripping and ground reduction across the area(s) affected by the proposed development to the depth at which the supervising archaeologist establishes either (i) archaeological deposits and/or features are present (to allow for their identification, investigation and recording of these and any associated artefacts) or (ii) undisturbed natural ground is exposed. 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 on 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/>.

Yours faithfully,
Stephen Reed
Senior Historic Environment Officer

EDDC Trees

The application is supported by an arboricultural report provided by Advanced Arb dated the 18/04/2024 which includes a tree survey, AIA, TPP and AMS. Together these show that overall the proposal is likely to only have a limited impact on retained trees. It is noted that there is minor incursion into the RPA from the drive and a wall adjacent to the parking area. Ideally with the size of the site, these could be easily located outside the RPA, though as the incursion is only minor no objection is raised.

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

- a) Prior to commencement of any works on site (including demolition), the Tree Protection measures including site monitoring and supervision shall be carried out as detailed within the Arboricultural Report and Arboricultural Method Statement submitted by Advanced Arboriculture on the 18th April 2024. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority.
- b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
- c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

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

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

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

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

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

Exeter & Devon Airport - Airfield Operations+Safeguarding

Proposal: Construction of a new dwelling and associated landscaping

Location: Land Adjacent Upper Spilsby Exeter Road Ottery St Mary

Grid Ref: 306580,95566

The development is located within the aerodrome safeguarding area in a position on high ground located within the type A airspace. Due to the development's location and AMSL height any potential increase in bird activities cannot be supported and must be mitigated by way of a wildlife management plan.

Exeter Airport has received and reviewed the provided assessment of Birdstrike. While this is accepted as an assessment of potential risk it is not accepted as a wildlife management plan and as such maintains its holding objection till a wildlife management plan is submitted to negate the potential risk of increased bird activities in the airspace.

This is supported as stated in the provided report by ASAN3 as a building development that has manmade landscaping features that have the potential to attract flocks of birds and/or large birds.

The report makes note of DCC/3944/2017 planning application for Straitgate Quarry as a reference in the area. Straitgate Quarry has a robust provided wildlife habitat management plan (WHMP) including planning conditions of routine site visits, onsite pumping equipment and no new permanent bodies of water to be created therefore can not be used as evidential reasons for the creation of new permanent water bodies within the area. Also, of note straitgate Quarry is situated at lower ground level to proposed development.

While as report has stated the development is low risk in creating a risk of birdstrikes action must still be taken to negate all risk to aircraft within the area due to the potentially fatal consequences. The aerodrome is happy to provide reference and contacts to assist in the creation of the required Wildlife Management Plan.

Regards

Aaron Kitcherside
Airfield Operations Duty Manager

Exeter & Devon Airport - Airfield Operations+Safeguarding

This proposal has been examined from an Aerodrome Safeguarding aspect and it does appear to conflict with safeguarding criteria.

In brief Aerodrome Safeguarding is a process of checking proposed developments so as to:

- 1 Protect blocks of air through which aircraft fly, by preventing penetration of surfaces created to identify their lower limits.
- 2 Protect the integrity of radar and other electronic aids to air navigation, by preventing reflections and diffraction of the radio signals involved.
- 3 Protect visual aids, such as Approach and Runway lighting, by preventing them from being obscured, or preventing the installation of other lights which could be confused for them. In brief, lighting for the site should be designed in such a way that it is not confusing or dazzling to pilots or air traffic control. Generally, all lights should be directed away from approaching aircraft and the air traffic control tower with no light spill above the horizontal.
- 4 Avoid any increase in the risk to aircraft of a birdstrike by preventing an increase in hazardous bird species in the vicinity of the aerodrome and, whenever the opportunity arises, to reduce the level of risk.

Reasons for objection with explanation and mitigation requirements.

- o Increased bird activity

The development is situated within an area of higher ground in the Type A airspace. The creation of new permanent water bodies risks the increase of bird activities within the airspace.

As such a Holding Objection would like to be submitted till a Wildlife Hazard assessment has been completed and a management plan submitted.

Regards

Aaron Kitcherside
Airfield Operations Duty Manager

Statement on Human Rights and Equality Issues

Human Rights Act:

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

Equality Act:

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

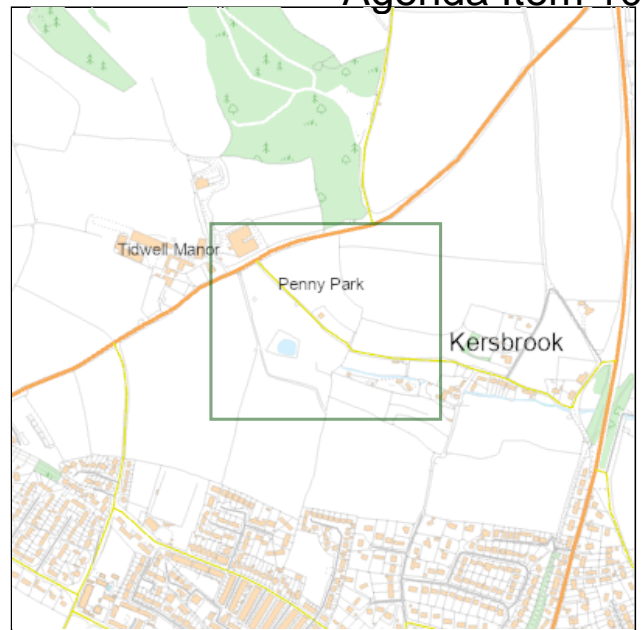
Ward Budleigh And Raleigh

Reference 24/1491/FUL

Applicant Mr & Mrs Wastenage

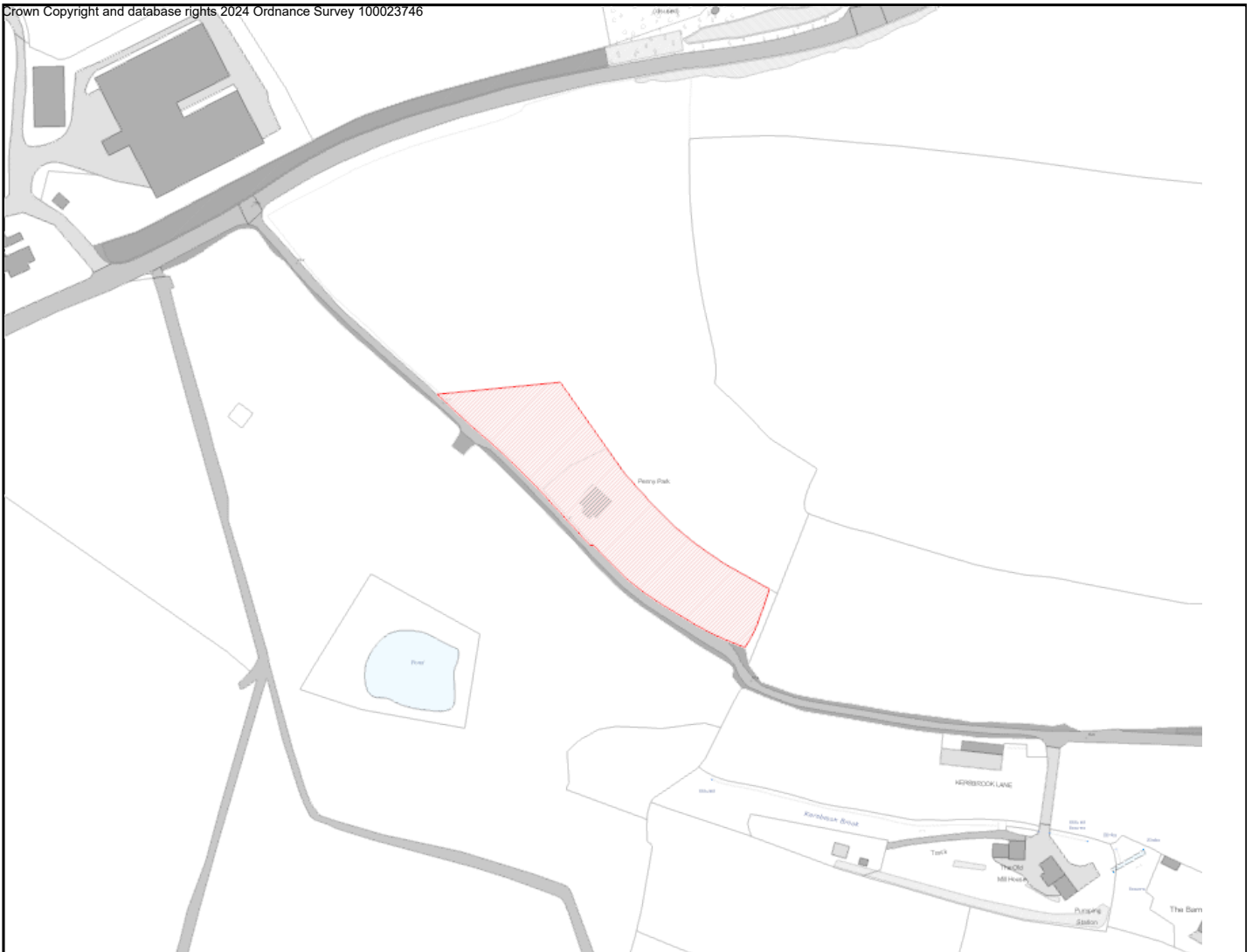
Location Site Of Penny Park Kersbrook Lane Kersbrook

Proposal Demolition of existing dwelling and replace with 1no new dwelling, extension of domestic amenity space, creation of a new driveway off an existing access to the highway, and associated landscaping and parking



RECOMMENDATION: Refusal

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		Committee Date: 19.11.2024
Budleigh And Raleigh (East Budleigh)	24/1491/FUL	Target Date: 01.10.2024
Applicant:	Mr & Mrs Wastenage	
Location:	Site Of Penny Park Kersbrook Lane	
Proposal:	Demolition of existing dwelling and replace with 1no new dwelling, extension of domestic amenity space, creation of a new driveway off an existing access to the highway, and associated landscaping and parking	

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 'Penny Park' a five bedroom dwelling which sits 400 metres to the north of Budleigh Salterton, within the East Devon National Landscape. The application is a revised submission of application 23/2406/FUL which was withdrawn following an objection from Historic England that the proposal would challenge the hierarchical primacy of Tidwell Manor, a grade II* listed house which sits 320 metres west of the site.

The proposal looks to demolish the existing 180 square metre five bedroom dwelling and replace it with a four bedroom two storey dwelling with two single storey wings either side of the main house, and a larger detached garage, with a total area of 415 square metres.

The application is supported by the Ward Councillor who states that while the proposed footprint of the scheme is larger than the existing house, the proposal would support the succession of an existing farming business therefore the economic rationale for the proposed dwelling is consistent with national and local planning policies. The Parish Council are also in support of the proposal but have expressed reservations about the extent of the built footprint of the proposed scheme.

Policy H6 of the local plan states that proposals for the replacement of an existing dwelling within the countryside will be permitted where the replacement

dwelling is located on or adjacent to the footprint of the existing dwelling, or elsewhere within the curtilage of the building where a clear planning or environmental benefit will be achieved. The proposal would increase the built form from a 10 metre wide dwelling on the site to a 40 metre wide built form upon the site.

The applicant has cited several benefits that would arise as a result of the development. The proposal would give a limited increase in the housing supply, and would help facilitate succession of a farming business which currently employs 30 people. However, none of the stated benefits that would arise as a result of the proposal are explicitly linked to the increase in the footprint of the building, and would still arise as a result of a more modest proposal that more closely reflects the existing built footprint.

The NPPF and Strategy 46 of the local plan give great weight to conserving and enhancing the natural beauty within the National Landscape. NPPF Para.182 states that the scale and extent of development within these designated areas should be limited. The proposed dwelling, which sits 5 metres above the adjacent lane in front of a flat plateau of land would appear as a very prominent feature in the landscape.

Historic England are satisfied that the reduction in the size of the dwelling since the previously withdrawn application would mean the proposal would no longer challenge the hierarchical primacy of Tidwell Manor.

The proposal seeks to insert a prominent structure into a rural landscape which would erode the scenic beauty and landscape quality of the National Landscape. Given the great weight that is to be given to the conserving and enhancing the National Landscape it is not considered that the proposal would outweigh the harm to the National Landscape.

Given the above, the proposal is contrary to the relevant Local Plan and East Budleigh and Bicton Neighbourhood Plan policies and Government Advice contained within the NPPF and is therefore recommended for refusal.

CONSULTATIONS

Local Consultations

Budleigh And Raleigh - Cllr Henry Riddell

Penny Park, which has been derelict since 1990, significantly detracts from the area and particularly affects Tidwell House. The property is in disrepair and has become a site of repeated anti-social behaviour, contributing to a negative impression from the B3178. There is a strong community desire for this site to be restored, the Parish Council have supported this application along with other residents who have also written in support of this application.

This application seeks permission to demolish the existing dwelling, which is beyond economic repair, and replace it with a new house. The new house will occupy the

same location as the original, but with a slightly larger footprint to accommodate the needs of the family and their farming business. The proposed design is in keeping with local character and uses the same materials that reflect the historical nature of the area.

In addition to this, the replacement dwelling will include functional spaces such as a farm office and storage rooms ensuring that will support needs of the family's farming business. This economic and social rationale for the proposed dwelling is consistent with national and local planning policies.

The new design, which has been gone through an extensive pre-application process since October 2021, has a 40% reduction in footprint and maintains the ridge height of the existing building, ensuring it will sit below the skyline of rolling hills and trees. The proposal also includes substantial screening with existing trees and vegetation, which helps mitigate visual impact.

Historic England had expressed concerns at various stages during the pre-application process but has shown considerable support in their latest consultation, indicating that their concerns can be addressed through planning conditions and mitigation measures. For context, when you drive along the B1378 the current setting of both Tidwell House and Penny Park is dominated by urban development.

Given these considerations, I am satisfied that the proposed development is well thought out and sensitive to the surrounding area. As the Ward Member for Budleigh & Raleigh, I recommend approval of this application. Should my opinion differ from Planning Officers and if the application proceeds to the Planning Committee, I encourage a site visit to fully appreciate the context and benefits of the proposal.

Cllr H L Riddell
East Devon District Councillor
Budleigh & Raleigh Ward

Parish/Town Council

East Budleigh with Bickton Parish council has the following comments:

Despite being outside the BUAB and within the National Landscape, the replacement of the dilapidated building at Penny Park is generally supported by the Parish Council and the proposed materials for the new dwelling are deemed suitable. The proposed development represents a welcome improvement on the previous application (23/2406/FUL) as overall massing has been reduced with the reduction in height of both wings and the wagon shed. The design is also now more aesthetically pleasing than in the previous application.

Although the footprint has been reduced slightly from 342 m² to 304 m², this still represents 3.4 times the footprint of the existing property at 90 m². This is exacerbated as the development spreads laterally for around 40 metres facing the road. This brings Local Plan Policy H6 into consideration. Landscaping and screening are proposed to mitigate the impact of this development, particularly when viewed from the B3178 from Knowle. However, since such screening would also block the view into open countryside to the South West from the property, it is questionable whether such screening would be maintained

Technical Consultations

EDDC Ecologist

Insufficient information supplied. This has subsequently been addressed.

South West Water

Proposal acceptable

EDDC Trees

No objection subject to condition.

Conservation

No objection subject to condition.

Historic England

No objection subject to conditions.

EDDC Landscape Architect

Objection – harm to the National Landscape

Other Representations

11 third party representations have been received; 9 representations in support of the application and 2 representations of objection to the application.

A summary of grounds for support is as follows:

- The existing house is derelict, unsafe and an eyesore and it is time it was demolished.
- The traditional style red brick dwelling is in keeping with the neighbouring properties
- The house sits well in the landscape and is well screened
- The provision of a bat loft, PV panels, and new planting of hedgerows and trees will enhance the local environment.
- The owners are local farmers and employers and this new dwelling will support their business.
- The proposed design is within the height of the original house
- Kersbrook Lane will still look and feel like a rural lane and the new drive will have little impact upon the character of the AONB.
- The proposed driveway would lead to the removal of a modest amount of improved grassland and the proposed agricultural style of the proposed driveway would be a very subtle addition.

A summary of grounds for objection is as follows:

- The proposal is for a much larger footprint than the current building and with the proposed garage and driveway, spreads much further into the National Landscape.
- The mock Georgian design would detract from nearby Grade II* Tidwell Manor.

- Coppicing / laying of the front hedges would severely reduce the screening effect of the vegetation for a significant number of years.
- The proposed driveway would lead to the change of use from agricultural land to an enlarged residential garden.

PLANNING HISTORY

Reference	Description	Decision	Date
21/0143/PREAPP	Demolition of dwelling and replacement with two storey house	-	23.02.2022
22/0998/CPL	Certificate of lawfulness for installation of new fenestrations.	CPL Refuse Part 1	22.06.2022
22/2646/CPE	Certificate of lawfulness for residential use of single dwellinghouse and garden area.	CPE Approved	14.03.2023
23/2406/FUL	Proposal to demolish existing dwelling and replace with 1 no new dwelling, revised access and associated landscaping	Withdrawn	26.02.2024

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

H6 (Replacement of Existing Dwellings in the Countryside)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

East Budleigh Neighbourhood Plan (Made)

Policy G2 (Off Road Parking)

Policy N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character)
Policy B1: (Heritage Assets and their Setting)
Policy B2 (General Design Principles)
Policy F2 (Surface Water Run-off)

Government Planning Documents
NPPF (National Planning Policy Framework 2023)

Site Location and Description

The application site is a two storey house on the northern edge of Kersbrook Lane, which sits just over 400 metres to the north of Budleigh Salterton's Built up Area Boundary.

The existing house 'Penny Park' is a two storey red brick building with a slate roof. The building has a footprint of approximately 10 metres wide by 8 metres deep and has a projecting two storey front porch with a gabled roof. The house is set approximately 5 metres above the country lane from which the house is accessed, and the land rises up relatively steeply behind the dwelling. In front of the existing house is a flat plateau of land meaning the site is in a relatively prominent position.

The house is accessed off a drive of Kersbrook Lane, an unclassified road running between two sections of the B3178.

The site is within the East Devon National Landscape and sits 300 metres south east of Grade II* listed Tidwell Manor.

Proposed Development

The application seeks approval for the demolition of the existing five bedroom dwelling and its replacement with a four bedroomed two storey dwelling.

The proposed dwelling has four bedrooms, and a floor area of 415 square metres. The proposed dwelling is articulated as a central two storey range with a slate hipped pitched roof, flanked by two further single storey wings which are set back from the main house. The two storey element has a footprint of approximately 13.5 metres wide by 11.6 metres deep, with wings set back from the principal elevation which extend 5.2 metres to the north west of the dwelling and 10 metres to the south west of the dwelling. A detached wagon shed for the storage of agricultural vehicles, measuring approximately 8 metres wide by 7 metres deep sits 2.3 metres from to the north west of the dwelling, in line with the recessed wings, and also has a hipped slate roof. The overall built footprint of the proposed development including the garage is 39.9 metres long.

The main house contains a large open plan kitchen, dining and living area to the ground floor with associated pantry and utility areas. The northern wing contains the main entrance to the house and a boot room, whilst the southern wing contains a

further living and dining area, a fourth bedroom and the farm office. The first floor contains three en-suite double bedrooms.

To the south east of the main dwelling, a shed / garden room is proposed by way of bat mitigation to compensate for the loss of the existing house which is used as a day roost by several types of bats.

The application also incorporates the change of use of approximately 1730 square metres of land to the north west of the existing site to residential use to allow for the creation of a 45 metre long access driveway to the house. In addition, the proposal also incorporates a ground mounted solar array on land to the north east of the proposed driveway.

Analysis

The main issues for consideration are the principle of development, the impact of the proposal upon the character of the area including the National Landscape, and of the impact upon the setting of the nearby heritage assets.

Principle of Development

In planning policy terms, the site is within the countryside by virtue of being outside of any Built Up Area Boundary and as such is subject to the provisions of Strategy 7, which states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan Policy.

The provisions of Policy H6 (Replacement of Existing Dwellings in the Open Countryside) of the adopted East Devon Local Plan permits the construction of replacement dwellings within the countryside (i.e. outside of the Built-up Area Boundaries of settlements as defined in the Plan) subject to a number of criteria being satisfied.

The criteria of Policy H6 are as follows:

- *There is an existing, permanent, habitable dwelling located on the site, which is not a dwelling specifically granted planning permission under the agricultural or forestry exceptions policy.*
- *The replacement dwelling is located on, or adjacent to, the footprint of the existing dwelling, or elsewhere within the curtilage of the building where a clear planning or environmental benefit will be achieved.*
- *The replacement dwelling does not detract from the appearance and character of the landscape, and within the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty harm the natural beauty of the landscape.*
- *The dwelling to be replaced is not of architectural importance (whether Listed or not) or important in terms of contributing to landscape character or quality or local distinctiveness.*

Application 22/2646/CPE established the house had not been abandoned and is a permanent habitable dwelling on the site.

The NPPF at paragraph 88 states that 'Planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings'. The applicants farm all of the land around Penny Park under a long term agricultural tenancy from their current base at Tidwell Barton, to the west of the application site. The applicants state that the proposed dwelling would play a crucial role in the succession plans for the future and allow the for the continued farming operations at Tidwell Barton Farm.

As such the principle of the replacement of the existing dwelling is acceptable and in accordance with policy H6 of the local plan, subject to the proposal complying with the remaining criteria of Policy H6 in respect of the impact upon the National Landscape and the amenity and environmental qualities of the site.

Design impact on character of site

The existing house is an attractive two storey building with red brick elevations. The building has interesting brickwork detailing in the form of string courses, brick window cills and brick header segmental arches to the window and door openings to the front elevations. The front elevation retains a number of its timber sash windows, and the building has a slate roof with decorative contrasting red clay ridge tiles. The house is nestled into the contours of the site, and has strong vertical proportions, and contributes to the local distinctiveness. No floor plans or elevations have been submitted in respect of the existing house as the applicants stated that the house was not safe to survey.

The design of the proposed dwelling is a 'Georgian' style house in red brick with sash windows and a hipped slate roof, to reflect the materials of neighbouring properties. The house has a central two storey block with single storey wings to the north west and south east, set back from the principle elevation.

The proposed sections indicate that the ground floor of the proposed dwelling would be at the same height as the existing dwelling, at around 5 metres higher than the adjacent Kersbrook Lane. The proposed dwelling has also been designed to not exceed the ridge height of the existing house.

The second criterion of Policy H6 which must be met states that 'The replacement dwelling is located on, or adjacent to, the footprint of the existing dwelling, or elsewhere within the curtilage of the building where a clear planning or environmental benefit will be achieved'.

The existing five bedroom house has an internal area of 180 square metres. The proposed four bedroom dwelling has an internal area of 365 square metres, with the garage providing an additional 50 square metres for parking of agricultural vehicles.

The Design and Access statement confirms there is additional floor space created within the design to provide the functional space required to operate as a farming

business including a farm office, store room, boot room, storage, housing for working dogs and for the parking of agricultural vehicles.

The Nationally Described minimum space standard for a two storey 5 bedroom 8 person dwelling is 128 square metres therefore the existing dwelling is already spacious by current standards. The area of the proposed four bedroom dwelling at 365 square metres, is just under three times the area of the Nationally Described minimum space standard for a four bedroom 8 person dwelling. The relatively steeply sloping topography of the site has dictated that any extension to the footprint of the house must be out to the side rather than to the rear of the existing house.

With an overall built footprint of 39.9 metres in length, the proposal represents a significant extension to the existing 10 metre width of the house. The elevated position of the house, 5 metres above the lane, means that the proposal will be prominent and highly visible in views from the west.

Going back to the second criterion of Policy H6, the proposed built footprint would be approximately 4 times the length of the existing building, which would only be supported where a clear planning or environmental benefit will be achieved.

The applicant has listed a number of planning and environmental benefits that would arise as a result of the application. The proposal would help facilitate the succession of the existing farming business, which currently employs 30 full-time employees. It would also create jobs in a rural area during the construction phase. The landscaping plans would enhance and improve habitats in and around the site.

The applicant also states that the proposal would allow for the removal of a derelict property that has been boarded up for over 30 years. This can only be given limited weight as there would be nothing to prevent the existing house being refurbished and this would not require planning approval.

However, none of these benefits listed above explicitly arise as a result of the huge increase in the built footprint of the dwelling, and would still occur with a replacement dwelling of a similar footprint to that of the existing house. As such it has not been demonstrated that there is a clear planning or environmental benefit to the proposed extended footprint of the dwelling.

The proposal indicates a traditional Georgian style dwelling, with overhanging dentilled eaves to the roof and the elevations of the main house are arranged symmetrically around the flat-roofed timber porch with circular tapered Tuscan columns and entablature. Georgian architecture typically has significantly higher floor to ceiling heights than those of modern housing, however the proposal has been reduced in height in order that the existing ridge height is not exceeded. Georgian architecture is also known for its rigorous application of proportion and the relationship of solid to void. The proposal indicates very wide piers of brickwork between windows the first floor windows of 3.4 metres, giving the overall elevations a very uncharacteristically high proportion of solid wall to window. However, the proposed materials of brick and natural slate are similar to the existing house and are considered to be locally distinctive. The drawings indicate the use of either aluminium framed or upvc sash and casement windows. The use of upvc on a stand

alone dwelling in a prominent location within the National Landscape would not be acceptable but the use of aluminium would be.

Local Plan Policy D1 - Design and Local Distinctiveness states that proposal will only be permitted where they 'Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context'. The massing of the building, at four times the length of the existing building would cause visual harm to the character of the countryside.

Given the above, the proposal would be contrary to Policy H6 and Policy D1 of the local plan and Policy B2 of the East Budleigh with Bickton Neighbourhood Plan.

Landscape Impact

The site is situated in an attractive rolling, well wooded pastoral landscape. The existing dwelling is generally well screened by the existing hedges and reflects vernacular building style and materials. Publicly accessible views of the site are largely limited to users of surrounding roads in particular Kersbrook Lane over a short length on the immediate approaches and frontage of the site, the B3178 and the minor lane to the west (Back Lane) leading from the B3178 to Budleigh Salterton.

The East Devon and Blackdown Hills Landscape Character Assessment 2019 identifies the site as falling within East Devon Landscape Character Type (LCT) 5D - Estate Wooded Farmland. The LCT is characterised by predominantly pastoral farmland, rolling hills and ridges creating an undulating topography containing historic parkland, estates and manors which have influenced the landscape character and created a strong sense of place.

Although modern development on the western edge of Budleigh Salterton is visible from the site 400 metres to the west, in views towards the site it is seen within a very rural setting and backdrop with no modern development evident.

Relevant Landscape Guidelines for this LCT state that new buildings should be sympathetic to existing buildings (for example in terms of scale and materials) but not necessarily a pastiche.

The proposed dwelling is situated behind an existing hedgebank to Kersbrook Lane. Along the section of hedge coinciding with the front elevation of the proposed building there are no existing trees. As noted in the tree survey, the front hedge (H1) is outgrown, with a high proportion of ash and elm saplings, and will require cyclical coppicing or laying to maintain health and longevity of the hedge.

The proposed building presents a much longer front elevation than the existing one. EDDC's landscape officer has noted that the coppicing of the existing hedgerow is likely to result in the proposed dwelling being considerably more prominent in the landscape. However, the tree survey notes that this coppicing is to the eastern aspect only and not to the section of hedge immediately in front of the house. No indication is made within the tree report regarding why the eastern end is recommended for coppicing / laying to prolong its life expectancy whereas this is not recommended for the rest of the hedge. The site sections show the hedgerow at the

front of the dwelling at approximately 13 metres tall which would not be the case were the hedgerow to be coppiced. As per the Landscape Officer's comment, coppicing or laying of the existing hedge would periodically increase the prominence of the dwelling in views from the west, and occupants may wish to maintain this hedge at a relatively low height by regular trimming to provide views out from the property. However, the applicant has stated that they would prefer privacy rather than a view and as such would be happy to accept a condition requiring a minimum height for H1 to be maintained at.

Because the footprint of the proposed house is significantly larger than that of the existing house, the existing driveway would no longer provide sufficient space for turning. To this end, approximately 1730 square metres of the field to the north east of the site is proposed for change of use to allow for the creation of a new driveway to access the dwelling.

The entrance to the existing driveway is marked by a red brick retaining wall. The existing retaining wall is to be kept, and the proposed site plan indicates this would be blocked off for vehicular use by the planting of two trees within the existing opening.

The proposed access driveway uses an existing agricultural access 40 metres north east of the existing access driveway to the house. The new driveway would be surfaced in tarmac over the initial section with the rest of the drive being covered in gravel chippings.

The site topography means that the drive is relatively steep at the initial access point. No sections have been provided through this initial entrance to demonstrate that proposed access arrangements can be achieved without adverse impact on existing trees and hedgerow and without undue engineering works. The driveway quickly rises to meet up with the hardstanding around the house which is at 5 metres above Kersbrook Lane.

The proposed site plan also indicates a solar array would be installed to the north east of the proposed drive. No details of the installation have been proposed within the application but the provisions of the General Permitted Development Order would allow for the installation of up to 9 square metres of solar panels up to a maximum of 4 metres in height within a domestic garden.

The proposed extension of the garden extends 70 metres to the northwest into the corner of the adjacent field. The extension of the domestic garden with associated domestic paraphernalia would be out of character with the surrounding rural landscape. New landscaping is proposed to the boundary of the garden extension in the form of a new hedgerow and tree planting, but this would not provide any form of screening. Both the land and proposed driveway are in a very elevated location, and together with the 40 metre long built form, the proposal would increase the extent of built development in this rural location creating a more prominent structure and associated landscape alterations that would not conserve or enhance existing landscape character.

Returning to the criteria of Policy H6, the third criterion requires that 'The replacement dwelling does not detract from the appearance and character of the landscape, and within the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty harm the natural beauty of the landscape'.

Paragraph 182 of the NPPF states that 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 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. The weight attributed to conserving and enhancing the National Landscape as required by the NPPF is reflected within the provisions of Strategy 46 (Land Conservation and Enhancement and AONBs) of the Local Plan. Strategy 46 - Landscape Conservation and Enhancement of AONBs states that within the National Landscape, development must conserve and enhance the natural landscape, must not undermine the landscape quality of the area and should be appropriate to the economic, social and wellbeing of the area.

Publicly accessible views of the site are largely limited to users of surrounding roads on the immediate approaches to the site. However even with just glimpsed views of the site, the proposal represents a considerable extension to the existing built footprint. Even assuming the existing hedges were not coppiced or layed, the variety of species within the hedges which consist of elm, hazel and ash, are all deciduous therefore the house would become more conspicuous during the winter months when the hedge is not in leaf. The massing of the house would be unsympathetic to the rural character of the site and would not preserve or enhance the landscape character of the area.

As such the proposal would be contrary to the requirements of NPPF para. 182, Local Plan Strategies 7 and 46 and policy D1, and East Budleigh with Bicton Neighbourhood Plan Policy N1.

Heritage

The proposal sits 320 metres to the west of Tidwell Manor, a large three storey house built in the early 18th century as a replacement dwelling to a former manor house on the site. The building is a high-status Grade II* dwelling, which as a result of its siting and scale has a strong presence within views from the immediate and wider landscape. The landscape setting of the house, which is mostly uninterrupted by later development and allows far reaching views of open countryside towards the hamlet of Kersbrook and beyond, makes a valuable contribution to its significance.

A Heritage Statement has been submitted with the application.

Tidwell Manor dates from 1725 - 1730 and has a substantial presence within the wider landscape, where it maintains its hierarchical and visual primacy. The principal elevation has a regular rhythm of windows across its façade, and has sweeping views across open fields and undulating hills towards the village of Kersbrook. The application site is situated opposite the principal elevation, on elevated ground.

Historic England have commented that the amendments to the proposal made since the earlier withdrawn application, namely the reduction in the height and length of the wings to a single storey, and the amendments to the driveway access to reduce its visual impact, are sufficient to minimise the impact of the dwelling in views from Tidwell Manor, and to minimise the possibility of the proposal challenging the hierarchical primacy of Tidwell Manor. New hedgerow and tree planting is proposed for the boundary nearest to Tidwell Manor which would also help to mitigate the impact.

In order to ensure the maximisation of opportunities to sustain the green and rural setting of Tidwell Manor, Historic England have stated that careful consideration would be required in the choice of the materiality for the landscaping scheme. The choice of external surface coverings such as gravel and patio slabs will affect the ability of the development to blend into its context.

Historic England consider that the reduction in scale and massing of the building and the alterations to the proposed access would minimise the impact of the proposal in line with Paragraph 201 of the NPPF.

Historic England have recommended that conditions be imposed upon any approval in respect of the landscaping scheme in order that any detailed proposals sustain the rural setting of Tidwell Manor and the proposed materials of the driveway and hard landscaped areas respond to local character and distinctiveness.

Given the above, with the required condition in place it is considered that with the required condition in place the proposal complies with EN8 of the local plan and Policy B1 of the East Budleigh with Bicton Neighbourhood Plan.

Residential / Neighbour Amenity

Policy D1- Design and Local Distinctiveness of the Local Plan requires that proposals do not adversely affect the amenity of occupiers of adjoining residential properties. Given the distance between the proposed dwelling and any neighbours there are no concerns in respect of overlooking or that the proposal would give rise to any negative impacts upon the residential amenity any neighbours.

As such the proposal complies with Policy D1 of the local plan.

Highways, access and parking

The proposed driveway access off Kersbrook Lane is in agricultural use and as such there is no highway objection to the re-use of the access given that the proposed domestic use would be similar to the existing level of use. The proposal does not indicate a visibility splay to the entrance, but traffic speeds would be low and as such highways have indicated 20 metre visibility splay in either direction would be acceptable, which could be achieved through the reduction in width of the hedge either side of the entrance. Highways have also asked that the existing access to the site be blocked up, which has already been covered elsewhere in the report. The

scheme provides parking for four vehicles and the proposed driveway provides sufficient space for turning.

As such the proposal complies with policies TC7 and TC9 of the local plan.

Ecology / biodiversity

The Ecological Impact Assessment originally submitted with the application only addressed the existing boundary to the house and not the 1730 square metres of adjacent field proposed for change of use to provide a domestic drive and garden. EDDC's ecologist also raised further comments regarding omissions in the information provided, in respect of recommended bat DNA testing and the potential for further survey work to be required in respect of Great Crested Newts. Further information has subsequently been provided to address these comments.

An internal survey of the dwelling was undertaken in June 2023, with further emergence surveys being carried out in June and July 2023. The existing dwelling has been confirmed as a day roost for Greater Horseshoe, Lesser Horseshoe, Common Pipistrelle, Soprano Pipistrelle, and Long Eared bats. The proposal would result in the destruction of these roosts and as such a European Protected Species License would be required from Natural England.

The emergence surveys also identified the presence of barn owls roosting within the building. The proposal would also result in the loss of a barn owl roost. The report recommends the installation of a barn owl nest box on a nearby suitable mature tree.

The initial ecology report also recommended that DNA analysis be carried out on the bat droppings found within the dwelling during the June 2023 surveys to confirm the bat species present. Droppings were sent off for survey in September 2024 however due to the age of the droppings it has not been possible for the laboratory to obtain a DNA result. The location and shape of the droppings indicate that these would have been from a greater horseshoe bat using this as a Night roost location.

The application site is also within a great crested newt (GCN) consultation zone and there are recent (2024) currently unpublished records of GCN within the wider area. As such a Habitat Suitability Index (HSI) survey of the nearby pond would be required for great crested newts which would inform whether a presence/absence survey of the pond would be required. The information subsequently provided identifies the pond as having a score of 0.54 and therefore is of below average suitability for GCN. Therefore no further surveys or mitigation would be required as the presence of GCN is considered unlikely.

Mitigation measures for the bats include the creation of a designated bat loft measuring five metres wide, 5 metre long by 2.8 metres high, either within a designated bat loft in the new dwelling or within a new structure. The report also recommends that other features be incorporated such as bat slates and gaps behind bargeboards or fascias. The drawings do not indicate any kind of access features to the bat loft however the updated ecology report lists access features to be created within the building to allow bat access, which include a 500 x 500mm hopper access

to the east and a further 300mm x 300mm main entrance. The building should also be provided with four eaves access points, two ridge tile access points and two apex access points. The roof space should be insulated above rafter level to prevent heat escaping and the roof construction should be of a traditional cut roof construction rather than a trussed roof in order to provide sufficient flying space.

The report also recommends that no external lighting be installed unless strictly necessary, and any external and internal lighting should follow the guidance set out in the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/23.

The recommendations contained within the initial ecology report and the updated technical report in respect of ecological mitigation and enhancement shall be conditioned as part of any approval to ensure compliance with Policy EN5.

With the required condition in place, the proposal complies with policy EN5 of the local plan and policy N1 of the East Budleigh with Bicton Neighbourhood Plan.

Trees

The application is accompanied by an arboricultural appraisal to British Standard 5837:2012. A broad range of trees surround the building, varying in species, size, age and quality, with the most significant trees on site being located within the south-western corner of the site away from the house. The report states that the scheme does not require the removal of any trees as a result of the design. The proposed tree works include the coppicing or hedge laying of area A1 to the rear of the house and to the eastern end of hedge H1 to the front of the house, as prudent management to promote health and longevity for these boundary features.

The report includes a Tree Protection Plan and Arboricultural Method Statement detailing the tree protection measures required for the proposals, the timing of the provision of tree protection measures, and the retention of a suitably qualified arboricultural supervisor in the event of any accidental damage to the trees.

With the required condition in place to ensure the protection of the existing hedges and trees during and after the construction of the dwelling, the scheme would comply with local plan policy D3.

Other matters

Surface water drainage is proposed as being dealt with via soakaway and foul drainage will connect to the existing mains sewer. As such the proposed would comply with policies EN19 and EN22 of the local plan. The application site is not within flood zones 2 or 3.

Summary / Conclusion

Policy H6 of the local plan states that proposals for the replacement of an existing dwelling within the countryside will be permitted where the replacement dwelling is located on or adjacent to the footprint of the existing dwelling, or elsewhere within

the curtilage of the building where a clear planning or environmental benefit will be achieved.

The existing house on the site is already substantially larger than the current Nationally Described Minimum Space Standards and the proposed dwelling would provide nearly three times the floor area of the Nationally Described Minimum Space Standards for a four bedroom dwelling. The proposal would increase the built form from a 10 metre wide dwelling on the site to a 40 metre wide built form upon the site.

The applicant has cited several benefits that would arise as a result of the development. The proposal would give a limited increase in the housing supply, and would help facilitate succession of a farming business which currently employs 30 people. However, none of the stated benefits that would arise as a result of the proposal are explicitly linked to the vast increase in the footprint of the building, and would still arise as a result of a more modest proposal that more closely reflects the existing built footprint.

The NPPF at Para. 88 states that Planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings.

Both the NPPF and Strategy 46 of the local plan give great weight to conserving and enhancing the natural beauty within the National Landscape. NPPF Para.182 states that the scale and extent of development within these designated areas should be limited. The proposed dwelling, which sits 5 metres above the adjacent lane in front of a flat plateau of land would appear as a very prominent feature in the landscape.

Historic England are satisfied that the reduction in the size of the dwelling since the previously withdrawn application would mean the proposal would no longer challenge the hierarchical primacy of Tidwell Manor.

The proposal seeks to insert a prominent structure into a rural landscape which would erode the scenic beauty and landscape quality of the National Landscape. Given the great weight that is to be given to the conserving and enhancing the National Landscape it is not considered that the benefits of the proposal would outweigh the harm to the National Landscape.

The proposal is therefore contrary to the relevant Local Plan and East Budleigh and Bicton Neighbourhood Plan policies and Government Advice contained within the NPPF and is therefore recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed dwelling occupies a significantly larger footprint than the existing building to be replaced, despite there being no clear planning or environmental benefits as a result of the planned increase. The proposed dwelling, by way of its design, scale and massing, would result in an incongruous and visually

obtrusive development in a prominent location, siting above a flat plateau of land. It is also proposed to extend the residential curtilage into the countryside significantly. The development would lead to the erosion of the rural character of the site and fails to conserve and enhance the East Devon National Landscape. The proposals are therefore contrary to Strategy 46 - Landscape Conservation and Enhancement and AONBs, Policy D1 - Design and Local Distinctiveness and Policy H6 - Replacement of Existing Dwellings in the Countryside of the Adopted East Devon Local Plan, Policy B2 (General Design Principles) and Policy N1 (Protecting and Enhancing the Landscape, Biodiversity and Local Countryside Character) of the East Budleigh with Bicton Neighbourhood Plan and the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

8693-03 I	Proposed Combined Plans	19.07.24
8693-04 H	Proposed Elevation	19.07.24
8693-05 H : 1 + 2	Sections	19.07.24
8693-09 B : shed/bat loft	Proposed Elevation	19.07.24
8693-16 A : A-A _ B-B	Sections	19.07.24
8693-17 A : section C-C/site elevation	Combined Plans	19.07.24
8693-LPA	Location Plan	19.07.24
8693-02 Rev H	Proposed Site Plan	20.10.24

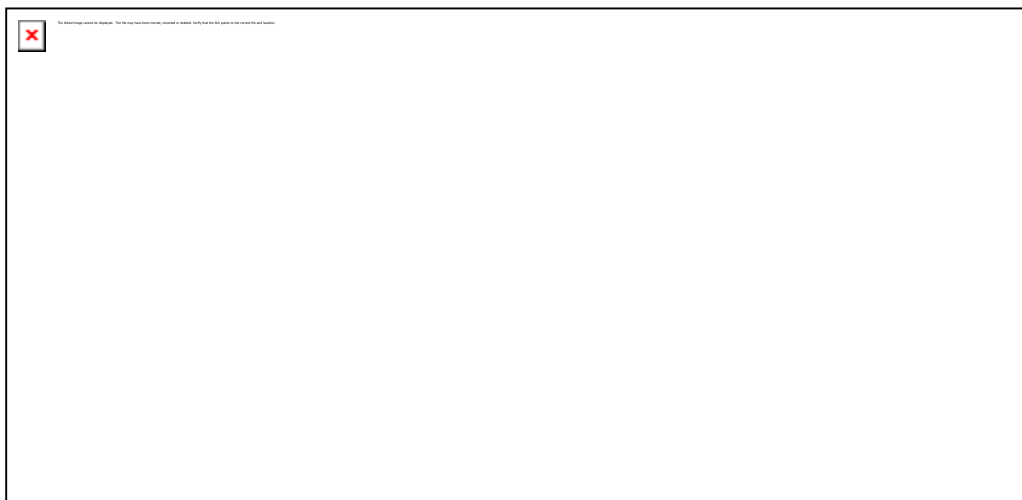
List of Background Papers

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

EDDC Ecologist

There are a few concerns that need addressing.

- The last ecological survey of the site was undertaken in July 2023, i.e., over 12 months ago, and as you highlight some parts of the site have changed, e.g., hedge removal, and some parts of the site are not covered by the ecology report.
- The site is within a great crested newt (GCN) consultation zone and the ecology report notes a pond within 100 m of the site that could potentially be used by GCN. The submitted Design and Access Statement (DAS) states: "*A HSI report was not commissioned as having referred to the Great Crested Newts Consultation Zone maps provided by the Devon Biodiversity Records Centre, Penny Park House is located outside the Consultation Zone.*". However, the site is within a consultation zone boundary shown on eMap and the Devon Environmental Viewer – see below. There are recent (2024) currently unpublished records of GCN within the wider area.



- The ecology report recommends that a DNA test of bat droppings be sent for analysis, but this does not appear to have been undertaken. This could be important as both brown (common) and grey (extremely rare) long-eared bats are both present in the surrounding vicinity.
- The bat loft dimensions appear OK but there are no details regarding access, roof lining, lighting etc. or comment on this from the project ecologist.

Therefore, I would recommend that an updated ecological survey of the site be undertaken, and the ecology report be updated to support the current scheme and site boundary. It should include the results of the DNA survey for bats and a Habitat Suitability Index (HSI) survey of the nearby pond for great crested newts. Should the HSI survey results indicate a suitability of 0.6 (average) or above, then a presence/absence survey of the pond would be required (only possibly between mid-March and June).

South West Water

Proposal: Demolition of existing dwelling and replace with 1no new dwelling, extension of domestic amenity space, creation of a new driveway off an existing access to the highway, and associated landscaping and parking

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

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 the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Yours sincerely

The Pre-Development Team

EDDC Trees

No objection to the proposed scheme. Any planning approval should be subject to a tree protection condition requiring compliance with the submitted AMS and TPP:

Draft Tree Protection - Approved Tree Protection Plan(TPP) and Arboricultural Method Statement(AMS)

Prior to the commencement of the development hereby approved (including demolition and all preparatory work), the following tree protection measures as identified in the submitted Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) dated 19th day of October 2023 will have been completed:

- a) The tree protection fencing shall be in place and in accordance with the agreed specification.
 - b) The installed tree protection will have been inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.
 - c) The findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.
- During the development hereby approved, the following tree protections measures identified in the above AMS and TPP will be undertaken:

- d) The AMS and TPP dated 19th day October 2023 shall be strictly followed.
 - e) Ad-hock monthly site inspections shall be undertaken by a suitably qualified tree specialist and the finding recorded in the site monitoring log.
 - f) Any departures from the approved TPP and AMS shall be reported to the Local Planning Authority in writing within five working days of the site inspection.
- On completion of the development hereby approved:
- g) A completed site monitoring log shall be submitted to the Planning Authority for approval and final discharge of the tree protection condition.

Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2016 and pursuant to section 197 of the Town and Country Planning Act 1990

Conservation

Site Of Penny Park, Kersbrook Lane, Kersbrook, EX9 7AD

Demolition of existing dwelling and replace with 1no new dwelling, extension of domestic amenity space, creation of a new driveway off an existing access to the highway, and associated landscaping and parking.

Assessment of setting of Tidwell Manor Grade II*

Tidwell Manor is identified as a large three storey house built in the early 18th century as a replacement dwelling to a former manor house now demolished.

A high-status Grade II* dwelling, which as a result of its siting and scale has a strong presence within views from the immediate and wider landscape. Including the features of the landscape to the southeast, which is undulating, verdant and mostly uninterrupted by later development allowing for far reaching views of open countryside towards the hamlet of Kersbrook and beyond.

In summary, the context in which the setting of the Grade II* Tidwell Manor is experienced through the identified views that highlights the close relationship between the heritage asset and its setting, which makes a valuable contribution to its significance.

Proposed works

The works as proposed through this application is for the demolition of an existing dwelling and replace with 1no new dwelling, revised access and associated landscaping, at the site of Penny Park, located east of Tidwell Manor along the road towards the hamlet of Kersbrook.

The potential harm to the heritage asset and identified setting as a result of the proposed development works, has been considered against paras. 208 and 214 of the NPPF23 and Policy EN8 and EN9 of the New East Devon Local Plan (2013-2031), as discussed in the assessment of harm which forms part of this report.

Background

In response to Historic England's comments in relation to the 2023 application submitted for a similar proposal which was subsequently withdrawn. Amendments to the proposals based on a robust understanding of significance have now been submitted through this 2024 application and considered as part of this assessment of harm.

Assessment of harm

The following amendments proposed, as identified by Historic England have gone towards addressing the previously identified harm to the setting of Tidwell Manor and seeks opportunities to enhance its setting.

Changes have been made to the original proposed design to:

- Significantly reduce the mass of the build, this was achieved by reducing the height of the 2 x two storey extensions to single storey height.
- The single storey extensions are well screened by the extensive existing landscaping. Please refer to the 3 photomontages accompanying this application. (Penny Park is a narrow plot and these extensions are unable to be located behind the main core of the house)
- Significantly reducing the overall width of the build by detaching the wagon shed from the house and reducing the width of the side extensions.
- Reducing the height of the wagon shed to single storey by removing the bat box and relocating it as a detached structure in the garden, to ensure it is screened by existing landscaping.
- Replacing the wall material of the wagon shed with natural wood to reflect the rural nature of the area.

In considering the value the wider setting of Tidwell Manor makes to its significance as a Grade II* heritage asset, the reduced scale and massing of the proposed replacement dwelling. In addition to existing and proposed landscaping, would go towards reducing the impact the new dwelling would have on the setting of the heritage asset, to such an extent that the proposal is now considered to preserve the setting of Tidwell Manor and in turn its significance as a Grade II* heritage asset.

In summary and on the basis of Historic England's advice the development works as proposed would preserve the setting of Tidwell Manor a Grade II* listed building and in turn its significance as a heritage asset.

Recommendation approval with conditions

Conditions

- External materials

Historic England

Historic England Advice

The significance of Tidwell Manor

Tidwell Manor is a substantial house of 18th century origins. The house was constructed between 1725 - 1730 to replace the demolished former manor house,

thought to have been sited on the south side of the adjacent road. As a manor house, the building has a close relationship with its immediate surrounds. Its associated farm buildings survive immediately to its north, which are thought to be of contemporary construction date.

Tidwell Manor has a substantial presence within the wider landscape also, where it maintains its hierarchical and visual primacy. Its rectangular form is constructed of red brick, accentuated by chimney stacks and pitched roofs protruding above its parapet. The imposing and authoritative principal façade, with its regular bay rhythm faces south-east. Tidwell Manor has broadly retained its rural setting in this direction, with sweeping views across open fields and undulating hills towards the hamlet of Kersbrook.

The application site is situated within this view, on elevated ground. It currently comprises a semi-derelict five-bedroom house, of red brick, constructed in 1904. Part of its roofscape, and a chimneystack are conspicuous within the landscape and constitute one of the only visible buildings in this direction when viewed from Tidwell Manor.

Tidwell Manor is a Grade II* listed building, recognising its high levels of architectural and historic significance. Only 5.8% of listed buildings achieve this grade, which denotes the building's more than special interest.

The impact of the proposals on Tidwell Manor

The application proposes to demolish the existing building on the site, and construct a replacement dwelling. This would consist of one and two storey elements alongside associated access, garage, parking and landscaping.

Historic England have commented on a previous iteration of these proposals in relation to an application for planning permission, which was subsequently withdrawn, your ref 23/2406/FUL, our ref P01580824. This letter should be read in conjunction with our previous letter.

In that letter we raised concerns regarding the visual impact of the proposed new dwelling on the significance that Tidwell Manor derives from its setting.

Our concerns related to the scale, mass and design of the building, which could challenge the hierarchical primacy of Tidwell Manor. Furthermore, the formalisation of the surrounding landscape, with a sweeping driveway and hardstanding would alter the rural character of the site and further erode the green and rural setting of the manor house.

We encouraged opportunities to be sought that reduced the visual impact of the proposals on the setting of Tidwell Manor, and avoided and minimised harm whilst seeking enhancement.

Since that letter we have provided a letter of pre-application advice in response to amended proposals. At this time the proposals had been amended to reduce the overall footprint of the development, as well as its scale and massing. The wings of the building were decreased from 2 storeys to 1 storey. Amendments to the proposed driveway were undertaken to reduce its visual impact.

In our pre-application advice, we expressed our view that the amendments had minimised the visual impact, and the possibility of the proposed dwelling challenging the hierarchical primacy of Tidwell Manor.

Since that letter further amendments have been undertaken to further reduce the impact. additional reductions in the scale and mass of the principal building, the detachment of the covered garage and a more direct approach driveway. The submitted visualisation and plans show that these alterations have all contributed to a further reduction in impact.

Furthermore, a more robust planting scheme is proposed for the boundary nearest to Tidwell Manor which will help to mitigate the impact.

In order to ensure the maximisation of opportunities to sustain the green and rural setting of Tidwell Manor, careful consideration will be required in the choice of the materiality for the landscaping scheme. The choice of external surface coverings such as gravel and patio slabs will affect the ability of the development to blend into its context.

Policy context

National Planning Policy Framework (NPPF) paragraph 201 outlines that it is the duty of your authority to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset), and take this into account when considering the potential impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 203 (a) outlines that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 203 (c) makes it the duty your authority to take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Historic England's Position

Historic England considers that these proposals are an improvement on those that we initially commented on. The reduction in scale and massing of the building and the alterations to the access have reduced the visual impact of the proposals and the presence of the building in the wider landscape. (NPPF 201). The provision of additional screening will assist in mitigating the visual impact.

Further clarity will need to be sought regarding the proposed materiality within the landscaping scheme to ensure that it maximises opportunities to sustain the rural setting of Tidwell Manor. (NPPF 203a). The gravel access drive and patio slabs should be of a materiality that positively responds to local character and distinctiveness. (NPPF 203c).

Should your authority be minded to grant consent, clarity could be sought on these details prior to consent being granted, or via appropriately worded conditions attached to any consent.

Recommendation

There have been a number of amendments to these proposals following Historic England's letters of advice in response to an earlier application, and subsequent pre-application engagement with the applicant. These amendments have allowed us to remove our concerns.

Careful consideration will need to be given to the materials used in the landscaping scheme in order to offer a positive contextual response to local character and distinctiveness.

Should your authority be minded to grant consent this could be secured via the submission of further information prior to the granting of permission, or appropriately worded conditions attached to any consent.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 201, 203 a & 203 c of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have

special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Yours sincerely

Harish Sharma

Assistant Inspector of Historic Buildings and Areas

EDDC Landscape Architect

1 INTRODUCTION

This report forms the EDDC's landscape response to the full application 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 SITE CONTEXT

The site is situated in an attractive rolling, well wooded pastoral landscape. The existing dwelling is generally well screened within a mantle of trees and hedges, is of modest scale and reflects vernacular building style and materials.

Publicly accessible views of the site are largely limited to users of surrounding roads in particular Kersbrook Lane over a short length on the immediate approaches and frontage of the site, the B3178 and the minor lane to the west (Back Lane) leading from the B3178 to Budleigh Salterton. There are long distance views of the site from Budleigh Salterton footpath 13 but in these views it is seen in the context of existing built form and infrastructure on the edge of the town.

The site lies within the East Devon National Landscape (AONB). Paragraph 182 of the NPPF states that AONBs, along with National Parks, have the highest status of protection in relation to conservation and enhancement of landscape and scenic quality and that the scale and extent of development in these areas should be restricted.

3 LANDSCAPE CHARACTER

3.1 Published landscape character assessments

The site falls within East Devon Landscape Character type 5D - Estate Wooded Farmland as identified in the East Devon and Blackdown Hills Landscape Character Assessment 2019.

Relevant Key Characteristics for this LCT include:

- Rolling hills and ridges drained by frequent streams creating an undulating topography

- Well-wooded character, with frequent plantations, estate woodlands, historic wood pasture and conifer blocks.
- Predominantly pastoral farmland, with areas of arable cultivation. Fields enclosed by wildflower-rich banks and mixed hedges. Some estate railings and walls.
- Grassland, ponds and valley mire, and bands of ancient woodland.
- Historic parkland, estates and manors influencing landscape character and creating strong sense of place.
- Nucleated historic hamlets and villages with square stone church towers forming local landmarks. A range of materials and building styles.
- Winding rural roads bounded by Devon banks restricting views, crossing streams on stone bridges. Network of green lanes around Bicton.
- Strong sense of peace and tranquillity, particularly away from the cores of estates.

Relevant Forces for change acting on this LCT include:

- Erosion of distinctive character of settlements and their landscape settings.

Relevant Landscape Guidelines for this LCT include:

- Protect key historic views from properties, and public viewing points such as roads and footpaths.
- Protect skylines, through resisting development which will appear on horizons, and by managing/ replacing historic planting schemes.
- Protect the very distinctive character of some estate villages.
- New buildings should be sympathetic to existing buildings (for example in terms of scale and materials) but not necessarily a pastiche.

3.2 Landscape character of site and local environs

The landscape character of the site and its surroundings reflects many of the key characteristics of LCT 5D and is of good scenic quality and condition. Although modern development on the western edge of Budleigh Salterton is visible from the site 400m to the west, in views towards the site it is seen within a very rural setting and backdrop with no modern development evident.

4 REVIEW OF SUBMITTED DETAILS

Aerial photographs from June 2022 show the presence of a hedgerow with trees to the northwest boundary of the existing property. These do not appear on the tree survey.

The proposed dwelling is situated behind an existing hedgebank to Kersbrook Lane. Along the section of hedge coinciding with the front elevation of the proposed building there are no existing trees. The hedgebank as noted in the tree survey (H1) is outgrown, with a high proportion of ash and elm saplings, and will require cyclical coppicing or laying, as noted in the tree survey, to maintain healthy stems. This would periodically increase the prominence of the dwelling in views from the west. It is also likely that occupants would wish to maintain this hedge at a relatively low height by regular trimming to provide views out from the property - which is a stated aim in the DAS (refer DAS section 2, last paragraph).

The proposed building presents a much longer front elevation than the existing one. This, combined with the issues relating to hedgerow management noted above is likely to result in it being considerably more prominent in the landscape. This could possibly be mitigated in the medium-long term by provision of standard trees behind the roadside hedgebank to provide screening, but it is unclear from the submitted details if there is sufficient space available due to the steep (presumably engineered) embankment indicated to retain the terrace to the front of the building.

While the proposed new access track could be accommodated without widening of the existing field access, the new trackway would be surfaced in tarmac over the initial section and would appear as a new roadway. There is no indication of visibility splays required to accommodate the new access arrangements and requirements for this, if any, should be confirmed to ascertain the extent of any required removal or cutting back of existing hedges to either side.

The proposed extension of the garden of the property by 70m to the northwest into the corner of the adjacent field through which the new access track would run is also likely to have an adverse impact on rural character.

A minimum 1:200 scale proposed and existing levels plan based on accurate topographic survey is required to demonstrate that proposed access arrangements can be achieved without adverse impact on existing trees and hedgerow and without undue engineering works. The drawing should indicate the location, height and extent of any proposed retaining structures and the extent of grading works. Construction details of proposed retaining structures/ earth reinforcement systems should also be provided.

5 CONCLUSION & RECOMMENDATIONS

There are a number of issues relating to the submitted information and clarifications needed as noted above.

On the basis of the submitted information the proposed development will increase the extent of built development in an isolated rural location creating a more prominent structure and associated landscape alterations that would not conserve or enhance existing landscape character, contrary to the requirements of NPPF para. 182 Local Plan strategies 7 and 46 and policy D1.

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.

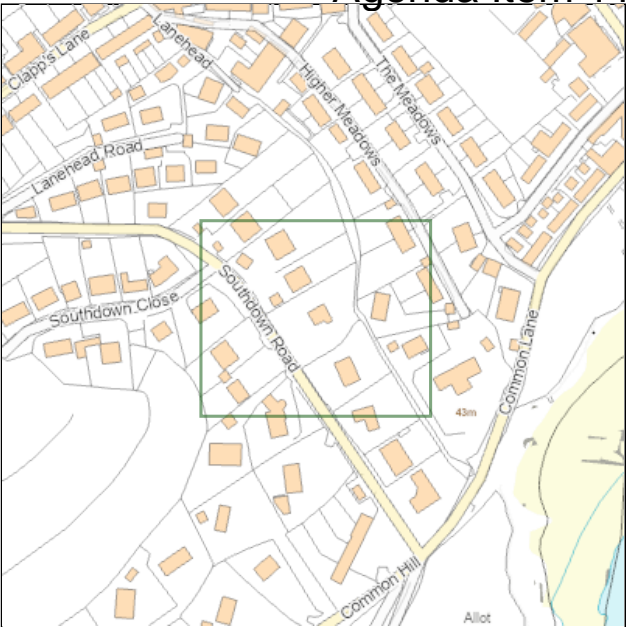
Ward Beer And Branscombe

Reference 24/0632/FUL

Applicant Mr Leighton Chumbley

Location Sea Chimneys Southdown Road Beer Devon EX12 3AE

Proposal Demolition and replacement dwelling and garage with associated landscaping.



RECOMMENDATION: Approval with conditions



		Committee Date: 19.11.2024
Beer And Branscombe (Beer)	24/0632/FUL	Target Date: 23.05.2024
Applicant:	Mr Leighton Chumbley	
Location:	Sea Chimneys Southdown Road, Beer. EX12 3AE	
Proposal:	Demolition and replacement dwelling and garage with associated landscaping.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application is before committee as the recommendation to approve conflicts with the views of the Ward Member.

The site is within the East Devon National Landscape which at the location of the site is built up in character. The site of the proposal is located within the Built-Up Area Boundary of Beer with the proposal being to demolish an existing traditional bungalow dwelling and erect a replacement 3 storey dwelling within its plot. The site is on a sloping hillside and the basement storey of the proposed dwelling would be partly cut into the slope of the site, such that only 2 storeys would be fully above ground level. The replacement dwelling would differ in form, design, height and location from the existing dwelling.

Objectors, including the Ward Member, raise concerns in relation to the proposal having a harmful impact on neighbouring dwellings through being overbearing, impacting on daylight and sunlight and impacting on privacy. Objections also raise concerns that the development would be excessive in terms of its mass and scale and incongruous within its context, both within the street view and more distant views.

The replacement of a dwelling is acceptable in principle within a built-up area in accordance with LP Strategy 6 (Development within Built-Up Area Boundaries), provided that the requirements of design policies are met.

During the course of the determination a corrected daylight/sunlight assessment has been provided, taking account of revisions made to the proposal to reduce those impacts. The proposal has also been amended to reduce officers' identified impacts on the privacy of neighbouring dwellings. Following revisions to the proposal it is considered that the potential impacts on privacy and sunlight/daylight have been satisfactorily addressed such that no harmful

impacts on amenity would arise. The Environmental Health Officer has considered potential noise impacts from the air Source Heat Pump, which was raised as a concern by an objector, and raises no concerns. From an assessment of the context of the site and the many plans submitted to depict the proposal (including section drawings), it is considered that it would not be excessive in scale or mass and that the design is acceptable, such that the proposal would assimilate acceptably within its surroundings. The requirements of LP Policy D1 Design and Local Distinctiveness and NP Policy HBE2 (High Quality Design) are therefore considered to be met.

With conditions imposed as recommended it is considered that the proposal would also be acceptable in relation to impacts on trees and biodiversity, with the development providing a slight biodiversity gain. With conditions also imposed to secure measures to ensure privacy the proposal is considered to be acceptable in all relevant respects, as such the recommendation is for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

10/4/24

Beer Parish Council object to this planning application due to:

Overdevelopment

Concerns over drainage

Out of keeping with the surrounding area

Beer And Branscombe - Cllr John Heath

Comments were received on 23/9/24, 15/7/24 and 24/6/24 The points made are summarised below:

- No concern with redesigning the property but must be sympathetic to other properties on Southdown Road, including in relation to their height;
- The dwelling is too close to the boundary with adjacent properties;
- Neighbour objections are supported, there would be an impact on Bera Watch's privacy and space;
- The proposal would result in a dwelling too large in terms of footprint and height (it should be no more than 2 storeys, not 3 as proposed) with the building boundary no closer to neighbour than the existing garage;
- The proposal would overlook the village;
- Proposal is out of keeping with neighbourhood plan;
- Sea Chimneys is in the catchment of Beer Quarry Caves and on a bat flight path with the proposed tall dwelling being likely to affect bat's natural line of travel;
- The proposed chimney is an eyesore.

Technical Consultations

South West Water

Responses received 4/4/24 and 31/5/24

Advice is provided in relation to the protection of South West Water's asset and the availability of potable water supply and sewerage services. Following the receipt of

further information, the proposed method of surface water discharge via re use in conjunction with discharge into the ground (infiltration) is acceptable. If infiltration proves unviable applicant to advise SWW so alternatives can be assessed.

Environmental Health

Comments were received 5/7/24 and 9/9/24

Following the receipt of further information relating to the technical specifications and location of the Air Source Heat Pump no concerns arise in relation to the noise impact of that equipment. Informatives are suggested in relation to potential pollution impacts arising from demolition and it is recommended that the applicant's attention be drawn to the Council's recommended construction code of practice. A condition is also recommended in relation to control of construction hours and prevention of burning on site during site clearance, demolition and construction.

EDDC District Ecologist

10/7/24

The development has the potential to adversely affect several species however by implementing the measures recommended within the submitted ecological impact assessment the proposal would have a slight positive impact on biodiversity at local scale in the long term. If the lighting design is successfully implemented there would be no impact on the qualifying features of Beer Quarry and Caves Special Area of Conservation (SAC). Conditions are recommended to secure implementation.

EDDC Trees

8/4/24

No concerns raised.

Natural England

17/7/21

The proposed development will not have significant adverse impacts on designated sites, including Beer Quarries and Caves SAC, no objection. Advice is provided that all environmental impacts/opportunities be considered and relevant bodies consulted.

Other Representations

4 objectors raise the following concerns:

- Size and scale of proposed 3-storey development is excessive in relation to the plot size, the scale of the existing dwelling that would be replaced and in relation to the surrounding buildings (which are 2 storey or chalet bungalows) such that it would consequently have an adverse impact on the street scene;
- Due to the size and proximity of the proposed development to Bera Watch, the proposal being closer to it than the existing Sea Chimneys dwelling, together with its design (including a chimney), it will be obtrusive and overbearing to Bera Watch and it would adversely impact its amenity in relation to privacy and loss of sunlight and daylight;
- The proximity of the proposed development to Bera Watch is such that the two properties will appear awkwardly off-set from each other with the skyline viewed from Beer beach being adversely affected;
- Although the ridge height of the proposed dwelling would be in line with that of a neighbouring property, as the proposed dwelling would be set at a lower

ground level the resulting building it would be substantially taller than the existing dwelling and other buildings on Southdown Road, which would be a catalyst for other properties on Southdown road to be increased in size, affecting the character of Beer in turn;

- The potential noise impact of the air source heat pump on neighbours needs to be addressed;
- The 2-storey gym/bedroom building and its chimney and the proposed roof materials are not in keeping with the area;
- The proposed development would look like a business premises is on the property;
- The revised daylight/sunlight assessment is incorrect (details are provided as to alleged errors).

PLANNING HISTORY

Reference	Description	Decision	Date
92/P1407	Conservatory	Approved	28/9/1992

POLICIES

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

Strategy 6 (Development within Built-up Area Boundaries)

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

Strategy 38 (Sustainable Design and Construction)

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

D6 (Locations without Access to Natural Gas)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

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

EN22 (Surface Run-Off Implications of New Development)

Beer Neighbourhood Plan (NP)

Policies NE1 (Development and the Natural Environment)

Policy NE5 (Rights of Way and Other Access (footpaths, bridleways and cycleways)

Policy HBE2 (High Quality Design)

Policy HBE4 (Renewable and Low Carbon Energy)

Policy TP2 (Car Parking)

Policy TP4 (Accessibility)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

Other Documents

Beer Quarry & Caves Special Area of Conservation (SAC) Habitats Regulations Assessment Guidance

BRE Guide (Building Research Establishment) 'Site layout planning for daylight and sunlight – a guide to good practice' (2022/3rd edition)

Site Location and Description

The site is within the Built Up Area Boundary of Beer and within the East Devon National Landscape. It comprises an existing detached bungalow dwelling set within a generous, approximately rectangular plot on the eastern side of Southdown Road, which runs through a residential area in the southern part of Beer. The site is in a prominent hillside position, close to the skyline when viewed from the centre of Beer but it is not located in one of the four designated prominent skylines around Beer Village (as designated in the Beer Neighbourhood Plan). Similarly to Sea Chimneys, the immediately surrounding properties are also set within large gardens with the properties on Southdown Road comprising mainly 2 storey dwellings, chalet bungalows and bungalows. The land within and around the site slopes down gently towards the east/southeast. Beer footpath 17 runs alongside the eastern boundary of the site, running approximately north-south. There are hedges and trees within and bounding the site.

The closest neighbouring dwellings to the site include Bera Watch to the north, which is sited approximately 2.6 m from the boundary with Sea Chimneys, and Southdown to the south, which lies approximately 7.7m from the southern boundary of the site. To the east Upalong is approximately 7 m from the eastern boundary of sea Chimneys whilst to the west lies Southdown Road from which the site derives its vehicular and pedestrian access.

The site is within the bat consultation area of the Beer Quarries and Caves Special Area of Conservation (SAC) and whilst it is not near bat roosts associated with that SAC it overlaps the Landscape Connectivity Zone of Bechstein's, Greater and Lesser Horseshoe bats, the Sustenance Zones of Bechstein's, Greater and Lesser Horseshoe bats, the Hibernation Sustenance Zones of Greater and Lesser Horseshoe Bats and a key Sustenance Zone for Lesser Horseshoe bats.

Proposal

It is proposed to demolish the existing detached bungalow at the site and erect a new dwelling within its plot. The new dwelling would have a larger and different footprint to the dwelling which it replaces and it would also be taller. The dwelling would consist of 3 duo pitched roof buildings, one large and two small. The 3 building elements would be joined by smaller flat roofed glazed links to form an approximately L-shaped built form overall. The largest building of the 3 would contain 3 storeys, with the main living area being on the ground floor level and bedrooms at the basement and first floor level. Given that the site is sloping and that the basement would be partly cut in to the ground on its western side, only two of the 3 stories would be fully above ground level. One of the two smaller building elements would be a single storey double garage whilst the other would be 2 storeys, with accommodation at basement level and a gym at the ground floor. Externally, a terrace with a pergola above would be located to the eastern side of the building, its floor level matching the floor level of the internal ground floor. The building is proposed to be served by renewable technologies including an air source heat pump and solar panels.

ANALYSIS

The main issues for consideration are the principle of the development, its visual impact, amenity impacts, impact on biodiversity and trees, drainage, access and highway safety and parking.

Principle

Given that the site is located within the Built-Up Area Boundary of Beer the development is acceptable in principle, in accordance with LP Strategy 6 (Development within Built Up Area Boundaries).

The proposed building incorporates solar panels on the roofs of the smaller building blocks and the development also includes an air source heat pump. The installation and use of these renewable technologies is supported in principle through LP Strategy 39 (Renewable and Low Carbon Energy Projects). Overall, the proposal is considered to be acceptable in principle.

Visual Impact

The site is on a hillside which is visible from many viewpoints. It is also within the East Devon National landscape, although the part of that landscape occupied by the site and its surroundings has a built up character.

Objectors, the Ward Member and the Parish Council, consider that the new dwelling would not be in keeping with the character of the area due to being excessively large. However, there is no specific policy, applicable within a built up area, restricting the size of a replacement dwelling. Any such development must be assessed on its merits considering relevant LP and NP design policies and that assessment follows below.

The proposed dwelling is undoubtedly different in many ways to the dwelling which it is intended to replace i.e. it is of a different design, has a larger footprint, is taller and it is located in a slightly different position within the site. Information submitted with the application indicates that the proposed dwelling has been designed and orientated within the site so as to respond to the natural contouring and to reflect the northeast-facing gable forms of neighbouring dwellings. The building has been designed with separate blocks and glazed links so as to break up its visual mass. The relationship of the proposed dwelling within the context of neighbouring dwellings is shown through a number of differently orientated section drawings. Illustrations have also been provided to indicate how the dwelling is likely to appear on the hillside in more distant views.

With regard mass and scale, it is noted that the ridge height of the proposed dwelling would match the lower ridge of Bera Watch to the north and higher than that of Southdown to the south. Whilst the roof ridge lines of properties along Southdown Road generally step down following the slight slope of that road towards the southeast and the ridge height of the proposed dwelling would be similar to that of Bera Watch to the north, rather than stepping down from it, the section drawings and illustrations indicate that the proposal would sit comfortably amongst surrounding buildings and that it would not appear overly tall or massive within its context.

The design of the proposed dwelling is contemporary which differs from the traditional design of the bungalow to be replaced and that of several other dwellings in the area. Contemporary design is not, however, unusual within the area, noting in particular the contemporary design of Lyme Bay House, a short distance south of the site, which is located in a very prominent location on a street corner. Unlike that dwelling, which has a flat roof, each of the blocks forming the proposed Sea Chimneys dwelling and its garage would have a duo pitched roof. In this regard the proposal would blend better with the existing built forms either side of Southdown Road than Lyme Bay House. The external materials to be used on the replacement dwelling include clay tiles for the roof and natural stone for much of the walls, which accords with the preferences set out in the Beer Village Design Statement. The proposed timber cladding on the eastern façade of the largest building block and the metal roof material (including that which would have integrated solar panels) proposed to be used on the roofs of the smaller eastern blocks are not preferred materials listed in the Beer Village Design Statement. Given that the timber cladding would be used at basement level only, however, and that it would cover a limited area, it is not considered that it would appear prominent from outside of the property

boundary. The proposed metal roof for the eastern blocks and the integrated solar panels (details of which have been supplied to the Local Planning Authority) are considered to cover a small area of the overall building form and to be reasonably visually recessive. It is noted that the Ward Member objects to one of the chimneys however it is not considered that either of the proposed chimneys are at odd with the overall building design. Full height external chimneys (i.e. ground to roof) feature within the design of neighbouring dwellings, namely Bera Watch and Stafford House to the north of the site, so it is considered difficult to object to these features, particularly as the proposed northern chimney of the proposed dwelling has now been lowered to address potential daylighting impacts. The materials and design of the proposed dwelling are therefore considered to be acceptable.

Taking into account all the above it is therefore considered the mass and scale of the proposed dwelling would not be excessive and that its design would be acceptable, such that the building would assimilate acceptably within the street scene. Similarly it is not considered that the proposed dwelling would appear unduly prominent or incongruous within more distant views.

Residential Amenity

The proposed dwelling would be taller, larger in plan area and in a different position relative to neighbouring dwellings compared to the existing dwelling. The proposal would potentially have an impact on daylight and sunlight reaching Bera Watch due to it lying broadly to the south of that dwelling, which is raised as a concern by an objector. A daylight and sunlight assessment was provided with the application when it was first submitted, however it was noted that there were errors in the methodology used in that assessment (which was also raised as a concern by an objector), such that its conclusions were not considered reliable. A corrected assessment was provided, however, this too contained errors in its methodology, which were again highlighted by an objector. Revisions were subsequently made to the proposed development to try to reduce the potential impact on daylight and sunlight through (i) reducing the width of the southernmost of the 2 eastern blocks, (ii) lowering the roof ridge of that building, (iii) slightly repositioning that block so that its northern elevation is slightly further away from Bera Watch and (iv) lowering the height of the chimney attached to that block. A third daylight and sunlight assessment taking into account the revised proposal was provided on 16 August 2024. This concludes that the revised proposal would be unlikely to have a significant impact on daylight and sunlight. Following re-consultation, no adverse comments on that report were received. Having considered that report officers accept its conclusion. It is therefore not considered that the proposal would conflict with LP Policy D1 in relation to impact on daylight/sunlight reaching neighbouring properties.

The proposed dwelling potentially generates new overlooking into neighbouring properties and their gardens as it introduces new windows and a terrace at locations and heights which differ from the windows and terrace of the existing bungalow. It is noted that there is only one window of the proposed dwelling that would face Bera Watch and that this is proposed to be obscure glazed (which could be secured by condition). The rear terrace of the proposed dwelling potentially allows overlooking towards Upalong to the east and Westerley to the northeast of the site. The views towards these properties from the existing terrace (which provides extensive views to

the north through to the east, south and southwest) are, however, a material consideration. Whilst the proposed terrace is 0.17 cm higher than the existing terrace at Sea Chimneys and both Westerley and Upalong and are set at a lower contour than that proposed terrace, the distance to these dwellings from the edge of the terrace is greater than 20 metres and almost all of the garden of Westerley and most of the garden of Upalong would be more than 20 m away from the edge of the terrace. There is an approximately 2m high thick high hedge at the eastern boundary of Sea Chimneys which would provide some screening of these properties, but even discounting that potential positive screening effect, it is not considered that any harmful overlooking of these properties from the proposed terrace would be likely to arise. The proposed first floor balcony, which would be at a higher level than the terrace, would allow views approximately north-eastwards, potentially also impacting on the privacy of these two properties, however due to the thickness of the eastern balcony wall together with the fact that the balcony would be cut back in to the roof, the direction of the views from it would be constrained to a east-northeast direction. As a result, views from the balcony would be unlikely to adversely affect Westerley, which lies slightly north of the available sightlines, whilst the views towards Upalong from the edge of the balcony would exceed a distance of 20 meters just to reach the end of its garden, due to the fact that the edge of the balcony lies slightly west of the edge of the terrace below. Harmful overlooking from the balcony is therefore considered unlikely to arise. Officers did however identify potential new overlooking towards a significant proportion of the rear garden areas of both Bera Watch and Southdown, from the ground floor east facing gym window and the ground floor eastern terrace respectively. The agent was subsequently invited to revise the proposal to reduce these impacts to an acceptable level/avoid them. In response, the following revisions were made to the proposal: the size of the gym window was reduced (in terms of both its height and width), a louvred projecting screen was added to the northern side of the gym window and a 1.8 m high obscure glazed screen was added along part of the southern edge of the terrace. It is considered that the changes relating to the gym window would serve to restrict viewing angles from the gym such that only the southeast corner of the rear garden on Bera Watch, occupying a relatively small area of the rear garden, would be likely to be overlooked. The addition of the obscure glazed screen to the southern edge of the terrace would reduce overlooked areas of the rear garden of Southdown to the northeastern corner, again with the overlooked area being a relatively small proportion of Southdown's rear garden. At the same time it is noted that the demolition of the existing Sea Chimneys bungalow would reduce the existing overlooking from a dormer window towards the rear garden of Bera Watch. With planning conditions in place to ensure that the development adheres to the revised plans and that the louvres, obscured glazed screen and window be retained in perpetuity, it is considered that the proposal would not have an adverse impact on amenity in relation to privacy.

The Ward Member and an objector raise a concern that the proposed development would have an overbearing impact on Bera Watch however an examination of the plans indicates that there would be sufficient space between the buildings such that an overbearing impact would be unlikely to arise.

With regard to outlook, the proposed dwelling is broadly to the south of Bera Watch, the main outlook from which is towards the northeast and southwest, therefore no

adverse impact on the outlook of Bera Watch is considered likely to arise. Neither is it considered that the proposal would impact on the outlook of neighbouring dwellings Bali Hai and Crabtree to the west, as these dwellings are set on a higher contour than the proposed dwelling with their eastwards outlook towards the site being towards trees and a hedge within the front garden of Sea Chimneys and with the mass of the proposed dwelling being largely below the top of this vegetation. The outlook of other neighbouring dwellings, Upalong and Southdown would be unaffected due to the distance between the proposal and those dwellings, Upalong being on a lower contour and the main outlook from both dwellings being away from the site.

The proposed Air Source Heat Pump (ASHP) has the potential to harm amenity in relation to noise, as indicated by an objector. Having considered technical details of that equipment and its location, the Environmental Health Officer (EHO) has withdrawn his initial concern in relation to potential noise impacts from this equipment. The EHO has also considered the potential noise impact from construction works at the site and recommends that a condition be imposed to restrict working hours. He also recommends informative notes be included on any permission granted to encourage the applicant to follow good construction practice.

Due to its scale, form and orientation the proposed dwelling is considered to have adequate internal living space and outlook. Cycle space would be available within the double garage and bin storage is included in the proposals. The garden is large enough such that occupants would have adequate access to open space. Overall, the amenity of the proposed dwelling is considered to be acceptable.

Given the conclusions above and that the proposal is not considered to significantly affect the sunlight and daylight available to neighbouring dwellings, that it is unlikely to be overbearing to them or to have an adverse impact on their privacy or outlook it is considered that with the recommended conditions imposed, the proposal would accord with the requirements of LP Policy D1 (Design and Local Distinctiveness), LP Strategy 39 (Renewable and Low Carbon Energy Projects) and NP Policy HBE2 (High Quality Design) and HBE4 (Renewable and Low Carbon Energy).

Biodiversity and Trees

Statutory Biodiversity Net Gain (BNG) does not apply to this development due to the date the application was submitted. The submitted Ecological Impact Assessment nevertheless considers the proposal in the light of BNG.

The Council's Ecologist indicates that development has potential to adversely impact bats, nesting birds, reptiles, badgers, and hedgehogs but that by implementing the mitigation and enhancement measures recommended within the Ecological Impact Assessment, the proposal would have a slight positive ecological effect at the local scale in the long term. The ecologist also notes that the application is supported by an Ecological Impact Assessment (EclA), shadow Habitats Regulation Assessment (sHRA), a detailed lighting design with lux contours and a luminaire schedule. The sHRA and detailed lighting design demonstrates that if successfully implemented there is unlikely to be a significant effect on the qualifying features of Beer Quarry and Caves Special Area of Conservation (SAC). Accordingly, the ecologist

recommends the imposition of a condition to ensure that lighting accords with the specified lighting design and that recommendation is accepted.

Natural England consider that the proposed development will not have significant adverse impacts on designated sites, including Beer Quarries and Caves SAC and they raise no objection. It is therefore considered that the proposal would accord with LP Strategy 47 (Nature Conservation and Geology), Policy EN5 (Wildlife Habitats and Features) and NP Policy EN1 (Development and the Natural Environment).

An arboricultural report was submitted in support of the application and this states that there would be a negligible loss of arboricultural features, with all key trees being retained. A landscape scheme to secure new tree planting is nevertheless recommended within the report. The Council's tree officer has considered the proposal and this supporting information and raises no objection. It is recommended that the Tree Protection Plan and Arboricultural Method Statement be secured by a planning condition and that a landscape scheme be requested, as suggested in the arboricultural report.

Access, Highway safety and Parking

The access to the public highway would be in the same position as it is currently and no objections have been raised by the highway authority in relation to the access or traffic generation. The proposal is therefore considered to accord with the requirements of LP Policy TC7 (Adequacy of Road Network and Site Access).

The site is conveniently located close to the centre of Beer such that occupiers of the proposed dwelling would be able to access the types of goods and services required for daily living within a short walking or cycling distance of the proposed dwelling, via lit roads with pedestrian pavements. Within Beer, public transport connections to larger settlements elsewhere are also available. It is therefore considered that the proposed dwelling is sustainably located and that it would accord with the requirements of LP Policy TC2 (Accessibility of Development). The proposal would provide for parking demand within the site by providing at least 2 parking spaces in accordance with LP Policy TC9 (Parking Provision in New Development) and it would also accord with NP TP2 (Car Parking).

Drainage

Following initial consultation, South West Water (SWW) requested that the applicant demonstrate that surface water would be discharged as high up the drainage hierarchy as practicable. The applicant subsequently submitted a drainage statement and following reconsultation SWW indicated that the proposed method of discharge would be acceptable. SWW also provided advice relating to asset protection and available water and sewerage infrastructure. They recommend that should infiltration for surface water drainage prove unviable, they be contacted by the applicant/agent so that their alternatives can be assessed.

It is recommended that a condition be imposed to ensure that surface water drainage be carried out in accordance with the Drainage Statement. With the condition in place the proposal would accord with LP Policy EN22 (Surface Run-Off Implications of New Development).

Other issues

Rights Of Way

The proposal does not overlap Beer public Footpath 17 to the east of the site and the Highway Authority have made no comment in relation to any impact on this path. The proposal is therefore considered to accord with LP Policy TC4 (Footpaths Bridleways and Cycleways) and NP Policy NE5 (Rights of Way and Other Access).

Use

An objector raises a concern that the proposed development looks like it is to accommodate a business however the permission sought is for a dwelling and if permission for a dwelling were to be granted it could only be lawfully used as such. It is not considered necessary to control the use to a dwelling because if any material change of use from a dwelling were to be made without planning permission (for all or part of the building) this would be a breach of planning control and enforcement action could be taken against that breach.

Conclusion

The proposal would be of a different design to the existing dwelling which it would replace and its location, height and footprint would also be different. Taking all relevant information into account, however, including that a condition could be imposed to control external materials, it is not considered that the proposed dwelling would be at odds within its context, either in terms of impact on the street scene or on distant views. The proposal is considered unlikely to be overbearing and the changes made to the proposal during course of the application ensure that the it would not generate harmful impacts on neighbouring residential amenity in terms of overlooking or loss of daylight or sunlight. The amenity of the proposed dwelling is acceptable and with conditional controls in place, no unacceptable impact on amenity would arise in relation to the construction phase of the development. With conditions imposed to secure tree protection, the provision of a landscape scheme and mitigation and biodiversity enhancement measures no harmful impact on trees or biodiversity is likely to arise. The proposal being acceptable in all other relevant respects it is considered to be sustainable development.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Construction shall not take place except during the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays. There shall be no

working on Sundays or Bank Holidays. There shall be no burning on site in relation to site clearance, demolition and construction works.

(Reason: In the interests of the amenity of the occupants of neighbouring dwellings in relation to noise and smoke and in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan).

4. Prior to the occupation of the dwelling hereby permitted:
 - (i) The glazing used in the window in the northern elevation of the northeastern block of the dwelling, indicted as being obscure glazed on the approved plans, shall have been fitted with obscure glazing to Pilkington level 4 or equivalent standard and the window shall be fixed shut;
 - (ii) The louvered screen adjacent to the window of the ground floor gym shall have been installed as shown on the approved plans:
 - (iii) The obscure glazed panel at the southern edge of the terrace indicted on the approved plans, which shall be to Pilkington level 4 or equivalent standard and 1.8 in height from the finished floor level of the terrace shall have been erected.

Measures (i) to (iii) inclusive, listed above, shall be maintained and retained as stipulated above for the lifetime of the development.

(Reason: In the interest of protecting the amenity of neighbouring dwellings and in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan).

5. The Drainage Statement referenced 2364_C_DS_P2_0001 Sea Chimneys, Beer, received on 28/5/24, together with the associated plans received on that same date shall be adhered to. All drainage infrastructure shall be installed prior to first occupation of the dwelling and shall be retained and maintained for the lifetime of the development.

(Reason: In the interests of ensuring that surface water drainage is managed acceptably and in accordance with Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan).

6. Prior to their installation, details of external materials including: the timber cladding to be used externally on the walls, the tiles for the roof, the stone to be used for external walling (including retaining walling) and the metal to be used to surface the roof of the two eastern blocks (in locations where integrated PV panels would not be used) shall have been submitted to the Local Planning Authority for their approval in writing. Those details shall include a manufacturer's or supplier's reference and digital images of the proposed materials. A sample panel of the stonework, measuring a minimum of 2m x 2m shall be constructed on site for approval by the local planning authority and approved by them prior to further stonework being installed. The integrated PV panels shall accord with the photograph submitted to the

Local Planning Authority on 21 June 2024. The development shall be carried out in accordance with the materials details so approved.

(Reason: In the interests of ensuring that the visual impact of the external materials of the buildings are acceptable and in accordance with Policy D1 (Design and Distinctiveness) of the East Devon Local Plan.)

7. The works shall be carried out in strict accordance with the Ecological Impact Assessment (EclA) (Richard Green Ecology, March 2024). Prior to the occupation of the dwelling a written record shall be submitted to the local planning authority to include photographs of the installed ecological mitigation and enhancement measures including the integrated bat tube, bird brick, and the new scrub, hedge, and tree planting.

(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), Strategy 5 (Wildlife Habitats and Features), Policy EN5 (Wildlife Habitats and Features), and EN14 (Control of Pollution) of the East Devon Local Plan).

8. All internal and external lighting shall be installed strictly in accordance with the submitted lighting plans (Drawings 24022.2-00-01-BLS, 24022-01-02, 24022-02-01, 24022-01-01, 24022-00-01, and 24022-01-01-ISO) and Luminaire schedule P24022. Prior to occupation a written record shall be submitted to the local planning authority detailing compliance with these plans. Under no circumstances shall any other lighting design or external lightning be used without written consent from the local planning authority confirming that any amended design is unlikely to have an adverse effect on the qualifying features of Beer Quarry and Caves SAC.

(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), Strategy 5 (Wildlife Habitats and Features), Policy EN5 (Wildlife Habitats and Features), and EN14 (Control of Pollution) of East Devon Local Plan).

9. The Tree Protection Plan and Arboricultural Method Statement contained within the Arboricultural Report produced by Advanced Arboriculture dated 11 January 2024 shall be adhered to throughout the development hereby approved.

Reason – in the interest of protecting arboricultural features at the site and in accordance with Policy D3 (Trees and Development Sites) of the East Devon Local Plan.)

10. Prior to the occupation of the development hereby approved a scheme of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall contain details of materials to

be used for hard landscaping, details of where those materials will be used, details of the species to be planted, planting sizes and planting locations or spacings. Following the approval of that scheme planting shall be carried out within the next available planting season. Any planting which dies or becomes diseased within a period of 5 years shall be replaced by planting of a similar size and species within the next available planting season.

(Reason: In the interests of the visual softening of the site and the provision of arboricultural features to compensate for those removed, as recommended in the Arboricultural Impact Assessment and in accordance with Policy D2 (Landscaping Requirements) of the East Devon Local Plan).

11. 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 within Schedule 2 Part 1 Class A, AA, B or D for the enlargement of the dwellinghouse or Class E for buildings etc. incidental to the enjoyment of a dwellinghouse or Class F for the provision of a hard surface shall be undertaken. (Reason – To protect the character and appearance of the area, the amenities of occupiers of the dwelling and adjoining occupiers, and surface water drainage arrangements, in accordance with Policies D1 - Design and Local Distinctiveness and EN22 - Surface Run-Off Implications of New Development of the Adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative

We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

Informative

Where there's a risk of pollution/contamination being caused by the demolition of structures from the development site the developer must undertake a risk assessment identifying the potential risks for airborne nuisance, additional land/water contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors. The demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

Informatives – South West Water's advice:

Drainage

If infiltration proves unviable applicant to advise SWW so alternatives can be assessed.

Run off from highway

For Highway run off please contact the Highway Authority to agree disposal method.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. 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

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. 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.

Asset Protection

Please see South West Water's letter (available on East Devon District Council's website under consultee responses) enclosing a plan showing the approximate location of a public 150mm combined sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant. Please click the link in the letter to view the table of distances of buildings/structures from a public sewer. Further information regarding the options to divert a public sewer can be found on our website via the link below:

<https://www.southwestwater.co.uk/building-and-development/services/sewer-services-connections/diversion-of-public-sewers>

BNG Informative

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 (i) 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.

Plans relating to this application:

222.34.20300.G Proposed Floor Plans 27.08.24
A REV P2 : first

222.34.31000.EL Proposed Elevation 27.08.24
E REV P2 :
north/south

222.34.20400.G A REV P2	Proposed roof plans	27.08.24
222.34.20200.G A REV P2 : ground	Proposed Floor Plans	27.08.24
222.34.20100.G A REV P2 : basement	Proposed Floor Plans	27.08.24
222.34.12000 REV P2	Proposed Site Plan	27.08.24
222.34.31003.EL E REV P2 : proposed/existin g east/West	Combined Plans	27.08.24
222.34.31002.EL E REV P2 : proposed/existin g south/north	Combined Plans	27.08.24
222.34.31001.EL E REV P2 : east/west	Proposed Elevation	27.08.24
222.34.41000.SE C P2	Sections	14.08.24
222.34.41001.SE C P2	Sections	14.08.24
222.34.41002.SE C P2	Sections	14.08.24
222.34.41003.SE C P2	Sections	14.08.24
222.34.41004.SE C P2	Sections	14.08.24
222.34.41005.SE C P2	Sections	14.08.24
222.34.41006.SE C P2	Sections	14.08.24

222.34.41007.SE Sections 14.08.24
C P2

Location Plan 28.03.24

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.

Extra conditions

Notwithstanding the provisions of the Town and Country

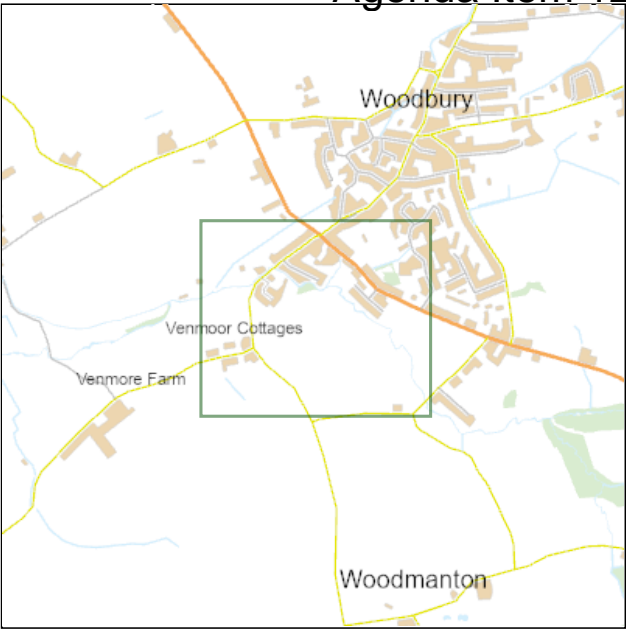
Ward Woodbury And Lympstone

Reference 23/2166/MOUT

Applicant Mr Nick Yeo (3West Group, BE Giles, DJC Dyball & CGS Dybal)

Location Land South Of Gilbrook House Woodbury

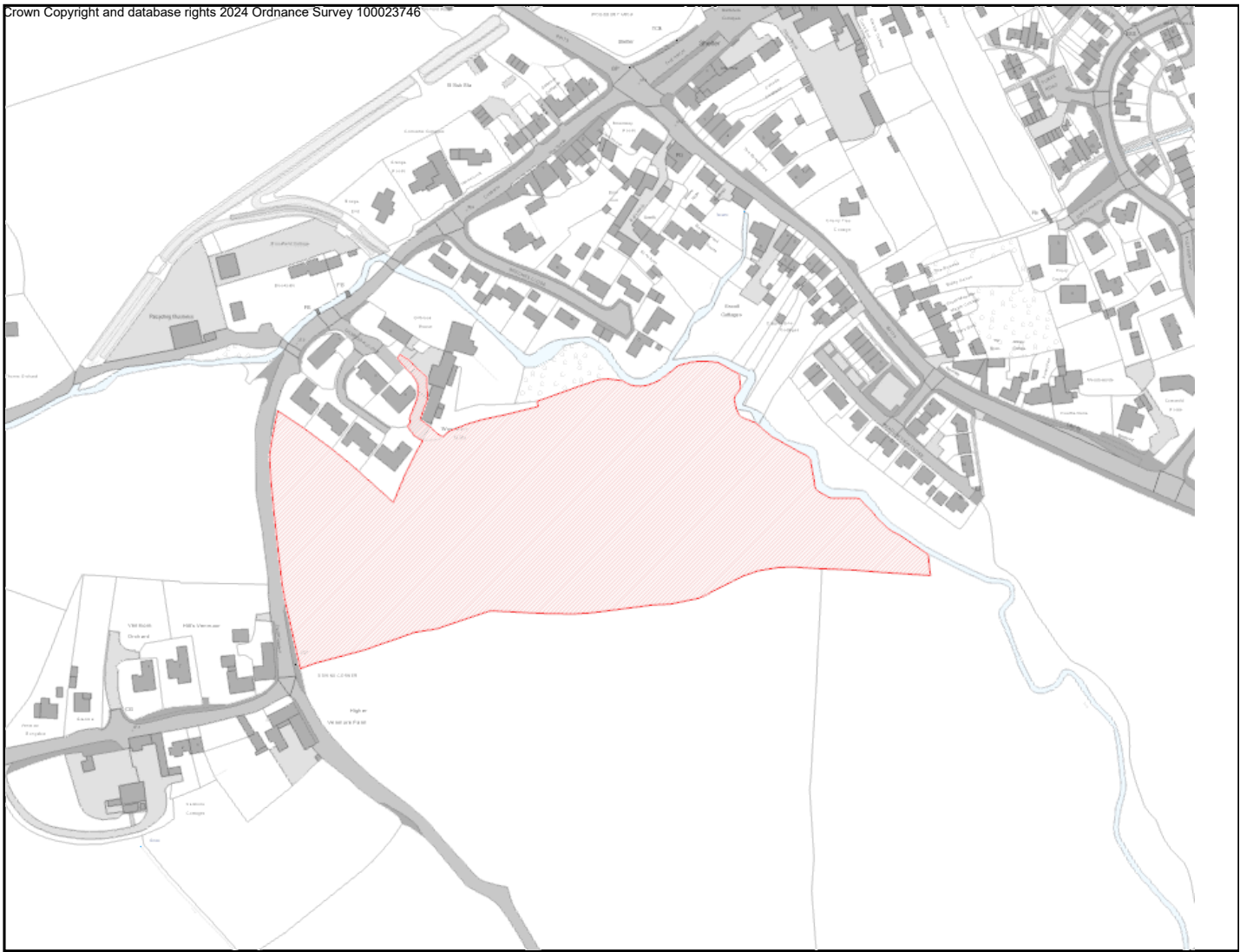
Proposal Outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance and landscaping reserved for future consideration.



RECOMMENDATION:

a) **ADOPT** the Appropriate Assessment.

b) **APPROVE** the application subject to a S106 legal agreement and conditions.



		Committee Date: 19.11.2024
Woodbury And Lympstone (Woodbury)	23/2166/MOUT	Target Date: 12.01.2024
Applicant:	Mr Nick Yeo (3West Group, BE Giles, DJC Dyball & CGS Dybal)	
Location:	Land South Of Gilbrook House Woodbury	
Proposal:	Outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance and landscaping reserved for future consideration.	

RECOMMENDATION:

- a) ADOPT the Appropriate Assessment.**
- b) APPROVE the application subject to a S106 legal agreement and conditions.**

EXECUTIVE SUMMARY

This application is before Members because it represents a departure from the adopted Local Plan and a contrary view has been expressed by the Ward Member and Parish Council.

The application site is located to the south west of the village of Woodbury within East Devon. The site comprises of a 3.02ha parcel of agricultural land which is bounded by Gilbrook (Road) to the west, Gilbrook (River) to the east, agricultural fields to the south and the village of Woodbury to the north and north east. The application site is adjacent to Gilbrook Close which is home to 8 dwellings and Gilbrook House (Grade II Listed) to the north. The application site is also adjacent to the Woodbury Conservation Area, is around 20m from Higher Venmore Farmhouse (Grade II Listed) and 1.3km from the East Devon National Landscape.

The application seeks outline planning permission with all matters reserved except access for the construction of up to 60 residential dwellings. The proposal would include affordable housing at 50% (35% on-site and 15% off-site contribution), public open space, play space and an attenuation feature.

The application seeks approval for a new vehicular access and a new pedestrian access. The proposed vehicular access would be via Gilbrook (Road) and would include an uncontrolled crossing to the south to provide a pedestrian connection to the existing pavement adjacent to existing dwellings at Venmore. The new pedestrian access would be via an existing adopted highway at Gilbrook Close and includes a dedicated 2m wide pathway alongside Gilbrook House and adjoining barns. The proposal would also include off-site highway works at Gilbrook Bridge to include a

dedicated 1.2m to 2m pedestrian connection. The Highway Authority have recommended approval of the application and stated that the in-formal priority flow situation over Gilbrook Bridge will be further strengthened with the adjacent footway proposal and the pedestrian and bridge works proposed would provide a safety betterment. The visibility splays from the proposed vehicular access are also suitable and accords with best practice guidance. A separate public footpath and bridge to connect to PROW 3 would also be secured to provide an additional connection to the village.

Section 38 (6) of the Planning and Compulsory Purchase Act 2008 states that development must be made in accordance with the development plan unless material considerations indicate otherwise. The site is not allocated for development and is located in open countryside meaning that the proposal would be contrary to Strategy 1, 7 and 27 of the adopted Local Plan (2016) and Villages Plan (2018) which sets the spatial strategy for development and seeks to restrict development in the countryside unless explicitly supported by other local or neighbourhood plan policies.

Whilst the site lies outside any Built-up Area Boundary (BUAB), it adjoins the village of Woodbury and would be within walking and cycling distance of day-to-day services, public transport links and community facilities. The proposal would therefore have some support from Strategy 3 which supports sustainable development, and the proposed development in relation to its proximity to Woodbury would appear to accord with the overarching principles of delivering sustainable development as set out in the NPPF.

A material consideration in the decision of this application is the need to bolster housing supply especially affordable housing to ensure the emerging local plan can be found sound and the proposal would result in additional housing adjacent to Woodbury which should be given significant weight in the decision.

The proposal would include affordable housing at 50% with 35% on-site (21 dwellings) and a 15% off-site contribution of £260,622. This would meet the requirements of Strategy 34 and will be secured via a S106 legal agreement.

The proposed development would result in less than substantial harm to the Woodbury Conservation Area and less than substantial harm albeit at the lower end to Gilbrook House (Grade II Listed) and Higher Venmore Farmhouse (Grade II Listed). However, the public benefits of the proposal including affordable housing are considered to outweigh the harm and the final layout and appearance will be reviewed as part of any reserved matters application.

In relation to flood risk and drainage, the proposal has been reviewed by the EA, DCC LLFA and South West Water with no objections raised to the proposal subject to a number of conditions relating to further details as well as a condition restricting the occupation of the development to ensure the required improvement works have been completed at the Woodbury Waste Water Treatment Works as well as improvements to the potable water supply.

The proposal has been assessed in relation to design, highways, trees, ecology, contamination, sustainability and amenity and officers have concluded that the

proposal would not result in significant harm. There are improvements to walking and cycling opportunities within the west of the village and the proposal would also result in a Biodiversity Net Gain and the provision of public open and play space.

The application does have associated benefits including housing delivery including affordable homes, highway works and public and open space which are given weight in the decision. It is acknowledged that the proximity to Woodbury and access to services and infrastructure is also a benefit. The proposal would include economic benefits from construction to operation and benefits to local businesses and services as well as CIL payments of which a proportion would go to the Parish Council. These are all considered to be benefits of the development which align with the NPPF's three overarching sustainability objectives (economic, social and environmental).

There is clearly a need to balance development within the countryside against the need for housing within the District and to justify a departure from the adopted local plan, the material considerations must clearly indicate otherwise and outweigh the harm.

In this instance and having regard to all planning issues, given the need to bolster housing supply for the longer term, the sustainable location of the site with access to local services in Woodbury and level of affordable housing proposed, officers considered that the material considerations in this case would on balance justify a departure from the adopted Local Plan and that the proposed development would overall align with the principles of sustainable development.

It is recommended that the appropriate assessment is adopted, and that the application be approved subject to a S106 legal agreement and conditions.

CONSULTATIONS

Local Consultations

Parish/Town Council - 09/11/23

1. Cllr. K. Perry proposed and Cllr. Ms. H. Morrell seconded that the application not be supported.

Even though East Devon District Council do not have a 5-year land supply and with the tilted balance we do not support this application due to road safety, pedestrian safety especially with the proposed footpath over the bridge in Gilbrook. Inadequate sewage and drainage infrastructure, also local infrastructure insufficient provision for the doctors' surgery and schools.

However, if EDDC are mindful of approving this application we would want to see the following conditions.

- ' Provision for the extension of the existing cemetery.
- ' Provision additional allotments.
- ' Improved street lighting for Gilbrook.
- ' Additional pedestrian road crossings in Gilbrook.
- ' Link bridge to footpath 3 by Meadow View and a pedestrian controlled crossing across Broadway.
- ' Contribution offsite of £150k towards the Woodbury Playing Fields Community Hub replacement building ' The Hive.
- ' S106 contributions of 20mph speed limit within the relevant village centre.

' S106 contributions for effective speed calming measures, to include village gateways, tabletops, road marking, signage, narrowing of road and other calming measures.

We would ask that prior to the Planning Committee considering this application that they conduct a site visit to look at the access to the potential site, the proposed pedestrian access into Gilbrook and connectivity via a pathway across the existing bridge and to see and witness the potential dangers.

If this development is approved, we want this housing figure to be deducted off any specific allocation to Woodbury in the new Local Plan.

RESOLVED that this not be supported.

Woodbury And Lympstone - Cllr Geoff Jung - 06/11/23

I have viewed the documents for the planning application for 23/2166/MOUT. Which is in an outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance, and landscaping reserved for future consideration at land south of Gilbrook House Woodbury.

I note that Devon CC as the Flood Authority have objected to this application on a number of points. Like the rest of Woodbury, the brook, the highway and neighbouring fields and properties suffer from surface water flooding. The requirement within the Government's National Planning policy is the surface water run off from the site should not be increased from a new development. However, that is a ridiculous requirement if this community already suffers from surface water flooding and therefore it requires a careful joined up approach to water drainage management. Therefore, I would suggest that developers and landowner work constructively with the EA and Devon CC and the Parish Council to provide a betterment to relieving the flooding in this location especially in view of climate change increases predictions.

Regarding the pedestrian and cycle access to the site and their links to the community assets such as playing fields, surgery, doctors, village hall, shops, and public houses. The proposals are adequate to comply to the required planning minimum, but I believe there would be a community benefit to provide a multi-use trail/path through the site linking up the proposed Broadway site and Fulford Way and towards Woodbury Business Park which will greatly improve the green travel connections for the whole village.

Regarding the concerns of Educational and Health provisions I would expect the NHS and DCC education authority would be requesting funding from the provision of CIL funds that will be provided from the developer. However, it is reported that the funds available for these Community Infrastructure projects has a substantial shortfall for whole area of East Devon.

There is also highway concerns within the wider village area and elsewhere which this site would contribute to adding further cumulative problems But Devon CC as the highways consultants are limited to considering the access and egress from the site, which I understand is considered adequate.

Last year the District Council carried out a consultation for sites coming forward for the proposed East Devon new local plan based on the Government requirement for new dwelling to be built each year in East Devon. This site was considered appropriate for development from the various sites put forward for Woodbury. However, the feedback provided by the Parish Council showed that this site was not popular with the Parish Council nor residents.

My view is this application should be determined on the current local plan policy which would consider the application outside the built-up area boundary and therefore not compliant to the existing local plan.

However, if this application is agreed by the planning authority, I would hope some or all of the community benefits could be added to this proposal.

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.

Summary of Technical Consultations (Full Responses in Appendix 1)

County Highway Authority - 15/12/23

Recommendation: THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION.

National Highways - 21/11/23

National Highways has no objection to application 23/2166/MOUT.

Historic England - 28/11/23

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

Conservation - 28/11/23

The principal of development to the proposed scale would result in some visual harm to the setting of the conservation area and how this is experienced, failing to preserve, enhance or better reveal the significance of the conservation area as a heritage asset resulting in less than substantial harm with no heritage public benefits. As such it fails to satisfy paras. 202 and 206 of the NPPF 23 and the New East Devon Local Plan (2013-2031).

Officer Note: The assessment by the conservation officer has only looked at public benefit in the context of heritage matters leaving the overall public benefit of the scheme to be weighed in the planning balance by the planning officer. Paragraph numbers relate to the NPPF published in September 2023 and these have been updated to paragraphs 206 and 208 of the December 2023 NPPF.

DCC Historic Environment Officer - 20/10/23

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.

EDDC District Ecologist – 18/01/2024

I have reviewed the dormouse survey and report which is fine. A European protected species licence will be required for woody habitat removal, i.e., creating the site access.

EDDC District Ecologist - 04/12/23

The proposed ecological avoidance, mitigation, and enhancement measures are generally considered acceptable notwithstanding the above comments and assuming the following conditions are imposed and the successful implementation of the mitigation and enhancement measures.

Prior to determination the results of the dormouse nest tube survey must be submitted. The presence or otherwise of a protected species is a material consideration and a decision should not be made until all surveys are completed.

Police Architectural Liaison Officer - Kris Calderhead - 31/10/23

I appreciate that the layout of the site is only illustrative at this stage however, I would like to make comments and recommendations for consideration.

Environment Agency - 07/11/23

We have no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. Suggested wording for the recommended condition, the reason for our position and other related advice is provided.

DCC Flood Risk SuDS Consultation - 17/01/24

Following my previous consultation response, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

DCC Flood Risk SuDS Consultation - 06/11/23

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.

South West Water – 24/09/2024

Potable Water Supply - A developer evaluation has highlighted the need for network reinforcement to supply this site. This will be achieved through the reinforcement of the water mains network upstream of the village. The scale of the scheme will depend on other growth in the village. The work will take 18 months to complete from receipt of outline planning permission.

Foul Water Flows - There is no change to our approach for this site. We have carried out a developer evaluation and we will deliver a scheme to negate the impact of the growth on the storm overflows in the village. This will likely be done through a Surface Water Separation scheme or another solution which achieves the necessary outputs. The work will take a 18 months to complete from receipt of outline planning permission.

SWWL previous comments highlighted investment that was needed at the WWTW. This has now been completed and we are monitoring performance at the WWTW as we maintain a focus upon the potential of future strategic growth that EDDC may want to promote.

Consequently, we would request the following draft conditions for potable and foul water connections - The occupation of any dwellings approved by this permission shall not be authorised until written confirmation is received by the Local Planning Authority from SWWL that improvement works have been completed, or 18 months from receiving outline planning permission, whichever is sooner. SWWL has requested a similar condition on other sites in Woodbury and the first site to get planning permission will trigger the need.

South West Water - 04/12/23

SWWL does not object to the principle of the proposed Outline application; however, if the Local Planning Authority is minded to approve the application, SWWL request suitable conditions:

- Provision of Surface Water Management
- Provision of Foul Water Management
- Further Information Relating to the Foul Water Drainage Systems Operation, The Estimated Volume Of Waste Water, A Construction Quality Control Plan and A Timetable of Construction
- A Water Conservation Strategy
- Occupation Restriction of Any Dwelling

Contaminated Land Officer - 01/11/23

Recommended condition.

Environmental Health - 01/11/23

Recommended condition.

Housing Strategy/Enabling Officer - Cassandra Harrison – 19/12/23

I would support this application if they changed the percentage of Affordable Housing to 35%. The rented units would need to be Social Rent tenure as that is more affordable to households in East Devon.

Housing Strategy/Enabling Officer - Cassandra Harrison - 27/10/23

This application is only offering 25% affordable which is not policy compliant. They have not submitted a viability appraisal to state why they are only offering 25% affordable housing, so I object to this application.

EDDC Trees - 05/12/23

In principle I would have no objection to the proposal but recommend conditions be put in place to ensure the retained trees are afforded protection during construction.

EDDC Landscape Architect - 21/12/23

The site is situated to the southwestern edge of the existing settlement. It is relatively low lying, level and generally well screened. There are no landscape designations covering the site or its immediate environs. The East Devon AONB is situated 1.3km to the east.

The submitted details are considered acceptable in terms of landscape and visual impact.

Natural England - 30/01/2024

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

Natural England- 08/11/23

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.

Economic Development Officer - 03/11/23

JOINT PLANNING RESPONSE FOR 23/2166/MOUT & 22/2838/MOUT

The critical and worsening lack of employment land in East Devon and the absence of any employment uses within the two proposed applications is a significant concern to be given weight by planning colleagues and which we hope will be acknowledged by members of our Development Management Committee.

Our recommendation is that these applications should be rejected in their current form. We would welcome any amended schemes to include the scale of employment provision identified in the emerging Local Plan (0.24 and 0.27ha respectively) and are willing to work with the applicants to highlight the scale of local demand for this employment space.

Devon County Council Education Dept - 09/01/24

The secondary contribution sought is £211,860 (based on the DfE secondary extension rate of £23,540 per pupil). DCC would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Exmouth Community College. The costs required are as follows: £4.41 per day x 190 academic days x 5 years X 9 secondary pupils = £37,705.

Woodbury Church of England primary school is forecast to have capacity for the pupils expected to be generated from this development and therefore DCC will not seek a contribution towards primary education.

DCC Planning - 22/11/23

This application is not supported by a Waste Audit Statement, it is therefore recommended that a condition is attached to any consent granted.

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 27 (Development at the Small Towns and Larger Villages)
Strategy 31 (Future Job and Employment Land Provision)
Strategy 34 (District Wide Affordable Housing Provision Targets)
Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)
Strategy 38 (Sustainable Design and Construction)
Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)
Strategy 47 (Nature Conservation and Geology)
Strategy 48 (Local Distinctiveness in the Built Environment)
Strategy 49 (The Historic Environment)
Strategy 50 (Infrastructure Delivery)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
D3 (Trees and Development Sites)
EN5 (Wildlife Habitats and Features)
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)
EN8 (Significance of Heritage Assets and their setting)
EN9 (Development Affecting a Designated Heritage Asset)
EN13 (Development on High Quality Agricultural Land)
EN14 (Control of Pollution)
EN16 (Contaminated Land)
EN21 (River and Coastal Flooding)
EN22 (Surface Run-Off Implications of New Development)
TC2 (Accessibility of New Development)
TC4 (Footpaths, Bridleways and Cycleways)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

East Devon Villages Plan (2018)

16 Woodbury

Government Planning Documents

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

OFFICER REPORT

SITE LOCATION

The application site is located to the south west of the village of Woodbury within East Devon. The site comprises of a 3.02ha parcel of agricultural land which is bounded by Gilbrook (Road) to the west, Gilbrook (River) to the east, agricultural fields to the south and the village of Woodbury to the north and north east. The application site is adjacent to Gilbrook Close which is home to 8 dwellings and Gilbrook House to the north. The land levels of the application site fall from the southern boundary (45.05 AOD) towards the northeast corner of the site (37.17 AOD).

The application site is adjacent to the Woodbury Conservation Area and is adjacent to Gilbrook House and adjoining barn (Grade II Listed). The site would also be around 20m from Higher Venmore Farmhouse Grade II Listed and within 180m of Ballymans Cottage, Broadway House, Gilbrook Cottages, Bixley Haven and Rosemary Cottage all of which are Grade II Listed. The Church of St Swithun (Grade I Listed) is located around 320m north of the site.

The site is home to a number of TPO protected trees which are predominately along the southern and eastern boundaries.

The East Devon National Landscape is approximately 1.3km to the east.

The site is located within 10km of the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and SPA.

The wider village of Woodbury is home to a number of services including a convenience shop, doctors surgery, churches, village hall, primary school, hairdressers, playing fields, public houses and the village is served by a number of bus routes including the T, 58/58A, and 358. Exton Train Station is located around 2.8km from the site. The city of Exeter is around 7 miles to the north west (20-25 minutes by car) and Exmouth is around 4.5 miles to the south (10-15 minutes by car).

PLANNING HISTORY

The application site has the following relevant planning history:

- o 23/0005/EIA | Screening opinion for residential development of 60 dwellings | CLOSED NOT EIA (28 June 2023)

The following applications are considered relevant to this site:

- o 22/1761/FUL | Conversion and extension of existing buildings to create two residential dwellings, construction of 6no. dwellings with associated landscaping, infrastructure and works and demolition of existing buildings. | Land At Venmore Barn Woodbury | APPROVED (15 Jan 2024)
- o 23/1258/MOUT | Outline application (with details of access to be considered and all other matters reserved) for the residential development of up to 35 no. dwellings (12 affordable); vehicular and pedestrian access from Globe Hill, pedestrian access only from public right of way; demolition of existing wooden structure to be replaced with Parish Council building; community parking area; public open space, landscaping, wildflower meadow and orchard and other associated infrastructure. | Land To The Rear Of Orchard House Globe Hill Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT
- o 23/1600/MOUT | Outline application for construction of up to 28 residential units (including affordable housing), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access) | Land Off Globe Hill Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT
- o 22/2838/MOUT | Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) | Land To South Broadway Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT

APPLICATION

The application seeks outline planning permission with all matters reserved except access for the construction of up to 60 residential dwellings. The proposal would include affordable housing at 50% (35% on-site and 15% off-site contribution), public open space, play space and a surface water drainage attenuation feature.

The application seeks approval for a new vehicular access and a new pedestrian access. The proposed vehicular access would be via Gilbrook (Road) and would include an uncontrolled crossing to the south to provide a pedestrian connection to dwellings at Venmore. The new pedestrian access would be via adopted highway at Gilbrook Close and includes a dedicated 2m wide pathway alongside Gilbrook House and adjoining barns. The proposal would also include off-

site highway works at Gilbrook Bridge to include a 1.2m to 2m wide dedicated pedestrian connection to the village.

The application was supported by a Framework Plan and Illustrative Masterplan as well as site access and highway plans:

- o Proposed Site Access ref. 226836/PD03 D
- o Proposed Off-site Footway Scheme ref. 226836/PD04 C
- o Proposed Northern Pedestrian Access ref. 226836/PD05 D

The application was subject to an Environmental Impact Assessment (EIA) screening which determined that the proposal was not EIA development (ref. 23/0005/EIA).

NEIGHBOUR CONSULTATION

The application has received 54 objections. These are summarised below:

- o Loss of prime agricultural land
- o Impact on traffic and demand on roads
- o Impact on highway safety
- o No safe access to the road for pedestrians and vehicles
- o New crossing is not safe
- o Concerns with the pedestrian works to the bridge and width of highway
- o Poor public transport
- o Cumulative impact of new development in Woodbury
- o Lack of amenities in the village
- o Lack of infrastructure for new homes
- o Increase in noise and pollution
- o Harm to wildlife
- o Impact on Bats
- o Secretary of State has announced housing targets are advisory
- o Increase in flooding and impact on flood zone 2 and 3
- o Increase surface water flooding
- o Lack of mitigation for flooding impacts
- o Loss of greenfield site/land
- o Concerns with sewage and increased discharge into River Exe
- o Impact on the health of the village
- o Any building must be sensitive to the locality
- o Increases in development in Woodbury
- o Climate emergency and new development
- o Leader of EDDC concerns with house building
- o Outside of the built up boundary
- o Single dwellings have been refused at Venmore
- o Lack of evidence that Woodbury needs more housing
- o Lack of local jobs
- o Impact of construction traffic
- o Harm to character and appearance of the area
- o Loss of views over green fields
- o Impact on Grade II Listed Gilbrook House

The application has received 2 comments. These are summarised below:

- o Information included within flood risk assessment incomplete and poor quality
- o Impact on potential for erosion ignored
- o Risk to 9, 10 and 11 Beeches Close

- o Reinforcing to the south bank
- o Some of the EA/flooding maps are the mirror image and not useable
- o Trail pit logs are incomplete
- o No LVIA recommendations for the stream
- o Missing information in Appendices B1, B2 and C1 and Pages 2 and 3
- o Need for more affordable homes in Woodbury
- o Should incorporate office or business space
- o Layout would need revising

ASSESSMENT

The main considerations in the determination of this application relate to:

- A. The Principle of Development
- B. Affordable Housing
- C. Design and Layout
- D. Archaeology and Heritage
- E. Landscape and Visual Impact
- F. Residential Amenity
- G. Open Space Provision
- H. Transport and Access
- I. Arboricultural Impact
- J. Sustainability and Climate Change
- K. Agricultural Land and Soils
- L. Drainage and Flood Risk
- M. Nature Conservation and Biodiversity
- N. Planning Obligations

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 3 (Sustainable Development) of the adopted EDLP (2016) states that the objective of ensuring 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 - which includes ensuring development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape. This includes reducing the risk of flooding by incorporating measures such as sustainable drainage systems. Developers should maximise the proportion of their developments that take place on previously developed land

- 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.
- d) Encouraging sustainable economic development - which includes securing jobs.
- e) Taking a long term view of our actions - Ensuring that future generations live in a high quality environment where jobs, facilities, education and training are readily available.

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.

Strategy 27 (Development at the Small Towns and Larger Villages) of the adopted EDLP (2016) states that the following settlements vary in size and character but all offer a range of accessible services and facilities to meet many of the everyday needs of local residents and they have reasonable public transport. They will have a Built-up Area Boundary that will be designated in the East Devon Villages DPD though they will not have land specifically allocated for development.

- o Woodbury

Strategy 31 (Future Job and Employment Land Provision) of the adopted EDLP (2016) states that in order to secure local job provision we will promote mixed use developments and provision of employment uses close to where people live. Appropriate, sustainable, mixed use schemes of all scales incorporating housing and employment will be encouraged across the district. On development between 50-199 units, applicants will be encouraged to make provision of 'live/work' units at 10% of the total units to be constructed and we will encourage the 'work' element to be appropriately secured by condition or S106 Agreement. In the villages we may allocate mixed use development sites and encourage the provision of a range of employment types.

Strategic Policy 25 (Development at Local Centres) set out within the Regulation 18 Draft Local Plan (Autumn 2022) states that the sites/areas listed below are considered to be potential sites for allocation for development in/at East Devon's Local Centres:

- Wood_10 - Land at Gilbrook is allocated for around 60 dwellings and 0.24 hectares of employment land.

HOUSING LAND SUPPLY

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.

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of Woodbury, as set out in the Local Plan (2016) and Villages Plans (2018), thereby conflicting with Strategy 7 and 27 of the Local Plan. Consequently, the site would not offer an appropriate location for the development proposed having regard to the adopted

development plan's overall settlement strategy and expectation for such development to be contained within designated built-up area boundaries.

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. At present, Woodbury Parish Council are currently consulting on the pre-submission version of their neighbourhood plan (Reg 14).

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.

Section 38 (6) of the Planning and Compulsory Purchase Act 2008 is clear that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. One such consideration is the National Planning Policy Framework (NPPF) and 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.

(It is noted that the current government is consulting on a revised version of the NPPF which proposes to delete paragraph 226 from the NPPF, reverting to the standard requirement for all Council's to demonstrate a 5-year housing land supply.)

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 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 and delivery in recent years has fallen well short of this annual target.

This issue was considered by Strategic 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.

DEVELOPMENT PROPOSALS

The proposal seeks permission for up to 60 dwellings as well as play and open space and access points. The site is 3.02ha in size however the developable area is approximately 2.6ha due to the location of the flood zone to the north and east. This would mean that the proposed density would be around 23 dwellings per hectare which is reasonably low for a new development however this would be similar to the existing density of Woodbury which is approximately 19 dwellings per hectare. The existing village of Woodbury is home to approximately 730 dwellings (within the defined Built-Up Area Boundary) and the addition of 60 homes would be an increase of approximately 8.2%. This increase alone is acceptable and represents a modest extension to the village.

At the time of determination, several other planning applications for residential development in Woodbury have a resolution to grant and consideration must be given to whether the village can support the level of growth proposed. At present, applications 22/2838/MOUT (70 dwellings), 23/1258/MOUT (35 dwellings) and 23/1600/MOUT (28 dwellings) have a resolution to grant subject to legal agreements. There is also a preferred emerging local plan choice at Town Lane (Wood_20) for 28 dwellings. In total and including this application, up to 221 additional dwellings are proposed and/or planned at Woodbury. This increase, if all were approved would result in a 30% increase in the number of dwellings in Woodbury and it is acknowledged that this would be a large increase for the village. However, the increase in dwellings would be across several years and each would include mitigations measures to make each development acceptable.

It is also understood that whilst Woodbury Salterton and Woodbury Primary Schools have some capacity to support the proposed developments, they do not have the capacity to support all developments should all planning applications were to be approved. It is noted that DCC Education have requested financial contributions however this type of funding is part of Community Infrastructure Levy (CIL) that would be applied to any of these residential schemes if approved. As such it would not be appropriate to separately require further education contributions. The cumulative increase has been raised as a concern by local residents who have highlighted the impact on infrastructure, health care and services and lack of jobs. In terms of this application alone, the level of development proposed is acceptable and infrastructure contributions would be collected through CIL to mitigate any significant harm if approved. A S106 legal agreement would also secure the obligations to make the development acceptable as set out in the Heads of Terms below.

The application proposes residential development only and concerns have been raised relating to the lack of jobs in Woodbury. The current job to worker ratio for Woodbury is around 0.39 meaning that most people must commute elsewhere to work. Strategy 31 supports mixed use developments and jobs close to where people live and states that appropriate, sustainable, mixed-use schemes of all scales incorporating housing and employment will be encouraged across the district. The Strategy only **encourages** mixed use schemes meaning that there is no **requirement** for applicants to include a mix of uses. EDDC Economic Development have objected to the application and officers have raised this with the applicant and requested that a small portion of the site was provided as employment alongside residential dwellings however the applicant declined to include employment. Overall, the opportunity for a mixed-use scheme has been missed in this case.

The application has some support from Strategy 3 of the EDLP which encourages sustainable development. This is also supported by the NPPF (2023) which sets out a presumption in favour of sustainable development which involves meeting three overarching objectives (economic, social and environmental) which includes building a strong and competitive economy, support strong and

healthy communities and protecting and enhancing our built and natural environment. The proposed development would provide housing and much needed affordable housing in Woodbury with associated economic benefits, the proposal would be located in close proximity to the existing village and would be within walking and cycling distance from day-to-day services, community facilities and open space. It is considered that the proposal would appear to accord with the overarching principles of delivering sustainable development which is given weight in the planning balance.

Under the emerging Local Plan which seeks to find additional land for housing growth, the site has been included and consulted upon as a preferred allocation and a site which could support an acceptable extension of Woodbury. Strategic Planning Committee on 29 October 2024 voted to allocate the site for development however this document carries no weight at present.

Furthermore, the proposed development would provide economic opportunities for the District including direct and indirect employment and spending in the local area. The proposal would provide for play and open space which is beyond the requirements of the Local Plan and would include walking improvements to residents in the western part of Woodbury. The proposed houses would also be liable for CIL and Council Tax, with a proportion of CIL being allocated to the Parish Council to spend in the local area.

In summary, whilst the proposal would sit outside of the built-up area boundary and would not align with the spatial strategy for development in East Devon, the proposal has some support from Strategy 3 and the principles of the NPPF and would benefit from day-to-day services within Woodbury. Furthermore, the need for housing, especially affordable housing within the district is a material consideration and is given weight in the decision-making process. The balance between unregulated development in the countryside and supply of homes must be balanced however given the need to bolster supply for the longer term, the proximity to Woodbury, level of affordable housing proposed and other public benefits, the material considerations in this instance would on balance justify a departure from the adopted Local Plan subject to the satisfactory resolution of all planning issues. Every planning application is determined on its own merits and the precise context of every site is different, in this case the approval of this application does not set a precedence for development in the countryside.

B) AFFORDABLE HOUSING

Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted EDLP (2016) states that affordable housing will be required on residential developments in East Devon. Areas to which higher (50%) affordable housing targets apply: Outside of the areas listed above (i.e. all other parts of East Devon including all settlements not listed, coastal and rural areas and Budleigh Salterton and Sidmouth) 50% of the dwellings shall be affordable subject to viability considerations. The 50% figure applies to all areas that do not come under the 25% classification and which are permitted under Strategy 35 'Exceptions' policy. Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership.

Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes) of the adopted EDLP (2016) states that on residential development schemes for 10 dwellings or more developers should demonstrate that all of the affordable housing and around 20% of market units will meet part M4(2) of the Building Regulations, Category 2: accessible and adaptable dwellings (or any comparable updated nationally set standards) unless viability evidence indicates it is not possible.

The Affordable Housing Supplementary Planning Document (SPD) (adopted 25 November 2020) states that for residential developments located in the Rest of East Devon, the affordable housing target is 50%.

Under Strategy 34, the proposed development is required to include 50% affordable housing due to its location outside of a Built-Up Area Boundary. The application was submitted with an offer of 25% affordable housing. Given the current policy position and lack of viability appraisal, this resulted in an objection from the District's Housing Enabling Officer.

Following discussions between officers and the applicant, the level of affordable housing was increased to 35% and then increased again to 50% of which 35% will be delivered on site (21 dwellings) and 15% would be via an off-site contribution of £260,622 (remaining 9 dwellings x £28,958 due to 50% requirement). This level of affordable housing has received support from the Housing Enabling Officer, and they requested social rented dwellings are included in the tenure mix.

The level of affordable housing would meet the 50% requirement and the provision of 21 additional affordable homes plus the off-site contribution is given significant weight in the decision.

In order to secure the level of affordable housing proposed, a S106 legal agreement would be required if an approval was forthcoming. Offices would expect the tenure split to include Social Rent and Affordable Home Ownership as well as a mix of houses to meet the local requirement in Woodbury. The final tenure mix will be negotiated as part of the S106.

In line with Strategy 36, all of the affordable housing and around 20% of market units must meet part M4(2) of the Building Regulations. This would be secure via S106 legal agreement and reviewed as part of any reserved matters application.

In summary, the proposed level of affordable housing would be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets) and the East Devon Affordable Housing SPD (November 2020) subject to a S.106 agreement to deliver the proposed affordable housing and secure the off-site contribution.

C) DESIGN AND LAYOUT

Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) (2023) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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.

Strategy 48 (Local Distinctiveness in the Built Environment) of the adopted EDLP (2016) states that local distinctiveness and the importance of local design standards in the development process will be of critical importance to ensure that East Devon's towns and villages retain their intrinsic physical built qualities. Where towns or villages are or have been despoiled, we will seek to have qualities reinstated through good design. Use of local materials and local forms and styles will be essential to this distinctiveness.

Policy D1 (Design and Local Distinctiveness) of the 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. Proposals should have regard to Village and Design Statements and other local policy proposals, including Neighbourhood Plans, whether adopted as Supplementary Planning Guidance or promoted through other means.

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:
 - a) The distinctive historic or architectural character of the area.
 - b) The urban form, in terms of significant street patterns, groups of buildings and open spaces.
 - c) Important landscape characteristics, prominent topographical features and important ecological features.
 - d) Trees worthy of retention.
 - e) The amenity of occupiers of adjoining residential properties.
 - f) 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.
- 4) Have due regard for important aspects of detail and quality and should incorporate:
 - a) Secure and attractive layouts with safe and convenient access for the whole community, including disabled users.
 - b) Measures to create a safe environment for the community and reduce the potential for crime.
 - c) 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.
 - d) Necessary and appropriate street lighting and furniture and, subject to negotiation with developers, public art integral to the design.
 - e) Features that maintain good levels of daylight and sunlight into and between buildings to minimise the need for powered lighting.
 - f) Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.
- 5) Incorporate measures to reduce carbon emissions and minimise the risks associated with climate change. Measures to secure management of waste in accordance with the waste hierarchy (reduce, reuse, recycle, recovery, disposal) should also feature in proposals during the construction and operational phases.
- 6) Green Infrastructure and open spaces should be designed and located in a way that will minimise any potential security concerns for users.
- 7) Mitigate potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction.

In terms of design, the appearance, layout and scale of the buildings would be a reserved matter to be considered in detail at a later stage. However, to be able to properly assess the principle of the development and whether the proposal would result in any harm to the character and appearance of the area, some detail is required at the outline stage either in terms of indicative detail or through more mandatory elements such as parameter plans and details in the Design and Access Statement.

The application was submitted with an Illustrative Masterplan and Framework Plan showing the indicate road layout, location of public open space, drainage basins and the locations of dwellings and private gardens. The proposal includes a central area of public open space and play space with additional open space along the Gilbrook (River) and a pedestrian access to the north. A proposed connection to the permissive footpath approved under application 22/1761/FUL at Venmore Barn Woodbury is also proposed.

The Design and Assess Statement submitted makes reference to the existing architecture in Woodbury and design features such as chimneys, porches, boundary walls which are expected to be reflected in the detailed design of dwellings.

The layout of the plan submitted is rather geometric in design and would not relate well to the form and layout of the existing village and adjacent conservation area however these are illustrative plans only. The plans help to demonstrate the capacity of the site but is not a layout officers would be encouraging at reserved matters stage. The plans help to demonstrate the capacity of the site but is not a layout officers would be encouraging at reserved matters stage. It is also considered that in places the built development footprint appears to impinge on boundary hedge banks and the layout should ensure a suitable undeveloped margin is maintained around the site perimeter.

In summary, notwithstanding the unacceptable illustrative layout and acknowledging that the application is an outline application, officers are of the view that the design and layout which would be reviewed as part of the reserved matters application could result in an acceptable development. The proposal could therefore accord with Strategy 48 and Policies D1 and D2 of the adopted Local Plan.

D) ARCHAEOLOGY AND HERITAGE

The Authority is required under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving or enhancing the character or appearance of the area.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty of the decision-maker where a proposed development would affect a listed building or its setting, stating: "In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

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."

Paragraph 201 of the NPPF (2023) requires that Local Planning Authorities identify and assess the particular significance of any heritage asset. Paragraph 205 requires that great weight is given to the conservation of designated heritage assets and this position is further supported by EDLP Strategy 49 (The Historic Environment) and Policies EN7 (Proposals Affecting Sites Which May Potentially Be of Archaeological Importance), EN8 (Significance Of Heritage Assets and Their Setting) and EN9 (Development Affecting A Designated Heritage Asset).

In terms of archaeology, a geophysical survey was undertaken across the application site in June 2023. This survey did not identify any archaeological features that are indicative of widespread archaeological features across the development site however it has identified two anomalies that may be indicative of archaeological features (Anomaly Group 1 and Anomaly Group 2). The Historic Environment Team at Devon County Council reviewed the survey and highlighted that similar features identified elsewhere in the county have been shown to be associated with prehistoric or Romano-British activities. As such, groundworks for the construction of the proposed development will impact upon these potential heritage assets and that 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 conditioned to any approval. In light of the above and subject to conditions, the proposal is considered to be acceptable in terms of archaeology.

In terms of designated heritage assets, the site is located adjacent to Woodbury Conservation Area and Gilbrook House and adjoining Barn. Furthermore, the site is location approximately 20m from Higher Venmore Farmhouse Grade II Listed and within 180m of Ballymans Cottage, Broadway House, Gilbrook Cottages, Bixley Haven and Rosemary Cottage all of which are Grade II Listed. The Church of St Swithun (Grade I Listed) is located around 320m north of the site.

a) Woodbury Conservation Area - The site is directly adjacent to the conservation area which was first designated in January 1986 and contains 43 listed buildings. The conservation area is an irregular shape and is surrounded by countryside on several fronts. The development would result in a change from agricultural field to residential dwellings which would result in less than substantial harm to the setting of the Conservation Area with regard to how it relates to the countryside and how the conservation area is experienced. The proposal would also harm views into the Conservation Area from the Gilbrook (Road) although this is not an important or protected view. The proposal would result in 60 additional dwellings adjacent to the conservation area which would result in the erosion of the rural approach as experienced when travelling towards Woodbury and the increase in density of the urban grain in this part of the village. As the built development would be outside of the conservation area, the proposal is considered to result in less than substantial harm to the setting of the Conservation Area.

b) Gilbrook House and Adjoining Barn (Grade II Listed) - The site is directly adjacent to Gilbrook House and Barn and the proposed pedestrian footpath to Gilbrook Close would be around 1.1m from the adjoining Barn. The change from agricultural field to residential development would result in some harm to the setting of this listed building albeit at the lower end of less than substantial harm and would obscure views to the listed building from the south. However, the development would not alter the house or barn and views to the building and barn could be retained as part of the final layout. The proposed footpath from the development to Gilbrook Close to connect the site to the village would be in close proximity to the barn however it is not considered to harm its setting.

c) Higher Venmore Farmhouse (Grade II Listed) - This site is located approximately 20m from this listed building and would be separated by the Gilbrook (Road) and Eye View Lane and existing hedgerows. The change from agricultural field to residential development would result in limited harm to the setting of this listed building albeit at the lower end of less than substantial harm and would result in this farmhouse and wider hamlet becoming connected to the village of Woodbury. As part of any reserved matters application, built form must be set back from this building to retain some separation.

d) Ballymans Cottage, Broadway House, Gilbrook Cottages, Bixley Haven and Rosemary Cottage (All Grade II Listed) - The site is located within around 180m of these listed buildings however there is existing development between the site and these listed buildings. Given the separation distance and existing development, the development is not considered to result in harm to these listed buildings.

e) The Church of St Swithun (Grade I Listed) - The church is located around 320m from the site and is a dominant landmark both from within the village and other vantage points and glimpses the church tower is visible from within the site. The church is located within the village and is surrounded by existing development. Given the separation distance and existing development, the development is not considered to result in harm to this listed buildings.

The proposed development has been reviewed by Historic England and EDDC Conservation. Historic England did not provide any comments and EDDC Conservation have objected to the

application due to the harm to the setting of the conservation area and how this is experienced, and they have noted there are no public heritage benefits. EDDC Conservation stated that the impact on the setting of the listed buildings would be minimal.

The setting of a designated heritage asset is an important element in the significance of these assets and accordingly the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special regard to the desirability of preserving the setting of conservation areas and listed buildings. Therefore, considerable importance and weight should be given to the preservation of setting when carrying out the balancing exercise in decision making. The NPPF identifies that where a development will have less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. However, even if the harm is less than substantial, the balancing exercise should not ignore the overarching statutory duty and the emphasis should be on avoiding harm either by designing it out or suitable mitigation.

In summary, officers find that there would be a loss of significance to several designated assets resulting in less than substantial harm to the Woodbury Conservation Area and less than substantial harm albeit at the lower end to Gilbrook House and Higher Venmore Farmhouse and potential conflict with Strategy 49 and Policies EN8 and EN9. This needs to be weighed in the planning balance.

E) LANDSCAPE AND VISUAL IMPACT

Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the EDLP (2016) states that development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty. Development will only be permitted where it:

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

Policy D2 (Landscape Requirement) of the EDLP (2016) states that existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. Measures to ensure safe and convenient public access for all should be incorporated. Measures to ensure routine maintenance and long term management should be included. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

The application has been supported by a Landscape and Visual Impact Assessment (LVIA) by Clifton Emery Design.

The application site is a mix of 3B Lower Rolling Farmed and Settled Valley Slopes and 3E Lowland Plains Landscape Characters and is also a mix of Pebble Bed Heaths and Farmland and Clyst Lowlands Farmlands Devon Character Areas. The site itself is relatively flat with the highest part of the site is along the southern boundary (45.05m AOD) with the lowest parts of the site on the north western corner (37.18m AOD) and north eastern corner (38.33m AOD). The boundary of the site alongside the Gilbrook (River) is lower than the majority of the site.

The East Devon National Landscape (formerly known as the Area of Outstanding Natural Beauty) is approximately 1.3km to the east and Woodbury Common is the most prominent landform in the local area to the east of the site.

The application site is currently an agricultural green field on the edge of Woodbury and is home to boundary trees and hedges. The development would be located in the defined countryside where one of the principal policy aims is to protect the distinctive landscape, amenity and environmental qualities of our rural areas. The site is adjoined by agricultural fields to the south and is bounded by the Gilbrook (Road) to the west, Woodbury to the north and Gilbrook (River) and Woodbury to the east. Whilst the site is in the countryside, the surrounding area is home to some built development including the village of Woodbury and dwellings and Venmore.

The development of the site as proposed would result in the loss of an open and relatively prominent field to built-form but its sensitivity is reduced by the presence of existing residential development to the north. The location of the proposed access would result in the loss of hedgerow however it is considered that additional planting would be proposed to mitigate the loss. The proposed highway works and access would retain a semi-rural feel to Gilbrook (Road).

The submitted LVIA includes a number of viewpoints including from within Woodbury and from Woodbury Common and was based on a maximum height of 2 storeys. The District Council's Landscape Officer reviewed the submitted LVIA and concluded that the application site is considered appropriate in principle for housing development and the findings of the submitted Landscape and Visual Impact Assessment are broadly accepted. The Council's Landscape Officer recommended a number of conditions in the event of any approval.

The LVIA sets out that the site is well enclosed due to the existing topography and landscaping and views onto the site are only readily possible within 0.5km of the site except for Woodbury Common where the development would be read in context with the existing village. In most cases, the development would be viewed as infill development to Woodbury and Venmore and would not result in significant harm to the landscape.

The LVIA also includes a number of mitigation measures to reduce harm to the wider landscape, these include enhancing the existing hedgerows and boundaries, internal tree planting and improving pedestrian access. These measures are considered to be appropriate and would be reviewed as part of any reserved matters application.

The landscape and visual impacts of the proposals are likely to be limited to the site and local area and while the change in character along Gilbrook would result in changes to the landscape, the site is well contained, and it is considered that the development could be accommodated without a significant adverse impact to the landscape character.

In recognising the assessment against landscape and visual impacts, it is considered that the scheme at this stage has the ability to be a success in marrying built form within the landscape in this location and the proposed development in this instance and subject to conditions, would not result in any unacceptable long-term harm on landscape character and visual amenity.

F) RESIDENTIAL AMENITY

Section 12 (Achieving Well-Designed Places) of the NPPF (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 proposals are in outline and do not include detailed plans for the housing proposed however the application site would be located adjacent to neighbouring properties on Gilbrook Close such as no. 5, no. 6, no 7 and no. 8. The application site would also be in close proximity to other residential dwellings and would include a pedestrian access path to the rear of no. 3 Gilbrook Close.

The exact location and design of residential dwellings would be determined at the reserved matters stage however based on the illustrative masterplan submitted, the development is not considered to result in significant harm to neighbouring properties in terms of overlooking, overbearing or overshadowing impacts. The reserved matters application would also include mitigation measures for the pedestrian path however the balance between surveillance and overlooking would need to be considered.

In terms of Environmental Health, the District Council's Environmental Health Officer reviewed the application and recommended a Construction and Environment Management Plan (CEMP) condition to any approval.

In terms of occupant amenity, the proposed dwellings would be expected to comply with the Nationally Described Space Standards (NDSS). Whilst these are not adopted planning policy within the Development Plan for this part of the district, they are nevertheless a useful guide and Policy D1 seeks to ensure that development does not adversely affect the living conditions of occupants of proposed future residential properties and that development includes features that maintain good levels of daylight and sunlight into buildings. These requirements also accord with the P.135 (f) of the NPPF's requirement for a high standard of amenity for existing and future occupiers.

Additionally, all the dwellings must be dual aspect and include private amenity space which can be reviewed at reserved matters.

Furthermore, it is expected that 20% of open market homes and all affordable homes would be M4(2) complaint under Strategy 36.

The proposed development at outline stage is therefore considered to be acceptable and could comply with Policy D1 and Policy EN14.

G) OPEN SPACE PROVISION

Strategy 43 (Open Space Standards) of the adopted EDLP (2016) states that developments proposing net new dwellings will be expected to provide for open space on-site where there is a demonstrable need for such open space in the vicinity. Developments will be assessed against existing provision in the parish in which they are proposed. Where existing provision of specific typologies exceeds quantity standards, on-site provision will only be required where the existing open space typology is of poor quality or is in some other manner deficient such as not matching up to the accessibility standard. Developments will be expected to provide open space on-site through a Section 106 Agreement in line with the following thresholds:

- o 9 dwellings or less will not be required to provide any specific open space typologies on-site, however developers may choose to make such provision.
- o 10 - 49 dwellings will be required to provide amenity open space on-site.
- o 50 - 199 dwellings will be required to provide amenity open space, and children's and youth play space on-site.
- o 200+ dwellings will be required to provide for all open space typologies on-site.

The application would include up to 60 residential dwellings meaning that amenity open space and children's and youth play space is required on site by Strategy 43. The application was also supported by an Open Space Assessment. Strategy 43 sets out that in rural locations developments should include 3.0m² per person of amenity open space and 0.5m² of both children's and youth play space. As detailed layouts are not known it is considered that the application could include up to 150 residents. The requirement for up to 150 residents would be for 450m² of amenity open space and 75m² of both children's and youth play space.

The detailed site layout would be reviewed as part of the reserved matters application however based on the submitted illustrative framework it is considered that there is sufficient room to include the provision of amenity open space required. The applicant has also agreed to provide 1 x 100m² (Local Area of Play) LAP for children which includes a minimum of 3 pieces of equipment and 1 x Activity Trail for youth which includes a minimum of 3 pieces of equipment. The inclusion of a LAP and Activity Trail would provide facilities for both children and youth and the overprovision of equipment would be of benefit to future residents and local children.

The proposal would also include 0.05 ha of allotments (equivalent to 2 full plots or 4 half plots) and/or community orchard/gardens of which the location, final details, delivery and long-term maintenance would be secured a S106 agreement in the event of any approval.

The provision and maintenance/management arrangements for on-site communal open and play space would be secured via a S106 agreement in the event of any approval.

Therefore, the proposal is considered to be acceptable in accordance with Strategy 43.

H) TRANSPORT AND ACCESS

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

Policy TC2 (Accessibility of New Development) of the EDLP (2016) states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.

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

Policy TC7 (Adequacy of Road Network and Site Access) of the EDLP (2016) states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9 (Parking Provision in New Development) of the EDLP (2016) states that spaces will need to be provided for parking of cars and bicycles in new developments. All small scale and large-scale major developments should include charging points for electric cars.

The application site is located on Gilbrook (Road) which runs from the A376 to Woodbury Business Park to Broadway, Globe Hill and the Arch junction in Woodbury. The Gilbrook (Road) is 30mph within Woodbury and unrestricted elsewhere and includes a number of pedestrian pavements, but these are not continuous. The village is served by a number of bus routes including the T, 58/58A, and 358. Exton Train Station is located around 2.8km from the site. The city of Exeter City Centre is around 7 miles to the north west (20-25 minutes by car) and Exmouth is around 4.5 miles to the south (10-15 minutes by car).

The proposed development would include two new access points. A vehicular and pedestrian access on Gilbrook (Road) and pedestrian/cycle access to Gilbrook Close to the north. The proposed vehicular access would include an uncontrolled crossing to the south to provide a pedestrian connection to dwellings at Venmore by connecting to an existing pavement. The new pedestrian access would be via adopted highway at Gilbrook Close and includes a dedicated 2m wide pathway alongside Gilbrook House and adjoining barns. The proposal would also include off-site highway works at Gilbrook Bridge to include a 1.2m to 2m wide dedicated pedestrian connection to the village.

A separate pedestrian link is to be provided to the south of the site to connect to Venmore Barn and PROW 3 via a new bridge to be delivered by application 22/1761/FUL and would be reviewed as part of any reserved matters application. However, should this connection not be delivered, the connection is required by this development to connect the site to the village and to bus stops on Broadway and to aid permeability between parts of the village. It would therefore be necessary to include a S106 requirement for the delivery of this link.

The Parish Council, Ward Members and Local Residents have raised concerns with the proposed access points and raised concerns with visibility, speed, road widths and pedestrian safety especially over Gilbrook Bridge. In order to understand whether the proposals would result in any harm, it is important to consider the existing conditions and the impact of the proposals.

At present, it is not possible to safely walk from Venmore Barns to Woodbury as there is no dedicated pedestrian pathway. The proposal would include a new uncontrolled crossing to direct pedestrians into the site and into Woodbury. Concerns have been raised regarding pedestrian safety and vehicular speeds due to the road layout and speed limit. DCC Highways have reviewed this crossing and confirmed that the proposal would provide a safer pedestrian passage for pedestrians south of the proposed access and the applicant would be willing to fund a Traffic Regulation Order (TRO) application to amend the speed limit along this stretch of road. It is considered that the pedestrian link would provide an overall betterment than the existing situation.

In relation to the vehicular access on Gilbrook (Road) concerns have been raised regarding surveillance and highway safety as this stretch of road is unrestricted. DCC Highways have reviewed the access and confirmed that the proposed access provides a visibility splay which accords to the current best practice guidance, and this has been verified by the County Highway Authorities (CHA) own speed survey. Concerns have also been raised regarding the impact on traffic which will be discussed later in this section.

In relation to the pedestrian footpath to the north via Gilbrook Close, it is acknowledged that existing pedestrian movement levels are low and the proposal would result in an increase in pedestrian movements. However, this link is crucial for accessibility and permeability given that there is no footway on Gilbrook (Road). Any increases in pedestrian movement will be outweighed by the public safety benefits of the highway improvements and footway into the village which benefit existing and proposed residents. Furthermore, the footpath would connect to an adopted highway and would not conflict with private roads or drives.

In relation to off-site works to Gilbrook Bridge, concerns have been raised in relation to highway and pedestrian safety. The existing bridge does not include a separate and dedicated footway instead it includes a painted white line of which vehicles can drive over. This provides a walkway which in places would be under 1m in width which is not particularly safe for residents especially wheelchair users and those with children. The current safety concerns have been raised by residents and the Parish Council. The existing bridge is approximately 4.55m wide at its narrowest point and currently works well with an in-formal priority flow situation for vehicles passing. As the demarcation for pedestrians is a white painted line, this does allow for larger vehicles to pass over the line and use the full width of the bridge when crossing it. The proposal seeks to include a dedicated pedestrian pavement of between 2m and 1.2m in width and to reduce the width of the highway to 3.35m at its narrowest point.

The inclusion of a dedicated pedestrian pavement is considered a benefit to the village of Woodbury and allows for a safer access for existing and proposed residents in the west of the village. A full height kerb would help to mitigate against striking and an increase in parapet height would improve safety.

The decrease in highway width has raised concerns with residents as due to the curve of the bridge, there is an increased risk that larger vehicles especially for larger tractor and trailers and HGVs would strike the new kerb and harm pedestrian safety. The application was supported by swept paths for a range of vehicle sizes and demonstrate that the width of the highway could accommodate standard cars, vans and tractor trailer units. DCC Highways have reviewed the swept paths and no concerns have been raised. It is acknowledged that swept paths show the typical sizes of tractors and buses and larger vehicles do exist, however it would not be possible to track every single vehicle width and DCC Highways have not raised concerns with the swept paths provided. The decreased width for cars and smaller vehicles is considered to act as a speed calming measure and the proposed width of the road at 3.35m (at its narrowest point) would be similar to the width of standard single lane and narrower carriageway widths have been approved within Woodbury. DCC Highways have reviewed the proposals and support the proposals and the off-site works proposed are considered to be an overall improvement to the existing situation especially for pedestrian safety and any refusal on this issue would not be reasonable.

The applicant has explored alternative proposals with DCC Highways and the LPA for safe and suitable access along Gilbrook however these would either involve third party land and/or demolishing the front boundary wall and landscaping of Gilbrook House which is curtilage listed and adds to the character and appearance of this part of the village. These options were therefore discounted in favour of the proposed scheme however an alternative scheme could come forward as part of a separate application. In any case, a separate pedestrian link is to be provided to the south of the site to connect to Venmore Barn and PROW 3 and as noted above, its delivery would be secured via a S106 legal agreement.

The development would be for 60 homes and the trip generation indicates that the proposals will result in approximately 30 two-way vehicle trips within the AM peak hour and 29 in the PM peak hour. The proposal would result in approximately 288 vehicle trips over a 12-hour period. This would increase the trip generation upon Gilbrook (Road) and the local area however, this is not considered to be harmful to the local area. Improvements to pedestrian accessibility and public transport in Woodbury would also reduce private car travel and DCC Highways have recommended that a Travel Plan be secured to help mitigate trip generation through measures such as sustainable travel information, travel vouchers and car sharing.

In terms of the development's impact on the wider road network where it generates additional vehicular traffic onto the B3179, known locally as Broadway, which is a B class road which runs through the settlement of Woodbury between Exmouth/Woodbury Common as well as junctions with the A376, the Highway Authority have considered the scheme in detail and have not raised any comments. National Highways have also been consulted on the application and have not raised any concerns.

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 such as at Broadway and further afield. The Highway Authority have not raised any concerns relating to the cumulative impact of development in the local area however they have commented on a collective aspiration to improve the Arch area. Therefore, 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 for day-to-day needs for residents including bus services, shops, schools, medical services and jobs (predominantly in further afield settlements by bus). There would be suitable and safe walking routes into the village centre and a number of public right of ways. Therefore, the site is considered to be accessible and future residents would have viable and attractive sustainable alternatives to using the private car in accordance with Policy TC2.

In terms of construction traffic, it is considered necessary to attach a Construction Traffic Management Plan and Construction and Environment Management Plan via a condition to ensure the proposals are acceptable.

In conclusion, the proposed development is considered to be in an accessible location with suitable and safe access. The proposal would include a number of access points and off-site works which are overall considered to improve the existing situation. 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 and the cumulative impact of wider development is considered acceptable. There are viable alternatives to the use of the car with pedestrian and cycle links as well as walkable bus stops with regular services in the locality. The overall scheme considered to accord with Policies TC2 and TC7 of the East Devon Local Plan and the guidance in the NPPF.

I) ARBORICULTURAL IMPACT

Policy D2 (Landscape Requirement) of the adopted Local Plan (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 D3 (Trees and Development Sites) of the adopted Local Plan (2016) states that 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.

The application site is in agricultural use and includes trees and hedgerows along the boundaries as well as two trees within the site. There are 12 individual trees (2 x Cat A, 5 x Cat B, 4 x Cat C and 1 x Cat U), 4 areas of trees (3 x Cat B and 1 x Cat C), 3 groups of trees (2 x Cat B and 1 x Cat C) and two hedgerows (both Cat C). Within or adjacent to the application site, 7 trees and 1 group of trees are TPO protected. The application was supported by an Initial Tree Constraints Appraisal.

As part of the development all individual trees, areas and groups are to be retained however an area of hedgerow would be removed to facilitate the vehicular access on Gilbrook (Road) and hedgerow cut back to allow for a visibility splay. This area of hedgerow to be removed would be approximately 25m and would be a Category C hedge. The illustrative masterplan includes a landscaped buffer along the boundaries and no development adjacent to protected trees however the detailed layout would be a reserved matter. The proposal is also expected to include additional planting to mitigate the loss of the hedgerow and to provide a biodiversity net gain.

The application was reviewed by EDDC Trees who have no in-principle objections to the proposal subject to a full tree survey including a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement. A tree survey including AIA, TPP and AMS would be secured via a condition. EDDC trees raised comments in relation to the proposed location of the play park and size of the buffer zones which can be reviewed as part of the reserved matters application.

Whilst the loss of hedgerow is regrettable, nevertheless the existing trees and vast majority of hedgerows are to be retained. Therefore, officers consider that the proposal is acceptable in accordance with Policy D3.

J) SUSTAINABILITY AND CLIMATE CHANGE

Strategy 3 (Sustainable Development) of the adopted Local Plan (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 5 (Environment) of the adopted Local Plan (2016) states that all development proposals will contribute to the delivery of sustainable development, ensure conservation and enhancement of natural historic and built environmental assets, promote ecosystem services and green infrastructure and geodiversity. Open spaces and areas of biodiversity importance and interest (including internationally, nationally and locally designated sites and also areas otherwise of value) will be protected from damage, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged through a combination of measures. New development will incorporate open space and high quality landscaping to provide attractive and desirable natural and built environments for new occupants and wildlife.

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

- a) Sustainable design and construction methods will be incorporated, specifically, through the re-use of material derived from excavation and demolition, use of renewable energy technology, landform, layout, building orientation, massing, use of local materials and landscaping;
- b) The development will be resilient to the impacts of climate change;
- c) Potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction, are to be mitigated.
- d) Biodiversity improvements are to be incorporated. This could include measures such as integrated bat and owl boxes, native planting or green roofs.

The application has been supported by an Energy and Sustainability Statement which sets out that the development can meet Part L 2021 requirements resulting in a 31% reduction in emissions over Part L 2013. The proposal would include fabric first measures and as well as low carbon and renewable technologies (Air Source Heat Pumps and PV panels). It is expected that all residential dwellings would include heat pumps and PV panels to reduced carbon emissions and further details of renewable and low carbon energy would form part of the reserved matters application. It is necessary to condition compliance with the Energy and Sustainability Statement to ensure the development meets the reduction in emissions set out and in accordance with Strategy 38.

In relation to materials, the proposal would reduce the consumption of materials and reuse materials where possible. In relation to waste, it is considered that waste will be generated during the construction phase which would be controlled through the CEMP to be secured via a condition. It is also expected that residential dwellings would be provided with dedicated areas for waste storage to encourage recycling. These must be in suitable locations to allow for easy access to collection points.

Woodbury can be considered to be a suitable and sustainable location for housing development where there is good infrastructure and services (including convenience shop, doctors surgery, church, village hall, primary school, hairdressers, public house etc...) together with transport links to larger settlements including Exmouth and Exeter. Whilst there are limited employment opportunities in the village, Woodbury Business Park, Greendale Business Park, and Hill Barton Business Park are accessible from the site.

In summary, the proposal is considered to be acceptable in terms of sustainability and climate change.

K) AGRICULTURAL LAND AND SOILS

Paragraph 180 (b) of The NPPF (2023) requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In addition, the planning system should contribute to and enhance the natural and local environment, including protecting and enhancing soils.

Policy EN13 of the adopted Local Plan aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The site is currently an agricultural field, and where the loss of agricultural land is proposed an assessment must be made as to whether it is the best and most versatile agricultural land (Grades 1, 2 and 3a). Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available, or the benefits of development justify the loss of the high-quality land.

The entire site constitutes Grade 3 agricultural land which is not the highest grade land but one where an onsite survey is required to determine whether it is 3a or 3b. No such classification has been submitted with this application. The field is currently farmed but is constrained by on 3 sides by residential dwellings, Gilbrook (Road) and Gilbrook (River).

The proposed development would result in the permanent loss of this agricultural land starting at the construction stage. Whilst it is considered that the loss of 3.02 hectares of the agricultural land is regrettable, it is considered that the loss would not significantly harm agricultural interests or the national food supply.

Policy EN16 (Contaminated Land) of the adopted Local Plan (2016) states that where it is anticipated that contamination may be present on or near to a development site, a contaminated land assessment will be required. The assessment must be agreed with the Council and must: a) Identify and characterise the contamination; b) Identify the risks; and c) Identify remediation and/or mitigation measures. Where identified as necessary, the agreed measures must be taken to remediate the site prior to or during the development. Development on or in close proximity to active or former waste sites will only be permitted where it can be demonstrated that there will be no harm to future occupiers of the site from leachate or landfill gas or other waste arisings.

The proposed development is sensitive to contamination but is situated on land not thought to have been subject to a potentially contaminating land use. It is not considered that the proposal would result in harm in relation to land contamination. Furthermore, land contamination was reviewed during the outline planning application which covers the site. The District Council's Land Contamination Officer raised no concerns with the proposal subject to an unexpected contamination condition.

L) DRAINAGE AND FLOOD RISK

Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the EDLP (2016) states that new development will not be permitted unless a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the development. Development where private sewage treatment systems are proposed will not be

permitted unless ground conditions are satisfactory, and the plot is of sufficient size to provide an adequate subsoil drainage system or an alternative treatment system.

Policy EN21 (River and Coastal Flooding) of the EDLP (2016) states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use will be permitted in areas subject to river and coastal flooding. Wherever possible, developments should be sited in Flood Zone 1. The policy sets out a sequential approach whereby if there is no reasonably available site in Flood Zone 1, only then will locating the development in Flood Zone 2 and Flood Zone 3 be considered.

Policy EN22 (Surface Run-Off Implications of New Development) of the adopted Local Plan (2016) states that planning permission for new development will require that:

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

Paragraph 168 of the NPPF (2023) states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The majority of the site is located within Flood Zone 1 where there is a very low risk of flooding however there are two areas of the site which are located in Flood Zone 2 and Flood Zone 2 and 3. These areas are in the north western corner (Flood Zone 2) and alongside the Gilbrook (River) (Flood Zone 2 and 3). As per the illustrative plans, no development is proposed within the flood zones.

In relation to surface water run-off, there is additional allowance of 45% additional capacity made for climate change and a Flood Risk Assessment (FRA) has been submitted as part of the application.

The applicant has proposed to manage surface water via attenuation tanks and an attenuation pond before discharging to the Gilbrook (River) located at north of the site. Storm water drainage would flow off site will discharge to the storm water sewer network. The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who initially objected to the application and requested further information. Following the submission of an amended surface water drainage strategy, DCC Flood Risk removed their objection and requested a further detail condition is attached to any approval. The condition would seek a detailed drainage design, management of the surface water drainage system as well as information on the existing surface water drainage systems. The proposal is considered to be acceptable at this stage in relation to surface water subject to conditions.

As part of the site is located within the Flood Zone, the Environment Agency (EA) were consulted on the application. The EA raised no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. The EA also

advised the LPA that the flood risk Sequential Test must be satisfied in accordance with the National Planning Policy Framework (NPPF) and the failure of the Sequential Test is sufficient justification to refuse a planning application.

The Flood Risk Assessment submitted by the applicant indicates that the site layout and levels and associated finished floor levels will be wholly in Flood Zone 1, therefore the Sequential Test is deemed to be met.

The *R (Mead and Redrow) v SoS LUHC [2024] EWHC 279* High Court judgement indicated that as parts of the site (albeit not parts intended to be built on) were within flood zones 2 and 3, a sequential test was required in relation to flood risk. This judgement indicates that for this application, a more detailed sequential test would be required to consider whether there are any sites where all development and associated open spaces and accesses lie wholly outside flood zones 2 and 3, rather than just the built development.

The reason for the sequential test is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding. There is some limited national guidance (NPPG) on what information is required to inform the Sequential Test.

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 NPPG does state that local factors can be considered when deciding the area of search to draw up. However, there is no up to date housing needs assessment identifying a specific need for the housing within Woodbury or any other factors that would limit the area of search to a smaller area, so for the purposes of this application the area of search is considered to be the district of East Devon.

An important factor to take into account is the current local plan review that is being undertaken by the Council, in particular its allocation of housing sites to meet the needs of the district to cover the plan period. A strategic review of available sites across the district has been undertaken and culminated in a Regulation 18 plan being consulted upon which included first and second choice housing sites together with a new community. Even if all proposed allocations are carried forward to Regulation 19 stage the amount of sites would fall short of the number of houses required to meet the needs of the district going forward. The draft local plan includes this application site as a proposed housing allocation. Given that there is only a finite amount of available housing land in sustainable locations in the district it is considered that the sequential test has been passed.

Where the sequential test has been passed paragraph 169 and 170 of the NPPF (2023) requires that the LPA undertakes an exceptions test, to pass the exception test it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) 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

In this instance the proposal would provide much needed open market and affordable housing where there is a district wide need, but more importantly it would be in a sustainable location where there is good access to a range of services including a convenience shop, doctors surgery, churches, village hall, primary school, hairdressers, playing fields and public houses together with convenient public transport links to further afield settlements. It would remain safe for the lifetime of its use given that none of the built form would be close to areas of flooding vulnerability and surface water run-off from the site would be controlled in an appropriate. As such it is considered that the exceptions test would be passed.

In relation to Fowl Sewage, the proposal would connect into the mains system. South West Water were consulted on the application and do not object to the principle of the proposed outline application subject to conditions. They requested conditions in relation to Surface Water Management and a Water Conservation Strategy. South West Water have also stated that whilst some improvement works have been completed at the Woodbury Waste Water Treatment Works (WWTW), the treatment works require further improvement works to increase the treatment capacity in the area subject to future strategic growth requirements. South West Water have recommended a condition requiring written confirmation prior to the occupation of any dwelling, from South West Water that improvement works at the WWTW have been completed. It is necessary to attach a Grampian condition to any approval as it is crucial that we have confidence that any upgrades to the sewage system are completed in full prior to occupation of any dwelling.

South West Water have also recognised a need to upgrade potable water which will be achieved through the reinforcement of the water mains network upstream of the village. It is necessary to attach a Grampian condition to any approval to ensure any upgrades are completed in full prior to occupation of any dwelling.

Therefore, that the proposal is considered to comply with Section 14 of the NPPF and Policies EN19, EN21 and EN22 of the adopted Local Plan.

M) NATURE CONSERVATION AND BIODIVERSITY

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (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 Local Plan (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 Local Plan (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 closest designated site is the East Devon Pebblebed Heaths SPA/SAC/SSSI, located about 1.8 km east of the site. The Exe Estuary SPA/SAC/RAMSAR is located around 2.8km from the site. There are also a number of non-statutory designated sites within 2 km of the site, the nearest being the Backhill County Wildlife Site (CWS) which is 1.9km from the site. Higher Mallocks Unconfirmed Wildlife Site (UWS) is 1.4km south east of the site and Rushmoor Wood Other Site of Wildlife Interest (OSWI) is 1.9km north east of the site.

The site is approximately 3ha in area and comprises an arable field, modified grassland margins bound by hedgerows and trees. An Ecological Impact Appraisal and Biodiversity Net Gain Report by Tyler Grange was submitted as part of the application with surveys undertaken between October 2022 and August 2023. The dormouse surveys were completed between April 2023 and October 2023.

Policy EN5 requires that where development is permitted on sites that are host to important wildlife habitats or features, mitigation will be required. In terms of protected species, mitigation is proposed for possible impacts on birds, bats, dormice and badgers to include:

Birds - The majority of existing breeding and foraging bird habitat on site is to be retained as part of the proposals. To compensate for any habitat losses that occur, the creation of new habitats will provide further enhancements for birds. All site clearance activities should be undertaken outside the nesting bird season. 30 Vivara Pro Build-in WoodStone Bird Box (or similar) will be provided on the new homes.

Bats - Two oak trees identified as having low bat roosting potential. These trees will be retained and buffered by the proposals. New hedgerow planting will create an overall gain in hedgerows across the site creating dark corridors. A sensitive lighting scheme will be implemented to avoid any lighting being directed at the habitats. 30 Vivara Pro Build-in WoodStone Bat Box (or similar) will be provided.

Dormice - The dormouse surveys started in April 2023 with checks completed monthly until November 2023 when evidence of dormouse was recorded. The majority of suitable dormouse habitat across the site will be retained by the proposals except for hedgerow removal for access. Prior to any potential dormouse habitat, being removed a Natural England European Protected Species Licence (EPSL) will be required. Two dormouse nest boxes will be provided for additional nesting opportunities. New suitable dormouse habitat will be provided across the site including native hedgerow and native scrub planting to create an overall gain in suitable habitat post development.

Badgers - No badger setts have been recorded within the site and no evidence of badger activity has been recorded during any surveys. Any trenches or deep pits will be covered or provided with a

means of escape. The provision of new hedgerow and wildflower grassland will provide continued opportunities for badger and overall, no impact to this species would occur.

Invertebrates - The majority of hedgerows are to be retained and any impacts to invertebrates will be minimal. Additionally new hedgerow, neutral grassland, tree, native shrub planting and the creation of the attenuation features will create an overall gain.

Amphibians - Small areas of potential terrestrial habitat is present within the site for amphibians but these are limited to the hedgerows. The proposals will include hedgerow and new areas which will provide new opportunities across the site for amphibians. Hibernacula and log piles will be provided.

Otter - No evidence of otter has been recorded during any of the site visits, although they could use this feature as a dispersal corridor. The enhancements proposed to the retained land adjacent to the watercourse such as wildflower planting will provide new habitats of importance for otter within the site post-development.

Reptiles - The majority of the hedgerows and grass margins will be retained and enhanced by the proposals creating new opportunities on the site for reptiles.

It is recognised that for Dormice, 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 is public interest as the proposal would bolster housing and affordable housing and there are social, economic and environmental benefits.

In considering whether there is a satisfactory alternative, it is noted that the hedgerow providing the dormice habitat is required to be lost to provide a safe and suitable access to the site where there are no other suitable alternatives. Other locations in the field could be used to provide access, but these would also require the removal of hedgerows.

To mitigate for the loss of habitats, significant additional (new) habitat is being created across the site to provide new and enhanced foraging opportunities. The full suite of mitigation measures would be secured via a condition. As part of the scheme a 10% Biodiversity net gain has been demonstrated which can support habitat creation for the protected species and therefore further secure their ecological status on the site.

With appropriate conditions to secure details of the mitigation, it is considered that the ecological status of the protected species can be maintained in a favourable condition. On this basis (and as wildlife moves around) further up to date protected species surveys at subsequent reserved matters

stages will also be required. These can be secured at the validation stage of such application using the validation checklist and there is no need for further conditions on this application.

Having regard to the above assessment, Officers consider that the three tests would be met, and that Natural England are likely to grant an EPS licence.

The District Council's Ecologist reviewed the application and stated that the proposed ecological avoidance, mitigation, and enhancement measures are generally considered acceptable subject to conditions. The District Council's Ecologist also requested that prior to determination the results of the dormouse nest tube survey are submitted to the LPA. The results were submitted on January 3rd, 2024, and the District Council's Ecologist stated that they have reviewed the dormouse survey and report which is suitable, and a European Protected Species Licence will be required for woody habitat removal, i.e., creating the site access.

The mitigation proposed as part of this application as well as a CEMP and LEMP will need to be secured and this can reasonably be achieved through a suitably worded condition in the form of the requirement for the approval of an Ecological Mitigation Strategy based on the proposed mitigation in the Environmental Report.

BIODIVERSITY NET GAIN (BNG)

As this application was submitted in October 2023, the legal requirements under the Environment Act 2021 do not apply to this application however the application is proposing a net gain which can be secured via a condition.

As part of this planning application, a Biodiversity Net Gain Assessment was submitted as part of the application and concluded that a 10% increase in habitat units and 16% increase in hedgerow units can be achieved using Metric 4.0. This would be through the enhancement of hedgerows, and planting of suitable species rich grassland and scrub/shrub areas within the landscape design.

Whilst the final landscaping scheme would be secured as part of a reserved matters application and the BNG needs to be secured via a condition and then be evidenced in the subsequent reserved matters, it is considered that the application site would result in a quantifiable BNG.

HABITAT MITIGATION

The site is located within 10km of the East Devon Pebblebed Heaths SAC and SPA together with the Exe Estuary SPA and Ramsar sites. During the operational phase, the development is likely to increase recreational pressures on these 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 would be secured through a S106, currently at £367.62 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.

N) PLANNING OBLIGATIONS

Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) states that the Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. The failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

As set out throughout this report, the following obligations are required for this development via a S106 legal agreement:

1. Habitat Mitigation Contribution of £367.62 per dwelling.
2. Delivery of 35% affordable housing comprising of Social Rent and Affordable Home Ownership. All of the affordable housing units will meet part M4(2).
3. 15% Off-site affordable housing contribution of £260,622.
4. Provision and maintenance/management arrangements for on-site communal open space.
5. Delivery of Children and Youth Play Provision including 1 x 100m² LAP (minimum of 3 pieces of equipment) and 1 x Activity Trail (minimum of 3 pieces of equipment).
6. Delivery and maintenance/management arrangements for 0.05ha of allotments and/or community garden/orchard.
7. S278 agreement for the delivery of off-site works highway works to Gilbrook Bridge and Pedestrian Crossing on Gilbrook (Road).
8. Contributions for a TRO to relocate 30mph signage on Gilbrook.
9. Delivery of pedestrian footpath connection to (i) PROW 3/Broadway and (ii) into Gilbrook Close.
10. Travel Plan.
11. Monitoring Fees.

The NHS were consulted on this application; however, no request for contributions have been received.

If this application were to be approved a S106 would be required which captured the above. However, if this application is refused the lack of a legal mechanism to secure these contributions should also form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets), Strategy 47 (Nature Conservation and Geology) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing Supplementary Planning Document (November 2020).

PLANNING BALANCE AND CONCLUSION

It is a requirement of planning law that planning decisions are determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The site is not allocated for development and is located in open countryside meaning that the proposal would be contrary to Strategy 1, 7 and 27 of the adopted Local Plan which sets the spatial strategy for development and seeks to restrict development in the countryside unless explicitly supported by other local or neighbourhood plan policies.

Whilst the site lies outside any Built-up Area Boundary (BUAB), it adjoins the village of Woodbury and would be within walking and cycling distance of day-to-day services, public transport links and community facilities. The proposal would therefore have some support from Strategy 3 of the

adopted Local Plan and the NPPF which supports sustainable development, and the development would appear to accord with the overarching principles of delivering sustainable development.

A material consideration in the decision of this application is the need to bolster housing supply especially affordable housing and the proposal would result in additional housing adjacent to Woodbury which should be given significant weight in the decision. 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.

The proposal would include 50% affordable housing (35% on site and 15% via an off-site contribution) which meets the requirements of Strategy 34 and should be given significant weight in the determination of this application.

The proposed development would result in less than substantial harm to Woodbury Conservation Area as well as limited harm to the setting of two listed buildings. This weighs negatively in the planning balance and must be outweighed by public benefit.

The proposal has been assessed in relation to design, highways, trees, ecology, contamination, sustainability and amenity and officers have concluded that the proposal would not result in significant harm. There are improvements to walking and cycling opportunities within the west of the village which is supported by DCC Highways. The proposal would also result in a Biodiversity Net Gain and the provision of public and play space exceeds the local plan requirement.

In relation to flood risk and drainage, the proposal has been reviewed by the EA, DCC LLFA and South West Water with no objections in principle raised subject to conditions including an occupancy restriction to enable required improvement works to take place at Woodbury Waste Water Treatment Works. The proposal is considered to have passed the sequential and exceptions test in relation to flood risk.

There is clearly a need to balance development within the countryside against the need for housing within the district. In this case, the proposal has some support from Strategy 3 and the principles of the NPPF and would benefit from day-to-day services within Woodbury. Furthermore, the need for housing, especially affordable housing is given weight in the decision-making process. The proposal would include economic benefits from construction to operation and benefits to local businesses and services as well as CIL. However, the site is not allocated for development and is contrary to Strategy 1, 7 and 27 of the Local Plan. This conflict is attributed significant weight given that this is one of the main objectives of the local plan.

In this instance and having regard to all planning issues, the proposed development is considered to represent sustainable development and given the need to bolster supply for the longer term, the proximity to Woodbury and level of affordable housing proposed, the material considerations would on balance justify a departure from the adopted Local Plan.

It is recommended that the application be approved subject to a S106 and conditions.

RECOMMENDATION

- a) ADOPT the Appropriate Assessment.
- b) APPROVE the application subject to a S106 and conditions:

1. Time Period for Submission

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the development comes forward in a timely manner).

2. Reserved Matters

Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for the development shall be obtained from the Local Planning Authority in writing before any development is commenced. Development shall be carried out in accordance with the approved details and any subsequent non-material amendments as shall be approved in writing by the Local Planning Authority.

(Reason - The application is in outline with one or more matters reserved.)

3. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.

(Reason - For the avoidance of doubt.)

4. Construction and Environment Management Plan (CEMP)

Prior to any works commencing on site, a Construction and Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented and remain in place throughout the construction period. The CEMP shall include at least the following matters:

- 1) Air Quality
- 2) Dust control
- 3) Lighting
- 4) Noise and vibration
- 5) Pollution Prevention and Control, including an emergency plan
- 6) Monitoring Arrangements
- 7) Site compound and parking - location and size
- 8) Construction traffic management
- 9) Waste Management
- 10) Airport safeguarding
- 11) A detailed soil resources management plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009.

Construction working shall not take place outside the hours of 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays, Christmas Day or Boxing Day. 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 nearby occupiers and to protect the ecology/protected species in the locality to accord with Policy EN14 (Control of Pollution) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031. The CEMP needs to be

approved and implemented prior to the start of development operations as risks to the environment, amenity and ecology will be present from this point.)

5. Construction Traffic Management Plan (CTMP)

No development shall take place until a detailed Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall detail:

- a) the timetable of the works;
- b) daily hours of construction;
- c) any road closure required (and a time table for this);
- d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6:00pm Mondays to Fridays Inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed in writing by the Local planning Authority in advance;
- e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- h) hours during which no construction traffic will be present at the site;
- i) the means of enclosure of the site during construction works; and
- j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- k) details of wheel washing facilities and obligations
- l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- m) Details of the amount and location of construction worker parking.
- n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

The development shall be carried out in accordance with the approved details and any subsequent amendments as shall be agreed in writing with the Local Planning Authority.

(Reason - This is pre-commencement to ensure that adequate measures are put in place to manage construction traffic during the development in accordance with Policy D1 (Design and Local Distinctiveness) and E14 (Control of Pollution in New Development) of the adopted East Devon Local Plan.)

6. Tree Protection Measures

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full tree survey based on BS5837:2012, including a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement for the protection of retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

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

7. Lighting Scheme

The development shall not be occupied until a Lighting Design including lux contours, based on the detailed site design, most recent guidelines (currently GN08/23 and DCC 2022), and the proposed lighting strategy has been submitted and approved in writing by the Local Planning Authority. The design should clearly demonstrate where dark corridors (<0.5 lux) are provided 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. Under no circumstances should any other external lighting be installed without prior consent from 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. Landscape and Ecological Management Plan (LEMP)

A Landscape and Ecological Management Plan (LEMP) for a minimum period of 30 years shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development based on the submitted Ecological Impact Assessment, supporting Biodiversity Net Gain Assessment (Tyler Grange, 2023) and comments made from the District Ecologist. It should include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, bee bricks, permeable fencing, and other features to be shown clearly on submitted plans.

The content of the LEMP shall also include the following:

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

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

(Reason - This is pre-commencement 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.)

9. Construction and Ecological Management Plan (CEcoMP)

No development shall take place (including ground works or vegetation clearance) until a Construction and Ecological Management Plan (CEcoMP) has been submitted to and approved in writing by the Local Planning Authority based on the details within the submitted EclA (Tyler Grange, 2023). 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 - This is pre-commencement to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

10. Flood Risk and Drainage

Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy (Report Ref. 1788-C300, Rev. C, dated 27th Sept. 2023)
- (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(c) 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 assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(d) The additional source control features should be proposed at the detailed design stage.

(e) The applicant should reconsider the site layout before finalising it to ensure they can accommodate above-ground features within the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above or in accordance with a timetable agreed with the Local Planning Authority.

(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.)

11. Surface Water Management

No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the surface water drainage systems operation;
- Details of the final drainage schemes including ground investigations and testing results, calculations and layout;
- Confirmation of the viability of, and secured arrangements for, discharging surface water to the watercourse, if a SuDS solution is demonstrably evidenced to be unviable as sole discharge method;
- A construction Surface Water Management Plan;
- A Construction Quality Control Plan;
- Confirmation of details pertaining to the intended maintenance/adoption arrangements of the final drainage scheme, including responsibilities for the drainage systems and overland flow routes. The plan must include a drawing which clearly delineates the management responsibility for each drainage element and schedule of maintenance; and
- A timetable of construction.

The developments shall be implemented in accordance with the approved details.

(Reason: This is pre-commencement to prevent the increased risk of flooding and minimise the risk of pollution of surface and ground waters by ensuring the provision of a satisfactory means of surface water control and disposal, and in accordance with the aims and intentions of national (PPG: 7-056-20220825), county (Sustainable Drainage System - Guidance for Devon, Paragraph 6.3) and local policy (Strategy 3 & EN22).)

12. Foul Water Management

No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of foul water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the foul water drainage systems operation;

- Confirmation from South West Water Ltd that they will accept the flows from the development into their network;
- Details of the final drainage scheme including estimated volume of waste water from the development at full occupation;
- A Construction Quality Control Plan;
- A timetable of construction;

The development shall be implemented in accordance with the approved details.

(Reason: This is pre-commencement to minimise the risk of pollution by ensuring the provision of a satisfactory means of foul water disposal and in accordance with policy EN19 of the East Devon Local Plan.)

13. Flood Risk Further Details

As part of the submission of the first reserved matters application for layout, the applicant shall submit a scheme which:

- Demonstrates that there shall be no built development (including private gardens, and other areas within residential curtilage) within 8 metres of the edge of flood zones 2 unless otherwise agreed in writing by the Environment Agency.
- Demonstrates that unfettered vehicular access to the public open space, river channel and floodplain corridor can be achieved,
- Confirms safe proposed finished floor levels,
- Demonstrates that ground levels within flood zone 2 as shown on plan ref.:C-GA-500 rev P3 shall remain unaltered during both any construction phase and for the lifetime of the development so as to retain the function of the flood corridor.

The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

(Reason - To reduce the risk of flooding to the proposed development and its future users.)

14. Details of Road, Services and Facilities

No development shall take place until the relevant details of the following works have been submitted to and approved by the Local Planning Authority:

- o Details of the proposed estate roads, footways, footpaths, junctions, street lighting, street name plates, sewers, drains, retaining walls, service routes, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture.

The required details shall be provided by way of plans and sections indicating as appropriate the design, layout, levels, gradients, materials and methods of construction.

The works shall thereafter be provided and retained in accordance with the approved details and any subsequent amendments as shall be approved in writing by the Local Planning Authority.

(Reason - This is pre-commencement to ensure adequate information is available for the proper consideration of the detailed proposals, the site is developed in a proper manner, adequate access and associated facilities are available for all traffic attracted to the site, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining and future residents, in accordance with Policy D1 (Design and Local

Distinctiveness) and Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

15. Written Scheme of Investigation

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.

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 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.)

16. Biodiversity Net Gain

No development shall commence until a Biodiversity Management Plan to ensure that there is a quantifiable net gain in biodiversity 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: This is prior to development commencing to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

17. Advance Planting

No development shall take place until a scheme of advance planting together with a timetable for its implementation has been submitted to and approved in writing by the Local planning Authority. Planting shall take place in accordance with the agreed details and timetable set out.

(Reason - Details are required prior to the commencement of development to allow planting in key areas to become established earlier and provide a greater contribution to the setting and landscape mitigation that is proposed within the application in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan.)

18. Treatment Works - Occupation Restriction

No dwelling hereby approved shall be occupied until written confirmation is received by the Local Planning Authority from South West Water confirming that the Woodbury Waste Water Treatment Works has adequate capacity to deal with the foul water from this development and that the water main network reinforcements to potable water supply upstream from Woodbury have been completed such that adequate supply of potable water will be available for the occupiers of the development unless alternative means of adequately dealing with foul drainage and potable water have been agreed in writing by the Local Planning Authority and implemented in full.

(Reason: To enable required improvement works to take place at Woodbury Waste Water Treatment Works to suitably receive and accommodate the increase in flows expected as a result of the proposed development in accordance with Policy EN18 (Maintenance of Water Quality and Quantity) and Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the East Devon Local Plan. Allowing flows above acceptable volumes from the occupation of dwellings prior to these works being completed would have unacceptable impact on existing infrastructure, with unacceptable risk of potential pollution events occurring.)

19. Ecological Mitigation

No dwelling shall be occupied until the Local Planning Authority has been provided with evidence, including photographs and completed toolbox talk sheets, that all ecological mitigation and enhancement features, including bat boxes, bird boxes (at least 1 per dwelling), and other features have been installed/constructed on that dwelling, and compliance with any protected species licences, and ecological method statements detailed 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.)

20. Unexpected Contamination

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or the development, the Local Planning Authority shall 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 in accordance with Policy EN16 (Contaminated Land) of the East Devon Local Plan 2013 to 2031 and with the National Planning Policy Framework.)

21. Landscaping Replacement

The landscaping works approved as part of the reserved matters application(s) or as part of an advance planting scheme shall be undertaken in accordance with the approved scheme within 12 months of completion of development or during the next planting season following completion whichever is the sooner unless an alternative timetable for delivery has been agreed by the local planning authority.

If within a period of 10 years from the date planted any tree, plant, grass area or shrub dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with other(s) of similar size and species by the developer.

If within a period of 10 years of the commencement of development, any part of any retained/translocated hedgerow dies or becomes diseased, it shall be replaced by the developer before the end of the next available planting season in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

(Reason - In the interests of enhancing and preserving the amenity of the area in accordance with Policy D2 (Landscape Requirements) of the East Devon Local Plan.)

22. Waste Audit Statement

All reserved matters applications shall be accompanied by Waste Audit Statement to ensure that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance.

Development must be undertaken in accordance with the agreed details.

(Reason: To ensure waste generated by the construction and operational phases is in accordance with Policy W4 of the Devon Waste Plan which requires major development proposals to be accompanied by a Waste Audit Statement.)

23. Energy and Sustainability Statement

The development shall be undertaken in accordance with the Energy and Sustainability Statement by AES Sustainability Consultants Ltd dated August 2023. Details of renewable energy shall be submitted to and approved in writing with the Local Planning Authority as part of any reserved matters application for dwellings. The development must be undertaken in accordance with the agreed details and no dwelling shall be occupied until the agreed renewable energy technologies have been installed/constructed on that dwelling.

(Reason: To ensure that the development contributes to mitigating and adapting to climate change and to meeting targets to reduce carbon emissions in accordance with Strategy 38 (Sustainable Design and Construction) of the East Devon Local Plan 2013- 2031).

24. Pedestrian Footpath and Bridge

The reserved matters application for layout shall include details of :

- (i) a pedestrian link to the east of the site, including a bridge over the brook, to connect the site to Broadway; and
- (ii) a pedestrian link from the north of the site into Gilbrook Close

The details shall include the design of the bridge, lighting, and surface materials. The footpath(s) and bridge shall be provided in accordance with the approved details.

Reason – To promote active modes of travel and to ensure the development is permeable to ensure assimilation into the village as a whole. To reduce car dependency for travel within and outside of the development in accordance with Policy TC4 (Footpaths, Bridleways and Cycleways) and Policy TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Informative:

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. Having regard to the three tests, the LPA considers that the three tests would not be met and that Natural England are unlikely to grant an EPS licence.

Informative - 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 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 - Flood Risk Activity Permit:

We take this opportunity to inform all parties that the watercourse at this location is designated as a 'Main' river. as a such the Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

Plans relating to this application:

226836/PD03 D : proposed site access	Other Plans	11.10.23
226836/PD04 C : proposed offsite footway scheme	Other Plans	11.10.23
226836/PD05 D : proposed northern pedestrian access	Other Plans	11.10.23
220404 L 01 01	Location Plan	11.10.23

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.

APPENDIX 1 - Technical Consultation Responses in full.

County Highway Authority - 15/12/23

I have reviewed the planning application documents and visited the site.

This application is for outline only therefore I will reserve judgement upon the internal layout.

However in terms of access, the proposed access provides a visibility splay which accords to our current best practice guidance, Manual for Streets 1 and 2 of 2.4m by a tailored visibility splay in reference to a weeks speed survey from the applicant which accords to 23m southbound and 43m northbound, this has been verified by the County Highway Authorities (CHA) own speed survey. A 2m footway into the site will also be provided.

A proposed offsite footway project will improve pedestrian access over Gilbrook Bridge. We have made discussions with the applicant party in regards to a separate dedicated pedestrian bridge, however due to the listed status of the curtilage of Gilbrook House, ownership issues regarding the landing foundations of any subsequent structure and the conservation status of this area, this has been ruled out.

However the existing proposal of the bridge includes a raised footway proposed with a full height kerb to help mitigate against striking, as well as a proposed raised Parapet height for safety purposes, discussions with the Environment Agency may be needed to establish the type of parapet extension, an open type nature may be required for flood control purposes.

I am satisfied that the bridge currently works well with an in-formal priority flow situation for vehicle passing as well as acting as a speed calming feature, which will be further strengthened with the adjacent footway proposal.

There is a further betterment proposed with a tactile crossing upon the access and short footway length currently missing from the Venmoor Road, allowing a safer pedestrian passage for pedestrians south of the proposed access. We are satisfied that the access location does allow sufficient visibility upon passing the Venmoor bend, however we have passed on the message from the Parish of the desire to relocate this slightly north.

Though this development would increase the trip generation upon Venmoor Road, I believe the pedestrian and bridge works proposed would provide a safety betterment, furthermore should this application be approved, we would recommend that in detailed design a Travel Plan be secured to help mitigate trip generation through measures such as sustainable travel information, travel vouchers and car sharing. This can be further strengthened should the application be approved with secure cycle storage to encourage sustainable travel and help mitigate against shorter vehicular trip generation to the services and facilities of Woodbury.

Additionally, due to the locality of the site, I believe a comprehensive Construction and Environment Management Plan (CEMP) will help mitigate against construction impact on the local highway network through measures such as 'just in time deliveries', wheel washing, contractor and employee car sharing and routeing plans.

Addendum 15/12/2023

The final infrastructure layout for the Arch is to be discussed with the County Highway Authority (CHA) as part of a collective aspiration to improve the Arch area under a separate legal agreement.

Recommendation: THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

National Highways - 21/11/23

Referring to the notification of an Outline application referenced above (all matters reserved except access), for the construction of up to 60 dwellings including affordable housing, new vehicular access and pedestrian access, at land south of Gilbrook House, Woodbury, Devon, notice is hereby given that National Highways' formal recommendation is that we:

a) offer no objection (see reasons at Annex A);

Statement of Reasons

The application seeks outline permission (all matters reserved except access), for the construction of up to 60 dwellings including affordable housing, new vehicular access and pedestrian access, at land south of Gilbrook House, Woodbury, Devon. The 3.02ha site is located approximately 6km south east of M5 Junction 30.

The application is supported by a Transport Statement (TS) dated September 2023 prepared by Vectos.

Impact on Strategic Road Network

Traffic Impact

The TS derives trip rates from the industry standard TRICS database. Based on these rates the development is forecast to generate in the region of 30 two-way trips in both the AM (0800-0900) and PM (1700-1800) network peak hours, or one additional two-way trip every two minutes. Whilst National Highways considers the presented trip rates to be low based on the limited facilities and amenities surrounding the site, based on the scale of development this is not considered likely to result in a material difference to the forecast overall traffic generation.

Based on this and proximity of the site from our network we are satisfied the traffic impact associated with the development is unlikely to result in an adverse impact on the safe operation of the strategic road network.

Recommendation

National Highways has no objection to application 23/2155/MOUT.

Historic England - 28/11/23

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

Conservation - 28/11/23

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

Gilbrook House: Listed Grade II

Higher Venmore Farm: Listed Grade II

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

Heritage assets & Setting: the development site comprises an area of land to the south west of the village and is a relatively level agricultural field adjoining the south western edge of the village. The site is surrounded by hedgerows with some mature trees. There are existing dwellings to the north and west of the site.

The site does not fall within the Woodbury Conservation Area, however, the boundary runs alongside the site's northern edge, where it abuts the grade II listed Gilbrook House and adjoining buildings. There are no listed buildings or structures within the site. There are several listed buildings, within 0.5km of the site. The most notable buildings, in close proximity to the site are:

- o Higher Venmoor Farmhouse and the attached barn (grade II listed), is approximately 20m to the south west of the site, across from the site's existing access gateway.

- o Gilbrook House and adjoining buildings (grade II listed), adjoins the curtilage of the site's northern boundary.

The Conservation Area, like the village is irregular in shape. The pattern of development appears ancient and is pleasingly informal on a gentle mainly south facing slope. Woodbury Common is a large area of heath and pines on a ridge some two miles to the east and the iron age earthwork of Woodbury Castle at one of the highest points overlooks the village. 2.2 The fine 15th century red sandstone tower of St Swithun's parish church is a dominant landmark both from within the village and from certain vantage points in the surrounding mainly pastoral countryside. It should be noted that that the Church tower can be seen from within the site.

Surrounded by open countryside, Woodbury benefits from its landscaped setting with much of its later infill bearing little relation to the overall historic or architectural context.

The Proposed development: the proposed scheme will comprise an outline application for residential development of up to approximately 60 dwellings with access gained from Gilbrook Road to the west, and with the associated roads, landscaping and attenuation pond. A potential additional access point will be created via Gilbrook Close to the north. Since this is an outline application any assessment can only be generalised.

The potential harm to the heritage asset (conservation area) and identified setting as a result of the proposed development works, has been balanced against paras. 202 and 206 of the NPPF23 and the New East Devon Local Plan (2013-2031), as discussed in the assessment of harm below.

Assessment: as previously mentioned the two main listed buildings adjacent to the site are Higher Venmore Farm and Gilbrook House. The former is associated mainly with the farm group and the buildings clustered on the bend of the road at the junction. Views into the site are currently through the field entrance, but the site itself is well screened by mature hedging and vegetation. Gilbrook House is much closer to the western part of the site and new development in Gilbrook Close is noted. There is also an area of mature trees and vegetation to the east of the House which partially screens any inter-visibility. The impact on the setting of the listed buildings is therefore considered to be minimal.

However, the wider setting of the Woodbury Conservation Area and how it is experienced will be affected. Woodbury as a village represents a small community in a rural area, with open countryside surrounding the boundaries of the built form providing the rural context in which it is experienced. Historically the site has been orchards, still showing on the 1947 aerial photograph and the historic OS maps until the early 1950's and is now an open field. Although bounded by mature hedging there are likely to be glimpses of the new development, particularly at its access point onto the highway. This change to the physical environment will completely alter the approach into Woodbury from the south/south west intensifying the built up area outside the village envelope.

Whilst some development has been considered acceptable within Woodbury, the current application is for a significant amount of development, which would result in the erosion of the rural approach as experienced travelling towards Woodbury and the increase in density of the urban grain in this part of the village. Both aspects would result in an adverse impact on the setting and the contribution this makes to the significance of the conservation area resulting in less than substantial harm without any public heritage benefit.

In terms of the indicative site layout, this is very regimented and suburban. In terms of urban grain or the layout of buildings within the conservation area, which gives it, its unique character, there is a general pattern of historic development associated with ancient burgage plots. The value of Woodbury's built character is noted in the Character Appraisal where it states that 'Development that follows suburban layouts or does not appear coherent with the urban grain of the conservation area should be strongly resisted'.

In summary, the principal of development to the proposed scale would result in some visual harm to the setting of the conservation area and how this is experienced, failing to preserve, enhance or better reveal the significance of the conservation area as a heritage asset resulting in less than substantial harm with no heritage public benefits. As such it fails to satisfy paras. 202 and 206 of the NPPF23 and the New East Devon Local Plan (2013-2031).

PROVISIONAL RECOMMENDATION - PROPOSAL UNACCEPTABLE

REASONS FOR REFUSAL: as above

Officer Note: The assessment by the conservation officer has only looked at public benefit in the context of heritage matters leaving the overall public benefit of the scheme to be weighed in the planning balance by the planning officer. Paragraph numbers relate to the NPPF published in September 2023 and these have been updated to paragraphs 206 and 208 of the December 2023 NPPF.

DCC Historic Environment Officer - 20/10/23

While the geophysical survey did not identify any archaeological features that are indicative of widespread archaeological features across the development site it has identified two anomalies that may be indicative of archaeological features (anomaly group 1 and 2). Similar features identified elsewhere in the county have been shown to be associated with prehistoric or Romano-British activities such as settlement and land division. As such, groundworks for the construction of the proposed development will impact upon these potential heritage assets and, as such, the Historic Environment Team would advise that 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 (2023) 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.

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to investigate anomalies 1 and 2 as identified in the geophysical survey to determine their significance as heritage assets with archaeological interest. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented in advance of construction works. This archaeological mitigation work may take the form of limited 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/>.

EDDC District Ecologist – 18/01/2024

I have reviewed the dormouse survey and report which is fine. A European protected species licence will be required for woody habitat removal, i.e., creating the site access.

I have no update to my previous comments/recommended conditions, e.g., as this would pick up issues regarding dormice.

EDDC District Ecologist - 04/12/23

1. Introduction

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

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

2. Review of submitted details

1.1. Ecological Impact Assessment (EcIA)

The application is supported by an Ecological Impact Assessment (EcIA) which includes details of additional ecological surveys for badgers, bats, and partially completed dormouse survey. It also includes a biodiversity net gain assessment undertaken using the biodiversity metric 4.0.

Surveys have been undertaken in accordance with published survey guidelines within the last 12 months with any survey limitations explained. Therefore, the ecological survey work is considered suitable to support the planning submission.

1.2. Ecological receptors

The surveys have demonstrated that the site is used by foraging and commuting bats, including Annex II greater horseshoe and lesser horseshoe (in low numbers). There is a record of a brown long-eared bat roost adjacent to the site. Recent information from the Devon Bat Group also includes the presence of a grey long-eared bat roost within c. 100 m of the site, so the occasional presence of grey long-eared and brown long-eared bats cannot be discounted, likely to be associated with foraging and commuting along hedges and the riparian corridor.

Based on the assemblage of bat species found/likely assumed on the site, the site would be valued between of County1 and Regional importance, with hedges and the riparian corridor of highest value to bats.

The site is located partially within a 2 km cirl bunting consultation zone boundary. The report largely scopes out the potential presence of cirl buntings, based on the site being managed as grassland over the winter. The EcIA description of hedgerows H1 and H2 (southern boundary) appear to provide suitable habitat for cirl bunting, consisting of dense hedges dominated by hawthorn and blackthorn. The landscape to the south and west comprises of a mix of agricultural/arable landscape but no consideration of the nearby off-site habitats is provided and potential for the southern hedge to support cirl buntings.

The report also considered that the site is of negligible value to nesting birds and no breeding bird survey was undertaken. Farmland bird species have suffered significant decline² recently and other Priority Species³ and Red⁴ and Amber listed bird species have been recorded nearby where breeding bird surveys have been undertaken. Therefore, the value of the site, especially regarding hedges, is considered of more than of negligible value for nesting birds.

A dormouse nest tube survey is ongoing. It is known that the dormice are present within 100 m to the east of the site. Therefore, presence is considered likely.

1.3. Ecological impacts

The development would result in the loss of approximately 2.75 ha of arable field, 0.22 ha of modified grassland and small loss of hedgerow, considered to result in a minor adverse impact on a local scale.

There are no predicted impacts on any designated sites for wildlife interest other than an increase in recreational disturbance to the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas (SPA's).

Measures are proposed including supervised habitat removal by an Ecological Clerk of Works (ECoW), creation of new habitats including species-rich grassland, sustainable urban draining feature, new hedgerows, and trees. Measures also propose bat and bird boxes, a sensitive lighting strategy, and implementation of a Landscape and Ecological Management Plan (LEMP) and Construction and Environmental Management Plan (CEMP).

I would also recommend that the site includes permeable garden fencing and insect bricks (one per dwelling). Bird boxes should be provided at a ratio of one per dwelling.

The headline results from the BNG calculation based on the outline landscape plan indicates that it is possible to achieve a gain of 0.95 habitat units (+10.42%) and gain of 1.10 hedgerow units (+16.44%) using the Biodiversity Metric 4.0.

Assuming appropriate mitigation and enhancement measures are implemented, there are no predicted significant impacts or effects on any designated sites, habitats, protected or notable species.

3. Conclusions and recommendations

1.4. Acceptability of the proposals

The proposed ecological avoidance, mitigation, and enhancement measures are generally considered acceptable notwithstanding the above comments and assuming the following conditions are imposed and the successful implementation of the mitigation and enhancement measures.

Prior to determination the results of the dormouse nest tube survey must be submitted. The presence or otherwise of a protected species is a material consideration and a decision should not be made until all surveys are completed.

Police Architectural Liaison Officer - Kris Calderhead - 31/10/23

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 embedded designing out crime principles into its design and thus considered both local and national guidance relating to safety and security.

- 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. Should the rear boundaries of plots abut public space they should be afforded a buffer to prevent easy access.
 - 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 apartment blocks 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, parking areas and the community square 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.
- o The Play Area should be well overlooked and afforded an appropriate boundary treatment to prevent vehicle access.

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

Environment Agency - 07/11/23

We have no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. Suggested wording for the recommended condition, the reason for our position and other related advice is provided below.

Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application. Further advice on the application of the sequential test is provided at the end of this letter.

The site is located partially in flood zones 2 and 3 which Environment Agency flood maps indicate as having a medium to high probability of flooding respectively. These flood zones are associated with the main river 'Woodbury Brook' to the north and east of the site. In broadest terms, we are confident that the information submitted within this application demonstrates that the proposal reflects the overriding aims of the National Planning Policy Framework. This is because the applicant appears to have taken a sequential approach to the siting of the built development. However, we appreciate that this application is at outline stage and that despite the submission of an indicative masterplan, the layout of the proposal is a reserved matter. It is therefore important

that certain flood risk principles are established at this stage to inform any detailed design forthcoming in a reserved matters application.

Specifically, it is essential that unfettered vehicular access is provided to reach the area of public open space bordering Gilbrook as shown on the Illustrative masterplan to allow for future flood risk management, including the ability to carry out riparian maintenance. Failure to do so risks an increase in flood risks occurring. Similarly, building on the footprint shown within the submission risks encroachment into flood zone 2 and 3 especially when taking climate change into account. Any future applications should reflect this. We are confident that the details regarding layout, and issues regarding site levels, finished floor levels can be addressed at reserved matters subject to there being no departure from the above principles. We have therefore recommended the above condition which requires the submission of specific details no later than the first reserved matters stage.

We add that should the applicant seek to approach the development in phases, we would be open to discussing a different trigger for the condition.

DCC Flood Risk SuDS Consultation - 17/01/24

Observations:

Following my previous consultation response (FRM/ED/2166/2023; dated 6th June 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant should proposed tree pits, rain gardens and other source control features at detailed design stage.

Any temporary or permanent works that need to take place within the main watercourse to facilitate the proposed development (such as an access culvert or bridge), the applicant need to apply for consent from the Environment Agency or Devon County Council.

DCC Flood Risk SuDS Consultation - 06/11/23

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

Observations:

The applicant has submitted the Flood Risk Assessment And Outline Drainage Strategy (Report Ref. 1788-C300, Rev. C, dated 27th September 2023) to demonstrate the surface water management for the site.

The north eastern area of the proposed site falls within Flood 2 & 3. No development was proposed within the floodplain area.

The applicant has proposed to manage surface water via attenuation tanks and an attenuation pond before discharging to the Gilbrook (River) located at north of the site.

The applicant has split the site into two catchments: the proposed western catchment covers 0.571ha with a discharge rate of 3.7l/s, and the proposed eastern catchment covers 0.687ha with a discharge rate of 4.4 l/s. Therefore, the total discharge rate is 8.1l/s. The applicant should also note

that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond).

Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

The applicant should reconsider the site layout before finalising it to ensure they can accommodate above-ground features within the site as the current proposed drainage layout incorporating various underground tanks and only a small area is allocated for the attenuation pond.

The applicant should clarify where the outfall on the west side of the site will be connected to. The capacity of the downstream culvert (if any) shall be assessed in a later stage of the study.

The applicant also need to clarify whether there is a ditch within the development site and how close the attenuation pond is to this ditch.

There are some inconsistencies between the configuration of the Attenuation Pond shown in the Drainage Strategy Drawing (Drawing No. S-GA-100, Rev. P6, dated 28th September 2023) and the model output results.

Any temporary or permanent works that need to take place within the main watercourse to facilitate the proposed development (such as an access culvert or bridge), the applicant need to apply for consent from the Environment Agency or Devon County Council.

South West Water – 24/09/2024

Woodbury

The replies for the sites are the same in each case which reflects that position that any development of more than 10 dwellings in the area will require reinforcement of both the potable water and foul water networks. Therefore, the upgrades detailed below will require to be completed, and operational, before the occupation of the properties commences.

SWWL would request that a suitable condition is placed upon all the sites to allow us sufficient time to undertake these works before occupation of the properties. It should be noted that once the works have been completed, based upon the trigger of the first site receiving planning permission, we will be able to discharge the condition for each of the other sites.

SWWL has, in previous planning responses, highlighted the need for investment at the Wastewater Treatment Works (WWTW) and I am pleased to confirm that this work has been completed with SWWL now monitoring ongoing performance at the WWTW.

This investment will allow the sites listed in this response to be connected, once the network investment has been completed, but we maintain a focus upon the need to increase treatment capacity in the area subject to future strategic growth requirements. We will continue to liaise with East Devon DC to understand your future growth strategies.

In summary the following networks improvements are required: -

a. Potable water supplies – to support the developments listed there are network improvements required to upgrade the water main upstream of the village. This investment will take 18 months to complete. This timescale will commence once the first of the three sites receives outline planning permission.

b. Foul water discharge – to enable the foul flows from these sites to be connected to the public sewerage network there is the need to separate surface water from the existing system to create capacity for these sites. This investment will take 18 months to complete. This timescale will commence once the first of the three sites receives outline planning permission.

c. No surface water from these sites will be permitted to drain into the public combined sewer network and therefore the developers must follow the surface water drainage hierarchy.

23/2166/MOUT – Gilbrook House, Woodbury

Further to our previous response of 19th December 2023, South West Water Limited make the following updated response to this application.

Potable Water Supply - A developer evaluation has highlighted the need for network reinforcement to supply this site. This will be achieved through the reinforcement of the water mains network upstream of the village. The scale of the scheme will depend on other growth in the village. The work will take 18 months to complete from receipt of outline planning permission.

Foul Water Flows - There is no change to our approach for this site. We have carried out a developer evaluation and we will deliver a scheme to negate the impact of the growth on the storm overflows in the village. This will likely be done through a Surface Water Separation scheme or another solution which achieves the necessary outputs. The work will take a 18 months to complete from receipt of outline planning permission.

SWWL previous comments highlighted investment that was needed at the WWTW. This has now been completed and we are monitoring performance at the WWTW as we maintain a focus upon the potential of future strategic growth that EDDC may want to promote. Consequently, we would request the following draft conditions for potable and foul water connections - The occupation of any dwellings approved by this permission shall not be authorised until written confirmation is received by the Local Planning Authority from SWWL that improvement works have been completed, or 18 months from receiving outline planning permission, whichever is sooner. SWWL has requested a similar condition on other sites in Woodbury and the first site to get planning permission will trigger the need.

SWWL requests for the other conditions requested on this site remain unchanged. The potable water supply condition is supported by the joint statement produced by SWWL and the EA.

South West Water - 04/12/23

South West Water Limited [SWWL] comment on the above application in their function acting as Statutory Water and Sewerage Undertaker for East Devon. SWWL have a duty under the Water Industry Act to protect statutory assets to provide water and sewerage services, as well as upgrade and improve infrastructure to accommodate development, where suitable. Once a proposal is given planning approval, the Duty to Connect - as described within the Water Industry Act - activates and SWWL are under obligation to provide a public connection, unless specific circumstances deem otherwise. SWWL does not object to the principle of the proposed Outline application; however, if the Local Planning Authority is minded to approve the application, SWWL request suitable conditions are attached, as suggested below.

Surface Water Flows

It should be noted that our comments refer to SWW duty to accept surface water which covers domestic run off only. It does not cover any Highway drainage. It is noted that the applicant has stated within their Application Form that surface water flows are intended for disposal via Sustainable Drainage Systems, with an attenuation pond shown on the submitted Illustrative Masterplan. The use of SuDS is in line with the established surface water disposal hierarchy, as described in Planning Practice Guidance (Flood risk and coastal change, paragraph 56, ref id: 7-

056-20220825). The submitted Drainage Strategy (Drawing no. S-GA-100 Rev: P6) states, in addition to the illustrative attenuation pond, proposals for multiple discharges to the watercourse as an overflow from the attenuation pond and from a combination of attenuation tanks. The watercourse runs adjacent to the north and east site boundaries.

SWWL endorses strict adherence to the surface water disposal hierarchy. If the viability of a SuDS solution for surface water disposal is found at a future date to be unviable, then robust evidence must be submitted to justify moving down the hierarchy; in line with Devon County Council guidance (Para 6.3, Sustainable Drainage System - Guidance for Devon - Flood Risk Management). The disposal method described above crosses over method 1 and 2 of the Disposal Hierarchy.

SWWL have committed to reducing the use of Combined Sewer Overflows [CSO], also known as Storm Overflows, to an average of 20 per year by 2025 across our operational area. Central Government has also recently published their Storm Overflows Discharge Reduction Plan (September 2023), which further states that by 2050 'no storm overflows will be permitted to operate outside of unusually heavy rainfall or to cause any adverse ecological harm' (page 11). SWWL have planned works to reduce flows into the combined sewer system and reducing spills from all CSOs; in line with national commitments. These works include using the ongoing Waterfit Programme, to provide mitigation to existing conditions through Surface Water Infiltration Removal, and the Surface Water Separation project planned to be undertaken during 2025 to 2030.

To secure our commitments and regulatory targets, as well as to avoid adding stresses on the Combined Sewer Overflow [CSO] at Hams Drive, a Combined Sewer connection will not be supported or accepted. Allowing additional connections into the combined sewer network will negatively impact the planned works noted above. As such, a combined sewer network connection will not be accepted by SWWL, unless as an absolute last resort. No highway drainage will be allowed to connect to the combined sewer.

In the event the LPA is minded to approve, SWWL would suggest the inclusion of a condition securing the required evidenced justification for any subsequent Reserved Matters application demonstrating why disposal cannot viably be achieved via solely SuDS. Draft wording of a supported condition is set out below

Foul Water Flows

It is noted that the applicant has stated within their Application Form that foul water flows are intended for disposal via mains sewer. In principle, SWWL does not currently hold any objection to foul water disposal through a connection to a public Foul Sewer; however, the Woodbury Waste Water Treatment Works [WWTW] requires improvement works and amendments to existing permits prior to accepting an increase in flows. The required improvements at the WWTW, to enable further development to be supported, can only begin in the Spring as dry weather conditions are required. SWWL believe a Grampian condition is required to restrict occupation until the required improvement works have been completed and a permit variation has been approved by the Environment Agency.

SWW can confirm that a 150mm Foul Sewer is located to the north west of the site boundary within Gilbrook road. This sewer is acceptable to receive foul flows in the event the site is developed for the proposed use.

To fully assess the potential impacts on SWWL infrastructure posed by the proposed development, SWWL request the following information is submitted within a subsequent

Potable Water Supply

It is anticipated that suitable provision can be made within the existing network for the supply of potable water to the proposed development. The applicant is strongly advised to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by adopted planning policy Strategy 3 and 38. The current average water use in the UK is approx.

142 litres/person/day [l/p/d] (Water UK, 2020), with the South West experiencing a higher-than-average consumption rate than the rest of England. With climate change progressing with trends set to add further stress upon available water resources, SWWL would support the LPA imposing a condition requiring the optional Building Regulations requirement (G2) of 110 l/p/d for the proposed residential development. Draft wording of a condition securing the G2 optional requirement is set out below:

Contaminated Land Officer - 01/11/23

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.

Environmental Health - 01/11/23

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

Housing Strategy/Enabling Officer - Cassandra Harrison – 19/12/23

I would support this application if they changed the percentage of Affordable Housing to 35%. The rented units would need to be Social Rent tenure as that is more affordable to households in East Devon.

Housing Strategy/Enabling Officer - Cassandra Harrison - 27/10/23

Percentage of Affordable Housing - Strategy 34 in the adopted East Devon Local Plan 2013 - 2031 requires 50% affordable housing. This application is only offering 25% affordable which is not policy compliant. They have not submitted a viability appraisal to state why they are only offering 25% affordable housing, so I object to this application.

Devon is experiencing a housing crisis. The Council has over 5000 households on our housing register, Devon Home Choice. The East Devon Local Housing Needs Assessment dated September 2022 projects future arising housing need at 1789 households from 2020 - 2040. Therefore, current and future affordable housing need in the district is acute and we need to ensure planning applications for new homes meet the policy requirements.

EDDC Trees - 05/12/23

In principle I have no objection to the development of the site based on a full arboricultural survey. An initial tree constraints survey has identified a number of large important trees including a number of veterans or trees with associated veteran features. The trees on site have recently been protected by a tree preservation order. These need particular consideration to how they can be

successfully incorporated into any design which ensures there long-term retention. It is noted that the masterplan suggests a play area to the north of T7; a play area would need to be a good distance from the trees so that no unnecessary targets are created or risk of long-term compaction of the soil. The plan suggests a reasonable buffer zone around the northern and eastern boundaries; it is suggested that this principle should be followed along the southern boundary. A section of hedge along the western boundary will be required to be removed for highway access though it is considered that there is sufficient space for appropriate mitigation planting. Consideration also needs to be given to any future shading of gardens / properties, appropriate long-term replacement planting and future management of trees and hedges around the boundaries of the site.

Therefore based on the above comments, in principle I would have no objection to the proposal but recommend the following condition be put in place to ensure the retained trees are afforded protection during construction.

EDDC Landscape Architect - 21/12/23

1 INTRODUCTION

This report forms the EDDCs landscape response to the outline application 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.

The site is situated to the southwestern edge of the existing settlement. It is relatively low lying, level and generally well screened. There are no landscape designations covering the site or its immediate environs. The East Devon AONB is situated 1.3km to the east.

The site is a preferred housing allocation within the draft new Local Plan.

2 REVIEW OF SUBMITTED INFORMATION

2.1 Landscape and visual impact

The application site is considered appropriate in principle for housing development and the findings of the submitted Landscape and Visual Impact Assessment are broadly accepted.

2.2 Layout and access

Proposals for vehicular access utilise the existing field entrance and are considered acceptable in terms of landscape impact. The site layout allows for a pedestrian access to the north to link into Gilbrook Close. A further pedestrian access should be provided from the southeastern corner of the site to connect via a bridge crossing with Woodbury footpath 3.

While only indicative, the site layout shown on the illustrative masterplan is acceptable in principle but is very geometric in form which is somewhat at odds with the pattern and grain of development within the existing settlement. In places the built development footprint appears to impinge on boundary hedgebanks and the layout should be adjusted to ensure a suitable undeveloped margin is maintained around the site perimeter.

3 CONCLUSION AND RECOMMENDATIONS

3.1 Acceptability of proposals

The submitted details are considered acceptable in terms of landscape and visual impact.

Natural England - 30/01/2024

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 Exe Estuary Special Area of Conservation (SAC); East Devon Pebblebed Heaths Special Area of Conservation (SAC); and East Devon Heaths Special Protection Area (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.

Natural England- 08/11/23

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

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.

FURTHER INFORMATION REGARDING RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

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

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

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will (in our view) be sufficiently certain and effective in preventing adverse impacts on the integrity of those European Site(s) within the ZOI from the recreational impacts associated with such development.

However, following the People Over Wind ruling by the European Court of Justice, mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment. In the light of this, these measures should be formally checked and confirmed by your authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

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

Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

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

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Economic Development Officer - 03/11/23

ECONOMIC DEVELOPMENT TEAM – JOINT PLANNING RESPONSE FOR 23/2166/MOUT & 22/2838/MOUT

Recommendation: Object

Introduction

The two applications propose the development of a combined 130 residential dwellings in Woodbury. As both sites have been identified as preferred areas for future mixed-use development in the emerging Local Plan, a combined response to these applications has been put forward.

Site Allocations

The Emerging Local Plan allocates both of these sites for housing and employment uses, specifying the following:

- Wood_10 - Land at Gilbrook (23/2166/MOUT) is allocated for around 60 dwellings and 0.24 hectares of employment land.
 - Wood_16 - Land south of Broadway (22/2838/MOUT) is allocated for around 67 dwellings and 0.27 hectares of employment land.
- (East Devon Local Plan 2020 to 2040, Autumn 2022 Draft Plan, p.86)

The Economic Development team are compelled to highlight a fundamental shortcoming of the planning applications submitted, in that only housing is being proposed and no land has been designated to meet the evidenced need for additional employment land in the local area. If both of these sites are approved for housing as proposed, without the required employment, we will be facilitating a net loss of 0.52ha employment land currently allocated in the emerging Local Plan.

Employment Land Supply and Demand

East Devon is experiencing a serious and protracted market failure in the supply of available employment land and commercial premises across the district. This is constraining inward investment, local business growth and forcing some employers to have to leave the district.

The East Devon Local Economic Review (LER, Sept 2023) was endorsed by Cabinet on the 10 October 2023 and circulated to all members on the 23 October 2023. This work provides an overview of workspace supply and demand based on data provided by commercial agents and specialist consultants. The evidence shows that unmet demand as of November 2022 for employment space stood at 50.8ha, whilst available supply stood at just 1.7ha. This demonstrates a striking lack of available supply to meet existing demand undermining the supply of local employment and economic activity.

The LER also includes figures for the additional demand of employment space expected between 2019 and 2040. These forecasts suggest an additional 79ha of employment land is required to meet future need. These figures include 10ha of demand for logistics space and factor in the reduced demand for office space resulting from the culture-shift to hybrid working. Current and future demand combined equates to around 129.8ha of additional employment space required.

Expected supply of employment land has also been calculated based upon a number of sites in East Devon which could be developable within the 2019-2040 timeframe. Assuming all of these sites can be delivered, this would add up to 85.4ha of additional space. There are significant concerns that some of these sites are financially unviable and/or have no landowner intention to develop. These issues are being explored further by officers. Even if all of the sites identified are developed, there would still be a shortfall of 42.7ha of employment space in East Devon.

From an economic perspective, the scale of both our current and future undersupply of local employment provision provides no justification for the proposed loss of two valuable preferred employment sites allocated within our emerging Local Plan.

Conclusion

The critical and worsening lack of employment land in East Devon and the absence of any employment uses within the two proposed applications is a significant concern to be given weight by planning colleagues and which we hope will be acknowledged by members of our Development Management Committee.

Our recommendation is that these applications should be rejected in their current form. We would welcome any amended schemes to include the scale of employment provision identified in the emerging Local Plan (0.24 and 0.27ha respectively) and are willing to work with the applicants to highlight the scale of local demand for this employment space.

Devon County Council Education Dept - 09/01/24

Devon County Council has considered the application above and would like to provide an education response.

Regarding the above planning application, Devon County Council has identified that a development up to 60 family type dwellings will generate an additional 15 primary pupils and 9 secondary pupils which would have a direct impact on Woodbury Church of England primary school and Exmouth College.

DCC has forecast that the local secondary schools does not have capacity for the pupils expected to be generated from this development and therefore DCC will seek contribution towards secondary education. The secondary contribution sought is £211,860 (based on the DfE secondary extension rate of £23,540 per pupil). This contribution will relate directly to providing education facilities for those living in the development.

Woodbury Church of England primary school is forecast to have capacity for the pupils expected to be generated from this development and therefore DCC will not seek a contribution towards primary education.

DCC would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Exmouth Community College. The costs required are as follows: -

$\text{£4.41 per day} \times 190 \text{ academic days} \times 5 \text{ years} \times 9 \text{ secondary pupils} = \text{£37,705}$

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 prices and any indexation applied to contributions requested should be applied from this date. All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

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

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

DCC Planning - 22/11/23

Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement. This ensures that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance. A key part of this will be to consider the potential for on-site reuse of inert material which reduces the generation of waste and subsequent need to export waste off-site for management. It is recommended that these principles are considered by the applicant when finalising the layout, design and levels.

This application is not supported by a Waste Audit Statement, it is therefore recommended that a condition is attached to any consent granted.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at:
<https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planning-document>

Please do not hesitate to get in touch should you have any queries in relation to our comments.

APPENDIX 2 – Appropriate Assessment

Appropriate Assessment	
The Conservation of Habitats and Species Regulations 2017, Section (63)	
Application Reference	23/2166/MOUT
Brief description of proposal	Outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance and landscaping reserved for future consideration.
Location	Land South Of Gilbrook House, Woodbury

Site is:	<p><i>Within 10km of the Exe Estuary SPA site alone (UK9010081)</i></p> <p>Within 10km of the East Devon Heaths SPA (UK9010121)</p> <p>Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602)</p> <p>Within 10km of the Exe Estuary Ramsar (UK 542)</p> <p>(See Appendix 1 for list of interest features of the SPA/SAC)</p>	
Step 1 Screening for Likely Significant Effect on the proposed development at Land South Of Gilbrook House, Woodbury		
Risk Assessment		
<p>Could the Qualifying Features of the European site be affected by the proposal?</p> <p>Consider both construction and operational stages.</p>	<p>Yes - additional housing within 10km of the SPA/SAC will increase recreation impacts on the interest features.</p>	
Conclusion of Screening		
<p>Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?</p>	<p>East Devon District Council concludes that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA.</p> <p>See evidence documents on impact of development on SPA/SAC at: East Devon District Council - http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf</p> <p>An Appropriate Assessment of the plan or proposal is necessary.</p>	
<p>Local Authority Officer</p>	<p>Liam Fisher</p>	<p>Date: 12 January 2024</p>
<p>Step 2 Appropriate Assessment NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.</p>		
<p>In-combination Effects</p>		

Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.	<p>Additional housing or tourist accommodation within 10km of the SPA/SAC will add to the existing issues of damage and disturbance arising from recreational use.</p> <p>East Devon has an emerging New Local Plan to 2040 which is currently in preparation. This has been out to consultation under Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012 and while further housing is proposed across the District it is considered too early to understand the final distribution of the housing and it's relatively proximity and therefore access to the environments. A planning application has been approved subject to a legal agreement for up to 70 dwellings at Land South of Broadway (ref. 22/2838/MOUT).</p> <p>The Teignbridge emerging Local Plan 2040 completed three Reg. 18 consultations between 2018 and 2021 and undertook Regulation 19 consultation in January 2023. At present, there is a live consultation of the Local Plan Proposed Submission Addendum under Regulation 19. This Plan proposes to deliver approximately 12,489 houses in the plan period 2020 - 2040.</p> <p>The Exeter Plan looks to deliver to 14,300 homes over the 20 year period to 2040. This Plan completed a Regulation 18 consultation in December 2022. At present, Exeter is consulting on a full draft plan until January 2024.</p>
Mitigation of in-combination effects.	<p>The Joint Approach sets out a mechanism by which developers can make a standard contribution to mitigation measures delivered by the South East Devon Habitat Regulations Partnership.</p> <p>Residential development is also liable for CIL and a proportion of CIL income is spent on Habitats Regulations Infrastructure. A Suitable Alternative Natural Green Space (SANGS) has been delivered at Dawlish and a second at South West Exeter has been partially opened to attract recreational use away from the Exe Estuary and Dawlish Warren and Pebblebed Heaths.</p>
Assessment of Impacts with Mitigation Measures	
Mitigation measures included in the proposal.	<p>The Joint Approach standard mitigation contribution required for non-infrastructure:</p> <p>Residential units £367.62 per house x 60 dwellings = £22,057.20</p>
Are the proposed mitigation measures sufficient to overcome the likely significant effects?	Yes - the Joint Approach contribution offered is considered to be sufficient in conjunction with CIL contributions.
Conclusion	
List of mitigation measures and safeguards	Total Joint Approach contribution of £22,057.20 will be secured through the S106 for this site and CIL contributions.
The Integrity Test	Adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA can be ruled out.

Conclusion of Appropriate Assessment	East Devon District Council concludes that there would be NO adverse effect on the integrity of the Exe Estuary SPA/Ramsar site and the East Devon Pebblebed Heaths SPA and SAC provided the mitigation measures are secured as above.	
Local Authority Officer	Liam Fisher	Date: 12 January 2024
21 day consultation to be sent to Natural England Hub on completion of this form.		

Appendix 1. List of interest features:

Exe Estuary SPA

Annex 1 Species that are a primary reason for selection of this site (under the Birds Directive):

Aggregation of non-breeding birds: Avocet *Recurvirostra avosetta*

Aggregation of non-breeding birds: Grey Plover *Pluvialis squatarola*

Migratory species that are a primary reason for selection of this site

Aggregation of non-breeding birds: Dunlin *Calidris alpina alpina*

Aggregation of non-breeding birds: Black-tailed Godwit *Limosa limosa islandica*

Aggregation of non-breeding birds: Brent Goose (dark-bellied) *Branta bernicla bernicla*

Wintering populations of Slavonian Grebe *Podiceps auritus*

Wintering populations of Oystercatcher *Haematopus ostralegus*

Waterfowl Assemblage

>20,000 waterfowl over winter

Habitats which are not notified for their specific habitat interest (under the relevant designation), but because they support notified species.

Sheltered muddy shores (including estuarine muds; intertidal boulder and cobble scars; and seagrass beds)

Saltmarsh NVC communities: SM6 *Spartina anglica* saltmarsh

SPA Conservation Objectives

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- ☐ ☐ **The extent and distribution of the habitats of the qualifying features**
- ☐ ☐ **The structure and function of the habitats of the qualifying features**
- ☐ ☐ **The supporting processes on which the habitats of the qualifying features rely**
- ☐ ☐ **The population of each of the qualifying features, and,**
- ☐ ☐ **The distribution of the qualifying features within the site.**

Dawlish Warren SAC

Annex I habitats that are a primary reason for selection of this site (under the Habitats Directive):

Annex I habitat: Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes'). (Strandline, embryo and mobile dunes.)

SD1 *Rumex crispus*-*Glaucium flavum* shingle community

SD2 *Cakile maritima*-*Honkenya peploides* strandline community

SD6 *Ammophila arenaria* mobile dune community

SD7 *Ammophila arenaria*-*Festuca rubra* semi-fixed dune community

Annex I habitat: Fixed dunes with herbaceous vegetation ('grey dunes').

SD8 *Festuca rubra*-*Galium verum* fixed dune grassland

SD12 *Carex arenaria*-*Festuca ovina*-*Agrostis capillaris* dune grassland

SD19 *Phleum arenarium*-*Arenaria serpyllifolia* dune annual community

Annex I habitat: Humid dune slacks.

SD15 *Salix repens-Calliergon cuspidatum* dune-slack community

SD16 *Salix repens-Holcus lanatus* dune slack community

SD17 *Potentilla anserina-Carex nigra* dune-slack community

Habitats Directive Annex II species that are a primary reason for selection of this site:

Petalwort (*Petalophyllum ralfsii*)

SAC Conservation Objectives

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change; Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

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

List of interest features:

East Devon Heaths SPA:

A224 *Caprimulgus europaeus*; European nightjar (Breeding) 83 pairs (2.4% of GB population 1992)

A302 *Sylvia undata*; Dartford warbler (Breeding) 128 pairs (6.8% of GB Population in 1994)

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

East Devon Pebblebed Heaths SAC:

This is the largest block of lowland heathland in Devon. The site includes extensive areas of dry heath and wet heath associated with various other mire communities. The wet element occupies the lower-lying areas and includes good examples of cross-leaved heath – bog-moss (*Erica tetralix* – *Sphagnum compactum*) wet heath. The dry heaths are characterised by the presence of heather *Calluna vulgaris*, bell heather *Erica cinerea*, western gorse *Ulex gallii*, bristle bent *Agrostis curtisii*, purple moor-grass *Molinia caerulea*, cross-leaved heath *E. tetralix* and tormentil *Potentilla erecta*. The presence of plants such as cross-leaved heath illustrates the more oceanic nature of these heathlands, as this species is typical of wet heath in the more continental parts of the UK. Populations of southern damselfly *Coenagrion mercuriale* occur in wet flushes within the site.

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

H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath
H4030. European dry heaths

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

S1044. *Coenagrion mercuriale*; Southern damselfly

Objectives:

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

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

Exe Estuary SPA

Qualifying Features:

A007 *Podiceps auritus*; Slavonian grebe (Non-breeding)
A046a *Branta bernicla bernicla*; Dark-bellied brent goose (Non-breeding)
A130 *Haematopus ostralegus*; Eurasian oystercatcher (Non-breeding)
A132 *Recurvirostra avosetta*; Pied avocet (Non-breeding)
A141 *Pluvialis squatarola*; Grey plover (Non-breeding)
A149 *Calidris alpina alpina*; Dunlin (Non-breeding)
A156 *Limosa limosa islandica*; Black-tailed godwit (Non-breeding)
Waterbird assemblage

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Exe Estuary Ramsar

Principal Features (updated 1999)

The estuary includes shallow offshore waters, extensive mud and sand flats, and limited areas of saltmarsh. The site boundary also embraces part of Exeter Canal; Exminster Marshes – a complex of marshes and damp pasture towards the head of the estuary; and Dawlish Warren - an extensive recurved sand-dune system which has developed across the mouth of the estuary.

Average peak counts of wintering water birds regularly exceed 20,000 individuals (23,268*), including internationally important numbers* of *Branta bernicla bernicla* (2,343). Species wintering in nationally important numbers* include *Podiceps auritus*, *Haematopus ostralegus*, *Recurvirostra avosetta* (311), *Pluvialis squatarola*, *Calidris alpina* and *Limosa limosa* (594).

Because of its relatively mild climate and sheltered location, the site assumes even greater importance as a refuge during spells of severe weather. Nationally important numbers of *Charadrius hiaticula* and *Tringa nebularia* occur on passage. Parts of the site are managed as nature reserves by the Royal Society for the Protection of Birds and by the local authority. (1a,3a,3b,3c)

Ward Woodbury And Lympstone

Reference 24/0301/MOUT

Applicant Mr Nick Yeo

Location Land South Of Meeting Lane Lympstone

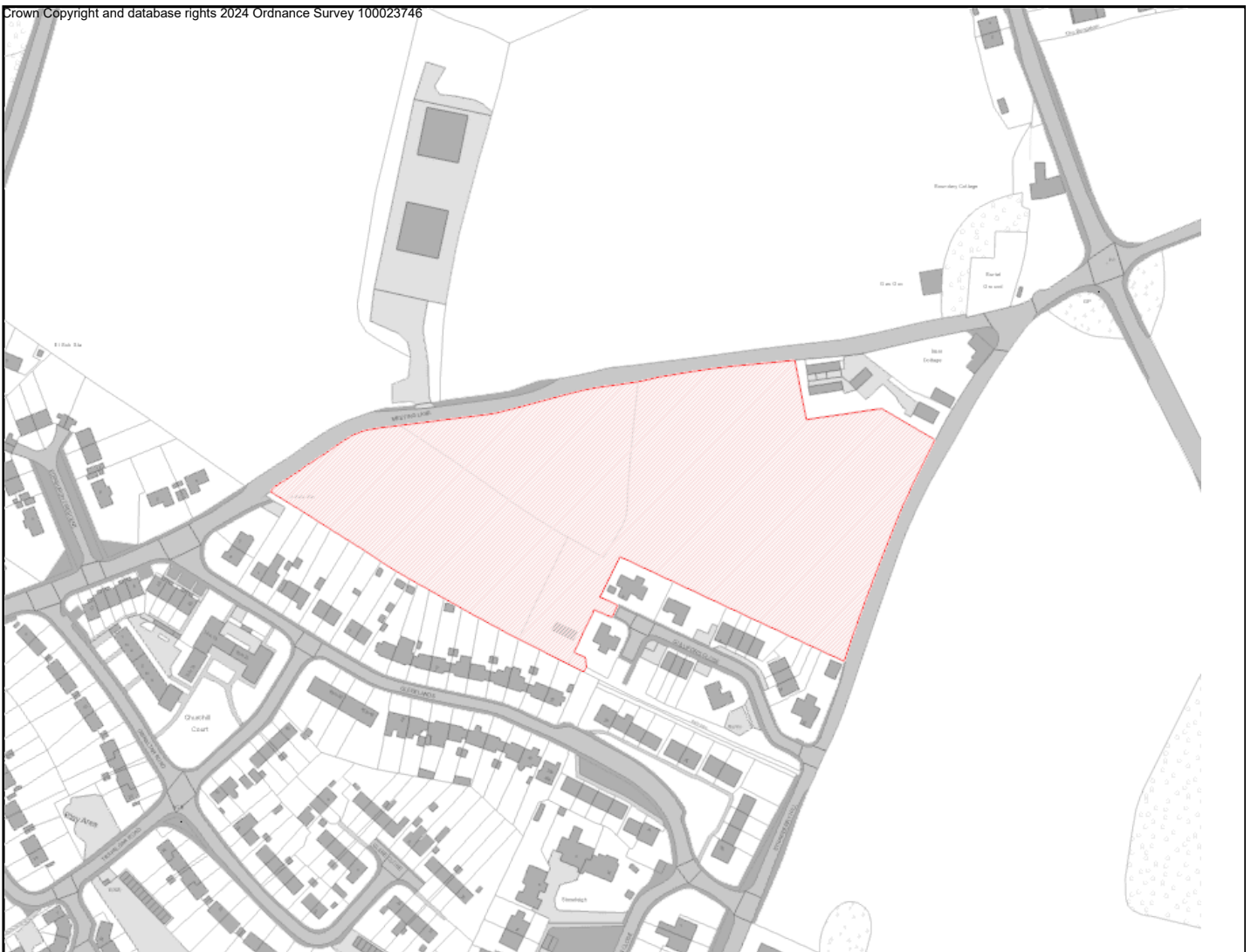
Proposal Outline application (with all matters reserved apart from access) for the erection of up to 42 dwellings, affordable housing and associated infrastructure



RECOMMENDATION:

1. Adopt the appropriate assessment forming part of the report
2. Approve subject to a legal agreement and conditions

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		Committee Date: 19.11.2024
Woodbury And Lympstone (Lympstone)	24/0301/MOUT	Target Date: 13.05.2024
Applicant:	Mr Nick Yeo	
Location:	Land South Of Meeting Lane Lympstone	
Proposal:	Outline application (with all matters reserved apart from access) for the erection of up to 42 dwellings, affordable housing and associated infrastructure	

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 outline planning permission (with all matters reserved apart from access) for the erection of up to 42 dwellings on a site area of 2,58ha, proposing 35% affordable housing on site (14 units) and a 15% off site affordable housing contribution,

A new access to the site is proposed from Meeting Lane. Devon 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.

This application originally proposed a second access onto Strawberry Hill, this second access, which attracted significant local objections, has been omitted from the scheme.

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.

It is noted that Strategic Planning committee have agreed to allocate this site for housing in the emerging Local Plan

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 suitable highways agreement.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung 25.03.24
24/0301/MOUT

I have viewed the planning documents for 24/0301/MOUT for outline application (with all matters reserved apart from access) for the erection of up to 42 dwellings, affordable housing and associated infrastructure on land South of Meeting Lane Lympstone.

This is a very similar application to 23/1269/MFUL which I did not support. My previous comments were.

My view is this application should be determined on the current local plan policy which would consider the application outside the built-up area boundary and therefore not compliant to the existing local plan.

However, if this application is agreed by the planning authority, I do have a number of concerns with the present application.

I would prefer the development to be one estate and not separated by expensive houses accessing off Strawberry Hill and the remainder of the estate coming off

Meeting Lane. It should be one single estate with a singular access off Meeting Lane, thus avoiding the loss of a Devon hedge and bank on meeting lane.

There are no interconnecting footpaths links between this estate and the rest of the Lypstone community other than exiting on the highway pavement, resulting in longer tedious walk to walk to neighbouring estates or the rest of the community infrastructure such as the playparks and school.

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.

Parish/Town Council

24/10/24 - Recommendation: Object

NB: The relevant policies from Lypstone Parish Council's current Lypstone Neighbourhood Plan (LNP) are marked on our response, as EDDC Planning are no longer applying the 'tilted balance' and therefore our current adopted LNP should be considered. (The policies from our LNP are marked as 'LNP' and included in brackets).

Lypstone Parish Council objects to the outline application due to the following reasons:

1. Not in current valid Lypstone Neighbourhood plan.

(LNP: Ref P8 ' Development will not normally be permitted within the Green Wedge or Coastal Preservation Area unless it can be demonstrated that no harm to the character or purpose of these areas will occur and development is:

- Justified on agricultural, horticultural or forestry grounds; or
- Within a residential or employment site curtilage; or
- Justified on sustainability grounds; or
- Will provide a community facility or recreation route.)

2. Outside Lypstone Built Up Area Boundary (BUAB).

(LNP: Ref P7' Other than through the conversion of suitable rural buildings, new housing will be not be permitted outside the Built up Area Boundary of Lypstone or Exmouth.)

3. Not in the current valid EDDC local plan.

4. Flood Risk, esp. if water, run-off and waste water is directed into Wotton Brook catchment area via Jackson's Meadow.

(LNP: P25 ' All new development will include measures to ensure that there is no increase in flood risk through

the adoption of sustainable urban drainage schemes and the use of permeable surfaces for parking areas

and other hard landscaping. All applications for new development will contain a flood risk assessment and

details of compliance to these measures.)

5. Social rent/ affordable housing proportion should be 50% for a greenfield development.

(LNP: P9 ' A range of new housing sizes, types and tenures will be required, to ensure that all sectors of the community are catered for. There is particular need for:

- Affordable housing
- Two and three bedroom family homes
- Single storey homes adapted for the elderly

All planning applications for new development should demonstrate how these needs are to be met.)

6. Impact on adjacent, existing properties (noise and being overlooked).
7. Pedestrian access to the rest of the village (Meeting Lane is not an option; no pavements).
8. Insufficient pepper-potting of planned houses; big, private at one end, affordable/social housing at other end.
(LNP: P11 'Density of housing will reflect the existing grain/density/pattern of surrounding development.)
9. No visitor parking.
(LNP: P20 ' New Developments should provide off-road parking spaces to ensure that pressure on limited existing parking is not increased. 1 bed properties should have 1 parking space; 2 or more bedrooms should have a minimum of 2 spaces.)
10. Tree impact; tree root damage and existing trees shading new gardens.
11. Traffic coming through the village via Strawberry Hill and Longmeadow Road to Saddlers Arms junction to turn right into Exmouth. 17% uplift in village traffic, not 1% per plan.
12. Entry and Exit problems to the village.
13. Overdevelopment (2.6 hectares and 42 houses).
14. Loss and Damage to wildlife habitat and wildlife.
15. Loss of Lympstone 'Spirit of Place'.
16. Loss of rural and historic setting (Gulliford Burial Ground) adjacent.
17. No play areas on the development.

Parish/Town Council 27.03.24

see report with images/tables under document tab

Technical Consultations

DCC Climate Change/Environment And Transport 27.03.24

Regarding the above planning application, Devon County Council has identified that the proposed increase of 42 family type dwellings will generate an additional 10.50 primary pupils and 6.30 secondary pupils which would have a direct impact on Lympstone primary school and Exmouth Community College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

We have forecast that there is enough primary capacity at the local primary schools for the number of pupils expected to be generated from this development and therefore a contribution towards primary education would not be sought. We have forecast that the nearest secondary school has not got capacity for the number of pupils likely to be generated by the proposed development and therefore Devon County Council will seek a contribution towards this additional education infrastructure to serve the address of the proposed development. The contribution sought for secondary would be £148,302 (based on the DfE secondary extension rate of £23,540 per pupil). These contributions will relate directly to providing education facilities for those living in the development.

Royal Society For The Protection Of Birds 27.03.24

Thank you for inviting the RSPB to comment on the above, we are happy to support the PROPOSED MITIGATION AND ENHANCEMENT works set out in section 5 of the Ecological Impact Assessment.

Conservation 24.04.24

On the basis of the information provided through the application, the proposed outlined development would result in slight harm to glimpsed views from Harefield House (St Peter's School), Thorne Farm and Gulliford Cottages, Grade II heritage assets located to the northeast and east of the site. In this respect, 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.

Housing Strategy/Enabling Officer - Cassandra Pressling 14.10.24

I have no further comments to make on these amended plans.

Housing Strategy/Enabling Officer - Cassandra Pressling 22.03.24

Support

Percentage of Affordable Housing - under current policy Strategy 34, a requirement for 50% affordable housing would be required. However, given the lack of a 5 year land supply and out of date policies, a pragmatic approach is being taken with sites adjacent to an existing built up area boundary and the level of affordable housing to be sought. The applicant is proposing to provide 33% affordable housing which equates to 14 units and this is acceptable.

Housing Mix - to be determined at Reserved Matters stage. All affordable units must meet national space standards.

EDDC Recycling & Waste Contract Manager 07.03.24

For Recycling & Waste we would ask for a version of the layout plan that shows -

1. Vehicle tracking
2. Indicates the collection point for each unit to confirm that they are kerb-side collections and/or shows the locations of any shared collection points

Natural England 21.03.24

SUMMARY OF NATURAL ENGLAND'S ADVICE
DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING
APPROPRIATE MITIGATION FOR RECREATIONAL PRESSURE IMPACTS ON
HABITAT SITES (EUROPEAN SITES).

Environmental Health

18/10/24 - As per my previous comments

Environmental Health 11.03.24

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

Police Architectural Liaison Officer - Kris Calderhead

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) and to ensure compliance with both national and local planning guidance.

(Full comments in Appendix at the end of the report)

EDDC Landscape Architect

Please see scanned report under the documents tab.

EDDC Trees

Comments on original plans 9/4/24:

In principle I do not object to the development of the site based on sound arboricultural principles. However, the current outline application appears to be very similar to 23/1269/MFUL which I had significant concerns about and objected to.

In relation to the access points my previous comments still apply:

(please note these comments relate to the detailed application)

The entrance on northern boundary requires removal of T4 Oak, a B category tree with 'good future potential' as described within the arboricultural survey. However there is no mention of the impact of the removal of this tree within the AIA despite the AIA stating that there are 'a number of good quality individual category A and B Oak stems are present on site, offering good arboricultural and amenity value with a high

future potential'. Furthermore, this tree was recently retained as part of hedgerow management circa 2019 and has recently been protected as long-term it is considered an important tree which should be retained. The entrance should be moved east so that its located between T3 and T4 and therefore allowing both trees to be retained. The secondary access on eastern boundary appears unnecessary as it serves just 5 properties and requires a 30m section of hedge being removed. The hedge has been categorised as only C2 and 'heavily flailed' but should be surveyed in accordance with Hedgerow Regulation 1997 to establish if the hedge is considered important according to the criteria of the regulations. Similarly with the H1 along the western side of the development area adjacent to Meeting Lane.

It is noted that this application is outline with all matters except access reserved. However, it is considered appropriate to comment on the accompanying plans:

I would object to the current plans due to the likely detrimental harm that will be caused by the development on retained trees and resultant pressure to prune or fell trees due to proximity of dwellings to trees. The proposal is generally considered to be an over development of the site, resulting in dwellings in close proximity to trees, small gardens dominated by overhanging crowns and significant shading issues. It appears that the tree constraints have not been properly considered and the overall design is not considered sustainable and is contrary to BS 5837: 2012 and Local Planning Policy D3. As per BS 5837, where development is proposed in close proximity to trees, the objective is to achieve a harmonious relationship between trees and the proposed structures that can be sustained long term. At present, this proposal does not meet this.

Main issues

The RPA's have been offset for the trees growing along the boundary edge of Strawberry Hill and Meeting Lane due to the restricted rooting environment of the roads and more favourable rooting environment within the field side. However it is not clear whether the offset RPA include the appropriate increase of RPA on the field side. It does appear that some minor increase in the RPA has occurred but it is questioned whether this is enough. It is noted that there has been no change in the location of nearby plots in relation to previous plans to trees T1, T2 and T3 despite quite drastic changes in the RPA due to offsetting.

T11 Oak, (A category). T12, Ash (C category) - the crowns overhangs approx 1/3 of gardens of plot 19 & 20. These are tall trees, 18m in height with the crown of T11 being approximately 4m from the rear of the dwelling at plot 19 and T12, 3m distance from the dwelling at plot 20: the trees will dominate the gardens and dwelling resulting in pressure to prune or remove. At least 1/3 of the garden of these plots will be located beneath the crown of the trees with the RPA extending over approximately ½ of the rear gardens resulting in unnecessary compaction of rooting environment.

T8, Oak is described as a 'large historical specimen with veteran features' and categorised as A3. No gardens should be located beneath this tree and the tree should be located purely within public open space to reduce pressure for any pruning to the tree and to give space for the tree to grow. Features typical of veteran trees tend to be the same features that cause concerns to residents; deadwood, cavities, large heavy branches etc. The RPA of this tree also extends into the gardens of plots 4 and 17

which is likely to result in unnecessary risk of compaction and therefore harm to the rooting environment of the trees (as for T11 and T12). The footpath extending to the rear of plots 1 to 4 also needs to be located outside the RPA T8. Likewise the footpath through the RPA of T6(Cat A Oak) needs to be moved outside of the RPA.

The AIA states that pruning is required of adjacent trees; 'To enable functional amenity space within the southern gardens associated with the southern boundary stems, lateral pruning is required along the northern aspects of crowns, particularly in area A2 and group G3'. Pruning will help reduce the proximity of the trees though shading of plots along southern boundary in the late afternoon is still likely to be a significant issues - the height of G3 currently 15m and A1, 8m with corresponding levels of shadow over residents gardens. The shadow pattern through the main part of the day as shown on the TCP suggests shading covering at least half of the garden of units 11 to 15. Due to the height of G3, the majority of the garden of plot 10 will also be in shade through the main part of the day including what appears to be communal gardens for plots 5 to 9. It is considered that this southern boundary would benefit from being designated as a wildlife / ecological buffer and the location of gardens and dwelling moved further to the north to lessen the impact of shading and concerns of proximity. This wildlife buffer should also include T16, Ash, which is an important wildlife habitat with significant cavities throughout its main structure and as such should be retained 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 as discussed, 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.

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. It is considered that the proposed access route should be aligned adjacent to the original hedgerow.

The conclusion of AIA states that the proposals allow the retention of key trees with a 'negligible risk of any harm as a consequence of construction activities'. However no consideration has been given to the future pressures that will occur due to the unreasonable level of shading of private gardens and living rooms, debris fall, feeling of dominance and safety concerns due to the current juxtaposition between the dwellings and nearby trees. Despite the majority of trees on site being protected by a TPO, it is considered that the current design is likely to lead to undue pressure for the trees to be pruned which would be to the detriment to the health and amenity of the trees and character of the local area; appropriate design can avoid these pressures from occurring in the first place.

Previous comments on landscape proposals:

The socio economic benefit of trees within developments is well understood. Previous plans have shown a considerable lack of street tree planting. Within the

western section there is just one tree; a Sorbus Eastern promise for 20 units. Within the main eastern development there are just four trees in total for 17 units. It is noted that the smaller development to the east off Strawberry Lane has a higher number of planted trees but this needs to be reflected throughout the site. Better design layout will allow a greater degree of planting within gardens, car parking areas and verges etc. Using fastigate species will help make use of restricted spaces and minimise shading. Appropriate planting pits and soil volumes will be required.

Clerk To Woodbury Parish Council 26.03.24

As an adjoining Parish, please find below our observation for the planning application 24/0301/MOUT - Meeting Lane, Lympstone, please can this be added to the website.

On 11th July, we objected to the original application for this site ref. 23/1269/FUL and our objection remains for ref. 24/0301/MOUT.

(Full comments in Appendix at the end of this report)

Environment Agency

18/10/24 - As per my previous comments

Devon County Archaeologist 16.10.24

Application No. 24/0301/MOUT

Land South of Meeting Lane Lympstone - Outline application (with all matters reserved apart from access) for the erection of up to 42 dwellings, affordable housing and associated infrastructure: Historic Environment

My ref: ARCH/DM/ED/39345a

I refer to the above application and your recent consultation. The Historic Environment Team has no comments to make on this planning application.

Other Representations

56 representations have been received as a result of this application, of which 55 raise objections and 1 in support. These are summarised below

Objections

- 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

Reference	Description	Decision	Date
23/1269/MFUL	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	Refusal	23.08.2024

This application was refused for the following reasons:

1. The site is located outside a Built-Up-Area-Boundary where residential development is restricted. The absence of convenient pedestrian footways, lighting and the distance between the site and the local services and facilities

in and around Lympstone would lead residents to rely on travel by private motor vehicles. The site does not therefore occupy a sustainable location for residential development. As such, the proposal would be contrary to the provisions of Strategy 5B (Sustainable Transport), Strategy 7 (Development in the Countryside) and Strategy 27 (Development at the Small Towns and Larger Villages) of the East Devon Local Plan, 2016 to 2031, Policy 3 (Development in a Coastal Preservation Area) of the Lympstone Neighbourhood Plan and the guidance set out in the National Planning Policy Framework which concerns actively managing patterns of growth in support of, the promotion of opportunities for walking, cycling and public transport in conflict with the environmental dimension of sustainable development.

2. The proposed layout of the development would site residential properties in close proximity to protected trees, particularly along the south-western boundary, the gardens of the properties, within the RPA of the trees, would be significantly affected by shading. It has not been demonstrated that the close proximity of the trees would not result in pressure to prune or fell due to concerns over safety, proximity, shading and debris fall, accordingly the proposal fails to deliver a harmonious and sustainable relationship between structures and trees contrary to the provisions of Policy D1 (Design and Local Distinctiveness), Policy D3 (Trees and Development Sites) of the East Devon Local Plan, 2016 to 2031.
3. The layout of the proposed development fails to adequately distribute the proposed affordable housing throughout the development, as they are all being grouped together in the south western part of the site, which would create an unbalanced community and promote social division. The proposal is therefore contrary to the provisions of Strategy 34 (District Wide Affordable Housing Provision Targets) of the East Devon Local Plan and the aims and objectives of Part 8 of the National Planning Policy Framework which seeks to promote healthy and safe communities.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

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

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
EN22 (Surface Run-Off Implications of New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

Government Planning Documents

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 trees covered by a Tree Protection Order (TPO) 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 outline planning permission for the construction of up to 42 residential units with 35% on site affordable housing provision and a contribution 15% (£292,925) would be provided towards off site provision. The only matters to be considered at this stage are the principle of development and the means of access to the site, with matters of layout, scale appearance and landscaping reserved for subsequent approval.

A new vehicular access is proposed from Meeting Lane. The application as originally submitted included a second access off Strawberry Hill, there was significant local opposition to this and the scheme has been amended to propose a single access from Meeting Lane only.

The illustrative plans submitted with the application indicate that 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.

Detailed (full) planning permission for a similar proposal was refused planning permission in August 2024. It is necessary to consider if this revised outline planning application overcomes the previous reasons for refusal which are set out earlier in this report..

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 indicate otherwise. One such consideration is the National Planning Policy Framework (NPPF).

The NPPF states that plans and decisions should apply a presumption in favour of sustainable development.

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 Strategic 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.

It is also notable that Strategic Planning committee have recently confirmed this site as a site to be allocated as a housing site in the emerging 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 and pay a 15% off site contribution, equating to a total affordable blended housing percentage of 50%.

The Housing Enabling Officer has the following comments to make:

Housing Need - There are 5857 households on the East Devon district wide waiting list, Devon Home Choice. 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. For the proposed 14 units, this would amount to 10 rented units and 4 units for affordable home ownership. We require at least 4 of the rented units to be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - to be determined at Reserved Matters stage. All affordable units must meet national space standards.

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 14 affordable homes so will help us meet this priority.

Accordingly, whilst the proposal fails to achieve a strictly policy compliant level of affordable housing on site, the addition of a contribution to achieve the 50% provision overall 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 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 new access 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 provided adjacent to the road to enable access to and through the estate, linking up with the existing footpath to the western corner of the site further down the lane. A further footway would extend to the southeastern corner adjacent to the end of Gulliford Close, from which it would form a further pedestrian route into the village. 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 serve all of the proposed units.

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 Lymptone 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 this development, and by other recent development in the village and further afield. The Highway Authority are satisfied that the new estate junction onto Meeting Lane will not suffer undue congestion at peak flows and has appropriate visibility that can be controlled and maintained with the new dedicated right turn lane onto Meeting Lane towards the site from a northerly direction. They specifically do not consider there will be a significant denigration of highway safety. For these reasons the proposals are considered to accord with Policy TC7.

In terms of wider accessibility, Policy TC2 and the NPPF seek residential development that is located 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 side onto Meeting Lane and to the southeast onto Gulliford Close. 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.

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.

The assessment above is the officer viewpoint. It should be noted that application 23/1269/MFUL was refused for reasons that included the site being unsustainable due to lack of access to local services with inadequate pedestrian links. This is at odds with the view of Strategic Planning committee who have concluded the site to be in a sustainable location for the reasons set out on the officer viewpoint above. Members will need to weigh the previous reason for refusal on grounds of unsustainability of location in the planning balance.

Residential amenity

The proposal site adjoins the existing built up area boundary of Lymptone where gardens of existing houses back onto the proposal site, such that it will be important, at the reserved matters stage, to consider the impact that the proposal would have on

the living conditions of existing occupiers, it will also be 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. There would undoubtedly be an impact upon the outlook from properties in Gulliford Close with a change from an agricultural field to an estate of houses, and from other neighbouring properties, however this will need to be further considered at the reserved matters stage when matters of layout, scale, appearance and landscaping will be fully considered.

The illustrative layout however gives officers sufficient information to be able to conclude that it would be possible to develop the site for the proposed quantum of development without a significant adverse impact on neighbours and that a scheme of suitable quality could be delivered.

Landscape and Visual Impact

The application site is currently a pleasant green field, sloping gently up as it leaves the edge of Lympstone. Development of the site would result in the loss of an open and relatively prominent field on its northern periphery when viewed from Meeting Lane however landscape 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, the proposed highway works would lead to a change in character along Meeting Lane creating a much wider highway corridor and changing its character from semi-rural to urban.

The Council's Landscape Architect comments by stating:

'The proposals are likely to introduce built elements and alter existing historic hedgebanks that will erode the rural character of Meeting Lane 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.

Generally, the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while acknowledging the change in character along Meeting Lane, the development can be accommodated without wider significant adverse impact to the host landscape character. Specific comments on the layout of the development, the scale of the proposed dwellings and their appearance together with proposed landscaping will be matters to be examined in detail at the reserved matters stage.

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 raised objections to the application as originally submitted where it included 2 access points, but with much of the objections relating to the detail of the layout. Layout is a reserved matter in this case so many of these concerns are not directly relevant.

Overall, it is considered that the proposal site is large enough to accommodate 42 residential units without impacting detrimentally on trees although it is acknowledged that there will be some impact arising from the new access. This relatively modest impact needs to be weighed in the planning balance.

It is also noted that impact on trees as a consequence of the new access onto Meeting Lane was not a reason for refusing the previous full planning application.

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 (based on the illustrative layout submitted):

- 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, at reserved matters stage, 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 condition requiring submission of further biodiversity calculations has been agreed between the ecologist and the applicant to overcome his concerns to provide a quantifiable enhancement to biodiversity across the site.

Accordingly, as a package of protection and biodiversity enhancement, the site during and following development would 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, Lymptone 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 in principle, the detailed comments form DCC FRMT are based on the illustrative layout which may change as part of the proposed development such that is it considered necessary to seek the layout of the final surface water drainage proposals as part of a reserved matters submission, subject to appropriate 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, at this stage, 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, based on the illustrative layout, 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, through the introduction of built development on this site, 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 strictly 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 Lymington'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 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 Lymington 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 Lymington 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 to help meet the current identified need for housing.

Previous reasons for refusal of 23/1269/MFUL included (i) the sustainability of the location, (ii) the siting of houses leading to pressure to prune or fell trees and (iii) the failure to pepper pot the affordable housing. As this is an outline application the

detailed siting of houses is yet to be agreed, as such reasons (ii) and (iii) are matters which could be considered at reserved matters stage. Regarding reason (i) the officer view is that the site is in a sustainable location and this has been affirmed by Strategic Planning Committee who have agreed to include this site as a housing allocation in the emerging Local Plan. This is a matter for Members to weigh in the planning balance.

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.**

APPROVE subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).

2. Approval of the details of the layout scale and appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(Reason - The application is in outline with one or more matters reserved.)

3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.

(Reason - For the avoidance of doubt.)

4. 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.

5. As part of any reserved matters application the site's drainage output in so far as it relates to the highway shall be submitted to 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.

6. Prior to commencement of development 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.

7. As part of any reserved matters application the following information shall be submitted:

- (a) A detailed drainage design based upon the approved Land off Strawberry Hill, Lymptone Flood Risk Assessment Outline Application) Land South of Meeting Lane, Lymptone

- (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.

- 7.

8. As part of any reserved matters application for layout, external appearance and/or landscaping 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), shall be submitted. 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.

9. 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.

10. Prior to the commencement of any works on site (including any ground works, site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural

Method Statement(AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details.

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason : A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required 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.)

11. 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: This is prior to development commencing to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

12. 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

13. 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.

14. 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:

PL100 B	Location Plan	05.03.24
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NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Informative:

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. Having regard to the three tests, the LPA considers that the three tests would not be met and that Natural England are unlikely to grant an EPS licence.

Informative - 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 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.

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.

23/1600/MOUT – APPENDIX 1

Technical Consultation Responses in Full

DCC Climate Change/Environment And Transport

27/03/24 - Regarding the above planning application, Devon County Council has identified that the proposed increase of 42 family type dwellings will generate an additional 10.50 primary pupils and 6.30 secondary pupils which would have a direct impact on Lypstone primary school and Exmouth Community College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

We have forecast that there is enough primary capacity at the local primary schools for the number of pupils expected to be generated from this development and therefore a contribution towards primary education would not be sought. We have forecast that the nearest secondary school has not got capacity for the number of pupils likely to be generated by the proposed development and therefore Devon County Council will seek a contribution towards this additional education infrastructure to serve the address of the proposed development. The contribution sought for secondary would be £148,302 (based on the DfE secondary extension rate of £23,540 per pupil). These contributions will relate directly to providing education facilities for those living in the development.

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

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

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

Royal Society For The Protection Of Birds

27/03/24 - Thank you for inviting the RSPB to comment on the above, we are happy to support the PROPOSED MITIGATION AND ENHANCEMENT works set out in section 5 of the Ecological Impact Assessment.

We are particularly pleased that para:

5.14 Additional specific bird nesting opportunities will be provided within the proposed development area, in the form of 1 in-built bird nestbox to be provided within each dwelling proposed. This should be fully described within a Biodiversity Enhancement Plan (BEP), to be secured by further planning condition.

which follows the recommendations set out in BS42021:2022

Section 9.2: details how much detail will be required in the proposed BEP.

Integral nest boxes - installation plan Details for the selection, siting, positioning and installation of integral nest boxes shall be prepared and submitted to the local planning authority, to include:

- a) the total number of integral nest boxes to be installed on site;
- b) a list of recommended integral nest boxes selected for installation, i.e. manufacturer(s) and model(s) along with illustrations, where available;
- c) elevations showing typical locations into which boxes are to be installed.

Our monitoring programs have found that house sparrows tend to prefer single boxes at least one metre apart and that other species seldom use terraces.

So we recommend using "Universal Boxes" with an entrance hole of at least 30X65 mm, see attached which are used by

- o House Sparrows
- o Starlings
- o House Martins
- o Swifts
- o Assorted others

and provide additional accommodation for bats on a case by case basis as per our most recent advice from the Bat Conservation Trust

We would appreciate the opportunity to review this at the next stage of the planning process.

see swifts local network guidance under document tab

Conservation

24/04/24 - On the basis of the information provided through the application, the proposed outlined development would result in slight harm to glimpsed views from Harefield House (St Peter's School), Thorne Farm and Gulliford Cottages, Grade II heritage assets located to the northeast and east of the site. In this respect, 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.

Housing Strategy/Enabling Officer - Cassandra Pressling

14/10/24 - I have no further comments to make on these amended plans.

Housing Strategy/Enabling Officer - Cassandra Pressling

22/03/24 - Support

Percentage of Affordable Housing - under current policy Strategy 34, a requirement for 50% affordable housing would be required. However, given the lack of a 5 year

land supply and out of date policies, a pragmatic approach is being taken with sites adjacent to an existing built up area boundary and the level of affordable housing to be sought. The applicant is proposing to provide 33% affordable housing which equates to 14 units and this is acceptable.

Housing Need - There are 5857 households on the East Devon district wide waiting list, Devon Home Choice. 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. For the proposed 14 units, this would amount to 10 rented units and 4 units for affordable home ownership. We require at least 4 of the rented units to be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - to be determined at Reserved Matters stage. All affordable units must meet national space standards.

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 14 affordable homes, so will help us to meet this priority.

EDDC Recycling & Waste Contract Manager

07/03/24 -

For Recycling & Waste we would ask for a version of the layout plan that shows -

1. Vehicle tracking
2. Indicates the collection point for each unit to confirm that they are kerb-side collections and/or shows the locations of any shared collection points

Natural England

21/03/24 - GH0911R

Thank you for your consultation on the above dated 07 March 2024 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

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.

FURTHER INFORMATION REGARDING RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

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

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

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will (in our view) be sufficiently certain and effective in preventing adverse impacts on the integrity of those European Site(s) within the ZOI from the recreational impacts associated with such development.

However, following the People Over Wind ruling by the European Court of Justice, mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment. In the light of this, these measures) should be formally checked and confirmed by your authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

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

Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority , and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke

mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Other Protected Sites

European Sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on other statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on other statutorily protected sites and has no objection to the proposed development.

Other Advice

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

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Annex A -Natural England general advice

Protected Landscapes

Paragraph 182 of the National Planning Policy Framework (NPPF) requires great weight to be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty (known as National Landscapes), National Parks, and the Broads and states that the scale and extent of development within all these areas should be limited. Paragraph 183 requires exceptional circumstances to be demonstrated to justify major development within a designated landscape and sets out criteria which should be applied in considering relevant development proposals. Section 245 of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities (including local planning authorities) to seek to further the statutory

purposes of a National Park, the Broads or an Area of Outstanding Natural Beauty in England in exercising their functions. This duty also applies to proposals outside the designated area but impacting on its natural beauty.

The local planning authority should carefully consider any impacts on the statutory purposes of protected landscapes and their settings in line with the NPPF, relevant development plan policies and the Section 245 duty. The relevant National Landscape Partnership or Conservation Board may be able to offer advice on the impacts of the proposal on the natural beauty of the area and the aims and objectives of the statutory management plan, as well as environmental enhancement opportunities. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to development and its capacity to accommodate proposed development.

Wider landscapes

Paragraph 180 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

Biodiversity duty

The local planning authority has a duty to conserve and enhance biodiversity as part of its decision making. Further information is available [here](#).

Designated nature conservation sites

Paragraphs 186-188 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest (SSSI) and habitats sites. Both the direct and indirect impacts of the development should be considered. A Habitats Regulations Assessment is needed where there is a likely significant effect on a habitats site and Natural England must be consulted on 'appropriate assessments'. Natural England must also be consulted where development is in or likely to affect a SSSI and provides advice on potential impacts on SSSIs either via Impact Risk Zones or as standard or bespoke consultation responses.

Protected Species

Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species licence may be required in certain cases.

Local sites and priority habitats and species

The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 180, 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre,

Annex A -Natural England general advice

wildlife trust, geoconservation groups or recording societies. Emerging Local Nature Recovery Strategies may also provide further useful information.

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on Gov.uk.

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 180(d), 185 and 186. Major development (defined in the NPPF glossary) is required by law to deliver a biodiversity gain of at least 10% from 12 February 2024 and this requirement is expected to be extended to smaller scale development in spring 2024. For nationally significant infrastructure projects (NSIPs), it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on biodiversity net gain, including draft Planning Practice Guidance, can be found [here](#).

The statutory Biodiversity Metric should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites, the Small Sites Metric may be used. This is a simplified version of the Biodiversity Metric and is designed for use where certain criteria are met.

The mitigation hierarchy as set out in paragraph 186 of the NPPF should be followed to firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered. Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 74, 108, 124, 180, 181 and 186). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

Natural England's Environmental Benefits from Nature tool may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the Biodiversity Metric and is available as a beta test version.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government Planning Practice Guidance for the natural environment.

Ancient woodland, ancient and veteran trees The local planning authority should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 186 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account when determining relevant planning applications. Natural England will only provide bespoke

advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 180 and 181). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.

Annex A -Natural England general advice

Further information is contained in GOV.UK guidance Agricultural Land Classification information is available on the Magic website and the Data.Gov.uk website

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling, separate guidance on soil protection for site restoration and aftercare is available on Gov.uk website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying Good Practice Guide for Handling Soils in Mineral Workings.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Green Infrastructure

Natural England's Green Infrastructure Framework provides evidence-based advice and tools on how to design, deliver and manage green and blue infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the 15 Green Infrastructure Principles. The GI Standards can be used to inform the quality, quantity and type of GI to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority GI strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths, together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 104 and 180 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information

including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.
Further information is set out in Planning Practice Guidance on the natural environment

Environmental Health

18/10/24 - As per my previous comments

Environmental Health

13/03/24 - A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

EDDC Landscape Architect

26/04/24 - Please see scanned report under the documents tab.

Police Architectural Liaison Officer - Kris Calderhead

16/10/24 - Thank you for consulting with me with regards to the revised plans of this planning application.

I have no additional comments to my initial response.

Police Architectural Liaison Officer - Kris Calderhead

07/03/24 - 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) and to ensure compliance with both national and local planning guidance.

- o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets (which appears to have been applied) with accessible space to the rear of plots avoided. Should the rear boundaries of plots abut public space they should be afforded a buffer to prevent easy access / damage etc.

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.

Public, accessible space to the rear of plots is not recommended.

It increases the risk of damage, burglary attempts and ASB, which an effective buffer may mitigate somewhat, but it also reduces surveillance opportunities of public space.

o Boundary treatments to the front of dwellings and around any potential apartment blocks 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. This is important throughout the development but particularly in the examples below.

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.

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

SEE REPORT WITH IMAGE UNDER DOCUMENT TAB

EDDC Trees

09/04/24 - In principle I do not object to the development of the site based on sound arboricultural principles. However, the current outline application appears to be very similar to 23/1269/MFUL which I had significant concerns about and objected to.

In relation to the access points my previous comments still apply:

The entrance on northern boundary requires removal of T4 Oak, a B category tree with 'good future potential' as described within the arboricultural survey. However there is no mention of the impact of the removal of this tree within the AIA despite the AIA stating that there are 'a number of good quality individual category A and B Oak stems are present on site, offering good arboricultural and amenity value with a high future potential'. Furthermore, this tree was recently retained as part of hedgerow management circa 2019 and has recently been protected as long-term it is considered an important tree which should be retained. The entrance should be moved east so that its located between T3 and T4 and therefore allowing both trees to be retained. The secondary access on eastern boundary appears unnecessary as it serves just 5 properties and requires a 30m section of hedge being removed. The hedge has been categorised as only C2 and 'heavily flailed' but should be surveyed in accordance with Hedgerow Regulation 1997 to establish if the hedge is considered important according to the criteria of the regulations. Similarly with the H1 along the western side of the development area adjacent to Meeting Lane.

It is noted that this application is outline with all matters except access reserved. However, it is considered appropriate to comment on the accompanying plans:

I would object to the current plans due to the likely detrimental harm that will be caused by the development on retained trees and resultant pressure to prune or fell trees due to proximity of dwellings to trees. The proposal is generally considered to be an over development of the site, resulting in dwellings in close proximity to trees, small gardens dominated by overhanging crowns and significant shading issues. It appears that the tree constraints have not been properly considered and the overall design is not considered sustainable and is contrary to BS 5837: 2012 and Local Planning Policy D3. As per BS 5837, where development is proposed in close proximity to trees, the objective is to achieve a harmonious relationship between trees and the proposed structures that can be sustained long term. At present, this proposal does not meet this.

Main issues

The RPA's have been offset for the trees growing along the boundary edge of Strawberry Hill and Meeting Lane due to the restricted rooting environment of the roads and more favourable rooting environment within the field side. However it is not clear whether the offset RPA include the appropriate increase of RPA on the field side. It does appear that some minor increase in the RPA has occurred but it is questioned whether this is enough. It is noted that there has been no change in the location of nearby plots in relation to previous plans to trees T1, T2 and T3 despite quite drastic changes in the RPA due to offsetting.

T11 Oak, (A category). T12, Ash (C category) - the crowns overhangs approx 1/3 of gardens of plot 19 & 20. These are tall trees, 18m in height with the crown of T11 being approximately 4m from the rear of the dwelling at plot 19 and T12, 3m distance from the dwelling at plot 20: the trees will dominate the gardens and dwelling resulting in pressure to prune or remove. At least 1/3 of the garden of these plots will be located beneath the crown of the trees with the RPA extending over approximately 1/2 of the rear gardens resulting in unnecessary compaction of rooting environment.

T8, Oak is described as a 'large historical specimen with veteran features' and categorised as A3. No gardens should be located beneath this tree and the tree should be located purely within public open space to reduce pressure for any pruning to the tree and to give space for the tree to grow. Features typical of veteran trees tend to be the same features that cause concerns to residents; deadwood, cavities, large heavy branches etc. The RPA of this tree also extends into the gardens of plots 4 and 17 which is likely to result in unnecessary risk of compaction and therefore harm to the rooting environment of the trees (as for T11 and T12). The footpath extending to the rear of plots 1 to 4 also needs to be located outside the RPA T8. Likewise the footpath through the RPA of T6(Cat A Oak) needs to be moved outside of the RPA.

The AIA states that pruning is required of adjacent trees; 'To enable functional amenity space within the southern gardens associated with the southern boundary stems, lateral pruning is required along the northern aspects of crowns, particularly in area A2 and group G3'. Pruning will help reduce the proximity of the trees though shading of plots along southern boundary in the late afternoon is still likely to be a significant issues - the height of G3 currently 15m and A1, 8m with corresponding levels of shadow over residents gardens. The shadow pattern through the main part of the day as shown on the TCP suggests shading covering at least half of the garden of units 11 to 15. Due to the height of G3, the majority of the garden of plot 10 will also be in shade through the main part of the day including what appears to be communal gardens for plots 5 to 9. It is considered that this southern boundary would benefit from being designated as a wildlife / ecological buffer and the location of gardens and dwelling moved further to the north to lessen the impact of shading and concerns of proximity. This wildlife buffer should also include T16, Ash, which is an important wildlife habitat with significant cavities throughout its main structure and as such should be retained 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 as discussed, 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.

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. It is considered that the proposed access route should be aligned adjacent to the original hedgerow.

The conclusion of AIA states that the proposals allow the retention of key trees with a 'negligible risk of any harm as a consequence of construction activities'. However no consideration has been given to the future pressures that will occur due to the unreasonable level of shading of private gardens and living rooms, debris fall, feeling of dominance and safety concerns due to the current juxtaposition between the dwellings and nearby trees. Despite the majority of trees on site being protected by a TPO, it is considered that the current design is likely to lead to undue pressure for the trees to be pruned which would be to the detriment to the health and amenity of the

trees and character of the local area; appropriate design can avoid these pressures from occurring in the first place.

Previous comments on landscape proposals:

The socio economic benefit of trees within developments is well understood. Previous plans have shown a considerable lack of street tree planting. Within the western section there is just one tree; a Sorbus Eastern promise for 20 units. Within the main eastern development there are just four trees in total for 17 units. It is noted that the smaller development to the east off Strawberry Lane has a higher number of planted trees but this needs to be reflected throughout the site. Better design layout will allow a greater degree of planting within gardens, car parking areas and verges etc. Using fastigate species will help make use of restricted spaces and minimise shading. Appropriate planting pits and soil volumes will be required.

Clerk To Woodbury Parish Council

26/03/24 - As an adjoining Parish, please find below our observation for the planning application 24/0301/MOUT - Meeting Lane, Lympstone, please can this be added to the website.

On 11th July, we objected to the original application for this site ref. 23/1269/FUL and our objection remains for ref. 24/0301/MOUT.

Both Parish Council's and residents raised a number of issues and this application has not changed from the original to mitigate concerns and does not include any of the suggestions raised.

This development is situated on the boundary of the Parishes of Lympstone and Woodbury.

Currently this is outside the existing built-up area boundary of Lympstone; it's within the Coastal Preservation Area and is not in the East Devon District Council Local Plan.

The proposal is somewhat failing in being a well-designed development, it is not sympathetic nor of benefit to Lympstone village, its residents or to those in the neighbouring parish of Woodbury.

We have major concerns with the drainage of this site; the potential levels and if the original proposal to culvert a watercourse remains then this is against DCC culvert policy (culverts only permitted for essential access).

Discharge is into a watercourse within the site boundary, but there does not appear to be any information about the downstream drainage system in relation to the ownership, capacity and condition. With the history of flooding within Lympstone and issues with the current old infrastructure, this development could exacerbate the current issues or if there is not capacity add to it.

This proposal is actually two developments in one with poor access to the site, additionally,

- 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.

- Lowering biodiversity and wildlife corridor between the river Exe SSSI site and the Pebble Bed Heath (AONB)
- Layout is Incohesive, with an us / them divide
- No footway link with existing village along Strawberry Hill.
- Strawberry Hill is extremely narrow and this access would be dangerous to other road users and pedestrians.
- Meeting Lane is slightly wider, but access and visibility is still of concern.
- Harefield cross is a difficult junction to navigate, with a number of known accidents at the location, this proposed development will increase traffic at this junction.

If this development is favoured by EDDC then this site should be one cohesive development with the access point off Meeting Lane using the existing entrance. Exclusivity can still be achieved by an improved layout that preserves the Devon Bank / ancient hedgerow in Strawberry Hill, which would then also alleviate some safety concerns with pedestrian access on 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.

The Community would benefit from speed calming measures (funding for a 20-mph scheme across the village); an enhanced gateway to the village incorporating the 17th Century historic Dissenters Gulliford Burial Ground as well as facilities on site.

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.

Devon County Archaeologist

16/10/24 - Land South of Meeting Lane Lympstone - Outline application (with all matters reserved apart from access) for the erection of up to 42 dwellings, affordable housing and associated infrastructure (amended plans): Historic Environment

My ref: ARCH/DM/ED/39345b

I refer to the above application and your recent re-consultation. The Historic Environment Team has no comments to make on this planning application.

Stephen Reed

Senior Historic Environment Officer

Devon County Archaeologist

20/03/24 -

Application No. 24/0301/MOUT

Land South of Meeting Lane Lympstone - Outline application (with all matters reserved apart from access) for the erection of up to 42 dwellings, affordable housing and associated infrastructure: Historic Environment

My ref: ARCH/DM/ED/39345a

I refer to the above application and your recent consultation. The Historic Environment Team has no comments to make on this planning application.

Stephen Reed

Senior Historic Environment Officer