

Agenda for Planning Committee Tuesday, 25th February, 2025, 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



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

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(or group number 01395 517546)

Issued: Friday, 14 February 2025

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, 18 February 2025 up until 12 noon on Friday, 21 February 2025 by leaving a message on 01395 517525 or emailing planningpublicspeaking@eastdevon.gov.uk.

Speaking on non-planning application items

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

1 Speakers' list and revised running order for the applications

Speakers' list removed.

2 Minutes of the previous meeting (Pages 4 - 7)

Minutes of the Planning Committee meeting held on 28 January 2025.

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

7 Planning appeal statistics (Pages 8 - 25)

Update from the Development Manager

Applications for Determination

8 23/0296/MFUL (Major) FENITON (Pages 26 - 74)

Burlands Mead, Feniton, EX14 3BS.

9 23/1143/MFUL (Major) WEST HILL & AYLESBEARE (Pages 75 - 143)

Land south of Windmill Lane, West Hill.

10 24/1545/OUT (Other) WEST HILL & AYLESBEARE (Pages 144 - 171)

Heather Down Farm, Aylesbeare, EX5 2DQ.

The applications below will not be considered before 2pm

- 11 **22/2781/MOUT (Major) SEATON** (Pages 172 - 286)
Land adjacent to Harepath Road, Seaton, EX12 2WH.
- 12 **21/3025/MFUL (Major) AXMINSTER** (Pages 287 - 352)
Land west of Prestaller Farm, Beavor Lane, Axminster.
- 13 **21/2604/OUT (Other) BROADCLYST** (Pages 353 - 394)
6 Railway Terrace, Broadclyst Station, Exeter, EX5 3AX.
- 14 **24/1185/FUL (Minor) YARTY** (Pages 395 - 407)
Land off James Lane, Yarcombe.

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 28 January 2025

Attendance list at end of document

The meeting started at 10.10 am and ended at 3.45 pm. The meeting adjourned for lunch at 1.20 pm and reconvened at 2.18 pm.

241 Minutes of the previous meeting

The minutes of the Planning Committee held on 17 December 2024 were confirmed as a true record.

242 Declarations of interest

Minute 246. 24/1174/MFUL & 24/1175/LBC (Major) SIDMOUTH TOWN

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

Minute 247. 23/1897/MOUT (Major) HONITON ST MICHAELS.

Councillor Steve Gazzard, Affects Non-registerable Interest, Known to one of the public speakers objecting to the application.

243 Matters of urgency

There were no matters of urgency.

244 Confidential/exempt item(s)

There were no confidential or exempt items.

245 Planning appeal statistics

The Committee noted the appeals statistics report.

246 24/1174/MFUL & 24/1175/LBC (Major) SIDMOUTH TOWN

Applicant:

Melanye Luscombe (Richmond Estates Sidmouth Ltd.)

Location:

The Richmond Hotel, Elysian Fields, Sidmouth, EX10 8UJ.

Proposal:

Change of use of Cumberland Cottage and its adjoining extensions including 1987 front extension and guest house extension from C1 Hotel to C3 Residential Use; change of use of annexe apartments currently classed as C1 Hotel Rooms to C3 Holiday Use; remove Managers Use restrictions on residential bungalow; permission to split and sell all the above properties, plus residential staff cottage leasehold/commonhold.

RESOLVED:

Refused in accordance with the officer recommendation.

247 **23/1897/MOUT (Major) HONITON ST MICHAELS**

Applicant:

c/o Agent.

Location:

Land north west of Ottery Moor Lane, Honiton.

Proposal:

Outline application for the construction of up to 21 dwellings, internal roads, landscaping, public open space, infrastructure and the creation of a new access and 'ahead only' junction on Ottery Moor Lane (all matters except access reserved).

RESOLVED:

Approved with conditions in accordance with officer recommendation subject to a Section 106 Agreement and with delegated authority to the Development Manager in consultation with the Chair and Vice Chair of Planning to include:

1. Planning conditions amended as set out in the officer presentation including amendments to Condition 18 (working hours 8am on Saturday), Condition 10 to be removed as not necessary and Condition 15(f) to be removed as duplicated.
2. Two further conditions as requested by Members:
 - The reserved matters application for layout shall include details of pedestrian and cycle links to and from the site to maximise permeability and access into the town centre. Details to include timescales for delivery;
 - The reserved matters application for landscaping shall demonstrate that hedgerow removal has been kept to the minimum required to facilitate the vehicular access.

248 **24/1787/FUL (Minor) HONITON ST MICHAELS**

Applicant:

Mr Michael Belcher.

Location:

Land to rear of Barn Mews, King Street, Honiton.

Proposal:

Erection of a two bedroom dwelling.

RESOLVED:

Refused as per officer recommendation.

249 **24/1203/COU (Other) WEST HILL & AYLESBEARE**

Applicant:

Mr Sam Slade.

Location:

Vacant chicken shed, Rosamondford Farm, Perkins Village, Exeter, EX5 2JG.

Proposal:

Change of use from agricultural to commercial storage (Class B8).

RESOLVED:

Approved with conditions as per officer recommendation.

250 **24/2250/FUL (Minor) CRANBROOK**

Applicant:

Taylor Wimpey UK Ltd.

Location:

Land to the south of Tillhouse Road, Cranbrook.

Proposal:

Erection of a temporary sales centre with associated car parking (retrospective).

RESOLVED:

Approved with conditions as per officer recommendation.

Attendance List

Councillors present (for some or all the meeting)

B Bailey
I Barlow
K Bloxham
C Brown
J Brown
O Davey (Chair)
P Faithfull
S Gazzard
D Haggerty
M Howe
S Smith
E Wragg

Councillors also present (for some or all the meeting)

R Collins
G Jung

Officers in attendance:

Wendy Harris, Democratic Services Officer
Andrew Digby, Senior Planning Officer
Liam Fisher, Senior Planning Officer
Jill Himsworth, Planning Officer
Damian Hunter, Planning Solicitor
Charlie McCullough, Senior Development Control Officer
Debbie Meakin, Democratic Services Officer
Wendy Ormsby, Development Manager

Councillor apologies:

S Chamberlain

M Chapman
A Hall
M Hall
J Bailey (Ward Member)
K Blakey (Ward Member)

Chairman

Date:

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

Ref: 24/0980/PDQ **Date Received** 20.01.2025
Appellant: Kerron and Katherine Allen
Appeal Site: Barns West Of Gooselands Payhembury EX14 3HJ
Proposal: Notification for prior approval of change of use of agricultural building to 3 no. dwelling houses and associated operational development under Schedule 2, Part 3, Class Q(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015
Planning Inspectorate Ref: APP/U1105/W/25/3359239

Ref: 24/1116/OUT **Date Received** 20.01.2025
Appellant: Mr And Mrs S Steiner
Appeal Site: Sandy Way Kerswell Cullompton EX15 2EJ
Proposal: Outline application for a self build dwelling with all matters reserved apart from access
Planning Inspectorate Ref: APP/U1105/W/25/3359249

Ref: 24/0721/FUL **Date Received** 24.01.2025
Appellant: Mr I White
Appeal Site: Land north east of Grange Close Lympstone EX8 5LD
Proposal: The erection of two detached dwellings with integral double garages, to include associated hard and soft landscaping.
Planning Inspectorate Ref: APP/U1105/W/25/3359507

Ref: 24/1836/PDQ **Date Received** 30.01.2025
Appellant: Mr Slade (R S Aylesbeare Ltd)
Appeal Site: Barton Farm Village Way Aylesbeare
Proposal: Prior approval (Class Q) for a change of use of a building as an agricultural unit to 2no. dwellinghouses (Use Class C3)
Planning Inspectorate Ref: APP/U1105/W/25/3359850

Ref: 24/0802/FUL **Date Received** 31.01.2025
Appellant: Mr & Mrs Jones
Appeal Site: Tadpoles Longmeadow Road Lympstone EX8 5LF
Proposal: Construction of new storage building in front of property, 400mm extension to boundary fence and retrospective permission for a small extension to rear garden terrace.
Planning Inspectorate Ref: APP/U1105/D/25/3359940

Ref: 23/2121/FUL **Date Received** 10.02.2025
Appellant: Carolyn Chapman
Appeal Site: Land Adjacent Shute Farm Fluxton
Proposal: Proposed barn and polytunnels
Planning APP/U1105/W/25/3360422
Inspectorate Ref:

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

Ref: 24/0926/FUL **Appeal Ref:** 24/00043/HH
Appellant: Mr Justin Wright
Appeal Site: 2 The Barnfield Jerrard Close Honiton EX14 1DX
Proposal: Raising of roof and conversion to habitable accommodation.
Decision: **Appeal Dismissed** **Date:** 27.01.2025
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons upheld (EDLP Policy D1).
BVPI 204: **Yes**
Planning APP/U1105/D/24/3347872
Inspectorate Ref:

Ref: 23/2774/FUL **Appeal Ref:** 24/00045/HH
Appellant: Mr Alex Watson
Appeal Site: Bramblecot Gate Hawkchurch Devon EX13 5TZ
Proposal: Addition of detached double garage to property.
Decision: **Appeal Dismissed** **Date:** 27.01.2025
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons upheld (EDLP Policy D1 & Strategy 7).
BVPI 204: **Yes**
Planning APP/U1105/D/24/3348516
Inspectorate Ref:

Ref: 24/0175/FUL **Appeal Ref:** 24/00046/HH
Appellant: Miss Clare Humphreys
Appeal Site: 58 St Andrews Drive Axminster Devon EX13 5EZ
Proposal: Fencing erected to replace hedging (retrospective)
Decision: **Appeal Dismissed** **Date:** 27.01.2025
Procedure: Written representations
Remarks: Delegated refusal, amenity reasons upheld (EDLP Policy D1).
BVPI 204: **Yes**
Planning APP/U1105/D/24/3348571
Inspectorate Ref:

Ref: 24/0136/FUL
Appellant: Mr David Gillingham
Appeal Site: 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
Decision: **Appeal Allowed (with conditions)**
Procedure: Written representations

Remarks: Delegated refusal, amenity reasons overruled (EDLP Policy D1).
The Inspector considered that whilst the proposal would, to some extent, erode the character of the appearance of the range of buildings, it would appear logical in the residential context of the site, with little of the utilitarian character of the historic farmstead retained.

The Inspector concluded that the design would harmonise with the extant dwelling on the site and the proposal would not result in a dominant structure that would fail to sit comfortably with the existing buildings.

BVPI 204: **Yes**
Planning APP/U1105/D/24/3349925
Inspectorate Ref:

Ref: 23/1064/FUL **Appeal Ref:** 24/00044/REF
Appellant: Mr and Mrs A Brewer
Appeal Site: Bung Ho Southdown Road Beer Devon EX12 3AE
Proposal: Two storey, 5-bed, detached dwelling, with associated parking and amenity space and demolition of existing dwelling and garage.

Decision: **Appeal Dismissed** **Date:** 31.01.2025
Procedure: Written representations
Remarks: Delegated refusal, amenity and landscape reasons upheld (EDLP Policy D1, Strategy 46 and NP Policies NE1, HBE2).

BVPI 204: **Yes**
Planning APP/U1105/W/24/3347829
Inspectorate Ref:

Ref: 23/2262/VAR **Appeal Ref:** 24/00026/REF
Appellant: Mr & Mrs Clinch
Appeal Site: 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

Decision: **Appeal Allowed** **Date:** 03.02.2025
(no conditions)
Procedure: Written representations
Remarks: Delegated refusal, accessibility reasons overruled (EDLP Policy TC2 and Strategies 3, 5B, 7. NP Policy 9).

The Inspector considered that a change in the occupiers of the dwelling may result in differing patterns of movement and/or the use of a private vehicle which would be likely to be the case irrespective of whether the occupancy restriction remains in place.

The Inspector concluded that the occupancy condition was not reasonable and necessary having regard to the local development strategy and the accessibility of the appeal site to shops, services and employment via sustainable modes of travel and transport.

BVPI 204: **Yes**
Planning APP/U1105/W/24/3343375
Inspectorate Ref:

Ref: 24/F0242 **Appeal Ref:** 24/00074/ENFAPP

Appellant: Taylor Wimpey Exeter
Appeal Site: Land to the south of Tillhouse Road Cranbrook
Proposal: Appeal against an enforcement notice served in respect of the siting of a sales centre and associated works.
Decision: **Appeal Withdrawn** **Date:** 03.02.2025

BVPI 204: No
Planning APP/U1105/C/24/3356288
Inspectorate Ref:

Ref: 24/0320/LBC **Appeal Ref:** 24/00055/COND
Appellant: Mr C Smith
Appeal Site: 2 School Cottages Woodbury Salterton EX5 1PG
Proposal: Replace 1no. rooflight with Fakro rooflight on rear northwest elevation
Decision: **Appeal Allowed (with conditions)** **Date:** 06.02.2025
Procedure: Written representations
Remarks: Appeal against a condition imposed on the grant of listed building consent requiring the submission of full details of the proposed rooflight for approval, prior to installation on site.

The Inspector considered that the condition was unreasonable as the proposed rooflight was a like for like replacement.

The Inspector varied the condition to specify the type of rooflight to be installed.

BVPI 204: No
Planning APP/U1105/Y/24/3350909
Inspectorate Ref:

Ref: 24/1186/FUL **Appeal Ref:** 24/00061/NONDET
Appellant: Mr David Underhay
Appeal Site: Bramleys The Orchard Brampford Speke Exeter EX5 5HW
Proposal: Proposed single storey wooden outbuilding in garden
Decision: **Appeal Allowed (with conditions)** **Date:** 06.02.2025
Procedure: Written representations
Remarks: Appeal against the failure of the Council to decide the application within the prescribed time limit.
The Council resolved that had the application been determined it would have been approved. The Inspector agreed with that conclusion.

BVPI 204: No
Planning APP/U1105/W/24/3352802
Inspectorate Ref:

Ref: 23/2523/FUL **Appeal Ref:** 24/00042/REF
Appellant: Mr & Mrs Eccles
Appeal Site: Northcombe Farm Salcombe Regis EX10 0JQ
Proposal: Proposed annexe (conversion of redundant rural building)
Decision: **Appeal Dismissed** **Date:** 06.02.2025
Procedure: Written representations
Remarks: Delegated refusal, countryside protection, landscape and amenity reasons upheld (EDLP Policies D3, D8 and Strategies 7, 46. NP Policy 1).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3347765
Inspectorate Ref:

Ref: 23/2604/FUL **Appeal Ref:** 24/00053/REF
Appellant: Mr S Hallett & M Conibear
Appeal Site: Lower Sweetcombe Farm Sidbury EX10 0QR
Proposal: Change of use of land from agricultural to holiday/tourism accommodation including the retention of a shepherds' hut, shed (housing a kitchen/store and shower) and toilet (retrospective)
Decision: **Appeal Dismissed** **Date:** 10.02.2025
Procedure: Written representations
Remarks: Delegated refusal, accessibility and landscape reasons upheld (EDLP Policies E16, TC2, Strategies 3, 5B, 33, 46. NP Policies 1, 7).
BVPI 204: **Yes**
Planning APP/U1105/W/24/3350271
Inspectorate Ref:

East Devon District Council List of Appeals in Progress

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: 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: 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

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

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

App.No: 24/0892/FUL
Appeal Ref: APP/U1105/W/24/3353308
Appellant: Mr Mathew Swabey
Address: Beachcroft Burrow Road Seaton Devon EX12 2NF
Proposal; Change of use from ancillary accommodation to holiday let (retrospective)
Start Date: 4 November 2024
Procedure:
Written reps.
Questionnaire Due Date: 11 November 2024
Statement Due Date: 9 December 2024

App.No: 24/0066/COU
Appeal Ref: APP/U1105/W/24/3353191
Appellant: Angela Williams
Address: Oak View East Hill Ottery St Mary EX11 1QH
Proposal; Proposed change of use of agricultural land to garden (extension of residential curtilage)
Start Date: 5 November 2024
Procedure:
Written reps.
Questionnaire Due Date: 12 November 2024
Statement Due Date: 10 December 2024

App.No: 24/0556/FUL
Appeal Ref: APP/U1105/W/24/3353376
Appellant: Mr P Groves
Address: 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.
Start Date: 7 November 2024
Procedure:
Written reps.
Questionnaire Due Date: 14 November 2024
Statement Due Date: 12 December 2024

App.No: 23/2422/FUL
Appeal Ref: APP/U1105/W/24/3353886
Appellant: Mr & Mrs Brinton
Address: Land to rear of Great Halls Aylesbeare EX5 2FD
Proposal; Erection of highly sustainable self-build dwelling with associated landscaping and biodiversity enhancements.
Start Date: 12 November 2024
Procedure:
Written reps.
Questionnaire Due Date: 19 November 2024
Statement Due Date: 17 December 2024

App.No: 24/0640/FUL
Appeal Ref: APP/U1105/W/24/3354532
Appellant: Mr William Pratt
Address: Lily Farm Vineyard Dalditch Lane Budleigh Salterton EX9 7AH
Proposal; Construction of managers' accommodation and extension to Lily Farm Vineyard business premises
Start Date: 12 November 2024
Procedure:
Hearing
Questionnaire Due Date: 19 November 2024
Statement Due Date: 17 December 2024
Hearing Date: 5 February 2025

App.No: 24/0782/VAR
Appeal Ref: APP/U1105/W/24/3355019
Appellant: John Slater
Address: Tritchayne Farm Cottages Colyton EX24 6SP
Proposal; Removal of condition 4 (holiday accommodation restriction) of planning permission 00/P0545 (Conversion of redundant farm buildings to holiday let units)
Start Date: 26 November 2024
Procedure:
Written reps.
Questionnaire Due Date: 3 December 2024
Statement Due Date: 31 December 2024

App.No: 24/0043/PIP
Appeal Ref: APP/U1105/W/24/3355106
Appellant: Mr C Horner
Address: Land At Ford Farm Woodbury
Proposal; Permission in principle for the erection of 9 no. dwellings
Start Date: 29 November 2024
Procedure:
Written reps.
Questionnaire Due Date: 6 December 2024
Statement Due Date: 3 January 2025

App.No: 24/1359/FUL
Appeal Ref: APP/U1105/D/24/3355857
Appellant: Mr Manu Parpia
Address: 1 Charles Court Lymstone Exmouth EX8 5EL
Proposal; Installation of solar panels to the front (West) elevation.
Start Date: 3 December 2024
Procedure:
Householder
Questionnaire Due Date: 10 December 2024

App.No: 24/0641/FUL
Appeal Ref: APP/U1105/W/24/3355874
Appellant: Mr M Ward
Address: Land At Back Lane Newton Poppleford EX10 0DH
Proposal; Construction of 1no new detached dwelling and garage with associated works, and ground mounted solar panels
Start Date: 3 December 2024
Procedure:
Written reps.
Questionnaire Due Date: 10 December 2024
Statement Due Date: 7 January 2025

App.No: 23/1785/FUL
Appeal Ref: APP/U1105/W/24/3357175
Appellant: Mr Lewis Pring
Address: The Old Reservoir Ridgeway Lane Colyton
Proposal; Demolition of existing reservoir tanks and construction of new dwelling house.
Start Date: 30 December 2024
Procedure:
Written reps.
Questionnaire Due Date: 6 January 2025
Statement Due Date: 3 February 2025

App.No: 24/2152/FUL
Appeal Ref: APP/U1105/D/24/3357516
Appellant: Mrs Katie Spurway
Address: 24 Oakbeer Orchard Cranbrook Exeter EX5 7BL
Proposal; First floor extension to the rear of the property.

Start Date: 31 December 2024
Procedure: Householder
Questionnaire Due Date: 7 January 2025

App.No: 24/0167/FUL
Appeal Ref: APP/U1105/W/24/3356723
Appellant: David and Gillian Fitzgerald
Address: Beaumont Castle Hill Seaton Devon EX12 2QW
Proposal; Change of use of former guest house (Use Class C1 Hotels) to form single independent dwellinghouse (Use Class C3 Dwellinghouses).

Start Date: 2 January 2025
Procedure: Written reps.
Questionnaire Due Date: 9 January 2025
Statement Due Date: 6 February 2025

App.No: 24/0592/FUL
Appeal Ref: APP/U1105/W/24/3357937
Appellant: Mr and Mrs Pym
Address: Pyms Poltimore EX4 0AA
Proposal; Demolition of conservatory, stores and garage, replaced with adjoining rear extension. Changes in fenestration and internal layout alterations. Alterations to a front boundary wall with gate and parking, erection of bike store, and relocation of oil tank

Start Date: 10 January 2025
Procedure: Written reps.
Questionnaire Due Date: 17 January 2025
Statement Due Date: 14 February 2025

App.No: 24/0593/LBC
Appeal Ref: APP/U1105/Y/24/3357936
Appellant: Mr and Mrs Pym
Address: Pyms Poltimore EX4 0AA
Proposal; Demolition of conservatory, stores and garage, replaced with adjoining rear extension. Changes in fenestration and internal layout alterations. Alterations to a front boundary wall with gate and parking, erection of bike store, and relocation of oil tank

Start Date: 10 January 2025
Procedure: Written reps.
Questionnaire Due Date: 17 January 2025
Statement Due Date: 14 February 2025

App.No: 23/2612/OUT
Appeal Ref: APP/U1105/W/24/3357250
Appellant: David Pring
Address: Land at Lower Broad Oak Road West Hill
Proposal; Outline planning application for the construction of 5 no. dwellings, with all matters reserved
Start Date: 13 January 2025
Procedure:
Written reps.
Questionnaire Due Date: 20 January 2025
Statement Due Date: 17 February 2025

App.No: 23/0939/FUL
Appeal Ref: APP/U1105/W/24/3358074
Appellant: Sir and Mrs John and Lucy Kennaway
Address: Clapperentale Farm Escot Park Ottery St Mary Devon EX11 1LU
Proposal; Demolition of barn and construction of new dwelling.
Start Date: 14 January 2025
Procedure:
Written reps.
Questionnaire Due Date: 21 January 2025
Statement Due Date: 18 February 2025

App.No: 24/1028/FUL
Appeal Ref: APP/U1105/W/24/3358068
Appellant: Mr Stephen Drinkall
Address: Warehouse (Store rear of Belvedere House) Danby Lane Exmouth
Proposal; Demolition of warehouse/general industrial building (use classes B2 and B8) and erection of 3no. work/live units and 1no. dwelling (use class C3)
Start Date: 14 January 2025
Procedure:
Written reps.
Questionnaire Due Date: 21 January 2025
Statement Due Date: 18 February 2025

App.No: 24/0385/VAR
Appeal Ref: APP/U1105/W/24/3357889
Appellant: Mr R Giles
Address: The Cider Press Winslade Barton Clyst St Mary Exeter EX5 1AT
Proposal; Removal of condition B (agricultural workers occupancy restriction) attached to planning permission 77/C1363 conversion of barn to a three-bedroom dwelling
Start Date: 21 January 2025
Procedure: Hearing
Questionnaire Due Date: 28 January 2025
Statement Due Date: 25 February 2025
Hearing Date: 15 April 2025

App.No: 24/0431/MOUT
Appeal Ref: APP/U1105/W/24/3357849
Appellant: Taylor Wimpey UK Ltd
Address: Land east of Colestocks Road Feniton
Proposal; Outline planning application for up to 86 dwellings with access from Colestocks Road; the provision of public open space, landscaping, drainage, and associated highways improvements and infrastructure. All matters to be reserved except for access
Start Date: 21 January 2025
Procedure: Inquiry
Questionnaire Due Date: 28 January 2025
Statement Due Date: 25 February 2025
Inquiry Date: 1 May 2025

App.No: 24/0225/FUL
Appeal Ref: APP/U1105/W/25/3358310
Appellant: F W S Carter & Sons
Address: Greendale Farm Shop Farringdon Devon EX5 2JU
Proposal; Retrospective application for a mud ventures building
Start Date: 21 January 2025
Procedure: Written reps.
Questionnaire Due Date: 28 January 2025
Statement Due Date: 25 February 2025

App.No: 24/1116/OUT
Appeal Ref: APP/U1105/W/25/3359249
Appellant: Mr And Mrs S Steiner
Address: Sandy Way Kerswell Cullompton EX15 2EJ
Proposal; Outline application for a self-build dwelling with all matters reserved apart from access
Start Date: 4 February 2025
Procedure:
Written reps.
Questionnaire Due Date: 11 February 2025
Statement Due Date: 11 March 2025

App.No: 24/0721/FUL
Appeal Ref: APP/U1105/W/25/3359507
Appellant: Mr I White
Address: Land north east of Grange Close Lympstone EX8 5LD
Proposal; The erection of two detached dwellings with integral double garages, to include associated hard and soft landscaping.
Start Date: 6 February 2025
Procedure:
Written reps.
Questionnaire Due Date: 13 February 2025
Statement Due Date: 13 March 2025

App.No: 22/1910/MFUL
Appeal Ref: APP/U1105/W/24/3355976
Appellant: Mr Azim Lalani
Address: Devoncourt Hotel 16 Douglas Avenue Exmouth Devon EX8 2EX
Proposal; Demolition of the existing Devoncourt building and outbuildings, construction of 51 open market and 15 affordable residential apartments and new 65 bed hotel with access via Maer Road car park, associated car parking and landscaping works
Start Date: 11 February 2025
Procedure:
Hearing
Questionnaire Due Date: 18 February 2025
Statement Due Date: 18 March 2025
Hearing Date: 23 April 2025

App.No: 24/1836/PDQ
Appeal Ref: APP/U1105/W/25/3359850
Appellant: Mr Slade (R S Aylesbeare Ltd)
Address: Barton Farm Village Way Aylesbeare
Proposal; Prior approval (Class Q) for a change of use of a building as an agricultural unit to 2no. dwellinghouses (Use Class C3)
Start Date: 11 February 2025
Procedure: Written reps.
Questionnaire Due Date: 18 February 2025
Statement Due Date: 18 March 2025

App.No: 24/0802/FUL
Appeal Ref: APP/U1105/D/25/3359940
Appellant: Mr & Mrs Jones
Address: Tadpoles Longmeadow Road Lympstone EX8 5LF
Proposal; Construction of new storage building in front of property, 400mm extension to boundary fence and retrospective permission for a small extension to rear garden terrace.
Start Date: 11 February 2025
Procedure: Householder
Questionnaire Due Date: 18 February 2025

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		Committee Date: 25.02.2025
Feniton (Feniton)	23/0296/MFUL	Target Date: 12.06.2023
Applicant:	Mr Andrew Woods (Cresco Asset Management Limited)	
Location:	Burlands Mead Feniton	
Proposal:	Construction of development comprising 35 dwellings and associated landscaping and infrastructure	

RECOMMENDATION: Resolution to approve subject to conditions and completion of a s106 agreement. To adopt the Appropriate Assessment.

EXECUTIVE SUMMARY

This proposal seeks planning consent for the creation of 35 dwellings with associated infrastructure. The proposed development conflicts with the development plan as it seeks to build residential housing in the countryside outside the defined Built-Up Area Boundary (BUAB) for Feniton. Further, the proposal would result in the loss of a former employment building and there are ambiguities remaining over the marketing exercise, such that limited harm has been identified to employment opportunities. Nevertheless, the loss of such employment space must weigh against the proposal.

The district cannot currently demonstrate a sufficient five-year housing land supply. The latest changes to the National Planning Policy Framework (NPPF) emphasises the need to significantly boost the supply of housing across England. This proposal would deliver a meaningful number of dwellings, including 51% affordable housing, addressing the need for housing in the district. It would also generate short-term economic benefits during the construction phase and longer-term social benefits by providing much-needed housing. The provision of affordable housing thereby meeting a demonstrable need, is a key priority of the NPPF and government policy, and one which carries substantial weight in the planning balance.

The site lies within a Critical Drainage Area (CDA) which raises potential flood risk concerns. However, this risk has been satisfactorily addressed through a robust Flood Risk Assessment (FRA) and the inclusion of a suitable Sustainable Drainage System (SuDS) scheme to manage surface water effectively. Ongoing flood mitigation works involving the Council have been approved and are in progress to address wider drainage issues – however this can only be attributed limited weight at this time. South West Water (SWW) has also deemed the proposed foul drainage scheme acceptable, subject to appropriate Grampian-

style conditions. Further, the site has been chosen as a preferred allocation under the regulation 19 emerging local plan process. Therefore, the flood risk to the development and surrounding areas is considered to be adequately mitigated.

The site is reasonably close to the services and facilities in Feniton, which are accessible via safe pedestrian routes. The distance to these services ensures that reliance on private vehicles by future residents would not be necessary.

The ecological impact of the development has also been appropriately mitigated and the landscape issues raised can be suitably addressed within conditions and a legal agreement.

The benefits of the development, including the delivery of housing to improve the district's land supply and the provision of much-needed affordable housing, outweighs the identified conflict with the development plan. Accordingly, the harm of being sited outside the BUAB does not demonstrably and significantly outweigh the benefits. It is therefore recommended that a resolution to grant planning permission is made subject to conditions and the completion of a Section 106 agreement.

As this recommendation conflicts with the views of the Ward Member the application is referred to the Development Management Committee.

CONSULTATIONS

Local Consultations

Feniton - Cllr Alasdair Bruce - 29.03.2023

I must post the following objections to this planning application.

Flooding

The village of Feniton has a long recorded history of flooding, including the area of the proposed site. The yet to be tested flood alleviation scheme has still to demonstrate it can successfully cope and disperse flood water in heavy rain fall. It is impossible to see how an increase in housing will do anything but aggravate the ongoing misery of those that continue to suffer.

In addition, a recent application nearby at Park Lodge was roundly refused by EDDC, one of the grounds being the recorded issue of flooding on the site. A level of flooding which has been ironically commented on in the developers report for this site which is noted often reaches a similar depth!

Sewerage

The appalling state of the current sewerage system in this part of Feniton was discussed in detail at a recent public meeting, with many examples of personal experience of sewerage backing up into people's homes at times of heavy rainfall. At the very least, the entire system needs overhauling before any further building is allowed in Feniton.

Density

The proposed level of buildings appeared very dense and it would seem not enough capacity for parking has been accounted for.

Traffic

The lanes around Feniton are often at capacity during peak times, especially when the rail crossing barriers are down. There are no plans to change this so an increase in traffic from this development will only serve to further aggravate an existing problem.

Infrastructure

Feniton was described in the 2014 super inquiry as being an unsustainable village for further development due in part to a lack of infrastructure. This position has not changed, and has indeed gone backwards. Much is made in the developers report of pedestrian access and public transport. Along with a number of erroneous assumptions in the report, one wonders if anyone actually visited the village. There are no pavements in the roads relating to the site. The bus service is very poor and the reality is almost everyone uses cars to access employment and services outside the village.

In summary, the above along with the many well informed comments from residents should be ample for the committee to see that there are a wealth of factual contradictions to the developers report which should see this application refused.

24/01/2025 - I am responding to your email seeking comments on the amended plans for the above application. I am agreement with the parish council in that almost none of the previous concerns have been addressed, and therefore I remain in objection to this application.

22.02.2024 - Clerk To Feniton Parish Council

Feniton Parish Council - comments 22.2.24 Burlands Mead 23/0296/MFUL

The comments that we have submitted already on this application are still relevant as there are only minor amendments made by the applicant.

However, it's important to add our further comments with reference to the updated NPPF, the Environment Act 2021 and the emerging findings of the review of the Neighbourhood Plan.

The NPPF, at para 61 makes it clear that the plan should base its development aspirations on a Housing Needs Assessment (HNA). There is no definition of "plan", but as Neighbourhood Plans are quoted many times in the NPPF there is an obvious read across and therefore our conclusion is that "plan" means Local Plans and Neighbourhood Plans.

When the Neighbourhood Plan was being prepared, an HNA was researched and prepared by the Community Council of Devon. This concluded that a total of 15 houses were required.

EDDC financed a further HNA, requested by Feniton Parish Council, for the review of the Neighbourhood Plan [NA]. This resulted in a new figure of 13, a 15% reduction in need.

The ongoing assessment of public transport has shown a decline in service, with no indication of any improvement provided by this application. This is clearly contrary to the NPPF strategic policy 20[b] and the application should fail on this alone. The increase in car traffic that will result from this application will add a huge increase to the carbon footprint of the village. Again, this is contrary, not only to the NPPF, but also to general Government and UN policy.

There is also an underlying principle that all new developments should have the infrastructure and facilities to allow them to satisfy the criteria laid out at para 8a, 8b and 8c of the NPPF. Para 74 NPPF reinforces that requirement.

The super inquiry of 2014 made it very clear that Feniton did not have the infrastructure or facilities for further large scale developments. Ironically, since that decision was made the infrastructure and facilities have got significantly worse. The railway timetable has been reduced, the traffic through the village from other settlements has increased, the schools have now reached saturation point meaning both primary and secondary school children will have to be bussed or taxied to schools outside their normal catchment. This is totally against our Objective [4] "Promote opportunities for young people to access education"

The medical facilities at Ottery St Mary, where most residents are registered have been on the decline for some time and are unable to cope with their current patient base properly. Adding further numbers could well see the complete demise of the practice resulting in a large number of the village population not having access to medical facilities. One of the Objectives [7] of the NP is to support the provision of local medical facilities. Clearly this application goes against this objective.

Having studied the way the developer has put together the proposed drainage strategy, there still appears to be a lack of understanding of the issues involved.

Their latest scheme has failed, in our view, to take into account all the known and anecdotal evidence that indicates the site will impact other parts of the village with their scheme. SUDS are supposed to be completely self contained on the development site. If this was allowed to go ahead, we can see the sort of issues we have with the Feniton Park site, where water run off is impacting the houses adjacent and EDDC and DCC are now trying to deal with the problem.

Finally, we turn to the Environment Act 2021. The developer was required to do an assessment of the biodiversity of the site, before and after being built on, using a statutory matrix. Their plans were required to show an increase in biodiversity of 10%. It appears that they have failed to do so.

24.03.2023 - Parish/Town Council

Feniton Parish Council strongly object to this application for the following reasons:

' The site is outside the current built up area boundary.

' The road infrastructure is not suitable for the increase in traffic and there are no plans to improve it. Traffic holdups at the railway crossing are more and more frequent, partly due to development in other villages having to come through Feniton to get to the main A30.

' It appears to be indicated that there will no on road parking on the development, which does seem a little naïve. Parking on the Ottery Road would be hazardous to both other drivers and pedestrians. Traffic coming in and out of the site would cause further congestion on the narrow roads and without pavements would be further

danger to pedestrians. Many secondary school children walk from Green Lane to the bus pick up points nearer the station and they would be put at much more risk, especially as they would walk blind out of Green Lane, which does not have pavements. There doesn't seem to be any real substance in the transport assessment which should have identified and addressed some of these issues.

' Because of the very poor declining public transport in the village, it will mean more cars having to commute to work, increasing the carbon footprint of the village contrary to the NPPF.

' The schools, both primary and secondary, are unable to cope with an increase in children, at this time. The probable increase of 10 children, generated by the application, will mean DCC having to fund buses or taxis to take them outside the area, again increasing the carbon footprint of the village and wasting vital taxes.

' The issue of flooding and drainage has been addressed by a desk based review and has failed to take into account the very crucial issues relating to the flooding of the village. It is also interesting that only one flood event was mentioned, even though there have been numerous serious events and many more minor events. The private watercourse, referred to in their submission, is the main flood relief pipe (was a ditch up to the 60s) for the bottom end of the main estate. It has already been shown to be inadequate by itself and the new FAS will hopefully improve the situation. However, it will still be a crucial part of the scheme, taking flood water away that the new pipe cannot pick up. This can be seen by looking at the flood map. To put the storm water from another 40 houses, plus the hard landscaping, into that water course, could see some further flooding on the other side of the railway line and possibly on the site itself. The site floods and water pools in Ottery Road. Ironically their review highlights the fact that the Ottery Road floods to a depth of 2 feet, but does not see this as a problem, even suggesting alternative routes for emergency vehicles. The whole Flood Risk Assessment seems to have been drawn up on the basis of anecdotal evidence and phone calls. In the Council's view it is an extremely unsatisfactory document that has not addressed the flood risks in any meaningful way.

' The fact that SWW have no choice but to allow the site to connect to the existing foul sewer is of some very serious concern. The sewer running along Ottery Road is a combined sewer. This results in sewage being discharged onto the road, during times of high rainfall. It is evident from the map showing flooding from surface water that the railway crossing is shown as high level of flooding going to medium along Ottery Road until it meets the site where it becomes high again. All this flood water has to go into the foul sewer, blowing the covers, and putting sewage contaminated water along the road. We have been told that someone who had to walk through this effluent caught Cryptosporidium and was quite ill. The other, very serious effect, is that the sewers from the Burlands site, next door, has sewage backing up into their houses during heavy rain. This is well known by the Authorities and the only practical advice has been to not use the toilet, use a bucket and if sewage is backing up in the toilet, stuff an old duvet down to stop the toilet overflowing. The proposed site will likely suffer the same problem and quite possibly worse. It would seem inappropriate to allow a development to be built with this hanging over them. The development

downstream at Green Acres has sewage backing up at times, but so far it is only the smell and not effluent causing a nuisance.

' It has been proved beyond doubt, firstly by the Inspector Jessica Graham at the Super Inquiry in 2014 and then by the Inspector Jill Kingaby in 2018 signing off the Neighbourhood Plan that the village is not a sustainable location, as required by the NPPF and they commented that 'substantially increasing the number of houses in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services would risk eroding community cohesion'. This application does little or nothing to address those issues.'

08.08.2023 - Clerk To Feniton Parish Council

As in the previous comments submitted on the original application the view of the Council has not changed. There are marginal differences but overall the Council feel that none of the concerns expressed in those comments have not been addressed by the amended application."

This will be ratified and minutes at the September meeting due to there being no meeting in August.

23/01/2025 - All The Parish Council comments made previously, still stand, as the amendments do little or nothing to address the concerns raised.

Technical Consultees

South West Water (SWW)

South West Water reviewed the application in March 2023 and February 2024. They provided detailed feedback on drainage, potable water, and asset protection. South West Water noted that the applicant plans to connect to manhole 6009 at a rate of 1.62 l/s for foul water flows, with the intention of seeking sewer adoption. They reminded the applicant to adhere to the latest Design and Construction Guidance and mentioned that infiltration removal work at Sidmouth Junction SPS is planned, negating the need for further network reinforcement. For surface water flows, SWW emphasized the importance of sustainable drainage solutions like rainwater harvesting and permeable paving, while making clear that land and highway drainage must not be connected to public sewers. SWW also outlined additional conditions, including the need for detailed drainage designs, plans for managing construction surface water, exceedance flow strategies, and adoption and maintenance proposals. Regarding potable water, SWW stated that upgrades to the water distribution system would take 18 months and recommended a water conservation strategy to achieve a usage rate of 110 litres per person per day. Finally, SWW outlined asset protection requirements, including maintaining 3m easements from sewers and avoiding construction within 15m of the pumping station to minimize risks from odour, noise, and vibration.

05.02.2025 - South West Water have no further comments to add to our response of 2nd October 2024.

Devon County Council (DCC) Flood Risk SuDS Consultation

DCC initially objected to the application due to insufficient information but later conditionally withdrew the objection.

DCC expressed initial concerns that the surface water drainage strategy did not conform to Policy EN22 and emphasized the importance of using above-ground sustainable drainage systems (SuDS) over underground systems, which lack water quality, public amenity, and biodiversity benefits. They required further justification for runoff rate calculations. In their revised submission, DCC imposed conditions including the provision of detailed drainage designs, construction surface water management plans, adoption and maintenance proposals, and exceedance flow strategies. They supported incorporating above-ground features like rain gardens.

East Devon District Council (EDDC) Trees

EDDC tree officers highlighted concerns regarding tree retention, non-dig construction techniques, and tree protection measures.

They noted significant issues with the encroachment of development into root protection areas (RPAs) of notable trees, including T914 and T915. They found insufficient clarity in the plans for non-dig construction and ground protection measures. The council expressed concern over the removal of hedgerows like H6, which had not been adequately justified. They acknowledged positive revisions, including the removal of Plot 17, which eased pressure on trees T914 and T915, but also requested updated tree protection plans and arboricultural method statements for clarity.

Devon County Highways

Our road collision record has been reviewed and for the 5 year period of our current records, January 2018 to December 2022, only 1 slight collision presents within the vicinity, indicating few safety issues with the local highway network. The new priority junction to be created from the existing access has acceptable visibility in both the north and south direction in accordance with our best practice guidance, Manual for Streets 1 and 2. The site layout includes sufficient space for off-carriageway turning and parking including for the Class E ground floor use, set aside for either Health or Retail use. An additional pedestrian path will also be utilised internal of the site out onto Green Lane.

To further enhance the pedestrian provision, together with the good bus and rail services of Feniton, I would recommend that the proposed secure cycle storage is conditioned to help encourage sustainable travel and further help reduce the trip generation impact from this development.

That being said, I do not believe the trip generation from this proposed 40 dwellings and Class E use will create an unacceptable trip generation intensification.

Devon County Archaeologist

I refer to the above planning application and the recently received report setting out the results of the archaeological investigations undertaken within the proposed development site. These investigations have demonstrated, despite the proximity to the known site of a prehistoric funerary monument, the proposed development site has a low archaeological potential. As such, no archaeological mitigation is required.

In the light of the results of the archaeological evaluation of this site I would like to withdraw the Historic Environment Team's previous comments and instead offer no comments on this planning application.

EDDC Landscape Architect

The EDDC Landscape Architect found the development to be overly dense, with poor provision of open space and an overemphasis on car parking. They criticized the lack of adequate buffer zones for woodland and hedgerows, and noted that the proposed tree planting plans lacked attention to detail, including species placement and soil volume calculations. They recommended reducing the site's density, retaining hedgerows, and revising the layout to include appropriate buffer zones and locally distinctive landscaping features. In response amended plans were submitted by the applicant, however, there are still outstanding issues to be resolved with regards to hard/soft landscaping and means of enclosure.

EDDC District Ecologist

The EDDC District Ecologist emphasized the site's ecological significance, noting the presence of exceptional populations of slow worms and dormice. They pointed towards the development for failing to provide sufficient compensatory habitat for these species, with biodiversity net gain (BNG) calculations showing a significant loss of hedgerow units (-40.02%) and habitat units (-7.04%). The ecologist recommended off-site compensation measures, the implementation of a Landscape and Ecology Management Plan (LEMP), and a Construction Ecological Management Plan (CECoMP).

EDDC Housing Strategy/Enabling Officer

29.01.25 - The layout looks like it has been improved and is more dispersed through the site now.

On balance the housing mix does meet an identified housing need and is a good range of dwelling sizes for a relatively small development.

I support this application.

NHS

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £23,819.00

sought will go towards the gap in the funding created by each potential patient from this development.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

EDDC Economic Development Officer

Objects to the proposal due to loss of employment land and non-compliance with Strategy 32.

The Economic Development Officer objected to the proposal, citing the loss of land previously used for employment purposes. They criticized the insufficient evidence provided by the applicant to demonstrate that the site could not be retained for employment use. They also noted the critical shortage of employment land in the area.

Environmental Health

Recommends approval with conditions related to construction and noise mitigation. Environmental Health recommended approval with conditions requiring a Construction and Environmental Management Plan (CEMP) to address noise, dust, lighting, and pollution. They also requested a noise assessment for dwellings near train lines and restricted delivery hours to protect residential amenity. Noise mitigation measures and compliance with British standards for sound insulation were also emphasized.

Police Architectural Liaison Officer

No objection but recommends defensive planting and low-level boundary treatments to reduce crime risks.

The Police Architectural Liaison Officer supported the scheme but recommended the addition of defensive planting along rear garden boundaries to deter graffiti and ball games. They also suggested knee-high railings or similar boundary treatments to define public open spaces and discourage misuse.

Other Representations

To date 48 objections have been received (including from former MP Simon Jupp), in summary;

- The development would result in surface water flooding
- Flooding will carry viruses and significantly result in adverse impact health risks (identified by a consultant who specialises in infectious diseases).
- Contrary to the development plan – outside BUAB

- Amenity – overlooking and overbearing
- Poor design
- Increase traffic causing health and safety risks and congestions.
- Noise during construction
- Loss of protected trees.
- Contrary to the finding of previous appeals.
- Would set a precedent.
- Infrastructure unable to cope – school, Doctors/Dental surgery, NHS facilities
- Poor surface water drainage
- Village unable to cope with increase in residential units.
- Harm to wildlife
- Insufficient foul drainage infrastructure
- Not enough parking
- Archaeological important site at risk.
- Lack of transport links.
- Landscape harm

PLANNING HISTORY

Reference	Description	Decision	Date
22/1926/TRE	G1, Comprised of 5 x Lawson cypress, 1 x Whitebeam, 1 x Monterey cypress and 1 x Cherry tree: i) Crown lift to a height of 5.2m above the public highway and footpath. ii) Crown reduce by up to 2m, making pruning cuts of up to 50mm in diameter.	13.10.2022	Approved
20/2247/FUL	Refurbishment of existing workshop and garage and conversion to 3no. terraced houses.	03.02.2021	Refused
96/P0143	Replan Part Of Site From Two Units To Three	24.04.1996	Approved
95/P0683	Erection Of Three Additional Dwellings & Repositioning Of Plots 15 & 16	07.06.1995	Approved
93/P1335	Erection Of 18, Link, Semi And Detached Properties	10.01.1994	Approved
92/P1245	Erection Of 12 Dwellings Renewal Of Permission	22.09.1992	Approved

88/P1174	12 Houses	16.12.1988	Approved

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)
 Strategy 2 (Scale and Distribution of Residential Development)
 Strategy 3 (Sustainable Development)
 Strategy 4 (Balanced Communities)
 Strategy 5 (Environment)
 Strategy 5B (Sustainable Transport)
 Strategy 7 (Development in the Countryside)
 Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)
 Strategy 34 (District Wide Affordable Housing Provision Targets)
 Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)
 Strategy 37 (Community Safety)
 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)
 EN13 (Development on High Quality Agricultural Land)
 EN18 (Maintenance of Water Quality and Quantity)
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
 EN21 (River and Coastal Flooding)
 EN22 (Surface Run-Off Implications of New Development)
 H2 (Range and Mix of New Housing Development)
 TC2 (Accessibility of New Development)
 TC4 (Footpaths, Bridleways and Cycleways)
 TC7 (Adequacy of Road Network and Site Access)
 TC9 (Parking Provision in New Development)

Neighbourhood Plans

Feniton 'made' Neighbourhood Plan

Policy T1

Policy T2

Policy F1

Policy H1

Policy H3
Policy H3
Policy C2
Policy E1
Policy 02

Emerging East Devon Local Plan

CHAPTER 3. THE SPATIAL STRATEGY

Strategic Policy SP01: Spatial strategy
Strategic Policy SP02: Levels of future housing development
Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area
Strategic Policy SP05: Development inside Settlement Boundaries
Strategic Policy SP06: Development beyond Settlement Boundaries

CHAPTER 5. DEVELOPMENT IN THE TOWNS AND VILLAGES

Strategic Policy SD18: Development allocations at Feniton

CHAPTER 6. MITIGATING CLIMATE CHANGE

Strategic Policy CC01: Climate emergency
Strategic Policy CC02: Moving toward Net-zero carbon development
Strategic Policy CC03: Promoting low carbon and renewable energy

CHAPTER 7. ADAPTING TO CLIMATE CHANGE

Strategic Policy AR01: Flooding
Strategic Policy AR02: Water efficiency

CHAPTER 8. MEETING HOUSING NEEDS

Strategic Policy HN01: Housing to address needs
Strategic Policy HN02: Affordable housing
Policy HN03: Housing to meet the needs of older people
Policy HN04: Accessible and adaptable Housing
Policy HN05: Self-build and custom build housing

CHAPTER 9. SUPPORTING THE ECONOMY AND TOWN CENTRES

Strategic Policy SE04: Resisting the loss of employment sites
Strategic Policy SE06: Town Centre Hierarchy

CHAPTER 10. HIGH QUALITY DESIGN

Strategic Policy DS01: Design and local distinctiveness
Policy DS02: Housing density and efficient use of land

CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS

Strategic Policy TR01: Prioritising walking, wheeling, cycling, and public transport
Strategic Policy TR02: Protecting transport sites and routes
Policy TR03: Travel plans, transport statements and transport assessments
Policy TR04: Parking standards

CHAPTER 12. OUR OUTSTANDING LANDSCAPE

Strategic Policy OL01: Landscape features
Policy OL09: Control of pollution
Policy OL10: Development on high quality agricultural land

CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY

Strategic Policy PB01: Protection of internationally and nationally important wildlife sites

Policy PB02: Protection of regionally and locally important wildlife sites

Policy PB03: Protection of irreplaceable habitats and important features

Strategic Policy PB04: Habitats Regulations Assessment

Strategic Policy PB05: Biodiversity Net Gain

Strategic Policy PB06: Local Nature Recovery Strategy and Nature Recovery Network

Policy PB07: Ecological enhancement and biodiversity in the built environment

Policy PB08: Tree, hedges and woodland on development sites

Policy PB09: Monitoring requirements for new planting schemes

CHAPTER 14. OPEN SPACE AND SPORTS AND RECREATION

Strategic Policy OS01: Access to open space and recreation facilities

Policy OS02: Sport, recreation and open space provision in association with development

Policy OS03: Location of facilities for sport and recreation and open

Policy OS04: New allotments and avoiding the loss of existing ones

Policy OS05: Leisure and recreation developments in the countryside

Development Plan Documents

East Devon Villages Plan (2018)

Government Planning Documents

NPPF (National Planning Policy Framework 2024)

National Planning Practice Guidance

Site Location and Description

Burlands Mead is a detached property situated in large grounds. It is located on Ottery Road, within a few hundred metres of the main facilities in Feniton, the railway station, school, pub and supermarket. Within the site are greenhouses and a redundant single storey workshop/office building. The site is bordered by residential development on two sides, with woodland occupying the eastern portion with the railway further beyond. Currently the site is positioned outside of the BuAB (Built Up Area Boundary) for Feniton. The land is relatively flat and can be seen on the approach into the village. There is an existing access point with tarmacked drive leading to the complex of buildings. On the opposite side of the main road are an expanse of agricultural fields giving rise to a semi rural character.

Proposed Development

The proposal seeks full planning permission for the creation of 35 dwellings and associated landscaping with infrastructure. The proposal has evolved over time which has seen a reduction in overall numbers and the loss of an originally proposed B1 unit (replaced by a rain garden area). Amended plans submitted in January 2025 updated the archaeological assessment, altered house sizes to comply with national space standards and alteration to the position of affordable housing to better pepperpot. The following considerations are made in light of the plans as amended.

The proposed site area is approximately 1.4 ha and with 35 dwellings proposed, this equates to a proposed density of 25 dwellings per hectare.

The proposal includes several house types accessed from a main spine road. The existing access point serving the site would be used. To the north of this access are affordable units consisting of a broadly semi circle layout configuration, with adjacent parking. Further into the site on the south side of the spine road is more affordable dwellings consisting of apartments with parking to the front. To the rear of these is open space. Moving further into the site, away from the adjacent highway, is the open market dwellings consisting of 3 and 4 bed dwellings. Between this open market housing and the railway line positioned further to the east is a general wooded amenity area. Additional open space area is positioned to the south east of the open market dwellings.

Pedestrian footpaths are proposed to allow on foot access from the north and east of the site. Parking to serve each of the dwellings is also proposed. A range of boundary treatments are proposed consisting of close boarded fencing, brick estate walls, railings and post and wire.

Underneath the rain garden subterranean surface water crates are proposed to store and control flow rates. In terms of foul water drainage, the proposal seeks connection with the existing SWW mains within the main road which feeds into the pumping station positioned on the other side of this main road. The site has an existing culvert that runs diagonally through the middle of the site which requires an easement zone either side.

The proposal would involve the removal of 5 TPO Lawson Cypress trees along the site north edge, which previously provided screening of the residential estate to the north east of the application site. Pedestrian access would also be available from the east with a connecting footpath through to Green Lane.

It is worth noting that the consultation on the draft emerging Local Plan identifies this site as a preferred allocation under ref; Feni_05.

Site Assessment Summary for Feni_05:

Infrastructure implications: There are no explicit site specific infrastructure issues identified in this phase of this work for this site. However, for Feniton on a more general level (and these concerns could impact on or be relevant to development potential of this site), there are or could be concerns around highway capacity, water and flooding and education provision.

Landscape sensitivity - summary of findings: This site was previously used as a

plant nursery and some building and structures and an old dwelling remain on the site. The site is over-grown and with development to three sides and a road frontage it does not read as being part of the open countryside, albeit it does have an open and somewhat wild character.

Impact on historic environment - summary of findings: There are no designated heritage assets in close proximity of the site.

Ecological impact - summary of findings: The extensive vegetation cover on the site and the fact that it contains a number of mature trees within and to its boundaries means that it is likely to support species of at least some local interest. There are no designated wildlife features or assets close to the site.

Accessibility assessment: The site falls within 1,600 metres of the modest range of services and facilities that are available in Feniton.

Other known site constraints: There are no other identified constraints to development that are specific to this site.

Site opportunities: There are no specific opportunities that development of the site could help deliver other than noting that development would help secure new housing provision.

Amended Maximum Yield following discounted areas on site: 42

Brief summary of the key positives and negatives of the site: The site would form a reasonable allocation for residential development.

Should the site be allocated? Yes

Reason(s) for allocating or not allocating: This is the site of a former plant nursery that contains former structures and buildings that are in a poor state of repair. The site lies towards the southern side of new Feniton. A planning application, 20/2247/FUL, on part of the site to include three houses was refused. The rectangular site has existing development to three sides and can be seen as a reasonable development option, it presents what might be looked upon as a large infill opportunity in the built fabric of the village. However, there is a concern that it is not clear if alternative employment uses for the site have been effectively explored and also extensive on-site vegetation cover may be of some wildlife interest

Members should be aware that at Strategic Planning Committee it was agreed that this should be included as a preferred site allocation as part of the Regulation 19 emerging local plan.

ANALYSIS

The main issues concerning this proposal are;

- The principle of the development
- The need to maintain a healthy housing supply and trajectory going forward
- The 2024 National Planning Policy Framework, as a material consideration
- The potential for flooding
- Surface water drainage
- Foul drainage
- Character, Layout and Design
- Landscaping
- Whether the proposed occupiers are in suitable range of services and facilities so as to not be reliant on private modes of transport

- The impact on highway safety and the road network.
- Affordable housing
- The impact on ecology
- Employment Use
- Open Space
- Archaeology
- S106 requirements
- Planning Balance

The principle of the development

Strategies 1 and 2 of the East Devon 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. Feniton does however feature a Built up Area Boundary (BUAB) as designated within the Villages Development Plan Document.

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of Feniton, thereby conflicting with Strategy 7 and Strategy 27 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.

Feniton has a 'made' neighbourhood plan. The date of 'making' this Plan is 19 July 2018. This was following the successful referendum on 17th May 2018, where 93.71% of residents who voted were in favour of adopting the Plan.

NP Policy H3 Housing developments states within Feniton's BUAB development will usually be supported where they include a range of house types. The NP policies do not specifically allow for any housing development outside of the BUAB.

Given the above residential development of this nature and within this location conflicts with the spatial approach to development as expressed within the development plan. This conflict is attributed significant weight given that protection of the countryside, preventing sporadic development and ensuring suitable growth are amongst the main objectives of the local plan.

The need to maintain a healthy housing supply and trajectory going forward

The need for housing over the next five years is a crucial consideration in planning decisions. According to the National Planning Policy Framework (NPPF) 2024, 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.

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. Within an adequate supply of housing an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of the NPPF.

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 for 'sustainable development' if there is no identified contextual conflict, would unbalance communities and is within reasonable reach of an appropriate level of services and facilities.

As a result of the recent publication of the government's proposed reforms to the National Planning Policy Framework published on 12 December 2024 the Assistant Director – Planning Strategy and Development Management was disappointed to report that the Council's position had now become significantly worse. He explained that the Council now had to assess its housing land supply position against the new standard method figure of 1,188 homes per year, an increase of just over 200 homes per year as well as include a requirement of a 5% buffer. As a result, the Council's housing land supply position is **2.97 years**.

Anticipated housing completions over the next five years suggest continued underperformance against statutory requirements. Projections indicate an accumulating deficit unless swift action is taken to accelerate delivery. Adjustments to policies encouraging smaller and garden land windfall developments may provide incremental supply boosts.

The council must address the housing supply deficit to align with NPPF standards and support the adoption of the emerging Local Plan by 2026.

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.

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 great 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.

The 2024 National Planning Policy Framework, as a material consideration

The National Planning Policy Framework (NPPF) published in December 2024 is a material consideration in the determination of planning applications. The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework, in the decision-taking section states:

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (footnote 8)*

, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (footnote 7) provides a strong reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.*

As above paragraph makes clear that where the policies of the Local Plan are out of date, which is the case here in the absence of a 5 year housing land supply, then a so called 'tilted balance' is applied, i.e. to grant consent unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

However, it is relevant that areas of particular importance within para (i), as stated within footnote 7, include 'areas at risk of flooding'. As this proposal takes place within a Critical Drainage Area (CDA), an area at risk of flooding, it is necessary to ascertain whether this provides a strong reason for refusing the proposal. If it does, then the 'tilted balance' is dis engaged.

Paragraph 14 of the NPPF states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply: a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement. As the Feniton NP was adopted more than five years ago (2018) this would not affect the application of the presumption in favour of sustainable development.

The Potential for Flooding

Feniton NP records that the settlement has been badly affected by flooding, most notably in 2008 and on numerous occasions since. The first documented reference to flooding was in a parish council report of 1912, but probably the worst case of flooding was in 2008 when between 50 and 60 homes were flooded and elderly residents were forced to escape the rising water by climbing up into the attic of their bungalows. As noted by several objectors the flood water could contain bacteria giving rise to series infections disease and viruses which have the potential to significantly impact health. NP Policy F1 seeks a design and construction which seeks to minimise adverse impact on existing flooding (including, but not limited to measures such as permeable driveways and dedicated parking spaces, use of soakaways and planting to minimise run-off). Proposals should demonstrate that they have taken full account of and recognise the impact of flood risk, both in terms of fluvial and localised surface water flooding. Development should minimise and do not exacerbate existing surface water flooding issues beyond the site.

At a national level the National Planning Policy Framework (NPPF) clarifies that the sequential approach and associated tests must consider all sources of flood risk when allocating or permitting development. The Planning Practice Guidance (PPG) on Flood Risk and Coastal Change has been updated to reflect this position. This represents a notable shift in the application of the Sequential Test, which now explicitly applies to *all* areas at risk of flooding, including risks from rivers, the sea, surface water, groundwater, overwhelmed sewers and drainage systems, and artificial sources such as reservoirs and canals. Paragraph 23 of the flood risk section of the PPG now clearly states that the Sequential Test prioritises avoiding development in medium and high-risk flood areas from all sources, including surface water. It further emphasizes that even where a Flood Risk Assessment (FRA) demonstrates that a development can be made safe without increasing risks elsewhere, the Sequential Test must still be satisfied.

The sequential approach aims to direct development to areas with the lowest flood risk, minimizing reliance on measures such as flood defences, warnings, and resilience features. This ensures that areas with little or no flood risk are developed first. By prioritizing avoidance of high-risk areas, the approach effectively mitigates potential flooding impacts. Even with an FRA confirming the safety of a development throughout its lifespan, the Sequential Test must be applied to avoid placing unnecessary pressure on flood risk management systems. In summary a risk adverse approach is advocated.

The NPPF emphasizes steering development toward areas with the lowest risk of flooding, both now and in the future. The August 2022 PPG revisions expanded the definition of "areas at risk of flooding" to now include, explicitly, areas designated as Critical Drainage Areas (CDAs). These revisions also clarified that Flood Zone 1 areas with critical drainage problems, as identified by the Environment Agency (EA), must be treated as flood risk areas.

The Sequential Test must be applied to both major and non-major developments proposed in areas at risk of flooding and subject to sources of flooding other than rivers or sea.

The applicant has highlighted ongoing infrastructure improvements in Feniton, suggesting these measures may address drainage issues and potentially alter the flood risk classification in the future. However, as per the PPG, existing flood risk management infrastructure should be excluded from initial considerations due to uncertainties regarding its long-term maintenance and funding. Therefore, limited weight can be attributed to these works in the current decision-making process.

The CDA designation places the site within the broader flood risk framework. Historical flood events, such as the October 2008 flooding in Feniton, underscore the importance of ensuring all off-site surface water discharge mimics "greenfield" conditions to reduce downstream risks.

The proposed surface water drainage strategy includes subterranean crate systems and other measures such as the rain garden deemed acceptable by the Lead Flood Authority, mitigating flood risks within the site. Nevertheless, the Sequential Test must still be considered.

A level 1 Strategic Flood Risk Assessment (SFRA) was carried out by the Policy department in the early part of last year. This process was carried out and included assessment of this application site. It concluded that none of the preferred allocations (including this site, Feni_05), were shown to be at flood risk and none were taken forward in the level 2 work, although it was noted that all are in a CDA. The Level 2 SFRA at appendix C summarises the flood risk and sets out the sites that were not taken forward to a Level 2 SFRA, the implication being that further investigation into flood risk were not necessary.

Further this site is a preferred allocation of the emerging local plan and so further weight can be given to its likelihood of actual allocation once adopted.

The PPG at para Paragraph: 027 Reference ID: 7-027-20220825 Revision date: 25 08 2022 states that the Sequential Test should be applied to 'Major' and 'Non-major development' proposed in areas at risk of flooding, but it will not be required where:

- The site has been allocated for development and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test).
- The site is in an area at low risk from all sources of flooding, unless the Strategic Flood Risk Assessment, or other information, indicates there may be a risk of flooding in the future.

The second bullet point above is considered to apply to the circumstances of this planning application. The EA flooding records indicate that the actual site is at 'very low risk', neither the DCC Lead Flood team or SWW object and consider that foul and surface water can be suitably controlled (as will be reported in the subsequent

sections), and the latest evidence from the Policy Team in the form of a recent SFRA points towards a low risk for this preferred allocation. Accordingly, this provides compelling reasons why the sequential test, in this instance, is not applicable in line with the PPG exemptions.

Application of the Exception Test

Given the site very low surface water flood risk (less than 0.1% annual chance) of the housing area of the site and its classification akin to Flood Zone 1, the exception test is arguably not applicable given that it's not in a 'floodzone' but rather a CDA. Nevertheless, the flood event maps also show that the main road is at worse a medium risk 1:30 (flood zone 3a equivalent) to 1:100 (floodzone 2 equivalent) year events. This takes into account the requirements of Table 2 in the PPG flood risk section.

The NPPF, para 178, is clear with regards to the Exception Test that:

- It must be demonstrated that the development provides sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared.
-
- A site specific flood risk assessment must demonstrate that 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 case the contribution towards affordable housing in Feniton (the whole settlement is covered in a CDA) provides a wider sustainable benefit that outweigh the flood risk.
 - The quantum of dwellings would contribute towards supply of housing in the district.
 - Brings forth a preferred allocation in the emerging plan, thereby aligning with the spatial approach to the distribution of housing of the emerging local plan.
 - DCC Lead flood support the approach to surface water mitigation – subterranean storage creates, and rain garden would restrict flow in high rainfall periods,
 - The accompanying FRA deals with how this proposal would be safe for its lifetime – no objections raised by the EA. Such analysis/measures include;
 - a) Emergency Access - The small accumulation of floodwater alongside the southwest corner of the site on Ottery Road may be unsuitable for passage of emergency vehicles. However, by turning right out of the site access would allow the deep floodwater to be avoided. Depths of water further northwest along Ottery Road are anticipated to be shallow because this area conveys runoff as opposed to ponding. Furthermore, a footpath is available from the site to Green Lane. This provides a dry route that avoids the minor surface water flow path on Ottery Road. It therefore offers an alternative and safe means of access and egress for the site.

- b) Whilst it is thought unlikely that the railway embankment would experience overtopping once the Feniton Alleviation Scheme is complete, the site layout and proposed site levels have been designed in a way with this in mind.
- c) The Feniton Flood Alleviation scheme is well underway and due for completion summer 25'.
- d) Finished Floor Levels (FFL) of the dwellings will be elevated above the surrounding ground levels by at least 150 mm in accordance with building regulations. This will help to protect against the possibility of saturated ground and shallow ponding of water, which is inevitable after prolonged or very heavy rainfall.
- e) The surface water drainage strategy has been based on providing management up to and including the 1 in 100 year plus a 45% allowance climate change event,

Conclusion

The Sequential Test, in most instances, should be applied to the proposed development due to its location within a CDA – an area of flood risk. However, for the reasons given the site is considered to be at 'low risk' meaning that the exemption to the sequential test applies.

The Exception Test has been applied given the annual risks of the where the proposed access meets the public highway. As above the scheme is considered to provide benefits to the community and provide measures to ensure is safe for its lifetime. With no objections raised by the EA or DCC Lead flood team, and taking into account officer assessment above the potential flood issues should not be used as a reason to withhold planning consent.

The CDA designation therefore does not provide strong reasons for refusing the development and so the 'titled balance' within the NPPF is engaged once more.

Surface Water Drainage

LP Policy EN22 (Surface Run-off Implications for New Development) states 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. Planning permission for new development will require that the surface water run-off implications of the proposal have been fully considered and found to be acceptable. NP Policy F1 seeks to ensure no adverse impact on existing flooding and satisfactorily mitigate / accommodate surface water run-off arising from the development through the use of Sustainable Drainage Systems (SuDS) where appropriate.

The provided plan highlights the surface water drainage strategy for the development, including the use of attenuation crates and flow control measures to manage surface water runoff. The applicant has amended the development layout and the impermeable area is changed from 5,350.40m² (5,885.44m² with 10% urban creep)

to 5,170.60m² (5,687.66m² with 10% urban creep). The associated greenfield runoff rate is maintained at 0.544l/s.

The key elements include:

The system involves the installation of underground attenuation crates, which temporarily store excess surface water during heavy rainfall. These crates are located in strategic positions across the site, as marked by blue outlines and corresponding labels on the submitted plans. The crates are designed with specific capacities (e.g., available storage volumes of 74.4 m³, 184.7 m³, etc.), ensuring they accommodate runoff generated by impermeable surfaces such as roads, paths, and roofs.

Flow control mechanisms, such as orifice plates and control pipes, regulate the release of stored water at a controlled flow rate (e.g., 0.5 l/s). This gradual release minimizes the risk of overwhelming downstream drainage infrastructure and mitigates flood risks in the local area.

From the crates, water is discharged either into the existing private culvert or the public sewer system, as indicated. The outflow is regulated to meet specified limits (e.g., 1.2 l/s at the final discharge point), ensuring compliance with local drainage requirements and environmental standards.

The proposed drainage system incorporates a sustainable drainage approach by retaining and managing water on-site before controlled discharge. The design ensures sufficient capacity to manage extreme rainfall events, aligning with best practices in flood prevention and water management. This strategy reduces the impact on existing drainage infrastructure, such as nearby culverts, and protects adjacent properties from potential surface water flooding. In summary, the surface water soakaway system employs modern attenuation and flow control measures to ensure efficient and sustainable water management across the development.

DCC Lead Flood Authority withdrew their original objection and as such they have no in-principle objections, assuming that the suitable pre-commencement planning conditions are imposed on any approved permission. Whilst the size of the dwellings has changed slightly to comply with national standards since those DCC comments were made the drainage plans remain unchanged. The proposal complies with policy EN22.

Foul Drainage

Foul water flows are intended for disposal via mains sewer. In principle, SWW does not currently hold any objection to foul water disposal through a connection to a public foul Sewer. Further hydraulic modelling on the network needs to be undertaken by SWW to see if there would be need for some further network improvements to be undertaken. If network improvements are needed it is likely to be in the form of surface water separation. SWW have advised it would take 3 months to complete this hydraulic modelling which would then confirm the scope of any relevant improvements. A Grampian style condition is recommended to secure this and any necessary mitigation prior to the occupation of any dwelling.

There is a duty on South West Water under s94 and s37 of the Water Industry Act 1991 (the WIA) to provide capacity to accommodate new developments. The water company who have a statutory duty to accommodate new developments. This duty is enforceable under s18 of the WIA. SWW have done some works to the capacity of the foul drainage network, however, their response indicates that further investigation and works maybe required. In planning terms, while concerns have been raised that neither South West Water or by extension an enforcing authority are meeting those commitments, the NPPF specifically requires that in taking planning decisions it should be assumed that separate pollution control regimes, in this case including the WIA, should operate effectively. This does not mean that a proposal to operate with an unsustainable or inappropriate foul drainage scheme cannot be considered, but does apply where a proposal is to connect to a mains drainage network and there is no objection from the water undertaker (as is the case).

SWW have stated that it is anticipated that suitable provision can be made within the existing network for the supply of portable water to the proposed development however SWW strongly advise the developer to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by planning policy Strategy 3 and 38.

SWW provided further feedback on the proposed development following its previous responses dated 20 March 2023 and 9 February 2024. For foul water flows, the applicant proposes to connect to manhole at a discharge rate of 1.62 l/s and seeks SWW's adoption of the sewer network. SWW emphasizes that the design must adhere to the latest Design and Construction Guidance, and offers pre-design assessment services. Planned infiltration removal work and network cleansing will enhance the local sewerage system's performance, meaning additional reinforcement is unnecessary.

Regarding surface water flows, SWW notes the applicant plans to discharge at a rate of 1 l/s into a private culvert, requiring consent from the culvert owner. The drainage strategy includes sustainable measures such as water butts, rain gardens, and permeable paving. However, further details are requested, including a detailed drainage design, surface water management during construction, adoption and maintenance plans, exceedance flow management, and a site build program. A condition is recommended to ensure these requirements are met before occupation to mitigate flood risks and ensure system feasibility.

For the potable water supply, SWW indicates that the local distribution network is near capacity, necessitating upgrades to accommodate the development. These works will take 18 months and are designed to support broader growth in the area. Occupation of the development will be contingent upon the completion of these upgrades. SWW also encourages maximizing water efficiency through adherence to the Building Regulations Optional Requirement G2 of 110 Litres per person per day, aligning with sustainable development policies.

In terms of asset protection, the site contains combined sewers and is near a pumping station, requiring easements of 3 meters on either side of the pipes to ensure accessibility for maintenance. Structures must not encroach on these easements, and diversions should be discussed with SWW if compliance is not possible.

SWW consultation concludes by recommending specific conditions to address water efficiency, drainage, and infrastructure capacity to ensure sustainable and effective service provision for the development.

Therefore, SWW support the proposal subject to a condition securing the G2 requirement relating to potable water prior to commencement and a Grampian style condition requiring no occupation until confirmation that SWW has completed is modelling and network improvements for foul drainage and implemented any required mitigation.. The SWW response sets out that such requirements can be made achievable within the lifetime of the consent so that a Grampian condition would be reasonable. The suggest conditions required modification to align with planning legislation, as some elements are covered under other relevant legislation.

Given the above it is considered that foul water drainage from the proposal can be suitably accommodated and should not be used as a reason to withhold planning consent.

Character, Layout and Design

NP Policy E1 acknowledges Feniton's unique topography, its status as a rural farming settlement of long standing and it a sense of 'remoteness' (to quote the Planning Inspectorate's report following the Joint Inquiry). These all contribute to making Feniton the unique place that it is. Accordingly, development proposals which change the characteristics and essential qualities of the natural environment (including biodiversity, habitats, built heritage and landscape) will only be supported under the NP where they: i) demonstrate no adverse impact on those characteristics or that any adverse impacts are satisfactorily mitigated (for example, through appropriate landscaping, habitat creation or replacement and natural planting consistent with local biodiversity and species); ii) enhance the natural environment where there is the opportunity to do so.

The proposed development comprises the construction of 35 residential dwellings located within the area outlined by the red boundary in the provided plans. The layout integrates various housing types, including apartments and houses with different configurations and floor areas, offering a mix of market and affordable housing options.

From the adjacent main road the rain garden and two storey curved dwellings provide a suitable frontage. It has to be taken into account that this is one of the main routes into the village and so has to accommodate the transition from rural to semi-rural mixed with residential development.

The arrangement of the dwellings prioritises efficient use of space while maintaining green areas and open spaces. Properties are clustered into distinct areas, with a mix of terraces, detached, and semi-detached housing to create a varied streetscape. The central road network provides vehicular access while ensuring pedestrian permeability. The design reflects modern planning principles, promoting accessibility and internal connectivity. With regard to external connectivity this site can be readily accessed from the east and north with pedestrian footpaths, as well as from the main vehicular entrance.

The development achieves a density reflective of suburban character, balancing the need for housing provision and maintaining a comfortable living environment. The density ensures an efficient land use pattern, suitable for the site's semi-urban context, while avoiding overdevelopment as open space is still incorporated. This aligns with typical residential densities observed in the surrounding area, preserving compatibility with the local residential character.

Substantial landscaping is incorporated, with tree retention and improved planting concentrated along site boundaries and within open spaces. This softens the visual impact of the development and enhances biodiversity. Green corridors and landscaped buffers along the eastern edge ensure compatibility with adjacent areas, particularly where the site abuts existing housing and open countryside. This is assessed further within the landscaping section of this report.

The site plan provides parking spaces for each dwelling, supplemented by shared or visitor parking areas. Parking ratios align with standards for suburban residential developments, and garages are included for specific house types. The arrangement minimizes on-street parking and integrates spaces seamlessly into the overall layout without compromising green areas.

The proposed scheme is in keeping with the scale, form, and character of existing developments adjacent to the site boundary. Careful attention has been paid to the interface between new dwellings and existing properties, ensuring privacy and minimizing potential conflicts. Open spaces and tree-lined buffers create a transitional edge, maintaining harmony with surrounding residential uses.

In summary, the proposal demonstrates a well-considered approach to site development, prioritizing high-quality design, landscape integration, and compatibility with the surrounding environment. The mix of housing types, sufficient open space, and parking provision enhance its suitability within the broader context.

Landscaping

The landscaping scheme has been through several evolutions alongside the change in overall layout and, at the time of writing, there are still issues to be resolved regarding the hard and soft landscaping, as well as boundary treatments (see EDDC landscape officer consultee comments).

Of particular note is the proposed rain water garden, the inclusion of which achieves several objectives. It provides an area for surface water drainage thereby alleviating pressure on drainage, it provides an attractive soft frontage for the development (when viewed from the adjacent road) and it contributes towards the need for open space. The landscape officer has taken issue with the alignment of the pathway running through this and the need for suitable planting on the periphery of this garden area. However, these issues can be remedied via condition.

The north boundary, adjacent to the Burlands residential estate, must be sensitively handled. This transitional area currently feature protected trees to be removed. A brick

wall to the rear of the properties is proposal and this would provide a suitably estate like boundary treatment for the street scene of the properties within Burlands.

In-depth conditions are required to improve on the information received to date, but subject to their compliance this should not withhold consent being granted.

Whether the proposed occupiers are in suitable range of services and facilities so as to not be reliant on private modes of transport

The government published Manual for Streets states 'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot'. Not only is the distance of important but so too is the nature and character of the route.

The provisions of Local Plan Strategy 5B (Sustainable Transport) require that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport and would need to be of a form, incorporate proposals for, and be at locations where it would encourage and allow for efficient, safe and accessible means of transport with low environmental impact, including (among other things), walking and cycling. These provisions are largely supplemented by those of Policy TC2 (Accessibility of New Development) which require new development to be located so as to be accessible by pedestrians and cyclists, as well as public transport, and also well related to compatible land uses so as to minimise the need for car travel.

Walking to the north on the pavement to the train line is about 350 metres, the shop is another 60 metres, continuing this route to the school is approximately 800m.

The route along Ottery Road is relatively flat, benefits from pavements with street lighting making it a relatively attractive proposition to transverse on foot.

Affordable Housing

For the proposal to be compliant with the existing local plan, and given that it is outside of any identified Built Up Area Boundary (BUAB), then under strategy 34 of the Local Plan an affordable housing target of 50% applies. This proposal, in providing 18 of these units as affordable it is therefore policy compliant with the local plan in this regard. The neighbourhood plan states under Policy H1 outside the BUAB, on exception sites, at least 66% affordable housing should be provided, in accordance with Strategy 35.

As can be seen from the layout plans all of the affordable units are positioned in the west portion of the site adjacent to the road as well as further within the site. This distribution is considered to meet the strategy requirement for peppotting throughout the site and so enhance social integration.

The use of similar architectural styles and materials ensures the affordable housing is homogeneous with open market helping to promote social cohesion.

The proposal has not been put forward as an exception site and the overall scale of the housing is well beyond the circa 15 units usually intended for such developments, therefore NP policy H1 is not applicable. Given the need for housing numbers, of both open market and affordable, the affordable housing offer is considered acceptable.

The above addresses the Housing Enabling Officer original concerns in this regard and no issues were identified with regard to affordable housing distribution in terms of the layout.

The Feniton Affordable Housing Survey (2022) put forward the size of property required;

- 6 of the households surveyed would require one or two bedroom accommodation for singles and couples – proposal provides 8
- 2 of the households would require two bedroom family accommodation – proposal provides 2 (non apartment) dwellings
- 4 of the households would require three bedroom family accommodation – proposal provides 8
- 1 of the households would require four bedroom family accommodation – none.
 - Within the survey no 5 bedrooms were required.

In summary the proposal provides more than the identified need for apartment accommodation, meets the two bed family accommodation need, provides more three bedroom family accommodation than required but does not provide the four bedroom home identified. On balance this is considered to meet the affordable need and this has been recognised as a 'good range' of affordable housing by our Housing Enabling Officer. The smaller accommodation, typically affordable rented accommodation, would be catered for as well as 2 bed family homes. The over provision of three bed homes should not be seen as a negative, as many within the local area could fall within this category of demand. Therefore, on balance the proposal meets the overall need of Feniton so that this should not weigh against this scheme.

Impact on trees

The site is covered by a blanket Tree Preservation Order (ref; 20/0047/TPO) and the tree officer has been consulted. In addition to this blanket TPO there are five individual Lawson Cypress trees positioned along the north eastern boundary which are individually protected.

The tree officer raised no objection to the loss of the Cyprus trees along the northern boundary. These are rather tired examples of the species which are likely to become increasingly more problematic to manage as they continue to age. The proposed replacement planting in compensation for the loss of the Cyprus tree is largely appropriate. However, the Acer campestres located approx. 2.5m to the north of Unit No 29, would need ongoing cyclical pruning to provide clearance from the adjacent dwelling once they become established. Therefore, alternative slower growing species should be sought and this could be addressed within a condition.

There is a lack of detail with regards to the connection with the edge of the carriageway with Green Lane to the south east of the site and therefore further details shall be requested via condition to ensure that this is satisfactory.

The impact on highway safety and the road network.

NP Policy T1 Proposals for new development will only be supported where they demonstrate that they will, in proportion to the scale of development proposed: i) minimise any adverse impact of additional traffic, such as increased volume of traffic at peak times which could lead to congestion, increased levels of pollution or increased speeds which may compromise pedestrian and cyclist safety; ii) improve accessibility to and safe use of pedestrian and cycle routes through enhancement of existing or provision of new routes. Additionally, proposals should not exacerbate existing parking problems in and around old and new Feniton.

The proposal would utilise an existing access point with the main road with adequate visibility splays taking into account the 30 mph speed limit. Engineering drawings show that within the site the road alignment is suitable for a range of vehicles. Increased traffic flowing onto this highway is to be expected, however, this is not considered to result in 'severe' residential cumulative harm ('severe' being the threshold under para 116 of the NPPF).

Pedestrian linkages enhance connectivity and permeability of the development. Cycle storage has been submitted in order to meet the objective of providing alternative transportation methods.

Therefore, the proposal is considered acceptable in this regard.

The impact on ecology

The application is supported by a bat emergence survey which are considered to have low suitability to support roosting bats.

No bats were seen to emerge in May 2024, and the buildings were considered unlikely to be used by roosting bats. No further survey work is therefore required, and the demolition of the buildings will not require a European protected species licence. Recommendations are made for the provision of bat boxes in each new dwelling and a sensitive lighting scheme to be detailed with a Landscape and Ecological Management Plan (LEMP).

As the proposal was submitted prior to the introduction of Biodiversity Net Gain (BNG) the site is not subject to mandatory BNG. Nevertheless, the application is supported by a Biodiversity Metric 3.1 and BNG report which quantifies that the development would result in a change of -0.41 habitat units (- 7.04%) and -1.09 hedge units (- 40.02%), i.e., the development would result in a quantified biodiversity loss for habitats and hedges.

The proposed mitigation strategies for dormice and reptiles (both present on the site) are largely in accordance with published guidelines in terms of the actions required, for example, an outline reptile translocation methodology and habitat clearance

methods for dormice.

- o A European protected species licence will be required for habitat clearance.
- o Insufficient details regarding the amount of compensatory habitat provision for reptiles and dormice has been provided to date and therefore should be conditioned.
- o The ecological appraisal makes suggestions for compensatory habitat provision for protected species, but it is unclear if these measures have been implemented to date.
- o Off-site compensation for reptiles and the enhancement of the woodland and hedges could potentially be used for compensation for dormice (and for bats), subject to sufficient details and long-term maintenance being secured, e.g., through planning obligation.

The application is supported by an Ecology Note on Consultation Response (FPCR, 2024) addressing previous (above) ecological commentary on the submitted scheme. Some of the key points addressed in the note and to be secured include:

- o A woodland management plan.
- o A sensitive lighting plan in accordance with BCT/ILP 08/2023 and Devon Dark skies guidance (including supporting lux contour plan).
- o Securing off-site habitat gains to achieve 10% Biodiversity Net Gain (BNG).
- o A local reptile translocation site secured to sustain the existing exceptional population of reptiles present on the site.

Assuming the above measures can be secured appropriately via pre-commencement conditions and off-site habitats are secured via planning obligations for the reptile translocation site, then the proposed measures are likely to be acceptable in terms of mitigating impacts of the development.

Therefore, the proposal is considered acceptable in terms of its impact on ecology and in relation to LP policy EN5 and strategy 47, subject to conditions and a legal agreement.

Derogation tests

Natural England can only issue a licence if the following tests have been met:

- the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest;
- there is no satisfactory alternative; and
- the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.

Whilst decision makers should have regard to the 3 tests above it should be noted that the LPA is not expected to duplicate the licensing role of NE. An LPA should only refuse permission if the development is *unlikely* to be licensed pursuant to the derogation powers *and* Article 12 of the Habitats Directive was likely to be infringed.

In terms of public interest this proposal as a matter of principle accords with the national level of significantly boosting housing supply from which some economic and

social benefits could accrue. Alternative scenarios are not easily discernible. There is also a consensus that in order to provide housing, thereby meeting a public interest, greenfield sites such as this would need to be developed. Given what has been reported for this site (see above), the fact suitable mitigation measures are proposed and both of these elements have been found acceptable by the councils ecologist there is no reason why a license would not be issued (if one would be needed) or why Article 12 would be infringed.

Consequently, there is no reason to suggest that, from the LPA's perspective, the proposal would be likely to offend article 12 of the Habitat Directive or that a licence would be withheld by Natural England as a matter of principle.

Summary

Based on the information received and proposed mitigation measures the council ecologist raises no objection. Taking into account all of the above the proposal is considered to accord with policy EN5 of the East Devon Local Plan, NP8 of the NP, the NPPF and reflective of guidance within circular 06/2005.

Employment Use

The East Devon Local Economic Review published by the Council in October 2023 summarises the most up to date position in relation to the need for employment land. This indicates current demand (2022) for over 50ha of employment space. Over the period 2019-2040 demand for employment space in East Devon is expected to be nearly 130ha.

It is notable that historic planning application 20/2247/FUL on this site featured a reason for refusal which stated that the redevelopment of buildings previously used for employment purposes; 'It has not been demonstrated that the premises have been marketed for their previous or similar use for a period of twelve months, or that redevelopment for employment would cause harm to the quality of the locality'. Accordingly, conflict with strategy 32 was identified in this regard.

Within the intervening period there is little to suggest that this site would provide suitable opportunities for reuse of the existing buildings. The site is untamed and features a dilapidated main building in an ongoing state of disrepair. To redevelop the site for employment generating uses would most likely require fresh new build development and require significant infrastructure. This combined with the proximity of residential dwellings makes for an unattractive employment site so that it is unlikely that economic opportunities would be substantially harmed by allowing residential development. The applicant has put forward evidence that the site has been marketed for over a year by Stags in 2019. However, there is no evidence of enquiries, that the pricing listed was suitable or that such marketing was specifically aimed at employment generating uses. So while marketing does appear to have taken place there is a lack of evidence that this process has been robustly carried out in accordance with the LPA's advice on such matters.

It should be mentioned that the preferred allocation does not include the retention of employment elements of this site.

Accordingly, there is identified limited conflict with strategy 32 in this respect. Nevertheless, this must weigh against this proposal.

Open Space

With regards to public open space strategy 43 of the local plan states for the quantum of development proposed on site space within a rural area is to be provided.

Population increase will be used to determine the relative demand created by different developments. For residential development contributions these will be on a per-dwelling basis and the level of contribution will be higher for larger housing than for small houses or flats. This will be determined by the average occupancy rates where the average occupancy acts as a multiplier reflecting population increase. The assumed average occupancy rates are as follows:

- o a 1 bed dwelling = 1.5 persons,
- o a 2 to 4 bed dwelling = 2.22 persons,
- o a 5+ bed dwelling = 2.5 persons.

The development of 35 dwellings, based on bedrooms sizes, would accommodate approximately 75 (rounded up) persons in a rural area. In accordance with strategy 43 225 sqm amenity open space should therefore be provided. The proposed layout show open space areas, the rain garden near the entrance to the site, and the open space area also providing pedestrian access from the east of the site and the wooded area adjacent the railway line. The submitted design and access statement states that approximately 40% of the site retained for green public space, be used by all residents of Feniton for dog walking or recreation time. This would meet the open space requirements. The open spaces can be readily accessed and includes the wooded area and the more formalised space adjacent the open market housing offering variety for users. The rain water garden seating and pathway should be reconfigured to improve usability and this is subject of a condition. These areas would be protected and maintained via the requirements of the s106 agreement.

Taking into account the quantum and variety of open space offered this is considered to comply with policy.

Archaeology

Policy EN7 of the LP establishes that when considering development proposals which affect sites that are considered to potentially have remains of archaeological importance, the District Council will not grant planning permission until an appropriate desk based assessment and, where necessary, a field assessment has been undertaken

Devon County Archaeologist highlighted the site's proximity to a prehistoric funerary monument, raising the likelihood of significant archaeological deposits. A geophysical survey conducted by the applicant was inconclusive and so a programme of intrusive field evaluation was made to assess the significance of heritage assets before a

planning decision is made. Upon review by DCC Archaeology the findings of the on site investigation was accepted and so there is now no objections raised.

Mitigation secured via a S106

Strategy 50 (Infrastructure Delivery) of the LP seeks to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. NP Policy C2 states developer contributions generated from Section 106 planning obligations or the Community Infrastructure Levy (CIL), where relevant and feasible, should contribute towards the local priority amenity and facility projects identified to East Devon District Council by Feniton Parish Council.

If a resolution of approval is made a s106 would be drafted to secure the following;

- Affordable Housing Schedule - to secure 51% on site affordable in line with the latest position. Tenure should align with policy.
- On Site Open Space Schedule (and Maintenance Company Schedule)
- Habitats Contribution Schedule - to mitigate the impact on the Pebblebed Heath SAC
- Securing 10% off site BNG and suitable translocation of reptiles.

The NHS have requested mitigatory financial contributions however there is currently a lack of justification for the amount requested. EDDC have considered issues around capacity at GP practices in the past and sought funding to help deliver additional consulting rooms, but it would be for such services to bid for available monies through CIL.

It is noted that the Devon County Council Education department have requested a contribution towards local educational facilities. It should be noted that this requirement would be covered under the CIL regulations and therefore it should not be duplicated under a s106. Instead, it would be for the Education department to seek and bid for a mitigatory contribution from this CIL pool.

Planning Balance

Planning legislation establishes that planning applications must be determined in accordance with the development plan unless other material considerations indicate otherwise.

The proposed development conflicts with the development plan as it seeks to build residential housing in the countryside outside the defined Built-Up Area Boundary (BUAB) for Feniton. Consequently, the proposal does not align with plan-led development, and this conflict with the development plan is acknowledged. Furthermore, whilst the proposal would result in the loss of a modest dilapidated employment space, and while some marketing of the site has taken place, there are ambiguities remaining over this marketing such that limited harm has been identified. Nevertheless, the loss of such employment space must weigh against the proposal.

The National Planning Policy Framework emphasizes the need to significantly boost the supply of housing across England. This proposal would deliver a meaningful

number of dwellings, including 51% affordable housing, addressing the need for housing in the district. It would also generate short-term economic benefits during the construction phase and longer-term social benefits by providing much-needed housing. The provision of affordable housing, a key priority of the NPPF and government policy, carries substantial weight in the planning balance.

It is widely accepted that releasing additional greenfield sites will be necessary to meet the Council's ongoing housing trajectory. While the proposal conflicts with both the Local Plan and the Feniton Neighbourhood Plan by developing outside the BUAB, the district cannot currently demonstrate a sufficient five-year housing land supply and the shortfall is significant.

The site lies within a Critical Drainage Area raising potential flood risk concerns. However, this risk has been satisfactorily addressed through a robust Flood Risk Assessment and the inclusion of a suitable Sustainable Drainage System scheme to manage surface water effectively. Additionally, ongoing flood mitigation works involving the Council have been approved and are in progress to address wider drainage issues. South West Water has also deemed the proposed foul drainage scheme acceptable, subject to appropriate Grampian-style conditions. Therefore, the flood risk to the development and surrounding areas is considered to be adequately mitigated and the relevant tests passed.

The site is reasonably close to the services and facilities in Feniton, which are accessible via safe pedestrian routes. The distance to these services ensures that reliance on private vehicles by future residents would not be necessary. Furthermore, the proposal provides a policy-compliant level of affordable housing for Feniton and its grouped parishes, addressing a local need. Given the lack of alternative sites in these parishes with appropriate services and facilities, the provision of affordable housing in this location is a compelling justification for the development.

The applicant has positively engaged with the planning process, resulting in an acceptable design, layout, and mitigatory landscaping that ensures the development's impact on the character and appearance of the area is now acceptable. The ecological impact of the development has also been appropriately mitigated.

The affordable housing provided would significantly contribute to the demonstrable need for the local area and integrate well with the open market housing.

Although the site is located outside the BUAB, it aligns with the principles of sustainable development when considered in the round. The evidence base for the emerging local plan, while carrying limited weight at this stage, recognises the attributes of the site and suggests it is suitable for the allocation of housing. This further supports the view that the development would contribute meaningfully to boosting the district's housing supply, which is a significant material consideration.

In conclusion, the benefits of the development, including the much needed delivery of housing to improve the district's land supply and the provision of much-needed affordable housing, outweighs the identified conflict with the development plan. The

resulting potential harm arising from the position outside the BUAB, and the limited weight attributed to the loss of employment land, is not considered to significantly and demonstrably outweigh the benefits of this proposal. Accordingly, it is recommended that a resolution to grant planning permission is made, subject to conditions and the completion of a Section 106 agreement.

Appropriate Assessment

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

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. An Appropriate Assessment (AA) is 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 these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation would be secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations.

The draft heads of terms submitted within this application makes clear that such contributions would form part of the s106 and therefore this mitigation is considered acceptable in line with the above.

RECOMMENDATION

Resolution to approve subject to conditions below and completion of a s106 agreement. To adopt the Appropriate Assessment (above).

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 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.
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
4. Prior to commencement of development the Planning Authority shall have received an approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) any road closure;
 - (c) 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;
 - (d) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (e) 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;
 - (f) 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;
 - (g) hours during which no construction traffic will be present at the site;
 - (h) the means of enclosure of the site during construction works; and
 - (i) details of proposals to promote car sharing amongst construction staff in order to
limit construction staff vehicles parking off-site
 - (j) details of wheel washing facilities and obligations
 - (k) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (l) Details of the amount and location of construction worker parking.
 - (m) 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 agreed CMP.

(Reason - To ameliorate and mitigate against the impact of the development on the local community and to ensure that any impact on the highway network is kept to a minimum in accordance with policies TC7 - Adequacy of Road Network and Site Access and EN15 (Control of Pollution) of the East Devon Local Plan. Such details are required prior to commencement to ensure that the site preparation and construction phase is taken into account.)

5. The cycle storage facilities hereby approved shall be implemented prior to the occupation of the dwellings to which they relate and shall be retained and maintained for the lifetime of the development.
(Reason: To promote sustainable travel in accordance with policy TC9 (Parking Provision) of the East Devon Local Plan).
6. Prior to the first occupation of each individual dwelling at least 1 parking space that relates to the dwelling and its associated vehicle access route shall have been properly formed, surfaced and be accessible for use by the respective occupiers.
(Reason - To ensure that the development has appropriate parking provision, in accordance with policy TC9 (Parking Provision in New Development) of the East Devon Local Plan).
7. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment dated February 2023 and conducted by Cresco Asset Management Ltd.
(Reason - To ensure that the potential flood risk is mitigated, in accordance with policy EN21 (River and Coastal Flooding) of the East Devon Local Plan).
8. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
 - (a) A detailed drainage design based upon the approved Drainage Layout (Drawing No. VD222762-VEC-S104-XXX-DR-CD-400, Rev. P06, dated 02nd October 2023) but with the updated Drainage Layout (Drawing No. VD22762-VEC-S104-XXX-DR-CD-400, Rev. P07, dated 08th December 2023).
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
 - (d) A plan indicating how exceedance flows will be safely managed at the site.
 - (e) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor. Evidence shall be submitted confirming that a discharge consent from the culvert owner, to discharge this surface water, has been obtained.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

(Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed).

9. Prior to development above slab level of any units on the development approved by this permission, a Water Conservation Strategy shall be submitted for the written approval of the Local Planning Authority. The strategy shall include a water efficiency specification for each dwelling type, based on South West Water's run off destination hierarchy including the use of measures such as smart water butts, rainwater harvesting, grey flushing toilets. The approved strategy for each residential dwelling shall be subsequently implemented in full accordance with the approved details prior to first occupation of that residential dwelling and thereafter shall be retained.

(Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction in line with Paragraph 154 of the National Planning Policy Framework and Strategy 3 of the East Devon Local Plan).

10. 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 and surface water (combined sewer) sewerage infrastructure that this development would link into has adequate capacity to deal with the foul sewage generated by this development and its surface water run off. If it is identified that upgrade works are required to ensure adequate foul sewage capacity and surface water drainage capacity, no dwelling shall be occupied until the upgrades to the foul sewage and surface water 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 Policies EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan. This needs to be a pre-commencement condition to ensure that the impact and therefore control of sewage and surface water discharge 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)

11. a) Prior to commencement of any works on site (including demolition), the Tree Protection measures shall be carried out in accordance within the Tree Protection Plans and AIA ref; AIA-BUR-23 submitted by Dart Tree Consultancy dated 15th May 2023 and revised 8th December 2023. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no amendments 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 submitted to and approved in writing by the Local Planning Authority prior to commencement and 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. Details are required pre commencement in order to take into account site preparation and construction work).

12. Site monitoring:

a) The installed tree protection measures shall be inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.

b) The written findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.

c) Ad-hock monthly site inspections (these may be done remotely, via video call) shall be undertaken by a suitably qualified tree specialist and the finding recorded in a site monitoring log.

d) Any departures from the approved Tree Protection Plan shall be reported to the Local Planning Authority in writing within five working days of the site inspection.

On practical completion of the development hereby approved:

e) A completed written site monitoring log shall be submitted to the Local Planning Authority for prior 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 2013-2031 and pursuant to section 197 of the Town and Country Planning Act 1990).

13. The development shall not proceed other than in accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Assessment conducted by FPCR Assessments dated 14th March 2023, 19th July 2022 and December 2023 and the Briefing Note updated dated May 2024.

(Reason -To ensure protected species are managed in an appropriate way in accordance with Policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan.)

14. A Landscape and Ecology Management Plan (LEMP) for a minimum 30-year period following first occupation of the development shall be submitted to, and approved in writing by, the local planning authority prior to the commencement

of the development. The Plan shall be based on the submitted Ecological Appraisal (FPCR, December 2023) and the approved hard and soft landscape plans and associated details and shall include the following:

- a. Details of the body or organization responsible for implementation of the plan accompanied by a site plan showing areas to be adopted; maintained by management company or other defined body; and areas to be privately owned/ maintained.
- b. 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/ bodies responsible for its delivery.
- c. A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
- d. Landscape and ecological management aims and objectives for the site.
- e. Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works (including an annual work plan capable of being rolled forward over a minimum 30-year period). in relation to:

Existing trees, woodland and hedgerows/banks. Hedgerow management shall be carried out in accordance with the Hedge Management Cycle as set out in Hedgelink guidance.

New trees, woodland areas, hedges and amenity planting areas, woodland management plan.

Grassland, wildflower and any other habitat areas proposed.

- f. The location and design of biodiversity features including bird boxes, bat boxes, and other features, e.g., permeable fencing, to be shown clearly on accompanying plans.
- g. A sensitive lighting plan in accordance with BCT/ILP Guidance Note 08/2023 and follow Devon County Council (2022) guidance - Maintaining dark corridors through the landscape for bats. Where specific lux levels are required, a lux contour plan provided.
- h. Details regarding the proposed reptile translocation, including receptor site details in accordance with .GOV guidance.
- i. Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- j. Arrangements for inspection and monitoring of the site and maintenance practices.

- k. Arrangements for periodic review and update of the plan that may be required to meet the objectives of the plan and reflect any relevant changes to site, legislation and best practice guidance.
- l. The Plan shall also set out (where the results from monitoring show that its conservation aims and objectives 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 shall 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 of the character and appearance of the areas measures in accordance with Strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the East Devon Local Plan. The condition is pre commencement to ensure that it properly integrates into the development from an early stage).

- 15. 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.

The development shall not be occupied until the local planning authority has been provided with evidence, including photographs and toolbox talk sheets, that all ecological mitigation and enhancement features, including bat boxes, bird boxes, have been installed/constructed, and compliance with any ecological method statements in accordance with details within 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), Policy EN5 (Wildlife Habitats and Features), and Policy EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031. The condition is pre commencement to ensure construction works are taken into account).

16. No development work shall commence on site until the following landscaping information has been submitted and approved by the Local Planning Authority:

a) Notwithstanding the submitted details a full set of hard landscape details for proposed walls, fencing, retaining structures, pavings and edgings, site furniture and signage. For the avoidance of doubt such hard landscaping details shall include the following elements;

- K-lite traditional kerbing
- Changes to the route and alignment of the rain garden pathway

b) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- o a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- o methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- o location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- o schedules of volumes for each material.
- o expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture. identification of person responsible for supervising soil management.

b) Notwithstanding the submitted details a full set of soft landscape details shall be submitted which for the avoidance of doubt shall include the following elements:

- Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.
- Construction of a Devon hedgebank on the West boundary of the rain garden.
- Details of native planting mix between the rain garden and the apartment buildings
- Single species planting serving plots 30-34.

c) Notwithstanding the submitted details further tree pit and tree staking/ guying details. For the avoidance of doubt such tree related details shall include;

- The soil extent, soil volume calculations and construction details for the tree pits to the front of plots 19-23 and South East of plot 30.
- Repositioning of two oaks north of plot 34 (to be closer together).
- The construction details boundary wall of plots 19-21 (which appear to cut across the Root Protection Area of adjacent trees) shall be provided prior to its construction.

Planting shall be completed no later than the first planting season following commencement of development. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the written satisfaction of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

17. Prior to their installation, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls including underbuild, roofs, windows, doors, rainwater goods, soffits and fascias and ground surface materials of the proposed development shall be 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 sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

18. Prior to the commencement of the development a scheme to demonstrate that the internal and external noise levels within the residential units would confirm within the 'good' design range as detailed within BS 8233;2014 Guidance on sound insulation and noise reduction for buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

(Reason – To ensure that the occupiers of the residential units are suitably insulated from adverse noise impacts, in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan. This condition is pre commencement In order to ensure that such mitigation is incorporated within construction).

19. Prior to the commencement of the development a detailed plan illustrating the connection of the proposed footpath to the south east of the site with the adopted public Highway, known as Green Lane, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plan. The development shall not proceed above slab level on the dwellings hereby approved until the works have been carried out in accordance with the approved details. The route shall be made available for public access for the lifetime of the development.

(Reason – In order to provide suitable pedestrian linkages to reduce reliance on private modes of transport and promote sustainable forms of travel. The requirements are pre commencement to ensure consideration at an early stage and to ensure the alterations are in place prior to increased traffic), in accordance with policies Strategy 5B (Sustainable Transport) and TC2 (Accessibility of New Development) of the East Devon Local Plan).

20. Notwithstanding the submitted plans further details and plans of the means of enclosure and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. For the avoidance of doubt such details/plans shall include the following elements;

- The rear of plots 27, 30-35, 24, side of 25, 9-14 and south boundary of 14 & 15 shall be a brick wall construction.
- Omit the 1.8 fence to the front of plots 17, 20-24.
- Brick wall serving plot 9.
- The railings (rear of apartments buildings, plots 30-35 and 15-18) shall be estate types.
- The brickwall to north of plot 29 shall extend to the footway.

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

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrated into the development from an early stage.)

21. 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 fences, gates or walls shall be erected other than those expressly authorised by this permission.

(Reason – In the interest of the character and appearance of the area, in accordance with policies D1 (Design and Local Distinctiveness) and D2 (Landscaping) of the East Devon Local Plan).

22. 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 hardstanding areas other than those expressly authorised by this permission shall be constructed.

(Reason – In the interest of the character and appearance of the area and to ensure that surface water drainage is not adversely impacted. This is in accordance with policies D1 (Design and Local Distinctiveness), D2 (Landscaping) and EN22 (Surface Water Implications of New Development) of the East Devon Local Plan).

23. The communal apartments gardens serving plots shall be made available to all occupiers of the apartments for the lifetime of the development.

(Reason – To ensure a suitable level of amenity for the intended occupiers, in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.

24. The pedestrian access route to the north of the site shall be constructed and made available prior to the first occupation of any of the dwellings and shall be publicly accessible for the lifetime of the development.

(Reason – To ensure that the development is accessible, provide suitable connectivity and to promote alternative methods of transport, in accordance with policy TC2 (Accessibility of New Development) and Strategy 5B (Sustainable Transport) of the East Devon Local Plan).

Plans relating to this application:

DR-A-(01)001 P3	Location Plan	22.11.23
21.48-EDS-XX- ZZ-DR-A-(01)012	Other Plans	20.01.25
21.48-EDS-XX- ZZ-DR-A-(01)006	Other Plans	20.01.25
21.48-EDS-XX- ZZ-DR-A-(01)010	Other Plans	20.01.25
21.48-EDS-XX- ZZ-DR-A-(01)009	Other Plans	20.01.25
21.48- EDS-XX-ZZ-DR- A-(01)005	Proposed Site Plan	20.01.25

21.48- EDS-XX-ZZ-DR- A-(01)011	Other Plans	20.01.25
006 P4	Additional Information	09.01.25
007 P4	Landscaping	09.01.25
017 P2	Additional Information	09.01.25
DR-LA-WSOFT 01 P03 : wider soft landscape plan 1	Landscaping	19.11.24
DR-LA-SOFT- 002 P03 : soft landscape planting 2	Landscaping	19.11.24
DR-LA-SOFT- 003 P03 : ornamental planting 1	Landscaping	19.11.24
DR-LA-BOUND 01 P02 : boundary treatment 1	Landscaping	19.11.24
DR-LA-BOUND 02 P02 : boundary treatment 2	Landscaping	19.11.24
90008 PL03 : tree pit details	Landscaping	19.11.24
DAH P03 : wider soft landscape plan 2	Landscaping	19.11.24
DR-LA-HARD 01 P02 : wider hard landscape plan 1	Landscaping	19.11.24
DR-LA-HARD 02 P02 : wider hard landscape plan 2	Landscaping	19.11.24

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

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

Equality Act:

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

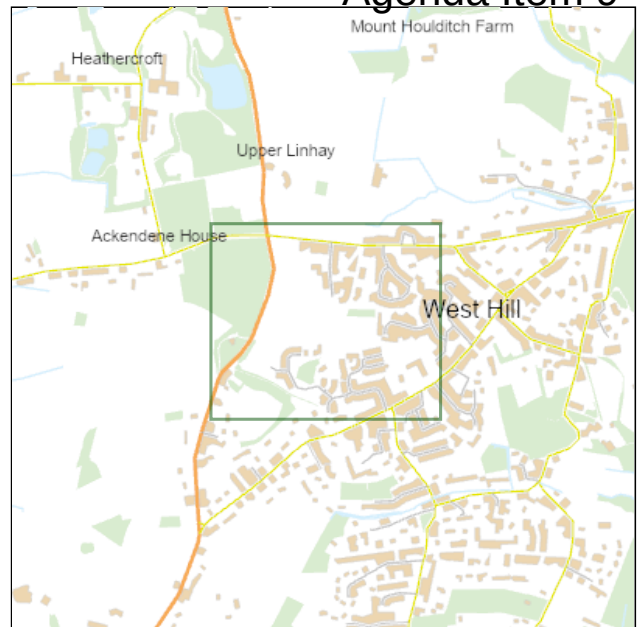
Ward West Hill And Aylesbeare

Reference 23/1143/MFUL

Applicant Mr Bill Richardson (Strongvox Ltd)

Location Land South Of Windmill Lane West Hill

Proposal The erection of 31 dwellings (11 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)



RECOMMENDATION: Approval with conditions, subject to the completion of a s106 and adoption of an Appropriate Assessment



		Committee Date: 25.02.2025
West Hill And Aylesbeare (West Hill)	23/1143/MFUL	Target Date: 12.09.2023
Applicant:	Mr Bill Richardson (Strongvox Ltd)	
Location:	Land South Of Windmill Lane, West Hill	
Proposal:	The erection of 31 dwellings (35% of which will be provided as on site affordable housing and 15% offsite affordable housing), formation of access, open space and associated infrastructure on land to the South of Windmill Lane, West Hill	

RECOMMENDATION: Approval with conditions, subject to the completion of a s106 and adoption of an Appropriate Assessment

EXECUTIVE SUMMARY

The proposal seeks full planning permission for the erection 31 dwellings on current agricultural land on the fringe of the built up area of West Hill. Members will also be aware of a recent planning application on land to the east of this application site for outline consent 23/1143/MOUT for 30 dwellings..

This planning application seeks a vehicular access on to Windmill Lane, with improvements to the access with Bendarroch Road. In addition, a pedestrian link through to this adjacent application site is shown on the layout. This planning application was heard at a previous planning committee (October 2024) where Members expressed concern over the density and layout of the development. Following this informal discussion were held with the chair, vice chair, DM Manager and case officer. The applicant then submitted an amended scheme reducing the number of units, altering the layout and updated relevant supporting documents. It is this amended layout which is now for consideration.

The site lies beyond the built up area boundary of West Hill and therefore as a matter of principle contrary to the policies of the Local Plan.

However, the boost to housing supply reflects a national objective and so must weigh heavily in favour of the development at the present time. Currently the district has a significant shortfall in the supply of housing which has been calculated at 2.97 years supply. The proposal would bring about additional housing on what is, on balance, a sustainable location with services within a walkable distance. There are no objections raised by technical consultees taking

into account the context and constraints of this site. This boost towards meeting housing supply forms a compelling material consideration The NPPF directs decision makers to apply a titled balance in such circumstances where there is a lack of 5 year housing land supply – that is to grant consent unless any harm significantly and demonstrable outweighs the benefits.

In addition to the housing issue comments have been received by SWW regarding the capacity of Fluxton, which a capacity study has pointed towards the need for upgrading. In response SWW have noted this but pointed towards this being able to be identified and carried out within the lifespan of any subsequent consent. Therefore, conditions are suggested to overcome this issue.

As any harm would not significant and demonstrably outweigh the benefits of this proposal a recommendation of approval is made.

As the officer recommendation of approval conflicts with the views of a ward member this major application is referred to Members of the Development Management Committee.

CONSULTATIONS

Local Consultations

Parish/Town Council

These comments are submitted under delegated powers as the meeting at which West Hill Councillors were due to discuss the application was inquorate and had to be cancelled.

West Hill Parish Council objects to the application. The Parish Council held a public meeting on 29th June 2023 to allow residents to give their views. Around 40 people attended. We have tried to reflect the public's views in our comments.

Relevant Policies

- East Devon Local Plan 2013-2031
- East Devon Villages Plan 2018
- Ottery St Mary & West Hill Neighbourhood Plan
- NPPF
- Emerging Local Plan 2020-2040
- Emerging Local Plan 2020-2040: HELAA Site Assessment West Hill 04:

o “General comment for all sites: Factors such as settlement character and proximity, housing type and size, impact of development on infrastructure, and other impacts such as other noise sources, air quality, ground conditions and contamination, topography, or mitigation measures may also further reduce site potential.”

Background:

- In 2013 EDDC refused an application for the construction of 2 no. residential dwellings (13/2624/FUL) and the subsequent appeal was dismissed by the Planning Inspector.

- EDDC has not maintained a suitable supply of housing within the district (currently standing at 4.65 years, not the required 5). Paragraph 11 of the National Planning Policy Framework (NPPF) states that where the policies of the Local Plan are out of date, which is the case here in the absence of a 5 year housing land supply, then a so called 'tilted balance' is applied, unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

1. The proposal is outside the Built Up Area Boundary as defined in the adopted Local Plan and is therefore in open countryside.

2. The proposal of 36 dwellings is 44% more than originally stated in the draft East Devon Local Plan (EDLP). Although the site features in the draft Local Plan as being "suitable" for development, the Plan is still a considerable way from being adopted and therefore the site should be judged on previous planning applications which were rejected due to the adverse impact on the landscape.

3. The 50% affordable housing provision cannot be relied upon. The published pre-application advice indicates that the developer originally sought 35% affordable housing, based on the EDDC emerging Local Plan, which is still in the early stages of consultation and subject to change. The adopted Local Plan requires 50% affordable housing provision. However, the developer could still try to argue that 50% affordable housing provision is not economically viable.

4. West Hill has already provided more dwellings than needed to comply with the EDLP 2013-31, with around 80 dwellings already built or with extant planning permission. In addition to the current proposal for 36 dwellings, there are 2 other significant planning applications in West Hill, as yet undetermined, which could provide a further 54 dwellings. Excessive levels of new house building will put pressure on the infrastructure of the village – notably primary school provision, secondary school provision, health services, and public open space and recreation facilities, and also on community cohesion.

5. West Hill's special character is set out in the Neighbourhood Plan for West Hill and Ottery St Mary "From afar the village appears simply as a wooded area" with low density development and houses set within spacious plots and "Dwellings are generally set well back from the road". The proposed development does not adequately reflect that special character, instead appearing urban, devoid of character and of a higher density than normal for the village.

6. In 2013 EDDC refused an application for the construction of 2 no. residential dwellings (13/2624/FUL) and the subsequent appeal was dismissed by the Planning Inspector: "the main issues in this case are the effect of the proposal on the character and appearance of the area, and whether the new dwellings would be in a sustainable location.

- Section 6.25 of the Planning Statement refers to key viewpoints: "The study has reviewed potential impacts associated with the development from nine key viewpoints and concludes that the proposed development site is visually contained by surrounding existing mature deciduous and coniferous vegetation. Intervening vegetation and the nature of the existing topography limit views towards this proposed development site. The only potential effects are from within and around the immediate vicinity of the site along Windmill Lane, from properties backing onto the proposed development site and glimpsed views along the B3180."

- The Landscape & Visual Assessment documents also refers to the viewpoints however Section

8 Appendix lists 15 figures which are not provided. It is unclear how the impact on the landscape can be properly understood without them. Does it take into account that many of the trees in the village are broadleaf, deciduous trees?

7. Neighbourhood Plan Policy NP26: West Hill Design, states that proposals for development should reflect the established character and development pattern of their surroundings and should preserve key features of the village, including trees, hedgebanks, spacious gardens and individuality between properties. The proposed development achieves none of this. The proposed boundary treatments (close boarded fences, walls and railings) are contrary to Policy NP26.

8. The local infrastructure – West Hill Primary School, Kings School in Ottery, Coleridge Medical Centre is unable to accommodate an increased population arising from further development. Coleridge Medical Centre has already had to reduce the practice boundary to protect its service provision for patients and we understand that there is no room on its current site to expand. Kings School could not accommodate all of the children within its catchment area in this year's intake. In the site assessment in the emerging EDLP, DCC Education commented that "New primary and secondary capacity would be required and need to be funded by development."

We note and support the concerns raised by contributor of Dr Kerr of Coleridge Medical Centre.

9. West Hill has very limited community recreational facilities. There is no outdoor communal open space for residents to use and the village youth football teams (West Hill Wasps) have no home ground. Perhaps with co-operation between Strongvox and Blue Cedar at the adjacent site something more meaningful in the way of recreation space could be provided.

10. There is no safe walking route from the proposed site to village facilities/bus stop, all of which involve walking on Bendarroch Road. There are few footpaths/lights. This will encourage residents living in the new development to use their cars rather than walk or cycle, contrary to Policy TC2 (Accessibility of New Development) of the adopted EDLP. The site plan shows a path which appears to not join up with anything. The published pre-application advice states that the "submitted layout shows a pedestrian linkage to the site to the east. However, this would not provide any connectivity unless this adjacent site is also developed,

with this third party also agreeing to provide a link.” The Transport Statement uses an unreasonable walking speed to assess the time for an average person to walk to the village facilities.

11. Flooding and drainage have not been adequately considered. Some of the properties appear to rely on private foul-water pumping stations and private drainage networks for surface run-off. There is already flooding into neighbouring properties – we know of at least three properties that currently bear the brunt of the runoff and suffer from flooding in driveways and garages – this will surely be worse with the land built on. The clay soil provides no soakaway and there are aquifers known to be in the area. The Drainage/Surface Water Strategy makes reference to using the existing structures on the proposed/existing Blue Cedar sites. But the DCC Lead Local Flood Authority response (23/0727/MOUT land north of Eastfield) states “at this stage we object... because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered...”

12. We are concerned about the location of the SUD alleviation pond, which is in the area of open space and thus a hazard to children.

13. The Transport Statement states that there is an “opportunity relative for its location for residents to travel by sustainable travel modes as a realistic alternative to single occupancy vehicular travel.” However, public transport in the village is limited during the day and none at night – so new residents will be more car dependent, which is not sustainable.

14. Windmill Lane is very narrow and frequently has vehicles parked on the roadway. Additional traffic will increase the danger of pedestrians coming into conflict with vehicles. We are also concerned that emergency vehicles may not be able to access the site if Windmill Lane is blocked or inaccessible.

15. We note the comment from Natural England that a Habitats Regulations Assessment (HRA) has not been provided with the application. How then can the impact on wildlife be properly assessed?

16. We note the issues raised by the Police Architectural Liaison Officer.

17. Should the application be approved, we request that the developer works with residents and the Parish Council to design a scheme that is more acceptable to residents and more in keeping with the character of West Hill, better safeguards wildlife, mitigates the lack of outdoor recreational space in the village and addresses the many concerns from neighbouring properties regarding flooding and drainage. We also request that during the construction phase, restrictions are in place to cover hours of working, no vehicles parking in Windmill Lane or on Bendarroch Road, materials stored solely on site etc to minimise disruption to residents in neighbouring properties and across West Hill.

18. Furthermore, if planning permission is granted, due to the increase in vehicles using Bendarroch Road, we request that traffic calming measures are mandated at

the developer's expense. Data from the Parish Council's vehicle activated speed signs shows this road to suffer from drivers habitually exceeding the 30mph speed limit.

The Parish Council will submit further comments as necessary.

Finally, West Hill is now subject to three major planning applications. Whilst each application should be considered on its merits the Parish Council is extremely concerned that the cumulative effect could be hugely detrimental to the character of the village:

- The density and visual impact of the proposals is urban and out of character with the rural nature of the "woodland village".
- West Hill does not have the current infrastructure to support for this level of growth.
- The only community facilities available to younger residents is a small children's playpark suitable for under 12's.
- West Hill does not have open space for recreational activities.
- The village roads are unsuitable for greater volumes of traffic: they are typically narrow, unlit lanes, without road markings, twisty and steep.
- The proposed developments are unsustainable:
 - o Public transport is sparse and mostly operates within daylight hours.
 - o There are no employment opportunities in the village. Householders will use their vehicles to travel to work.
 - o Village facilities are very limited. Householders will use their vehicles to access facilities in neighbouring areas.
 - o Local schools have no additional capacity. Householders will use their vehicles for travel to/from school.

06.12.23

From WHPC meeting on 5th December 2023

WHPC response to planning application 23/1143/MFUL Land south of Windmill Lane (amended) - the erection of 36 dwellings (50% of which will be provided as affordable housing), formation of access, open space and associated infrastructure.

The Parish Council has previously objected to this application. At their meeting on 5th December 2023, Councillors discussed the amendments and found no justification for changing their previous objection. The Parish Council continues to object to this application. Councillors noted objections from residents recently submitted both on the planning portal and directly to WHPC, as well as residents attending the Council meeting on 5th December, and have taken those into consideration.

The lack of a 5-year housing land supply in East Devon is a matter of extreme frustration for Councillors and residents. Because of this, West Hill is currently being subjected to several large-scale speculative applications which threaten to

overwhelm the character of the village. Paragraph 11d of the NPPF (so-called "tilted balance") does not apply where the adverse impacts of development would significantly and demonstrably outweigh any benefits. The only perceived benefit of this proposed development is that it would count towards the district's 5-year land supply, whereas the adverse impacts for West Hill are many.

The application should be assessed against the adopted Local Plan, not the updated Plan currently being drafted. In the adopted Plan, the application site is outside the BUAB and is therefore in open countryside.

The amended application does not address the significant adverse impacts of development at this site on which WHPC and residents have commented:

- o Landscape - the draft East Devon Local Plan assesses the site as suitable for a maximum of 26 houses, but the application is for 36 houses. The site is visible from East Hill and the density and urban style of the proposed development will adversely affect the landscape in and around West Hill.
- o Flooding and drainage - with extreme rainfall the pond could overflow into the neighbouring site and the proposed surface water drain will be inadequate for major storm flows causing localised flooding. Residents already report flooding onto neighbouring property, even though the site is currently still a green field. The pond in the proposal is potentially a hazard for children.
- o Unsustainability - future residents will be completely dependent on cars to reach employment, health, education and leisure facilities, most of which are outside West Hill.
- o Access from Windmill Lane is unsuitable for site traffic and subsequent additional car traffic.
- o Trees - the development is still too close to protected trees and will lead to future pressure from residents to prune back due to shading and overhanging. A recent planning appeal in a neighbouring Parish (22/0173/FUL in Rockbeare) was dismissed because of the effect of the proposal on the retention of protected trees, despite the proposal not encroaching on the root protection areas. The Inspector noted "the inharmonious positioning and height of the development would be likely to significantly exacerbate these pressures from potential future occupiers, particularly in relation to pruning. This would, in turn, be likely to harmfully affect the quality of the group of trees that make a significant and positive contribution to the visual amenity of the area. As such, the longevity of the trees would be likely to be put under significant pressure through the lifetime of the development as proposed...As such, the proposed development would be contrary to Policy D3 of the East Devon Local Plan, adopted January 2016 which, in this respect, seeks to ensure developments deliver harmonious and sustainable relationships between structures and trees and do not result in a net loss in their quality."
- o There is insufficient open space allowed in the development for children to play and West Hill lacks any community outdoor space for children and teenagers other than a small playpark for primary-age children.

The infrastructure in the village cannot cope with further development - Coleridge Medical Centre is severely under pressure, the village dentist is not accepting any more patients, West Hill Primary School is oversubscribed, as is Kings School in Ottery.

The current proposal is urban, too dense and out of keeping with the character of West Hill.

WHPC respectfully requests that this application is refused.

However, if the application is approved, the Parish Council requests:

- o The pedestrian path shown on the site plan should be mandated to link to the path in the neighbouring site - recently approved on land north of Eastfield (23/0727/MOUT) - to improve pedestrian connectivity with Bendarroch Road.
- o During construction, restrictions are in place to cover hours of working, no vehicles parking in Windmill Lane or on Bendarroch Road, materials stored solely on site etc to minimise disruption to residents in neighbouring properties and across West Hill.

04.01.2024

Councillors discussed this application at their meeting on 3rd January 2024. They noted that the Parish Council was notified of the application on 22nd December however the supporting documents were not made available on the planning portal until 2nd January 2024. This left virtually no time for residents or Councillors to examine them in detail before the WHPC meeting. Councillors noted that the number of dwellings had been reduced by two and the percentage of affordable housing had also been reduced from 50% to 35% (contrary to the pre-application advice given to the developer by Planning Officers). The density of the development, although reduced slightly, is still out of character with West Hill and contrary to NP26 of the Neighbourhood Plan: new development will maintain the low density pattern of development in West Hill and should reflect built density and layout of the surroundings.

A representative from the Windmill Lane residents spoke in objection, highlighting a number of serious issues still remaining:

1. A surface water drain appears to encroach on the Root Protection Area of trees - this does not seem to have been picked up by the Tree Officer.
2. The final ecology report, requested months ago, has not been submitted.
3. Windmill Lane is not a suitable access for such a large development which will generate increased traffic.
4. Flooding remains a serious issue and residents are concerned about the lack of accountability for flooding on their properties when the development is complete - who will be responsible in future?
5. There is an overlooking issue where one bungalow in particular will be overlooked by two-storey houses from the proposed development.

Councillors agreed the amendments did not change their previous comments and unanimously voted to continue their objection to the application.

25.01.2024

West Hill Parish Council - further comments to amended application 23/1143/MFUL Land south of Windmill Lane

These comments are submitted under delegated powers because the deadline for comment expires before the next Parish Council meeting.

Several residents attended a WHPC meeting on 16th January 2024 to voice their concerns and state their continuing objection to the application.

WHPC continues to object and stands by its previous comments. In addition, and of particular concern, is the issue of flooding from the site to neighbouring properties. The Parish Council is concerned that this matter has not been adequately addressed.

Councillors note that on 6th July 2023, the DCC Flood and Coastal Risk Officer objected to the application and listed various concerns:

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

However, there appears to be no further comments from the DCC Officer on the many amendments and further information submitted by the applicant, including those related to flooding and sewerage.

Councillors also note that South West Water were invited to submit consultee comments. Yet again, they appear to have declined to comment on a major planning application.

The site itself is in flood zone 1 i.e. with a low probability of flooding from rivers and the sea. However, the experience of residents is that surface water runoff from the field onto Windmill Lane is currently a serious issue for neighbouring properties on the eastern side of the lane. Two WHPC Councillors recently met residents at Windmill Lane to see for themselves. The application site slopes west to east. During heavy rainfall, surface water runs off the field and onto Windmill Lane. It then runs down a steeply sloping part of the lane towards a property (Hunters Lodge) at the bottom of the slope. During heavy rain the water overwhelms existing drains at the top of the slope and a channel drain near the bottom of the slope. The resident at Hunters Lodge has had to construct a series of gullies and barriers to deflect the water away from the front of his house. The water then runs down the steeply sloping driveway, down the side of the house where it eventually forms a large pool at the bottom of the garden.

Councillors are very concerned that if surface water flooding is a problem now, when the field is undeveloped, it will be much worse if the field is developed and the natural drainage is reduced by hard paving and landscaping. The impermeable area plan submitted with the application shows that the total impermeable area will be 0.872 Ha on a total site area of 2 Ha i.e. 40% of the land area will be impermeable.

The weather events currently causing the flooding on Windmill Lane are becoming more commonplace and Councillors believe that the proposal does not adequately address the risk of higher rainfall due to climate change.

Councillors are also aware that concerns were raised by East Devon District Councillors at the Strategic Planning Committee meeting on 9th January 2024 regarding sewage discharges by South West Water into the rivers and coastal waters around the Exe valley. Councillors respectfully suggest that if the current sewage processing infrastructure is unable to cope with demand, consideration should be given as to whether it is advisable to approve any more major planning applications in the District until the infrastructure is improved.

In conclusion, West Hill Parish Council continues to strongly object to this application.

Clerk To West Hill Parish Council

In addition to our previous comments, West Hill Parish Council has agreed the following comments.

The revised National Planning Policy Framework (NPPF), December 2023, states that local planning authorities should demonstrate 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 that a four-year supply of housing applies to 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 emerging East Devon draft local plan is sufficiently progressed to benefit from this provision. East Devon District Council can demonstrate a 4.5 year housing land supply. Therefore the presumption in favour of sustainable development (so-called tilted balance) in paragraph 11d of the NPPF need not be applied.

08.01.2025 - West Hill Parish Council agreed the following consultee response under delegated powers following a public meeting held on 7th January 2025. At the meeting members of the community expressed their ongoing serious concerns.

The Parish Council considers its previous comments continue to apply. Councillors agreed the following comments on the latest amended application:

1. At the Planning Committee meeting on 22nd October 24 a decision on this application was deferred due to the high density of housing being proposed for the site. The developers undertook to review their plan to reduce the density of housing.

This revised plan reduces the number of dwellings from 34 to 31 which is not a very significant reduction. In her letter accompanying the revised application Catherine Knee of Collier Planning states that the density of the development is now 14.7 dwellings per hectare and compares this with existing surrounding residential developments with densities between 15.6 dwellings per hectare and 17.1 dwellings

per hectare. This however is misleading as the calculation includes the ecological corridor in the total area and when this is corrected the actual density being proposed is 23 dwellings per hectare. This figure is confirmed in the updated Design and Access Statement that accompanies the application. As a relevant comparison the actual current density in Windmill Lane is 6 dwellings per hectare. The new proposed density is therefore still significantly higher than the surrounding area and this should be rejected.

The Parish Council continues to consider the application contrary to NP26 (West Hill Design). The cramped, urban nature of the proposed development does not reflect the established character and low density development pattern of the village.

2. In the drawings in the Design and Access Statement there is extremely limited provision for visitor parking and what provision there is appears to be concentrated in about half the site. This could lead to more parking on Windmill Lane exacerbating what is already a problem leading to further road congestion. There is also little open space provision for recreation or for children to play. The only open space area is around the attenuation pond which is potentially a dangerous area for children.

3. The planning committee has previously acknowledged the requirement for a footpath link from this site to the village centre to access the shop, the school and the Village Hall. The drawings in the Design and access statement show what appears to be the start of a footpath but this will have to be co-ordinated with the design of the other proposed development North of Eastfields. What are the firm plans for this footpath and have they been agreed with the other developer?

4. The proposal refers to providing 50% affordable housing in this development. This may be attractive to some West Hill residents who may wish to downsize and place their larger houses on the market for others to buy. Unfortunately only 35% of this is on site with the remainder being an offsite affordable contribution. It appears that West Hill is expected to accept the downside of increased strain on the very limited infrastructure in West Hill caused by this development without getting all the potential benefits of the affordable housing. This should be rejected.

5. A letter from South West Water requires a Grampian condition relating to the increased risk of external sewer flooding in the sewer network downstream from this development. They also want to impose a condition requiring the optional Building Regulations requirement of 110 litres of water per person per day as opposed to the 125 l/p/d which is the current approved standard. Both of these requirements are indicative of the present strains on the water and sewerage infrastructure that could present problems for the future residents and which cast doubt on the wisdom of this development. Residents who live in the area immediately to the east of this proposed development already suffer from sewerage smells at times suggesting that the current infrastructure is struggling to cope with the existing volume.

6. The letter from SWW also refers to the management of surface water runoff from the site. WHPC is extremely concerned about this and has referred to the matter in previous responses. Existing properties to the east of the site are at a lower level than this site and already suffer from flooding due to surface water runoff from this area. When a large proportion of the permeable surface on this site is covered

with impervious materials this problem could be much worse if sufficient attention is not given to preventive measures at the design and construction phase. Very clear, evidence based measures must be included in the design and approval should not be granted until such measures can be demonstrated to be effective.

In the Design and Access Statement there are diagrams showing how the design has changed through the various iterations to get to the current proposal. In the final diagram it is concerning that the attenuation pond appears to be significantly smaller than in the previous drawings. If this truly reflects the current design then it raises further concerns about the effective control of surface water.

7. The agent's covering letter explains further engineering documents will be submitted in support of the amended application. These documents are relevant to our serious concerns regarding surface water flooding:

- o Drainage Summary and Maintenance and Management Plan (version 5)
- o Drainage Strategy Plan ref: WINDMILL_C_300_100_P7
- o Attenuation Basin Details ref: WINDMILL_C_300_120 P7.
- o Flood Exceedance Plan ref: WINDMILL_C_300_040 P7
- o Impermeable Area Plan ref: WINDMILL_C_300_030 P5.
- o Site Levels Plan ref: WINDMILL_C_100_100_P6.

These documents are not published on your website. We ask that they are made available and the public given time to consider their content.

8. There has been no detailed construction management plan presented. The site is going to be congested during the construction phase due to the high density of housing being planned leaving little space for materials and equipment storage. This suggests there may be an intention to have an off-site storage depot resulting in multiple journeys to and from the construction site using the narrow and congested Windmill Lane. West Hill has experienced this in the past during development of a site near the Windmill Lane site and it caused many traffic problems and complaints. If this application is given approval there must be a condition that the construction management plan is developed in consultation with the nearby residents and others who may be affected by the construction traffic with a genuine attempt to minimise disruption and traffic congestion.

9. We have concerns about the increased traffic on Bendarroch Road and the junction with Windmill Lane. Data from our vehicle activated speed signs, collected regularly over several years, indicates that around 25% of vehicles in this area exceed the speed limit of 30mph. In order to reduce the likelihood of accidents at this junction there should be consideration of traffic calming measures such as a "gateway" as exists on West Hill Road at the eastern end of the village.

WHPC continues to oppose this development which it considers to be unsustainable, not in keeping with the character of the village, poses risk to existing dwellings and puts further strain on the already stretched water and sewerage infrastructure. We recognise that there are significant pressures to provide more housing in East Devon but this proposal is still too much and too dense and should be further modified to

reduce the density to a level that is more in keeping with the rest of the village and is also sustainable.

West Hill And Aylesbeare - Cllr Jess Bailey

I wish to register my very strong OBJECTION to this planning application. My reasons are as follows:

1. Contrary to what EDDC planning officers have stated in their pre application advice (which was published at my request), there most definitely is NOT access to 'an appropriate level of services and facilities'. This is not a sustainable location because in all reality future residents will be heavily car reliant. Services and facilities are limited and the bus service is poor (and recently the services were recently downgraded further). Future residents will invariably need to use cars to get to the doctors and the supermarket, or event to reach a park, as we don't even have any playing fields to kick a ball around in. What is more there are no employment opportunities within West Hill (which is recognized in the emerging local plan) which again means that residents will be heavily car dependent.

The applicant's transport statement fails to acknowledge the challenging conditions for walking or accessing facilities in Ottery St Mary by bike or on foot - it is completely unrealistic to think that people will be routinely cycling - given how steep it is. Whilst the pre-application advice does recognize the 'substandard' pedestrian linkages, I do not consider that sufficient weight is given to the fact that they are 'substandard'. Development proposals must prioritize sustainable development, and any development where the linkages are substandard due to lack of pavement etc should be refused, notwithstanding any issues with the five year land supply.

We are in a climate emergency and EDDC should not be directing housing to locations which are unsustainable and are thereby exacerbating the crisis.

2. Our services are already under considerable strain. I support Dr Simon Kerr of Coleridge Medical Centre who outlined in his response that the pressures on the Centre are such that it has already had to reduce its 'catchment' area not once but twice recently because of huge growth within the area served by the practice. In the public meeting on 29th June 2023 Dr Kerr explained that the practice could not expand due to site constraints. It is quite wrong, in my view, to place an ever greater burden on our GP practice and to lengthen the waiting time for residents who are already living here. Our schools are also under considerable strain - with both West Hill primary school and the Kings School being unable to accommodate all the children from within the catchment area for reception and year 7 in September 2023.

3. I am concerned about the impact on the many high value trees around the site which are TPOed and am concerned to note that there has been historic felling of hedge bank trees on the east of the site.

What typically happens with developments in West Hill is that houses are built too close to existing mature trees and then there is subsequently pressure to fell and reduce the trees due to shading, leaf drop etc. It does not appear to me that the

applicant has submitted a drawing showing the shading throughout the day transposed onto a site layout plan and it is important that this is requested. I am strongly opposed to any encroachment onto T1 (beech) which is a category A1 tree.

4. It appears to me that the applicant's landscape appraisal is incomplete without the appropriate views being included. These should be requested. In addition I formally request that EDDC's in house landscape consultant carries out an appraisal and evaluation of the material submitted by the applicant. It is particularly important that the nighttime impact is assessed as well as daytime impact.

5. I note that DCC flood team have submitted an objection and I fully support the comments made. Particularly in view of the serious flooding which happened in our area on 9th May this year when 100 homes close by in Newton Poppleford Tipton St John and Colaton Raleigh suffered internal flooding predominantly from the surface water, it is essential that a precautionary approach is taken to any flood risk.

6. I strongly believe that Windmill Lane is completely ill suited for the siting of 36 houses, and the junction with Bendarroch Road woefully inadequate regardless of any proposed 'realignment'. Cars will not be able to pass each other and will result in vehicles reversing onto Bendarroch Road where traffic speeds are excessively high.

I therefore urge the EDDC planners to REJECT this application.

13.12.2023

I wish to register my continued objection to this application as the Eddc ward member for West Hill and Aylesbeare.

In addition to the points I previously submitted:

At the EDDC full council meeting of 6th December 2023 I highlighted my concerns around the stance that EDDC takes in planning reports whereby it disregards its extant planning policies due to the lack of 5 year land supply. I tabled a notice of motion for Eddc to seek planning advisory service to help EDDC resist speculative development by drawing on appeal case decisions and the decision making of other authorities. As I pointed out at the meeting there are appeal case decisions in which substantial weight is given to existing planning policies in neighbourhood plans and local plans which accord with the NPPF despite there being a lack of 5 year land supply, (and where councils actually have a lower land supply than EDDC.) My notice of motion was carried by a large majority of EDDC councillors.

EDDC does have a local plan and I believe the settlement containment policies such as the built up area boundary should continue to be given substantial weight by EDDC, they are after all policies which protect the open countryside - a key aim of the NPPF.

This site falls outside the Built Up Area Boundary and substantial weight should be given to this point. Any suggestion that this site should be approved because it is a site put forward as part of the new emerging local plan is incorrect as that would be a pre-emptive position to take. None of the other policies in the new and emerging local plan are given any weight so this should not be either (and I note the site was being suggested for a smaller number of houses in any event.)

As well as the settlement containment policies which EDDC seem to have been ignoring, is the issue of sustainability. EDDC needs to face up to the fact that there are only basic facilities within West Hill and it is completely unrealistic to suggest that anyone living in the proposed development would be anything other than heavily car dependent. West Hill only has one shop, there is no doctor, library, secondary school, pub, or supermarket. EDDC should not be supporting housing development which will result in substantial car use - which this development most very definitely would.

The design of this proposal is very poor and very urbanised. The density is greater and more urban than anywhere else in West Hill that I can think of and I object to the open space being shoehorned into the corner of the site - this does not lend itself to a well designed project. Equally I have safety concerns about there being a huge 5 foot deep attenuation pond.

I object to the surface water sewage pipe which will pass through the root protection area of mature trees including trees on a third party's land. Eddc tree officers should be specifically asked to comment on this and the damage to protected trees which will ensue. What is more, although part of the surface water route is currently unbuilt on, some of this land has recently been granted planning permission (ref 23/0727) which will mean it is impossible to deliver this surface water sewage pipe in the proposed location.

I am seriously concerned about surface water run off from the site, both to properties as yet unbuilt on 23/0727 and existing properties on Windmill Lane, which are at a lower level than the proposed site.

I do not believe the site layout plan is accurate particularly along the southern boundary where it does not align with the existing built properties. Without this inaccuracy it would not be possible to accommodate the number of houses proposed and is a reflection of the overdevelopment of the site.

The plans have changed considerably from the outset, including moving buildings on plots 15 and 16, alterations to the overall layout etc. In my view a revised application should have been required by Eddc.

I therefore continue to OBJECT to this proposal as it is completely unacceptable.

29.02.2024

Please note that I continue to strongly object to this planning application.

I note that Eddc has in excess of a four year land supply and due to revised planning guidance (Dec23) the tilted balance no longer applies. Eddc is required to determine this planning application in accordance with its local plan policies. This site is not compliant with the local plan and must be refused.

13.01.2025 - It is very disappointing that there has only been a derisory reduction in the number of proposed houses in the revised scheme. In my view this fails to address the issue of density on the site.

West Hill Neighbourhood Plan policy NP3 could not be clearer when it states "proposals should demonstrate that the development is of a density appropriate to the immediate surrounding area" (emphasis added). The applicant has completely failed to address this key point. It is clearly stated by EDDC officers in the committee report that the density of Westhayes is 6.25 dwellings per hectare and Windmill Lane is 6 dwellings per hectare. These are the two developments in the immediate vicinity - so the applicant should be consistent with this density. How can it be acceptable for the density to be 23 houses per hectare as proposed?

The applicant's figure map omits Westhayes and Windmill Lane presumably because they are inconveniently low density. What is more, the comparables which the developer has selected are misleading for a whole variety of reasons eg they are only at outline permission, eg the dwellings are only bungalows.

I was sent this figure map via the planning officers prior to the latest formal publication and I gave robust feedback on this very point. As far as I am aware this feedback would have been passed on by planning officers to the applicant yet it has been completely ignored.

I have already requested that the communications between the planning officers and the applicant (post committee) are published but I cannot see it on the planning portal. This publication is important in the interests of openness and transparency. The developer asked for feedback from EDDC and presumably feedback was given, including the points that I made. I would urge that the publication takes place as soon as possible to inform residents as they may wish to comment further.

It is also important to note on the issue of density comparables the application site (unlike the comparables put forward by the developer) is on the EDGE of the settlement. This is yet another reason why the density needs to be lower because this high density will create a jarring and incongruous boundary with the open countryside.

It also concerns me that the latest Design and Access statement has a completely different density figure from that contained the applicants own figure map. In the Design and Access Statement it is stated that "the sites provides a total of 31 houses set on a net site area of 1.33ha. This provides a density of 23 dwellings per hectare on a net site area". Whereas in the figure map it is stated to be 14.7 dwellings per hectare, presumably because the applicant has incorrectly included the ecology corridor in the calculations. How can we have any confidence in the density figures when there is this fundamental inconsistency. The correct figures are I believe 23

dwellings per hectare, nearly four times the adjacent areas of Windmill Lane and Westhayes. This is completely unacceptable.

To be clear, there should not be any deviation from the density of 6 or 6.25 dwellings per hectare which is in the immediately adjoining area and I am opposed to ANY figures higher than this.

I am also dissatisfied with the lack of Open Space. Open Space is defined in the NPPF as "All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity". The essence is therefore that there needs to be opportunities for sport and recreation. However there is no evidence any land whatsoever within the site falls within the NPPF definition of Open Space as there are no opportunities for sport and recreation. The provision of landscaped areas in the east of the site near the attenuation pond, does not qualify as Open Space because there are no opportunities for sport and recreation.

I am also concerned about the inadequate detail around the footpath to link with the new Eastfield site and in my view there is currently insufficient information within the plans - Devon County Council as the public rights of way authority should be consulted. I am also concerned that EDDC's s106 agreement does not contain any obligations for the applicant, to connect to the adjoining development or any specifications etc. This must be rectified.

I note that a series of drainage drawings have not yet been uploaded (see agents letter of 11th December) and SWW must be consulted on these and they must be made available for residents to review.

I therefore continue to OBJECT to this application for all the reasons set out in this email. There are a mass of unresolved issues which remain with this application including the issue of density.

I also continue to uphold all my previous objections, including those which were read out on my behalf at the planning committee on 22nd October 2024 (set out below).

As ward member I wish to confirm my continued OBJECTION to this planning application. I am sorry that I am unable to attend because I am away today. I also regret that the determination of this long running planning application could not be deferred as I have requested to the next meeting to enable me to attend. I am fully aware of the pressures that EDDC is under to deliver housing. However, I continue to believe that this application should be REFUSED for the following reasons.

First, as a member of the strategic planning committee I voted against this site being allocated in the new local plan. One of the principal reasons for doing so was that EDDC in its desperate quest to meet government's housing targets is actually ignoring its own hierarchy of settlements in its treatment of West Hill. West Hill does not have the services and facilities to qualify as a tier 4 settlement. Don't just take

my word for it the inspector in the Elsdon Lane PIP earlier this month described them as "modest". It is not sustainable to grant planning permission for 34 houses when services are modest. The development will inevitably generate very significant traffic movements because daily needs cannot be met within the village. There will be an opportunity to test and challenge if necessary West Hill's status as a tier 4 settlement at the examination stage of the local plan. To approve this site now, before that has taken place, is pre-emptive.

Second, this site falls outside EDDC's Built Up Area Boundary. The Elsdon Lane PIP appeal decision issued this month also provides a clear basis for EDDC to continue to uphold its Built Up Area Boundary. Despite all the noise about housing pressures, ministerial statements, the revised NPPF and housing targets, the inspector gave full weight to West Hill's Built Up Area Boundary in the existing local plan.

The Elsdon Lane Pip was refused because the inspector "Found conflict with the development plan in respect of its special strategy for housing set by Strategies 1,2 and 7 of the Local Plan...The BUABs form part of the statutory development plan, and will have been adopted following consultation and scrutiny at examination. To allow new dwellings to be built outside BUABs even in small numbers, would undermine the Council's development strategy for the location of housing in settlements and the countryside. The proposal therefore conflicts with the development plan as a whole and this is a material consideration which attracts significant weight"

In my view the planning committee today should follow the inspector in the Elsdon Lane Pip and give full weight to the existing BUAB and should reject this site which is also outside the BUAB.

Third, I am aware that DCC highways officers have not objected to this application. As the Devon County Councillor who actually lives in the village I completely DISAGREE with the position taken by them. Windmill Lane is completely inadequate for this scale of development. It is too narrow and I am concerned about the junction with Bendarroch Road and the road safety implications of this proposal.

Fourth, Sewage from West Hill and Ottery St Mary is processed at Fluxton Sewage Treatment works. My research shows that this treatment works is operating beyond capacity. I have been advised in response to an FOI that capacity of the treatment works is 8428 people, excluding tourists visiting the area. However, the population data which I obtained from Devon County Council shows the population in the catchment of the sewage treatment works is 9196. Therefore Fluxton Sewage Treatment work is already stretched beyond breaking point and the regular discharges of untreated sewage into the River Otter are a reflection of this. I am really concerned that the Grampian conditions including condition 13 are inadequate. The sewage network clearly requires major upgrading and this is not fully reflected in the condition as it is currently drafted. The condition suggests there may be sufficient capacity, when there clearly is not. It is important that this is clarified because harm WILL arise from the development unless a sufficiently robust position is taken by EDDC.

The condition should start with the wording "no development shall commence unless and until

I....". It should then go on to state

- o Fluxton Sewage Treatment and the wider infrastructure have been upgraded to address the current deficiency and to allow the development to go ahead without causing harm*
- o The proposed infrastructure improvements and an agreed timetable for implementation have been submitted to and approved by EDDC*
- o The improvements then need to be implemented to the satisfaction of EDDC prior to any occupation of the development*

Finally, under no circumstances allow the caveat at the end of the condition to remain in place. This, as drafted, allows EDDC the flexibility to approve an alternative method of dealing with sewage and worst case scenario that could potentially be tankering.

I very much hope that you will refuse this application. In the event that you chose to support it I would urge you to review the conditions relating to sewage and surface water treatment to ensure a sufficiently robust position is taken.

Technical Consultations

EDDC District Ecologist

The application is supported by a completed Ecological Impact Assessment (EcIA) (Richard Green Ecology, March 2024), with the results of all protected species surveys, and recommendations for ecological mitigation, compensation, and enhancement measures. It is also supported by a biodiversity metric calculation using the statutory biodiversity metric.

Should this application be approved, conditions are recommended.

23.09.2024 – update

In terms of whether I support the scheme given the constraints on the site, e.g., for bat foraging habitat etc. then I would be satisfied as measures for protected species have been satisfactory addressed. There is an obligation to deliver over and above the mandatory requirement for habitats enhancements, which is outside of the mandatory BNG framework. Ideally, I would like to see any offsite provision in East Devon, but again this is something I'm not sure we can insist on. However, I am satisfied that the residual impacts could be mitigated for offsite.

County Highway Authority

The site situated at the end of the residential road of Windmill Lane, which due to it's geometry creates a lower speed environment.

The access onto Bendarroch Road will also be improved as part of this application. The visibility splay will be improved to accord with our current best practice guidance, Manual for Streets 1 and 2, utilising the 85th percentile of a speed survey. The improved access kerb works will also create a speed calming feature, this single lane route may be utilised as a shared space road, allowing for pedestrians and cyclists alike.

The existing access to be utilised already has dropped kerbs, though the access will be improved to tie-into a dedicated footway through the proposed site. The swept path plans show successful manoeuvring of both refuse and fire service vehicles around the site in question. Each dwelling has at least 2 parking spaces, therefore I do not believe that carriageway parking will be a particular problem from this development. I would recommend the provision of secure cyclist storage to encourage sustainable travel especially to the nearby services and facilities of West Hill.

The Construction Management drawing is appreciated, should this application be granted, we would require a comprehensive Construction and Environment Management Plan (CEMP) in order to minimise the impact upon the local highway network during the construction phase.

West Hill includes a primary school, dentist, local shop and village hall, whilst it is appreciated that there would be a given walk from this sites location, this would be no further than is typically established on larger new development sites. A bus stop is also present within 400m of the site, which accords to bus stop guidance. The County Highway Authority (CHA) does not require planning applications containing fewer than 40 dwellings to contain a Travel Plan, with a travel plan co-ordinator or car club provision due to the trip generation impact not triggering a set severity level.

No objection subject to conditions.

Devon County Council Education Dept

06/01/2025 - Regarding the above planning application, Devon County Council has identified that the proposed increase of 27 family type dwellings will generate an additional 6.75 primary pupils and 4.05 secondary pupils which would have a direct impact on West Hill Primary School and The Kings School. 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 forecasted that West Hill Primary School has currently got capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will not seek a contribution towards primary education infrastructure.

However The Kings School is not forecast to have capacity for the pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek a contribution directly towards additional secondary education infrastructure at The Kings School . The contribution sought towards secondary is £95,337 (based on the

DfE extension rate of £23,540 per pupil). This would relate directly to providing Secondary 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.

DCC Flood Risk Management Team

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

Housing Strategy/Enabling Officer - Cassandra Pressling

Comments based on original scheme - Percentage of Affordable Housing - under current policy Strategy 34, a requirement of 50% affordable housing will be required. This application if approved, will provide 50% affordable housing which equates to 18 units and this is acceptable.

Housing Need - the September 2022 East Devon Local Housing Needs Assessment identifies a current unmet affordable housing need of 971 households across the district. The East Devon Council's housing register Devon Home Choice has over 5000 households registered. This application will help meet some of this need.

Tenure - Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership. For the proposed 18 units, this would amount to 13 Social Rented units and 5 units for shared home ownership.

Housing Mix - The housing mix is acceptable and meets identified housing need. Social Rent = 8 x 1 bedroom flats and 5 x 2 bedroom houses. Shared Ownership = 1 x 2 bedroom house and 4 x 3 bedroom houses. All affordable units will meet M4 (2) standards as per Strategy 36 in the adopted Local Plan.

Layout - The 8 x 1 bedroom flats for Social Rent tenure are in two blocks (plots 28 - 31 & 32 - 35). I note there is one communal entrance door to each block of 4 flats. This can lead to housing management issues and high service charges. I would prefer to see a design where each flat has its own separate entrance. This is also preferable to Registered Providers.

Council Plan 2021 - 2023 - East Devon District Council wants to increase access to social and affordable homes and this is one of the Council's highest priorities. This application will provide 18 affordable homes, so will help us meet this priority.

I am in support of the amended plans for 35% affordable housing because of the lack of a 5 year housing land supply and out of date policies, a pragmatic approach is being taken. In the current housing market, with high build costs and high interest rates, 50% affordable is unlikely to be viable. In the emerging, new local plan the affordable housing requirement will be 35%. The revised plans will provide:

Social Rent

4 x 1 beds maisonettes

4 x 2 bed houses

Shared Ownership

2 x 2 bed houses

3 x 2 bed houses

This mix meets an identified housing need. Social Rent tenure is also more affordable to local incomes in East Devon and this scheme will provide 8 Social Rent dwellings.

18.07.24 – (In relation to the latest offer of 35% on site affordable and 15% off site affordable contributions)

That is acceptable and seems reasonable.

Police Architectural Liaison Officer - Kris Calderhead

Thank you for further consultation on the revised plans of this planning application. I have no objection to the scheme and support that designing out crime principles have been considered in the design.

EDDC Trees

The amended plans shows that my initial concerns have been taken on board and the layout of the site around T1 and tree protective fencing concerning T5 and T8 have been adjusted accordingly.

I therefore have no objection to the development subject to conditions.

17/01/2025 - I have no objections to the amended plans as shown on the tree protective plans dated the 04/12/2024. However, on sheet 2 of 4 of the TPP, ground protection is missing from the plan between the 2 sets of protective fencing, the 2nd of which is located within the RPA of T1. Subject to this minor amendment I have no arboricultural concerns.

Natural England

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.

27.11.2023

Natural England has previously commented on this proposal and made comments to the authority in our response dated 29/06/2023, reference number 438588.

The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

EDDC Landscape Architect (on original plans)

Site description

The site description erroneously states that the site is well treed. It is in fact an open meadow bounded by Devon hedgebanks which contain mature trees, although the eastern, southeastern and northwestern boundaries are more open and afford views out and in. From the upper parts of the site there are extensive views across the Otter Valley to the east and southeast in which the prominent ridge line of East Hill is clearly visible and there are a number of publically accessible locations along the East Hill ridge from where the site can be viewed. This does not appear to have been accounted for in the LVA.

Description of Development

The description of development should have been more comprehensive and considered also the construction phase.

Baseline conditions

There is a confusion in the baseline assessment between Landscape Character Areas (LCAs) and Landscape Character Types (LCTs). The East Devon and Blackdown Hills Landscape Character Assessment referred to only covers LCTs. References to LCAs in table 5.4 should, in fact, be LCTs. The LVA does not consider LCAs.

The consideration of landscape character types should have made clear that the site itself lies within LCT 1C - Pebble Bed Heaths.

The sensitivities ascribed to LCTs 1C, and 2A (Steep wooded scarp slopes) as high and 3B (Lower rolling farmland and settled slopes) as medium are accepted.

An assessment of the local landscape character and value of the site and its immediate environs and how these differ from the published assessments should have been provided.

The residential receptors listed on p.33 should have included surrounding residential properties that have outlooks towards the site and are visible from it. These include Beech House to the northeast, Hasta la Vista to the north and one or two properties each in Oak Tree Gardens and Hayes End to the south, albeit that, with the exception of Hasta la Vista, none of these properties has primary views over the site.

Transport receptors are stated on p.33 as having low susceptibility whereas in the methodology table 4.5 they are stated as having medium susceptibility.

The selection of representative viewpoints is generally appropriate but there is a partial glimpse view of the northwest corner of the site which should have been included between viewpoints 4 and 5.

Assessment of effects

The LVA should have considered construction phase effects.

Effect on Landscape Elements and Features

The LVA does not consider the effects of development on landscape elements and features. Such assessment should have included loss of 2.1ha grassland, minor tree/ hedgerow loss and grading works affecting landform.

Effect on landscape character

Description of effects on landscape character should have included introduction of built form in to an open field close to a prominent undeveloped ridge and associated light spill and impact on dark skies.

The assessment fails to recognise the visibility of the site from LCT 2A (East Hill) and consequent perceived impact of development on the site and the undeveloped character of the ridgeline of the host landscape. The assessment of no change is inaccurate and should be considered moderate- slight adverse initially reducing to slight adverse with mitigation.

Effect on Visual Amenity

The assessment of effects on receptors at viewpoints 1-8 is generally accepted. However, the assessment of effect for viewpoint 9 (White Cross East Hill) as no change is not accepted. The accompanying photograph for this viewpoint is of poor quality. The site is visible from this viewpoint and is seen in the context of the high sensitivity undeveloped wooded ridge line within the Pebble Bed Heath LCT 1C. Particularly in winter, new housing would be partially visible from this location and lighting would be evident at night. White Cross lies within the East Devon AONB and is marked on OS leisure maps as a panoramic viewpoint. Development of the application site would be noticeable from this location but due to distance the magnitude of effect is likely to be moderate to slight adverse initially, reducing to slight adverse over time.

For travellers on the B3180 the LVA suggests there would be no change, based on the viewpoints selected. However, it is likely that buildings in the northwest corner of the proposed development would be visible in glimpsed views from a field gate and short section of the road resulting in slight adverse effect following establishment of mitigation measures.

CONCLUSION & RECOMMENDATIONS

Acceptability of proposals

Although the site and host landscape lie within a landscape assessed as high sensitivity, the site is relatively well contained within its immediate landscape setting. While development would inevitably have a major effect on site character introducing built form into an undeveloped field.

Landscape and visual effects are limited due to the surrounding strong landscape structure. The application site is more prominent in the wider landscape and development would be more readily visible in views from East Hill than existing development within West Hill. However, due to distance of over 5km the magnitude of effect would be limited. Other than East Hill visual receptors are limited to a few neighbouring dwellings which currently have partial and filtered views of the site.

The overall site layout is considered acceptable in terms of landscape design subject to minor amendments as noted above which should be provided prior to determination.

11/02/25 – comments based on past October 2024 DMC amendments

Site layout

The amended scheme with reduced number of dwellings creates a better overall layout than previously, with additional public open space area and more informal arrangement better suited to the rural edge location. There are some issues however which need to be addressed as noted below:

The gardens to the apartments in the northwest corner of the site are unsatisfactory being too small (approx. 3.5x7.5m) and substantially smaller than any of the other plots and, due to the north facing aspect those gardens adjacent to the apartments

will be in almost permanent shade. With a minor tweak to the position of plots 1-4 sufficient space could be gained to provide decent sized gardens to each of the apartments, and opportunity to provide a conveniently located communal bin/ cycle store, as indicated in the overmarked plan extract in figure 1 below.

The proposed access path through the open space between plots 17-20 unnecessarily carves up the space, reducing its amenity value. The path should be omitted with access provided along the drives to the north and south sides linking to the path to the east, as also indicated in fig. 1 below.

There is no need to extend footway around the southwest corner of plot 30 and this should be omitted back to the end of the adopted road as indicated in fig 1.

Boundaries treatment (External works plan, dwg. no. PL-05 rev. G)

The amended external works plan shows 1.8m high close board fencing around the perimeter of the site whereas previously it was agreed that this should be 1.2m high post and wire mesh fence in front of a Devon hedgebank. The detail should be amended as previously.

Due to their visibility from public realm the proposed close-boarded fencing to the sides of driveways to plots 20 and 22 should be replaced with walls as indicated in figure 2 below. These should be set back from driveway edges by a metre to provide a planting strip in front to soften their appearance. The western boundary to the rear garden of plot 1 should also be changed to a wall.

Proposed timber trip rail around the open space is likely to have an adverse impact on visual amenity, will be impractical to implement given its sinuous line and is likely to have a limited life expectancy. If measures are required to demarcate, and prevent vehicle encroachment on, open space the use of peeled native hardwood bollards would be less obtrusive and more durable.

A post and 3-wire fence 900mm high should be provided along the centreline of proposed hedges forming the boundary to private front gardens to provide stronger demarcation and prevent shortcutting through planting while hedging establishes.

The submitted Boundary Treatments drawing no. PL 05.1 rev. E requires amendment to reflect the above points.

The submitted detail provided for hedge retaining bank construction around the site (dwg. no. 4710-BB-DR-L-501 Rev. P2 is incorrect and requires amendment as figure 3 below.

The key for earth retaining bank on submitted Site Levels plan, dwg. no. C 100 100 Rev P6 requires amendment to cross reference Devon Hedgebank retaining detail dwg. no 4710-DR-L-501 Rev. P2.

Submitted planting plans and schedule are generally satisfactory. It is noted that the proposed species to the front hedge of plot 20 has not been specified.

Planting schedule

Amend density heading in plant schedules to note whether plants per linear or square metre.

Surface water drainage (Drainage strategy plan dwg.no. 300-100 P7 and Attenuation Basin details (dwg. no. 300-120-P7)

Proposed surface water strategy includes the provision of a land drain and associated mounding and scrapes around the perimeter of the site. It is not clear why this is considered necessary or where any surface water captures by the land drain will discharge to. No indication is given of the proposed depth and width of the associated trenching. The trench will impact the RPA of existing trees particularly to the southern site boundary and associated construction plant is likely to result in ground compaction and reduction in soil permeability which is counter to the intention to reduce surface water flow, as well as disturbance of species rich grassland around the perimeter of the site. This feature should be omitted.

Tree protection

As well as protection of Tree RPAs tree protection fencing should seek to prevent compaction and disturbance of surrounding ground.

CONCLUSIONS AND RECOMMENDATIONS

Subject to receipt of satisfactory amendments addressing the above points the proposed scheme is considered acceptable in terms of landscape and visual impact and design.

Suggested Conditions.

South West Water (comments in full)

02/01/2025 - It is noted from the agents covering letter (dated 11th Dec 24), that a series of drawings regarding drainage were due to be submitted to EDDC w/b 16th Dec 24. As these are not showing on the Portal at the time of reply, SWW are unable to make comment on these proposals.

SWW therefore make no further comments to those in our response of 9th Sept 24, provided here again for reference:

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. The 125 litres/person/day water efficiency standard is a requirement of Building Regulations Approved Document G (2015 Edition), with the optional standard under Regulation 36(2) being 110 l/p/d being enforced if applied as a requirement within a planning condition. Due to the current trends towards increased stress upon existing water resources, their associated water use behaviour impacts, and the increased likelihood of annual drought conditions, SWW would support the inclusion of a condition securing the optional requirement of 110 l/p/d.

Draft wording of a condition securing the G2 optional requirement is set out below:

Draft Condition: Prior to commencement of development approved by this permission, a Water Conservation Strategy shall be submitted for the written approval of the Local Planning Authority. The strategy shall include a water efficiency specification for each dwelling type, based on the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition or any future successor) demonstrating that all dwellings (when considered as a whole) are able to achieve a typical water consumption standard of no more than 110 litres per person per day, in line with Building Regulations Requirement G2. The approved strategy for each residential dwelling shall be subsequently implemented in full accordance with the approved details prior to first occupation of that residential dwelling and thereafter shall be retained.

Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction in line with Paragraph 154 of the NPPF and adopted policy Strategy 3 of the East Devon Local Plan (January 2016).

Surface Water flows

SWWL note that the applicant has included a surface water management plan WINDMILL/MMP/01 Version 4 February 2024 which indicates that the surface water runoff from the site will be going to the public surface water sewer.

SWWL can confirm that there is capacity within its surface water sewer to take the domestic run off from the site (run off from roofs and driveways (land appurtenant to buildings) subject to the sewers being constructed in accordance with the Design and Construction Guidance (DCG).

The applicant should make separate arrangements to deal with: -

' Land Drainage ' SWW is not a land drainage authority and so any land drainage from

the site should go to an alternative discharge point.

' Highway Drainage ' SWW is not the Highway Authority and the applicant should liaise with the Highway Authority in relation to this drainage.

SWWL requests the following information is provided:

- a. A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.
- 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 build programme for the site.

Draft condition - The occupation of any dwellings approved by this permission shall not be authorised until written confirmation is received by the Local Planning Authority from SWW that the above has been approved and implemented in accordance with the details under 'a to e'.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

SWWL offer a pre-development adoption evaluation service and the applicant is encouraged to use this service.

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, SWWL has previously experienced flooding in West Hill which has been resolved. SWWL needs to undertake some further hydraulic modelling on the network to see if there would be need for some further network improvements to be undertaken. If network improvements are needed it is likely to be in the form of surface water separation. It will take SWWL 3 months to complete this hydraulic modelling which will confirm the scope of any relevant improvements.

Draft condition - 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 has completed its modelling and any network improvements required are completed, or 18 months from receipt of planning permission., whichever is sooner. No development approved by this, or subsequent applications 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.

Reason: 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.

Other Representations

At the time of writing 66 objections have been received, including from Simon Jupp (former MP) (in summary);

- Overdevelopment and density - The proposal is for too many houses, which is significantly more than the local plan suggests and is out of character with the surrounding area
- Infrastructure strain - Local infrastructure (schools, GP surgeries, shops) cannot cope with the additional population and strain on services
- Traffic and road safety - Windmill Lane is too narrow and unsafe for the increased traffic, posing risks for pedestrians and road users, inadequate access
- Flooding concerns - The site is prone to flooding, and the proposed drainage solutions are inadequate
- Ecological impact - Development threatens local wildlife and protected species and Special Areas of Conservation further afield, with concerns over inadequate mitigation
- Unsustainable location and contrary to the local plan - The development is outside the Built-Up Area Boundary (BUAB) and lacks sustainable transport and local job opportunities
- Privacy issues - The proposed buildings overlook existing properties, causing privacy concerns for current residents
- Environmental degradation - The proposal threatens the rural character of the area and risks harming a cherished landscape
- Harm to trees – through the construction and implementation of drainage

With specific regard to the amended scheme;

- No details of who is responsible for the maintenance of these pumping stations.
- Surface water pipeline traverses through the tree boundary of Oak Tree (T35) and straight through Oak Tree (T32) - both have TPO.
- Reduction in affordable units.
- Known risks of flooding on the site and its vicinity,
- Harm to the ecology/biodiversity,
- The evacuation capacity in case of flood or forest fire, access to the village amenities, this planning proposal remains plainly dangerous and utterly unacceptable for the sake of vulnerable elderly, disable, and children alike.
- Recent Elsdon Lane PIP appeal where the Inspector stated the services in West Hill are 'modest'. The Inspector also gave full weight to the BUAB.
- Density is far out of character with the surrounding areas of Hayes End and Windmill Lane. The dwellings per hectare is 6, which is approximately what Strongvox dph is, at their Hayes End development. The proposed development is totally out of character with the village of West Hill.
- Speculative development relying on "tilted balance" should be resisted to protect the character and appearance of West Hill rural area. Significant new build in Cranbrook would satisfy the need for housing in this area without resorting to green field development.
- Adding more housing is wanton destruction of nature and will impact tourism in Budleigh Salterton. The river Otter mouth flows through a reed bed with significant biodiversity.
- The appropriate density should be in the region of '6' dph to be 'more in keeping with the character of the area' to form a natural looking and consistent boundary to the village, blending in with it's immediate surroundings.
- The Design and Access Statement (pages 20 & 22) states the site area is 1.33ha which equates to a density of '23' dph, as per the revised plans.
- The appropriate density should be in the region of '6' dph to be 'more in keeping with the character of the area' to form a natural looking and consistent boundary to the village, blending in with it's immediate surroundings.
- A reduction of only three houses, providing a little more communal space to the South-East together with a slight reduction in roads.
- Still an over-development for the area, bearing in mind that the current housing density for Windmill Lane is six dwellings per hectare, in contrast to that of the proposal, which equates to a density of 23 dwellings per hectare (dph). The figure for the proposed housing density of 14.7 dwellings per hectare for 41 dwellings, given on page 2 of the Covering Letter from Collier Planning, dated 10/12/2024, refers to the whole site of 2.1 hectares. This figure includes the wildlife corridors around the edges, patently not part of the actual development. In fact, the net area of land proposed for development comprises 1.33 hectares, so the density estimate should be revised upward to 23 dph.
- Overlooking still occurring.

PLANNING HISTORY

Reference	Description	Decision	Date
13/2624	Construction of 2no. residential dwellings (re-submission of application 13/1433/FUL)	Dismissed at appeal	09.09.2014
13/1433	Erection of 2 no. residential dwellings	Refused	27.09.2013
81/P0938	Residential 1 Unit.	Dismissed at appeal	Unknown.
79/C0581	RESIDENTIAL UNIT	Refused	17.07.1979

The Emerging Local Plan

As part of the evidence base for the emerging local plan is a high level and broad assessment of potential allocation sites and drawing of BUABs. Within this evidence base this site is listed as 'West Hill_04';

Accessibility assessment: 6 out of 12 facilities within 1,600m of site. Although the shop/school is only around 300m as the crow flies, the actual route along Windmill Lane-Bendarroch Road-School Lane-West Hill Road would be much longer, lacking pavement or street lighting along most of the route. Potential for more direct access if site is developed in conjunction with West_06 with an access through Eastfield Orchard. 160m to hourly or better bus route to north.

Other known site constraints: Grade 3 agricultural land. Whilst located in a Mineral Safeguarding Area, Devon County Council has stated the potential area of resource is small and already constrained by existing built development and therefore unlikely to be economic - as such DCC do not object. Application for 2 dw in north part of site dismissed at appeal (13/2624/FUL) - although the proposal was considered to be in a sustainable location, the development would seriously harm the character and appearance of the area.

Site opportunities: Provide pedestrian/cycle access through Eastfield Orchard if site is developed in conjunction with West_06. Construct bus stop on Bendarroch Road near to the site.

Amended Maximum Yield following discounted areas on site: 26

Brief summary of the key positives and negatives of the site: Positives: no change to heritage assets. Suitable highways access. Existing dwellings along north eastern boundary and to south provide some context of built form. Negatives: pedestrian access to facilities along a route that is largely unlit and lacks pavements (this could be addressed through developing adjacent site West_06). Should the site be allocated? Yes

Reason(s) for allocating or not allocating: The scale of development on this site would help deliver the district-wide housing requirement in a manner that is consistent with the spatial strategy. No change to heritage assets. Suitable highways access. Existing dwellings along north eastern boundary and to south provide some context of built form.

This site was discussed during the Strategic Planning Committee on 23rd September 2024 in relation to its allocation for residential development as part of the Regulation 19 submission. At this meeting the vote was carried to include this as part of the emerging plan.

POLICIES

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: Protection of Local Wildlife Sites and Features of Ecological Value

Policy NP9: Accessible Developments

Policy NP12: Appropriate Housing Mix

Policy NP13: Accessible and Adaptable Homes

Policy NP14: Demonstrating Infrastructure Capacity

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 24 (Development at Ottery St Mary)

Strategy 34 (District Wide Affordable Housing Provision Targets)

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

Strategy 37 (Community Safety)

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)

D6 (Locations without Access to Natural Gas)

EN5 (Wildlife Habitats and Features)

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

EN13 (Development on High Quality Agricultural Land)

EN18 (Maintenance of Water Quality and Quantity)

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

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)
H2 (Range and Mix of New Housing Development)
TC2 (Accessibility of New Development)
TC4 (Footpaths, Bridleways and Cycleways)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

East Devon Emerging Local Plan (which currently carries only limited weight).

CHAPTER 3. THE SPATIAL STRATEGY

Strategic Policy SP01: Spatial strategy
Strategic Policy SP02: Levels of future housing development
Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area
Strategic Policy SP05: Development inside Settlement Boundaries
Strategic Policy SP06: Development beyond Settlement Boundaries
Strategic Policy SP07: Delivery of infrastructure
Strategic Policy SP08: Phased Delivery of Infrastructure and Services

CHAPTER 5. DEVELOPMENT IN THE TOWNS AND VILLAGES

Strategic Policy SD28: Development allocations at West Hill

CHAPTER 6. MITIGATING CLIMATE CHANGE

Strategic Policy CC01: Climate emergency
Strategic Policy CC02: Moving toward Net-zero carbon development
Strategic Policy CC03: Promoting low carbon and renewable energy
Strategic Policy CC06: Embodied carbon

CHAPTER 7. ADAPTING TO CLIMATE CHANGE

Strategic Policy AR01: Flooding
Strategic Policy AR02: Water efficiency

CHAPTER 8. MEETING HOUSING NEEDS

Strategic Policy HN01: Housing to address needs
Strategic Policy HN02: Affordable housing
Policy HN03: Housing to meet the needs of older people
Policy HN04: Accessible and adaptable Housing

CHAPTER 10. HIGH QUALITY DESIGN

Strategic Policy DS01: Design and local distinctiveness
Policy DS02: Housing density and efficient use of land

CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS

Strategic Policy TR01: Prioritising walking, wheeling, cycling, and public transport
Strategic Policy TR02: Protecting transport sites and routes
Policy TR03: Travel plans, transport statements and transport assessments
Policy TR04: Parking standards

CHAPTER 12. OUR OUTSTANDING LANDSCAPE

Strategic Policy OL01: Landscape features

Policy OL09: Control of pollution

Policy OL10: Development on high quality agricultural land

CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY

Strategic Policy PB01: Protection of internationally and nationally important wildlife sites

Policy PB02: Protection of regionally and locally important wildlife sites

Policy PB03: Protection of irreplaceable habitats and important features

Strategic Policy PB04: Habitats Regulations Assessment

Strategic Policy PB05: Biodiversity Net Gain

Strategic Policy PB06: Local Nature Recovery Strategy and Nature Recovery Network

Policy PB07: Ecological enhancement and biodiversity in the built environment

Policy PB08: Tree, hedges and woodland on development sites

Policy PB09: Monitoring requirements for new planting schemes

CHAPTER 14. OPEN SPACE AND SPORTS AND RECREATION

Strategic Policy OS01: Access to open space and recreation facilities

Policy OS02: Sport, recreation and open space provision in association with development

Policy OS05: Leisure and recreation developments in the countryside

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The site comprises an approximately rectangular field of unimproved grassland extending to 2.1ha, bounded largely by Devon hedgebanks containing mature trees. The ground is moderately steeply sloping with an easterly aspect and an overall level change of 18m. Apart from the remains of a wind pump and an adjacent small sycamore in the southeast corner there are no existing features within the site. Boundary trees comprise a mix predominantly of beech, oak, horse chestnut, many of which have TPOs.

Land rises to the west of the site to the B3180 which follows a wooded ridgeline that is a prominent feature in the wider landscape. Land immediately to the east, west and northwest of the site is agricultural but to the north and south is residential, comprising predominantly detached dwellings in medium to large sized plots forming part of the settlement of West Hill.

West Hill consists largely of a series of modern, small cul-de-sac developments with poor physical linkages between them. Despite the overall size of the settlement, a combination of topography, woodland and tree cover provide effective screening, even for higher parts of the settlement, in views from surrounding areas with only a few isolated dwellings being partially visible within the wider landscape.

There are extensive views to the east and southeast from the higher parts of the site across the Otter Valley to East Hill which lies 5km to the east and partial views of traffic on the B3180 from the northwest corner of the site. A number of adjacent/ nearby dwellings are partially visible to the north, south and southeast.

There is no public access within the site but it is directly accessed from the end of Windmill Hill which is a public highway and which affords a view over the site from the entrance gate.

A number of locations along the East Hill ridge afford public views of the site and there are glimpse views towards the site from a short length of the B3180. Otherwise, apart from a few residential properties around the periphery the site is well screened.

Proposed Development

The proposal seeks full planning consent for 31 dwellings on current agricultural land on the fringe of the built up area of West Hill. In addition, access roads and necessary infrastructure is also proposed to serve the development. This planning application was heard at a previous planning committee where members expressed concern over the density of the development and layout. Following this informal discussions were held and the applicant then submitted an amended scheme reducing the number of units from 34 to 31, altering the layout and updated relevant supporting documents. It is this amended scheme which is now for consideration.

The site is accessed from Windmill Lane. The houses on the north side of the site have direct access from the road. Dwellings are generally varied in size and design, with the top portion containing more linear, style buildings, while the bottom and central parts have larger, detached homes. The houses in the centre and lower portions are surrounded by greenery, illustrating a more spacious layout for these properties.

The proposed dwellings generally face onto the roads, with direct access from the highway for the majorities of the properties. The heights of the proposed dwellings range from single storey bungalows, sited to the north of the site at the highest point to 2 story semi-detached and detached dwellings. The majority of dwellings are 2 storeys.

Green spaces provide ecological corridors, biological net gain and public open space. Rear gardens back onto the perimeter ecology buffer with the aim to provide offset from this buffer to reduce the impact of ambient light from the proposed dwellings.

A water attenuation pond is located to the south of the open space which is the lowest point on the site with a connecting pedestrian path to the adjacent site to the east.

ANALYSIS

The main issues concerning this planning application are;

- Housing Supply within East Devon
- The 2024 National Planning Policy Framework, as a material consideration
- Whether the proposed occupiers are within suitable range of services and facilities so as to not be reliant on private modes of transport
- the impact on the character and appearance of the area
- Highways Impact
- Ecology
- Trees
- Foul and Surface water drainage
- Affordable Housing
- Amenity
- Agricultural Land Classification
- Open Space
- Mitigation secured via a s106
- The planning balance

Housing Supply within East Devon

The need for housing over the next five years is a crucial consideration in planning decisions. According to the National Planning Policy Framework (NPPF) 2024, 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.

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. Within an adequate supply of housing an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of the NPPF.

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 for 'sustainable development' if there is no identified contextual conflict, would unbalance communities and is within reasonable reach of an appropriate level of services and facilities.

East Devon can currently demonstrate a housing land supply of **2.97 years**, falling significantly short of the five-year requirement.

Anticipated housing completions over the next five years suggest continued underperformance against statutory requirements. Projections indicate an accumulating deficit unless swift action is taken to accelerate delivery. Adjustments to policies encouraging smaller and garden land windfall developments may provide incremental supply boosts.

The council must address the housing supply deficit to align with NPPF standards and support the adoption of the emerging Local Plan by 2026.

The latest Annual Housing Monitoring Report underscored the urgent need for strategic action to enhance housing delivery and mitigate risks associated with supply

shortfalls. Proactive planning and policy adjustments are critical to meeting future housing demands and regulatory requirements.

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.

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 great 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.

The 2024 National Planning Policy Framework, as a material consideration

The National Planning Policy Framework (NPPF) published in December 2024 is a material consideration in the determination of planning applications. The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework, in the decision-taking section states:

For decision-taking this means:

*c) approving development proposals that accord with an up-to-date development plan without delay; or
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (footnote 8)*

, granting permission unless:

*i. the application of policies in this Framework that protect areas or assets of particular importance (footnote 7) provides a strong reason for refusing the development proposed; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.*

As above paragraph makes clear that where the policies of the Local Plan are out of date, which is the case here in the absence of a 5 year housing land supply, then the so called 'tilted balance' is applied, i.e. to grant consent unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 14 of the NPPF states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply: a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement.

Given the above it can be ascertained that the council have a significant shortfall in the supply of required housing and that the tilted balance within the presumption of favourable development is engaged.

It should be noted that when the appeal for a Planning in Principle (PiP) at Elsdon Lane was determined (APP/U1105/W/24/3338889) the council could demonstrate a sufficient supply of housing and so the 'tilted balance' was not engaged (para 21 of that appeal decision letter) with full weight attributed to the development plan policies. Therefore, the circumstances and balance of that appeal decision are materially different to that of this planning application now for consideration.

Whether the proposed occupiers are in suitable range of services and facilities so as to not be reliant on private modes of transport

The provisions of Local Plan Strategy 5B (Sustainable Transport) require that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport and would need to be of a form, incorporate proposals for and be at locations where it would encourage and allow for efficient, safe and accessible means of transport with low environmental impact, including (among other things), walking and cycling. These provisions are supplemented by those of Policy TC2 (Accessibility of New Development) which require new development to be located so as to be accessible by pedestrians and cyclists, as well as public transport, and also well related to compatible land uses so as to minimise the need for car travel.

The government published Manual for Streets states 'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot. The nature and character of the route are of importance, as is the sheer distance.

The 'village core' of West Hill can reasonably be identified as West Hill Road area which features the school, hall and shops/post office or Bendarroch Road where the Church and Legion Club are sited. This distance to these facilities along Bendarroch road is acceptable and no objection with regards to pedestrian safety has been raised by Devon Highways, even after being asked to specifically look at this issue. It should be noted however that there is no pavement on this stretch of road.

Members should be aware that the neighbouring site to the east had an outline planning application submitted which benefited from a committee resolution to approve subject to completion of a legal agreement to secure mitigation, including facilitating a footpath linking this site to the adjacent site at Eastfield. Due to material changes in circumstances this resolution to approve is being reconsidered by the planning committee but is still recommended for approval. This scheme would enable a suitable, safe pedestrian route towards the services within West Hill.

Therefore, the proposal is considered to be located in a suitable location so that intended occupiers would not be overly reliant on private modes of transport.

Impact on character and appearance of the area

West Hill Village Design Statement (in the form of a Supplementary Planning Guidance - SPG) describes the village as a low density "woodland village" 'within a framework of beautiful beech, oak, silver birch and pine woodland. This appraisal goes on to describe the settlement accurately: '...the glimpses of wonderful tree-framed views at every turn, and the maturity of these trees, is what makes West Hill special'. That West Hill is a spacious, leafy character, where there are high quality, low density, and substantial detached houses in secluded plots that gives the place its distinctive identity.

The site comprises 2 ha of unimproved grassland with Devon hedgebanks containing mature trees, including beech, oak, and horse chestnut, some protected by TPOs. The land slopes easterly, rising toward a wooded ridgeline to the west. Residential properties surround the site to the north and south, with agricultural land to the east and west. The site enjoys extensive views over the Otter Valley and East Hill from its higher elevations, though public views are limited to a few peripheral areas.

The submitted basic design principles are outlined below;

- Design within a privately accessed ecology buffer with a minimum width of around 10m (this width does vary slightly)
- Create areas of semi-private (BNG)
- A private ecology buffer, areas of biological net gain (BNG) and public open space
- Provide public open space (including drainage attenuation) for the future residents
- Weave the Green Infrastructure through the development
- Improve connectivity by extending the pedestrian routes
- Deliver a mix of market and affordable housing

Policy D1 (Design and Local Distinctiveness) seeks to reinforce the key characteristics and special qualities of the area and ensure that scale, massing, density, height, fenestration and materials of buildings relate well to their context. Furthermore, it seeks to ensure that development does not adversely affect the amenity of occupants of future residential properties with respect to, amongst other things, other uses. NP26 (West Hill Design) states that proposals for development should reflect the established character and development pattern of their surroundings and should preserve key features of the village, including trees, hedgebanks, spacious gardens and individuality between properties. Policy NP2: Sensitive, High Quality Design All proposals for

development should demonstrate a high quality of design, which has regard to the local context, is appropriately scaled and sited, and makes an overall positive contribution to the Neighbourhood Plan Area. New development will maintain the low density pattern of development in West Hill and should reflect built density and layout of the surroundings; Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be permitted. New development should demonstrate that adequate landscaping proposals have been included to reflect the existing landscape character of the surrounding area.

In terms of density the amended Design and Access Statement records that the net site area (i.e. excluding the greenspace buffer which is in effect an ecological corridor) is 1.33ha which provides a density for 31 dwellings of 23 dwellings per hectare (dph). In terms of density the 31 dwellings set out over the total site area of 2.00 hectares (as per the application form) results in a density of 15.5 dph.

These figures are notably higher than the cluster of dwellings situated at Westhayes (circa 6.25 dph) and the cluster of dwellings long established at Windmill Lane (circa 6 dph) and Moorlands (circa 8 dph). The proposal would, however, compare more favourably to the density at Perry Gardens (circa 14 dph) and Eastfield Orchard/Garden and Hawthorne Close (circa 17 dph).

The Westhayes (circa 6.25 dph) has been referred to as an appropriate density. However, that site, its layout and housing numbers are constrained by the significant number and placement of Tree Preservation Orders (TPO). This is not the case with the current application site, which although features some TPO's, it is not constrained to the same degree or extent. Therefore, direct site comparisons do not necessarily assist what should be an appropriate density for this area. Windmill Lane is of an unusually low density and Moorlands are both of their time in layout.

National design guidance states that the appropriate density will result from the context, accessibility, the proposed building types, form and character of the development. In terms of these other sites the character is generally that of suburban residential estates. In this regard the proposal has a similar character of detached and semi detached dwellings distributed in a somewhat uniform manner. The layout of the proposal includes green spaces and tree lined boundaries and cul de sacs which are typical features of the surrounding built form. These proposed elements contribute to the visual continuity and extension of the building form of the settlement. The housing proposed is well spaced with ample greenery thereby maintaining the semi rural suburban feel of the surrounds. The placement of dwellings on the periphery of the site while maintaining tree lines and wildlife corridor compliments this general character.

Therefore, while the density is higher than some of the surrounding built form the emphasis on echoing the surrounding key characteristics means that the development would not appear overly urban due to these density levels. The NPPF encourages the need to make efficient use of land, and to refuse applications that fail to do so, and when viewed through the policy lens and taking into account the need to boost housing supply the density is considered acceptable.. Further, the limited medium range vantage points means that the impact of the resulting density would be muted.

The EDDC landscape officer reviewed the full application for the proposed development, evaluating its landscape impact in accordance with adopted policy, guidance, and site context.

Within the Ottery St Mary and West Hill Neighbourhood Plan valued view WH1, at its periphery, encapsulates some of this application site. This view, from Bendarroch Road crossroads, is enjoyed by West Hill residents and walkers. This viewpoint is slightly elevated in relation to this application site. Whilst some of the roof tops of the proposed development might be seen, as well as some of the rear of the affordable units (in the north east corner), the open farmland feel with distant views over the Ottery Valley and Sidmouth Gap, would not be disturbed. The west hedge line of the application site would be retained and offers suitable screening from this view point.

The LVIA has been submitted and the methodology is mostly acceptable, but the landscape value assessment lacks detail and fails to account for local-scale value. Technical photography standards were not met, impacting accuracy. The site is mischaracterized as "well-treed" when it is largely open, with notable views across the valley. The development description lacks sufficient detail, especially regarding construction phases. There are inaccuracies in referencing Landscape Character Areas (LCAs) instead of Landscape Character Types (LCTs), and the effect of the development on visual receptors is understated, particularly regarding East Hill and the B3180.

The LVIA underestimates the impact of development on the site's open field, which is near a prominent ridge. The visibility of the site from East Hill is underrepresented, and the potential for adverse effects on the character of the area, including light pollution, was not fully considered. Viewpoint assessments for East Hill and the B3180 should reflect slight to moderate adverse impacts, especially during the initial stages of development.

Concerns were raised about impacts on protected trees, insufficient detail on surface finishes, and inappropriate boundary fencing. Recommendations include altering the fencing design, adjusting planting plans to match site conditions, and specifying larger street trees for immediate visual impact. Many of these aspects could be dealt with via condition or would go on to be assessed by the council's arboriculturist.

Details of type and proposed facing materials should be confirmed within a landscaping scheme. In respect of retaining walls adjacent to the ecological buffer strip these should comprise traditional Devon banks constructed in accordance with recommendations of the Devon Hedge Group and as indicated on the amended planting plans. From the council's landscape architects comments it is evident that further amendments to boundary treatments and hedging would be required. Therefore a condition shall ensure that notwithstanding the submitted plans further details will be required for prior approval.

The position of tree protection measures along the western and southern boundaries should be realigned as close to the inner edge of ecological buffer strip as possible to prevent disturbance/ compaction of ground within the buffer strip during construction.

The development site lies in a sensitive landscape, but it is relatively well contained. While development would significantly alter the site's character, its visual effects are limited to distant views from East Hill and a few neighbouring properties. The landscape architect finds the proposal generally acceptable, subject to further details of landscaping elements being secured within the plot and it is considered that such details can be secured via condition.

Within the site itself the layout allows for adequate plots size with surrounding garden areas providing for a sense of spaciousness. Suitable levels of natural light would reach each home, and a suitable degree of natural surveillance would occur. Key buildings along the vehicular access, identified as an 'arrival point' from Windmill Lane form a primary frontage, with the larger properties to the south part forming secondary frontages. Accordingly, there is a considered hierarchy to the scale and massing of the development.

The topography of the site has been taken into account and as a result the development would not be overly prominent, with the scale and massing of each property not appearing out of character.

The proposed floor space of each dwelling would meet National Minimum Space Standards based upon the number of bedrooms to be provided. Aside from the affordable units two car parking spaces are dedicated to each dwelling.

The design of the dwellings themselves have a variety in size and scale. There is a mixture of materials used on the dwellings consisting of red brick, chalk coloured render with grey and brown tile roofs. Within the overall area there is a mixture of residential designs, with no pervading architectural style. The design of the surrounding dwellinghouses are, to an extent, reflective of their eras. Brick, render and tiled roofs are a common feature of the surrounding dwellinghouses and so the development would not appear out of keeping.

The development proposes largely detached homes with semi-detached and terraced homes with hipped roofs, gable roofs and bay windows aiming to reflect the variety of house designs in the area. Boundary treatments also seek to reflect the context with hedgerows and railings to define private frontages. 1.8m high brick walls screen private rear gardens fronting the public realm.

The existing mature vegetation is to be retained on site forms a key component of the character of the development and so takes reference from the woodland feel of the village. This together with the proposed landscape design would aid integration of the built form with its surrounds, as well as incorporate the woodland feel within the site, albeit not to the same extent as some parts of West Hill.

The police liaison officer has commented on the proposal and due to several amendments has overcome their original concerns. As such there is now no objection raised in this regard.

It is noted that several objections raise safety issues with regard to the attenuation pond and the safety concerns regarding children having unhindered accessing this. The sectional elevations of the attenuation pond illustrate that it would be 1.5 metres

deep with a freeboard of 300mm. Marginal edge planting around the attenuation pond perimeter and edge gradient would aim to dissuade the public entering the water. Further a 500mm aquatic bench provides for a shallow area before the central lowest point of the basin as a safety measure. Whilst fencing would remove some of its amenity value and open nature, if deemed necessary such health and safety measures could be conditioned.

The overall layout, design and landscape is acceptable, and so accords with strategy 7 and policies D1 and D2 of the local plan.

Highways Impact

Bendarroch Road is a single carriageway road which measures approximately 6.5 metres wide, is lit within the vicinity of the site and is subject to a 30mph speed limit. The speed limit increases to 40mph approximately 170 metres west of Windmill Lane junction.

Approximately 550 metres to the west of Windmill Lane, Bendarroch Road becomes Rockbeare Hill and to the east it forms a priority junction with the West Hill Road. Bendarroch Road is observed from the site visit to be used as a shared surface used by both pedestrians, cyclist and vehicles. A footway measuring around two metres wide is located on the southern side of Bendarroch Road for a short distance on each side of the Bendarroch Road and Moorlands priority junction. Moorlands benefits from continuous pedestrian infrastructure between Bendarroch Road and the local facilities and amenities located in West Hill on West Hill Road.

Personal Injury Collision data has been obtained for the most recent five-year period between 01/01/2017 and 31/12/2021 and for a study area comprising Windmill Lane and Bendarroch Road between its junction with the B3180 to the west and School Lane to the east. The data shows that there have been no incidents recorded within the study area. It was therefore concluded that there are no highway safety patterns or problems with the local highway network in the immediate vicinity of the site.

Windmill Lane currently serves a number of dwellings and therefore is considered to be of a suitable width and geometry to accommodate refuse, delivery and fire vehicles that may require access to the proposed development.

Pre-application dialogue with the highway authority has confirmed that appropriate visibility should be provided at the junction. On this basis it is therefore proposed to realign the junction bellmouth kerbing, including a section of the Bendarroch Road carriageway. A Grampian condition could preclude residential occupation until these highway realignment works at the junction have been implemented.

Devon County have been consulted on this proposal. The site situated at the end of the residential road of Windmill Lane, which due to the geometry creates a lower speed environment.

The access onto Bendarroch Road would also be improved as part of this application and this can be subject to a Grampian condition to ensure this takes place.

The visibility splay will be improved to accord with our current best practice guidance, Manual for Streets 1 and 2, utilising the 85th percentile of a speed survey. The improved access kerb works will also create a speed calming feature, this single lane route may be utilised as a shared space road, allowing for pedestrians and cyclists alike.

The existing access to be utilised already has dropped kerbs, though the access will be improved to tie-into a dedicated footway through the proposed site. The swept path plans show successful manoeuvring of both refuse and fire service vehicles around the site in question. Provision of secure cyclist storage to encourage sustainable travel especially to the nearby services and facilities of West Hill should be secured.

The Construction Management drawing is appreciated but officers would still require a comprehensive Construction and Environment Management Plan (CEMP) in order to minimise the impact upon the local highway network during the construction phase.

West Hill includes a primary school, dentist, local shop and village hall. While it is appreciated that there would be a given walk from this sites location, this would be no further than is typically established on larger new development sites. A bus stop is also present within 400m of the site, which accords to bus stop guidance. The County Highway Authority does not require planning applications containing fewer than 40 dwellings to contain a Travel Plan, with a travel plan co-ordinator or car club provision due to the trip generation impact not triggering a set severity level.

Given the above there was no objection raised by the Highway Authority and since these comments the amount of housing, and therefore traffic movements, would be reduced. The proposal is considered to comply with policies TC7 and TC9 of the local plan.

Ecology

Strategy 47 (Nature Conservation and Geology) 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. 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. This will be of particular importance where development could impact upon European Designated Sites.

In respect of the Exe Estuary and the Pebblebed Heaths (and Dawlish Warren in Teignbridge) an over-arching strategic approach to habitat mitigation measures has been established through the Disturbance Study. All residential development schemes within a straight line 10 kilometres distance of any part of the Special Area of Conservation (SAC) and/or SAC designated areas of the Exe Estuary or Pebblebed Heaths will be required to provide mitigation. The onus will rest on developers demonstrating that mitigation can and will be provided and granting of planning

permission will be linked to clear evidence that delivery will actually happen to agreed timescales.

The application is supported by a completed Ecological Impact Assessment (EclA) (Richard Green Ecology, March 2024), with the results of all protected species surveys, and recommendations for ecological mitigation, compensation, and enhancement measures. It is also supported by a biodiversity metric calculation using the statutory biodiversity metric.

The results of the bat surveys confirm that between nine and thirteen species of bat commute and forage across the site. The southern and western boundaries, with mature trees on earth banks, provide both foraging opportunities and commuting routes between roosts and foraging territories. It is likely that the site boundaries comprise an important flightline for both lesser horseshoe bats and barbastelle bats to-and-from a nearby known roost. The grassland on the site provides foraging habitat, although there is good availability of alternative foraging habitat in the area.

It is proposed to incorporate ecological buffer zones around the site boundaries, to provide habitat for wildlife, avoid illumination of bat commuting routes and dormouse habitat, and avoid disturbing badger setts. 0.56 ha of species-poor neutral grassland would be enhanced. Recommended ecological mitigation and enhancement measures include clearance of habitats under ecological supervision, habitat manipulation as part of a mitigation strategy for reptiles, sensitive timing of works and the provision of integrated bat boxes.

Other notable species confirmed on the site include slow worm, grass snake, and badger. Species possibly present on the site include nesting birds, hazel dormouse, common amphibians such as common toad, and hedgehog.

The proposals indicate an increase of 6.33 hedgerow units (a 103.69% gain) measured using the statutory biodiversity metric. The metric also indicates that the proposal would result in a biodiversity net loss of 7.71 habitats units (a 45.46% net loss) and trading rules have not been satisfied for area habitats. The report indicates that the applicant intends to off-set the loss of habitat units providing ecological enhancement using an offsetting scheme. It is understood that discussions to secure an offsite habitat bank in East Devon are currently ongoing, but not yet legally secured at the time of writing.

The above noted there is an advanced s106 which would commit the proposal to BNG improvements.

Although not included in the submission, it is recommended that permeable garden fencing for hedgehogs and invertebrate bricks (one per dwelling) also be provided. These details could be detailed within a landscape and ecological management plan (LEMP).

Ecology - Derogation tests

Licences from Natural England will be required for likely impacts on protected species such as bats and dormice. Natural England can only issue a licence if the following tests have been met:

- the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest;
- there is no satisfactory alternative; and
- the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.

Whilst decision makers should have regard to the 3 tests above it should be noted that the LPA is not expected to duplicate the licensing role of NE. An LPA should only refuse permission if the development is *unlikely* to be licensed pursuant to the derogation powers *and* Article 12 of the Habitats Directive was likely to be infringed.

In terms of public interest this proposal as a matter of principle accords with the national level of significantly boosting housing supply from which some economic and social benefits could accrue. Alternative scenarios are not easily discernible, however, improving the biodiversity of the site would occur through recommendations of the ecology report and Biodiversity Net Gain. There is also a consensus that in order to provide housing, thereby meeting a public interest, greenfield sites such as this would need to be developed. Given what has been reported for this site, the fact suitable mitigation measures are proposed and both of these elements have been found acceptable by the council's ecologist there is no reason why a license would not be issued or why Article 12 would be infringed.

As a consequence, there is no reason to suggest that the proposal would be likely to offend article 12 of the Habitat Directive or that a licence would be withheld by Natural England as a matter of principle.

Ecology - Special Protection Areas

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

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

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

East Devon District Council currently mitigates in accordance with its obligations under the Habitat Regulations by collecting contributions towards infrastructure (for instance SANGS) through the Community Infrastructure Levy. However, contributions are also required towards mitigation through non-infrastructure elements (e.g. monitoring and some on site and off site measures) to fully mitigate the impact in line with the approach taken by Teignbridge and Exeter as joint authorities.

Mitigation for recreational impacts can take the form of access management within the European sites, or provision of substantial alternative recreation locations to draw users away from them. However, to make it easier for developers to 'deliver' such mitigation, in many cases the Council will accept a financial contribution per new house or holiday unit. The three local planning authorities work in partnership to use these financial contributions to deliver the required mitigation measures.

Trees

The west boundary of the site features four notable mature Oaks which are formally protected. The south boundary is covered by a blanket TPO of mixed woodland species. Likewise, the north eastern permitted of the site is covered by blanket TPOs. A TPO'd oak is situated on the eastern boundary of the site.

Policy D3 (Trees and Development Sites) of the Local Plan states 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. Planning permission will be refused for development resulting in the loss or deterioration of ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the.

The tree reports illustrate that one Beech tree in the south east corner of the site would be removed (T11). The tree survey has identified this Beech tree to be of a poor physiological and structural condition. As such it is deemed to have serious irredeemable structural defects meaning that it realistically cannot be retained as living tree beyond a 10 year time frame. There is no objection to this loss.

The amended tree protection plans shows that the initial concern of the tree officers have been taken on board and the layout of the site around T1 and tree protective fencing concerning T5 and T8 have been adjusted accordingly. In light of this no objections are raised by the tree officer.

Foul and surface water drainage

The drainage plan submitted shows that foul water will be channelled to a proposed adoptable sewer and manhole within Windmill Lane to the north of the site. In terms of surface water this would be directed to the east side of the site to the attenuation pond on off site sewer outfall and to an existing adopted sewer opposite West Hill Primary School. Using the attenuation pond and subterranean cellular attenuation tank would restrict surface water outflow to 4.9 L/s .

Surface water drainage

Policy EN22 (Surface Run-off Implications for New Development) states 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. Planning permission for new development will require that the surface water run-off implications of the proposal have been fully considered and found to be acceptable.

DCC Lead Flood Authority withdrew their original objection and as such they had no in-principle objections to the above planning application, assuming that the suitable pre-commencement planning conditions are imposed on any approved permission. Subject to this the proposal complies with policy EN22.

Foul water drainage

Foul water flows are intended for disposal via mains sewer. In principle, SWW does not currently hold any objection to foul water disposal through a connection to a public foul Sewer. However, SWW has previously experienced flooding in West Hill which has been resolved. Further hydraulic modelling on the network needs to be undertaken by SWW to see if there would be need for some further network improvements to be undertaken. If network improvements are needed it is likely to be in the form of surface water separation. SWW have advised it would take 3 months to complete this hydraulic modelling which would then confirm the scope of any relevant improvements. A Grampian style condition is recommended to secure this and any necessary mitigation prior to the occupation of any dwelling.

There is a duty on South West Water under s94 and s37 of the Water Industry Act 1991 (the WIA) to provide capacity to accommodate new developments. the water company who have a statutory duty to accommodate new developments. This duty is enforceable under s18 of the WIA. SWW have done some works to the capacity of the foul drainage network, however, their response indicates that further investigation and works maybe required. In planning terms, while concerns have been raised that neither South West Water or by extension an enforcing authority are meeting those

commitments, the NPPF (at para 194) specifically requires that in taking planning decisions it should be assumed that separate pollution control regimes, in this case including the WIA, should operate effectively. This does not mean that a proposal to operate with an unsustainable or inappropriate foul drainage scheme cannot be considered, but does apply where a proposal is to connect to a mains drainage network.

SWW have stated that it is anticipated that suitable provision can be made within the existing network for the supply of portable water to the proposed development however SWW strongly advise the developer to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by 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.

The 125 litres/person/day water efficiency standard is a requirement of Building Regulations Approved Document G (2015 Edition), with the optional standard under Regulation 36(2) being 110 l/p/d being enforced if applied as a requirement within a planning condition. Due to the current trends towards increased stress upon existing water resources, their associated water use behaviour impacts, and the increased likelihood of annual drought conditions, SWW would support the inclusion of a condition securing the optional requirement of 110 l/p/d.

Therefore, SWW support the proposal subject to a condition securing the G2 requirement relating to potable water prior to commencement and a Grampian style condition requiring no occupation until confirmation that SWW has completed its modelling and network improvements for foul drainage and implemented any required mitigation.. The SWW response sets out that such requirements can be made achievable within the lifetime of the consent so that a Grampian condition would be reasonable. The suggest conditions required modification to align with planning legislation, as some elements are covered under other relevant legislation.

Given the above it is considered that foul water drainage from the proposal can be suitably accommodated and should not be used as a reason to withhold planning consent.

Affordable Housing

For the proposal to be compliant with the existing local plan and given that it is outside of any identified Built Up Area Boundary (BUAB) then under strategy 34 of the Local Plan an affordable housing target of 50% applies. The applicant is proposing to deliver this through a 35% on site affordable provision (equating to 11 affordable dwellings), and 15% off site affordable contribution. This is not strictly policy compliant as not all the provision is on site, however, officers consider this to be an acceptable level of provision which aligns with recent planning decisions elsewhere and reflects the direction of travel regarding the Council's affordable housing policy.

The layout shows that 8 social rented and 3 shared ownership. The affordable offer is now proportionately lower than originally submitted due to the lower number in overall

units being proposed. This layout is considered to suitably pepperpot and disperse the affordable units within the overall scheme.

This is proposed within the advanced draft s106 and as such there was no objections raised to this proposal by the Housing Enabling Officer.

Amenity

It is noted that there are several surrounding existing residential properties surrounding the site. Impact on amenity of these occupiers has been raised as a concern. To the north east of the site is the property of Beech House, the boundary of which abuts this application site. The proposed plot 29 is situated at an angle to this adjacent property so that the north east side elevation of this proposed dwellings faces Beech House. This side elevation is blank so that there are no windows to overlook. Therefore, overlooking would not occur from this and windows at the first floor of the rear elevations are at an oblique angle so that harmful levels are avoided.

The properties to the north, 5 Windmill Lane, Four Seasons and to the south, Hidden Hayes, 17 and 19 Hayes End are a sufficient distance from the proposed dwellings so as to not be impacted in terms of amenity.

Therefore, the proposal is considered to comply policy D1 in this respect.

Agricultural Land Classification

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. It would appear that the land is grade 3 agricultural land although our maps do not differentiate between grade 3a or 3b and the applicant has not provided any detailed assessment in this regard. As such the development could result in the loss of Grade 3a, best and most versatile agricultural land.

Whilst our records indicate that there are large amounts of other land in the locality of higher quality land this could nevertheless result in the loss of BMV agricultural land and this weighs negatively in the planning balance.

Open Space

With regards to public open space strategy 43 of the local plan states for the quantum of development proposed on site space within a rural area is to be provided.

Population increase will be used to determine the relative demand created by different developments. For residential development contributions these will be on a per-dwelling basis and the level of contribution will be higher for larger housing than for small houses or flats. This will be determined by the average occupancy rates where the average occupancy acts as a multiplier reflecting population increase. The assumed average occupancy rates are as follows:

- o a 1 bed dwelling = 1.5 persons,
- o a 2 to 4 bed dwelling = 2.22 persons,
- o a 5+ bed dwelling = 2.5 persons.

The development of 31 dwellings, based on bedrooms sizes, would accommodate approximately 69 persons in a rural area. Under strategy 43 this equates to an on site open space requirement of requires at least 207 sqm.

An area of public open space is proposed as part of the development, to the southeast of the site as shown on the Layout Plan. This would be a general amenity use area and therefore would not feature dedicated play equipment. Access to this open space from the adjacent footpath would be readily available. The planting plan illustrates that this open space is further designed with native bulbs, tree and shrub species to provide an attractive public environment.

This total area of the illustrated green area amounts to 1,800sqm which includes the attenuation pond which is approximately 500sqm. Whilst not all of this space would be usable 'open space' the scheme demonstrates nevertheless that it can meet the above requirements. A management company would be responsible for the open space, details of which are included within the Section 106 Agreement

As the proposal is made in 'full' the proposed layout plan illustrates the appropriate quantum of on site open space resulting from the number of dwellings approved. This area will be protected and maintained via the requirements of the s106 agreement.

Mitigation secured via a S106

Strategy 50 (Infrastructure Delivery) seeks to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. Policy NP14: Demonstrating Infrastructure Capacity All proposals for new development must deliver the necessary provision for physical and social infrastructure to off-set its impacts.

A s106 has been drafted and, at the time of writing, is at advanced stage to secure the following;

- Affordable Housing Schedule - 35% on site (equating to 11 affordable dwellings) and 15% off site affordable contribution in line with the latest position.
- On Site Open Space Schedule (and Maintenance Company Schedule)
- Habitats Contribution Schedule - to mitigate the impact on the pebblebed Heath SAC
- Off-site BNG Delivery - to go towards a designated landbank.

It is noted that the Devon County Council Education department have requested a contribution towards local educational facilities. It should be noted that this requirement would be covered under the CIL regulations and therefore is should not be duplicated under a s106. Instead, it would be for the Education department to seek and bid for a mitigatory contribution from this CIL pool.

The NHS was consulted on this proposal and the subsequent amended plans but did not respond. However, it is noted that objections received referred to local surgery services being over subscribed and that an increase in residences will exasperate matters. EDDC have considered issues around capacity at GP practices in the past and sought funding to help deliver additional consulting rooms, but it would be for such services to bid for available monies through CIL.

The Planning Balance

Planning legislation is clear that planning applications should be determined in accordance with the development plan, unless other material considerations suggest otherwise.

There is identified conflict with the development plan in that the proposal seeks to build residential development in the countryside outside the defined BUAB for West Hill. Therefore, the proposal does not follow a plan led development and there is identified conflict with the development plan in this regard.

The National Planning Policy Framework emphasises the need to significantly boost the supply of housing across England. East Devon has a significant shortfall in the supply of housing and can only demonstrate 2.97 years' worth of supply. Therefore, the tilted balance is engaged and the relevant policies which have demonstrably failed to provide a suitable supply of housing considered out of date.

This proposal would deliver a meaningful number of dwellings, including affordable housing, addressing the significant need for housing in the district. It would also generate short-term economic benefits during the construction phase and longer-term social benefits by providing much-needed housing. The provision of affordable housing, a key priority of the NPPF and government policy, carries substantial weight in the planning balance.

It is widely accepted that releasing additional greenfield sites will be necessary to meet the Council's ongoing housing trajectory. While the proposal conflicts with both the Local Plan and the Neighbourhood Plan by developing outside the BUAB, the district cannot currently demonstrate a sufficient five-year housing land supply.

Further, although only very limited weight can be based upon the emerging local plan looking at the evidence base for the allocation of housing sites it was suggested that this should be allocated, albeit for a lesser number of housing (26 units). Analysis of the site has shown that this number can be accommodated without the development appearing as cramped or out of character with the surrounding character.

The site has been found to be accessible to a suitable ranges of services and facilities and a pedestrian link to the development at Eastfield would boost such links, if that development is approved. The ecologist is content that on site mitigation measures can be provided. The landscape architect is content that wider landscape harm would not occur, but points towards further on site landscape details being secured. DCC lead flood team raise no objection to the proposal which through an attenuation pond and storage cells would suitably control surface water outflow. SWW have suggested

conditions to ensure that updates to the nearby pumping station to accommodate the resultant foul water can be carried out if necessary and so raise no objection. The highway officer is satisfied that highway upgrades are achievable and raised no objection. An advanced s106 which is nearing completion would mitigate the impact of development in terms of impact upon biodiversity net gain, provision/maintenance of open space and suitable affordable housing.

It is therefore recommended that planning consent be granted as the benefits of the development including the delivery of housing to improve the district's housing land supply, are material considerations that outweigh the identified conflict with the policies of the development plan. Any harm would not significantly and demonstrably outweigh the benefits of this scheme. Therefore, a recommendation of approval, subject to conditions, completion of a s106 and adoption of the appropriate assessment (below) is made.

Appropriate Assessment

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

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. An Appropriate Assessment (AA) is 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 these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation would be secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations.

In summary on the ecology issues there is suitable on site mitigation proposed. The wildlife corridors allow for suitable foraging and habitats. Off site mitigation on European designated sites can be secured. BNG can also be secured and there are positive signs this can be achieved within the s106. Therefore, these ecology issues do not weight against the scheme.

RECOMMENDATION

APPROVE, subject to completion of a s106, adoption of the appropriate assessment and 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.)

Construction, access and highways

3. 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.
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
4. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority) of arrangements which secure provision for a pedestrian public access link to the adjacent field to the East of this site and retain this link in perpetuity. The development shall not proceed above slab level on the dwellings hereby approved until the works have been carried out in accordance with the approved details.
(Reason – In order to provide suitable pedestrian linkages to reduce reliance on private modes of transport and promote sustainable forms of travel. The requirements are pre commencement to ensure consideration at an early stage and to ensure the alterations are in place prior to increased traffic), in accordance with policies Strategy 5B (Sustainable Transport) and TC2 (Accessibility of New Development) of the East Devon Local Plan).
5. Prior to commencement of development the Planning Authority shall have received an 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;

The development shall be carried out in accordance with the agreed CMP.

(Reason - To ameliorate and mitigate against the impact of the development on the local community and to ensure that any impact on the highway network is kept to a minimum in accordance with policies TC7 - Adequacy of Road Network and Site Access and EN15 (Control of Pollution) of the East Devon Local Plan)

6. Prior to the occupation of any of the dwellinghouses hereby approved details of secure cycle/scooter storage facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the dwelling to which they relate.

(Reason: To promote sustainable travel in accordance with policy TC9 (Parking Provision) of the East Devon Local Plan).

7. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority) of arrangements which secure the highway improvement works for alterations to the junction between Windmill Lane and Bendarroch Road as illustrated in approved plan figure 3.1 of the submitted Transport Statement reference P22-0101/TR01. The development shall not proceed above slab level on the dwellings hereby approved until the works have been carried out in accordance with the approved details.

(Reason - In the interest of highway safety, in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan,

and guidance contained within the National Planning Policy Framework) The requirements are pre commencement to ensure consideration at an early stage and to ensure the alterations are in place prior to increased traffic).

8. Prior to the first occupation of each individual dwelling at least 1 parking space that relates to the dwelling and its associated vehicle access route shall have been properly formed, surfaced and be accessible for use by the respective occupiers.

(Reason – To ensure that the development has appropriate parking provision, in accordance with policy TC9 (Parking Provision in New Development) of the East Devon Local Plan).

Drainage and Flood Risk

9. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment dated 26th April and conducted by RMA Environmental.

(Reason – To ensure that the potential flood risk is mitigated, in accordance with policy EN21 (River and Coastal Flooding) of the East Devon Local Plan).

10. The development shall not proceed other than in strict accordance with the Surface Water Drainage Maintenance and Management Plan dated February 2024 and conducted by Strongvox.

(Reason – To ensure that the drainage and flood risk of the development is suitably mitigated in accordance with policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan).

11. Prior to the commencement of development 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 using FEH rainfall data and the most up to date climate allowance.

(b) Detailed proposals for the management of surface water and silt run-off 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.

No dwelling hereby permitted shall be occupied until the works which relate to the dwelling or site area have been approved and implemented in accordance with the details under (a) - (d) above.

(Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed).

12. Prior to first occupation of any units on the development approved by this permission, a Water Conservation Strategy shall be submitted for the written approval of the Local Planning Authority. The strategy shall include a water efficiency specification for each dwelling type, based on South West Water's run off destination hierarchy including the use of measures such as smart water butts, rainwater harvesting, grey flushing toilets. The approved strategy for each residential dwelling shall be subsequently implemented in full accordance with the approved details prior to first occupation of that residential dwelling and thereafter shall be retained.

(Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction in line with Paragraph 154 of the National Planning Policy Framework and Strategy 3 of the East Devon Local Plan).

13. 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 and surface water (combined sewer) sewerage infrastructure that this development would link into has adequate capacity to deal with the foul sewage generated by this development and its surface water run off. If it is identified that upgrade works are required to ensure adequate foul sewage capacity and surface water drainage capacity, no dwelling shall be occupied until the upgrades to the foul sewage and surface water 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 Policies EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan. This needs to be a pre-commencement condition to ensure that the impact and therefore control of sewage and surface water discharge 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)

Trees and Landscaping

14. a) Prior to commencement of any works on site (including demolition), the Tree Protection measures shall be carried out in accordance within the Tree Protection Plans (05900 TPP REV D GA, TPP REV D S1 to S4) submitted by

Aspect Tree Consultancy dated 11/11/2023. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no amendments 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).

15. Site monitoring:

- a) The installed tree protection measures shall be inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.
- b) The written findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.
- c) Ad-hock monthly site inspections (these may be done remotely, via video call) shall be undertaken by a suitably qualified tree specialist and the finding recorded in a site monitoring log.
- d) Any departures from the approved Tree Protection Plan 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:

- e) A completed written site monitoring log shall be submitted to the Local Planning Authority for prior 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 2013-2031 and pursuant to section 197 of the Town and Country Planning Act 1990).

Ecology

- 16. The development shall not proceed other than in strict accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Assessment dated March 2024 conducted by Richard Green Ecology. (Reason -To ensure protected species are managed in an appropriate way in accordance with Policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan.)
- 17. Prior to the installation of any external lighting a Lighting Impact Assessment (LIA) including lux contours, based on the detailed site design, EcIA report (section 4.3.1) and most recent guidelines (currently GN08/23 and DCC 2022), has been submitted and approved in writing by the local planning authority. The LIA should clearly demonstrate that dark corridors provided around the site are achievable without the attenuation of habitat features, the long-term management of which cannot be guaranteed. All external 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 without written 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 East Devon Local Plan).

18. Prior to the commencement of development a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority, based on the submitted Ecological Impact Assessment (Richard Green Ecology, March 2024). It should include the location and design of biodiversity features including bird boxes, bat boxes, permeable fencing, and other features to be shown clearly on submitted plans. The content of the LEMP should 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.
- i) A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
- j) Landscape and ecological aims and objectives for the site.
- k) Condition survey of existing trees, hedgerow and other habitat to be retained as a baseline for future monitoring and to identify any initial works required to address defects/ issues identified and bring them into good condition.
- l) Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:

- Existing trees, woodland and hedgerows/banks. Hedgerow management shall be carried out in accordance with the Hedge Management Cycle as set out in Hedgelink guidance.

- New trees, woodland areas, hedges and amenity planting areas.

- Grass and wildflower areas.

- Biodiversity features - hibernaculae, bat/ bird boxes etc.

- Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.

- Arrangements for Inspection and monitoring of the site and maintenance practices.

- Arrangements for periodic review and update of the plan that may be required to meet the objectives of the plan and reflect any relevant changes to site, legislation and best practice guidance.

The works shall be carried in accordance with the approved drawings and details and shall be completed prior to first occupation of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following commencement of development. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the written satisfaction of the LPA.

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 management, maintenance and monitoring shall be carried out in accordance with the approved plans and details.

(Reason: To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement of the character and appearance of the area in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the East Devon Local Plan. The condition is pre commencement to ensure that it properly integrates into the development from an early stage).

19. 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.

The development shall not be occupied until the local planning authority has been provided with evidence, including photographs, that all ecological mitigation and enhancement features, including bat boxes, bird boxes, permeable garden fencing, and insect bricks, have been installed/constructed, and compliance with any ecological method statements in accordance with details within 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 East Devon Local Plan. The condition is pre commencement to ensure construction works are taken into account).

20. No development work shall commence on site until the following information has been submitted and approved by the Local Planning Authority:

a) Notwithstanding the submitted information a full set of hard landscape details for proposed walls, fencing, boundary treatments retaining structures, pavings and edgings, site furniture and signage.

b) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- schedules of volumes for each material.
- expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture. identification of person responsible for supervising soil management.

c) A full set of soft landscape details including:

- Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.
- Tree pit and tree staking/ guying details.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3

(Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

Design

21. Prior to their installation, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls including underbuild, roofs, windows, doors, rainwater goods, soffits and fascias and ground surface materials of the proposed development shall be 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 sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

4710-BB-DR-L- 501: Hedgerow Details	Other Plans	16.02.24
Windmill/MMP/01 Version 5	Drainage report	07.02.25
WINDMILL-C- 100-100 REV P6: Site Levels	Other Plans	07.02.25
WINDMILL-C- 200-010 REV P4: Road & Sewer Long Sections	Other Plans	07.02.25

WINDMILL-C-300-030 REV P7: Impermeable Area Plan	Other Plans	07.02.25
WINDMILL-C-300-040 REV P9: Flood Exceedance Plan	Other Plans	07.02.25
WINDMILL-C-300-1000 REV P9: Drainage Strategy Plan	Other Plans	07.02.25
WINDMILL-C-300-120 REV P8: Attenuation Basin Details	Other Plans	07.02.25
PL-07 F : parking plan	Other Plans	11.12.24
PL-09 : ecological	Other Plans	11.12.24
PL-06 F : affordable homes	Other Plans	11.12.24
4710 BB-DR-L-102 P7 : on site open space	Landscaping	11.12.24
4710-BB-DR-L-101 P8 : mitigation	Landscaping	11.12.24
4710-BB-DR-L-201 P12 : planting plan (sheet 1 of 2)	Landscaping	11.12.24
4710-BB-DR-L-202 P12 : planting plan (sheet 2 of 2)	Landscaping	11.12.24
4710-BB-SC-L-291 P12 : planting schedule	Landscaping	11.12.24

05900. TPP Rev F : whole site	Tree Protection Plan	11.12.24
05900. TPP Rev F. 04.12.24.S1 : sheet 1 of 4	Tree Protection Plan	11.12.24
05900. TPP Rev F. 04.12.24.S2 : sheet 2 of 4	Tree Protection Plan	27.01.25
05900. TPP Rev F. 04.12.24.S3 : sheet 3 of 4	Tree Protection Plan	11.12.24
05900. TPP Rev F. 04.12.24.S4 : sheet 4 of 4	Tree Protection Plan	11.12.24
SUB-01 A : substation	Proposed Combined Plans	11.12.24
HT-ROWAN-02 C : ROWAN-02	Proposed Combined Plans	11.12.24
HT-CAMDEN-01 B : CAMDEN-01	Proposed Combined Plans	11.12.24
HT-KNOWLE-01 E : KNOWLE-01	Proposed Combined Plans	11.12.24
HT-CAMDEN-04 B : CAMDEN-04	Proposed Combined Plans	11.12.24
HT-AMBERD-01 D : AMBERD-01	Proposed Combined Plans	11.12.24
HT-AMBERD-02 D : AMBERD-02	Proposed Combined Plans	11.12.24
HT-AMBERD-03 : AMBERD-03	Proposed Combined Plans	11.12.24
HT- APPLEDORE-01 B : APPLEDORE-01	Proposed Combined Plans	11.12.24

HT-APPLEDORE-02 B : APPLEDORE-02	Proposed Combined Plans	11.12.24
HT-APPLEDORE-03 B : APPLEDORE-03	Proposed Combined Plans	11.12.24
HT-2BH-01 B : 2BH-01	Proposed Combined Plans	11.12.24
HT-3BH-01 B : 3BH-01	Proposed Combined Plans	11.12.24
HT-1B MAIS- 01.1 D : 1B MAIS-01.1	Proposed Combined Plans	11.12.24
HT-1B MAIS- 01.2 D : 1B MAIS-01.2	Proposed Combined Plans	11.12.24
GAR-04 : DOUBLE GARAGE	Proposed Combined Plans	11.12.24
GAR-03 : DOUBLE GARAGE	Proposed Combined Plans	11.12.24
SK-01 : figure ground map	Additional Information	11.12.24
SS-01 G : street scenes/site sections	Proposed Combined Plans	11.12.24
34852/PR-03 : presentation	Layout	11.12.24
PL-05 G : external works	Other Plans	11.12.24
PL-05.1 E : boundary treatments	Other Plans	11.12.24

PL-04 G : materials plan	Other Plans	11.12.24
PL-03 T : planning	Layout	11.12.24
PL-01 A	Location Plan	11.12.24
34852-AI-01 : perspective	Additional Information	11.12.24
34852-AI-02 : perspective	Additional Information	11.12.24
34852-AI-03 : perspective	Additional Information	11.12.24

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

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

Equality Act:

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

Ward West Hill And Aylesbeare

Reference 24/1545/OUT

Applicant Mrs Rosaleen Dickman

Location Heather Down Farm Aylesbeare Devon EX5 2DQ

Proposal 1no. proposed dwelling (Outline with matter of appearance only reserved) to replace existing static caravan with lawful use as a dwelling



RECOMMENDATION:

- 1) Adopt the Appropriate Assessment
- 2) **APPROVE** subject to conditions and to the completion of a Legal Agreement withdrawing the Certificate of Lawful development to establish the residential use of land as curtilage comprising a parcel of garden, a remote storage shed and a static caravan for a period in excess of 10 years decided on 18 July 2023 under reference 22/2704/CPE

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		Committee Date: 25.02.2025
West Hill And Aylesbeare (Aylesbeare)	24/1545/OUT	Target Date: 19.09.2024
Applicant:	Mrs Rosaleen Dickman	
Location:	Heather Down Farm Aylesbeare	
Proposal:	1no. proposed dwelling (Outline with matter of appearance only reserved) to replace existing static caravan with lawful use as a dwelling	

RECOMMENDATION 1: Adopt the Appropriate Assessment

RECOMMENDATION 2: APPROVE subject to conditions and to the completion of Unilateral Undertaking which prevents the keeping of domestic cats by future occupiers of the replacement dwelling.

EXECUTIVE SUMMARY

This application is before Planning Committee because the view of officer's differ from that of the adjacent ward member who has commented on this application on behalf of the ward member and because it is a minor departure from the East Devon Local Plan.

The site contains an existing lawful and habitable residential dwelling on the site which has been established through a recently approved certificate of lawfulness. On the basis that the mobile home does not constitute a 'permanent dwelling it isn't considered that the proposal can be assessed against the provisions of policy H6 of the Local Plan which provides policy support for the replacement of existing dwellings in the countryside. This application is therefore considered to be a minor departure from the Local Plan because there are no policies within it which support the replacement of mobile homes with residential dwellings.

The National Planning Policy Framework states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. It has been demonstrated within this report there is an existing and habitable dwelling located on the site and that the proposed replacement dwelling would result in no additional material harm in respect of sustainability, landscape impact, residential amenity, trees and ecology and highway safety.

This is on the basis that there would be no net increase in the number of residential dwellings on the site which would be safeguarded through the imposition of a planning condition which requires the removal of the caravan from the site prior to occupation of the replacement dwelling and a further condition which prevents the any further caravans or mobile homes from being bought onto the site during the lifetime of the development. Subject to these conditions, there would be no material harm from having a replacement dwelling on the site, with the proposal providing planning gain through the provision of a better standard of living accommodation, an improved layout and improved amenity space and through the removal of an unsightly mobile home. Furthermore, the ability of the Council to restricting the keeping of domestic cats is considered to be planning and ecological gain to reduce alone and in-combination adverse effects on qualifying bird species of the SPA.

On balance, having regard for the above and subject to the applicant entering into a Unilateral Undertaking, it is considered that there are material considerations which justify a minor departure from the Local Plan and that the proposal would generally comply with the policies within the Local Plan when read as a whole. The application is therefore recommended for approval subject to the signing of the S106 agreement and the following conditions.

CONSULTATIONS

Local Consultations

Parish/Town Council

Aylesbeare Parish Council supports this application

Newton Poppleford And Harpford - Cllr Chris Burhop

My apologies for the delay in responding to this application. I will be responding in lieu of Cllr Bailey as she has recused herself from this application.

My interest in this application is as ward member for the neighbouring ward of Newton Poppleford and Harpford.

I have reviewed the application in detail and note the Parish Council's support and also the officer's recommendation.

I do however have concerns in respect of this application.

The officer's report notes that this application would not normally be supported by Local Plan policies. Indeed there is not a single policy cited in support of this application, which, I would remind all concerned, is within the National Landscape, being amongst the most protected areas in the country.

If this application was to simply build a second property in the grounds of the existing property I have little doubt that the application would be turned down as unsupportable on any grounds.

This application is complicated by the current siting of a static caravan that was, last year, granted a certificate of lawfulness on the basis it could be demonstrated that the caravan had been continuously occupied for in excess of 10 years.

This is of course perfectly legal and in itself grants a certificate of lawfulness to what is by definition a temporary residence, not a permanent one.

There is absolutely no policy which then supports the further conversion of this temporary residence to a permanent new build residence (on a larger footprint). This point is accepted by the officer's conclusion which says "the application is considered to be a minor departure from the Local Plan as there are no policies that support [it]".

This is as alarming as can be. Plus it must set a precedent for future applications in the National Landscape.

In summary this applicant seems to

1. Have run an illegal temporary residence in the form of a static caravan for in excess of 10 years.
2. Have been rewarded for the above as no enforcement action was taken to demand the removal of the static caravan within 10 years
3. Have subsequently successfully applied to obtain legal permission to retain the residential temporary static caravan
4. Now be applying to convert a temporary static caravan into a permanent residence with a larger footprint in the National Landscape without any support within policies of the Local Plan.
5. Even be avoiding paying any mitigation to compensate for the agreed effects of development in close proximity to the Pebblebed Heaths on the basis that it isn't a new development (and yet they didn't pay any when they illegally set up a residential static caravan!).

When I look at the above I regret that I cannot support this application.

Technical Consultations

EDDC Trees

In principle I have no objection to the proposal. The application is supported by an arboricultural statement and tree survey provided by the agent. The main trees on site are the group of Oak along the northern boundary which overall are considered B category trees by the Arb Officer. The only slight concern I have is the potential for root growth beneath the retaining wall and into the gravel drive to the south east which is considered possible. However no significant development is proposed in this area and the main dwelling is to be constructed outside of any constraints posed by the larger trees. Two small trees to the north of the proposed dwelling are young replaceable trees; therefore no arb concerns are raised.

No objection subject to tree protection condition.

Health and Safety Executive:

Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Natural England 04/02/2025

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

Natural England considers that without appropriate mitigation the application would have an adverse effect on the integrity of Dawlish Warren Special Area of Conservation (SAC), Exe Estuary Special Protection Area (SPA), East Devon Heaths SPA, East Devon Pebblebed Heaths SAC and Exe Estuary Ramsar

In order to mitigate these adverse effects and make the development acceptable, the mitigation measures set out in the Appropriate Assessment are required:

- A condition will be imposed requiring the removal of the static caravan once the replacement dwelling is ready for occupation to ensure no net increase in the number of residential units on the site within 400 metres of the Pebblebed Heaths.
- S106 agreement which prevents occupiers of the replacement dwelling from keeping domestic cats on the premises. This being of ecological gain in reducing to reduce alone and in-combination adverse effects on qualifying bird species of the SPA.

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

The proposed development has the potential to have a harmful effect on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin.

Providing the appropriate assessment concludes that the measures can be secured, it is likely that Natural England will be satisfied that there will be no adverse effect on the integrity of the European Site(s) (habitats site(s)) in relation to recreational disturbance.

Exeter & Devon Airport - Airfield Operations+Safeguarding

This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria.

Other Representations

None received at the time of writing this report.

PLANNING HISTORY

Reference	Description	Decision	Date
22/2704/CPE	Certificate of lawful development to establish the residential use of land as curtilage comprising a parcel of garden, a remote storage shed and a static caravan for a period in excess of 10 years	CPE Approved	18.07.2023

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN17- Notifiable Installations

H6 (Replacement of Existing Dwellings in the Countryside)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Draft East Devon Local Plan 2020-2042 (Policies carry limited weight at present)

SP06- Development Beyond Settlement Boundaries

OL02- National Landscapes (Areas of Outstanding Natural Beauty)

DS01- Design and Local Distinctiveness

PB08- Trees, Hedges and Woodland on Development Sites

PB01- Protection of Internationally and Nationally Important Wildlife Sites

PB04- Habitats Regulations Assessment

PB05- Biodiversity Net Gain

PB07- Ecological Enhancement and Biodiversity in the Built Environment

HN06- Sub-Dividing or Replacing Existing Buildings and Dwellings

TR04- Parking Standards

Government Planning Documents

NPPF (National Planning Policy Framework 2024)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description

The application site lies within the extended garden area of a property known as Heather Down Farm located in the open countryside to the east of the B3180. The site is within the East Devon National Landscape and comprises a static caravan with two enclosed storm porches within an enclosed area of garden, together with a storage shed and parking area. The site is accessed from the road by the existing driveway serving the main dwelling.

Proposed Development:

Outline planning permission is sought for the construction of a detached dwelling on the site seeking approval for layout, scale, landscaping and access with matters only of appearance reserved for future consideration.

The submitted site plan shows the proposed dwelling to be positioned adjacent to the northern boundary of the site and that it would be served by a driveway from the B3180 which would provide space for the parking and turning of two cars. The proposed dwelling would be rectangular in plan form providing a footprint of 115sqm. The dwelling would predominantly be two stories in height but would include a more subservient single storey element.

Issues and Assessment:

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

- The policy context and the principle of development and an assessment of the outline matters sought for approval
- Highway Safety and Parking
- Ecological impacts, BNG and Habitat Regulations
- Impacts on Trees
- Impacts on residential amenity

ANALYSIS

Policy Context:

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined. The Draft East Devon Local Plan 2020-2042 is out for Regulation 19 Consultation such that limited weight can now be attributed to emerging policies referenced under the policy section of this report. There is no 'made' Neighbourhood Plan for Aylesbeare.

Principle of Development:

The site is located in the open countryside, outside of a defined built-up area boundary where development is more controlled. Strategy 7- Development in the Countryside of the Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

This isn't a site or a location where new residential development would normally be supported because it is in the countryside and not in a sustainable location, regard must be had for the fact that a certificate of lawfulness has recently been granted for the residential use of a static caravan on the site. A Certificate of Lawfulness has been granted for the independent residential occupation of the mobile home at Heather Down Farm and therefore it is considered that there is an existing and lawful residential dwelling on the site.

Notwithstanding the lawfulness of this caravan as an independent residential dwelling, it isn't considered that Policy H6 - Replacement of Existing Dwellings in the Countryside of the Local Plan is engaged and applicable to the determination of this application in respect of the principle of development.

Policy H6 is a policy that supports proposals for the replacement of an existing dwelling outside the defined Built-up Area Boundaries subject to a number of criteria being satisfied which includes there being 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 policy doesn't define what constitutes a 'permanent' dwelling however it has been well established by caselaw that a static caravan is not a permanent building and that the siting of a mobile home is for the use of the land rather than operational development based on matters relating to its size, mobility and construction. In this case, the mobile home is not considered to be a permanent dwelling and therefore policy H6 of the Local Plan is not engaged.

In the absence of any policy support for the principle of a replacement dwelling in this location, the application is considered to be a minor departure from the Local Plan. The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. It will be demonstrated within the remainder of this report that through the grant of the certificate of lawfulness, which establishes that there is an existing and habitable dwelling located on the site and that the proposed replacement dwelling would result in no additional material harm.

Certificate of Lawfulness:

When considering proposals for replacement dwellings, it is standard practice to impose conditions which require the demolition of the existing dwelling prior to the occupancy of the replacement dwelling, should an alternative location for the replacement dwelling be agreed. This is to avoid a net increase in dwellings on the site in locations which would not ordinarily be supported by policy in the interests of visual impact and sustainability.

In this case, due to the site's location in the countryside and unsustainable location where there is no policy support for any cumulative increase in the number of dwellings on the site, it is necessary to consider how removal of the existing caravan from the site can be secured once an approved dwelling is constructed.

In this instance, the existing dwelling on the site is a mobile home which has recently been granted a certificate of lawfulness. On the basis that the certificate was granted for the siting of the mobile home on the land, a condition requiring the removal of the static caravan from the site prior to first occupation of the replacement dwelling would be reasonable and necessary as it would prevent any net increase in the number of residential dwellings on the site. A further condition preventing the siting of any further caravans or mobile homes on the site for the lifetime of the development would also prevent net increase in the number of residential dwellings on the site. This approach is considered to be justified because the site is in the countryside, in an unsustainable location and within 400 metres of the Pebblebed Heaths (discussed in more detail later within the report) where there is no policy support for a net increase in dwellings in the interests of sustainable development.

Conditions imposed are considered to be a sufficient mechanism to ensure that there would be no cumulative increase in the number of dwellings on the site which would

be contrary to the Council's strategic approach to directing new residential development into the most sustainable locations within the District.

Sustainability:

The site is located outside of a settlement boundary as defined by the Local Plan which seeks to steer new residential development into the districts most sustainable settlements, i.e. towns and villages with a range of everyday services and facilities and public transport. It is accepted that the site is not physically or functionally well related to a settlement and does not have safe pedestrian routes to access services and facilities.

Whilst this is the case, the proposal is to replace an existing residential mobile home that sleeps up to 6 people with a modest replacement dwelling. As such replacing the mobile home with a new dwelling would not give rise to any additional sustainability or accessibility concerns because there would be no material increase in the number of dwellings or occupants living on the site, a position reinforced by the imposition of conditions securing the removal of the static caravan from the site.

Character and Appearance:

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

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

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

Development will only be permitted where it:

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

The site does fall within an area designated as National Landscape (formerly AONB) which is afforded the highest status of protection and where in accordance with the NPPF great weight is given to conserving and enhancing landscape. The site is set well back from the B3180 and is well screened from existing vegetation both on the northern boundary and along the B3180 itself. The existing screening would serve to soften the impact of the proposed dwelling which itself would be modest and with its height kept to a minimum by virtue of providing first floor accommodation into the roof space of the building.

Whilst there may be glimpsed views of the dwelling through the vegetation particularly in the winter and through the existing access into Heather Down Farm, given the size and scale and form of the proposed dwelling it isn't considered that the proposal would result in harm to the natural beauty of the landscape that would justify refusal of planning permission. The scale of the development is considered to be appropriate for the site and its rural context.

The proposed dwelling would be located adjacent to the footprint of the existing static caravan, positioned towards the northern boundary of the site and within the red line application site for the approved certificate of lawfulness. A driveway and turning area would be provided over the footprint of the existing static caravan.

It is considered that there are clear planning benefits to be derived from the re-positioning of the replacement dwelling which includes providing better separation distances from Heather Down Farm, the provision of a driveway and turning area and a good sized garden for future occupiers of the new dwelling. It is accepted that the repositioning of the dwelling on the site allows for an improved layout and standard of amenity between both planning units. Layout as a matter that is sought for approval is considered to be acceptable.

Removal of permitted development rights for householder extensions would help to further safeguard the National Landscape requiring additions to the property or outbuildings to require a grant of planning permission where the impacts can be fully assessed.

Residential Amenity:

Policy D1 requires that proposals do not adversely affect the residential amenities of neighbouring properties. The proposed replacement dwelling is considered to be well distanced from the nearest neighbouring properties including the host dwelling such that there would be no harm to residential amenity arising.

Residential amenity for future occupiers of the replacement dwelling would be significantly improved over the existing static caravan through the provision of a sustainable and well insulated permanent dwelling with an improved relationship with existing buildings and the provision of a good sized garden amenity area.

Matters for Approval:

Layout:

The proposed dwelling would be sited adjacent to the footprint of the static caravan close to the northern boundary of the site. It would remain within the red line application site approved under the CPE application and would result in no further encroachment outside of the lawful site or into the countryside. There would be planning gain arising from the proposed layout which includes a better relationship with the existing dwelling, a better standard of amenity for both sets of occupiers and space for the provision of parking and turning area and a good sized garden without any significant landscape impact.

Scale:

The scale of the proposed dwelling is considered to be appropriate for the site. The dwelling would be two stories but the overall height of the building would be reduced by virtue of providing first floor accommodation into the roof of the building. The dwelling would reach a height of 7.0 metres and would be part single storey and part two storey reducing its overall bulk and massing. The scale of the building is considered to be acceptable.

Access:

Policy TC7 - Adequacy of Road Network and Site Access 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.

Vehicular access into the site would be via the existing shared driveway onto the B3180. The layout would make provision for a driveway and for the parking of two vehicles with space for turning so that vehicles can leave the site in a forward gear. It isn't considered that the proposal would give rise to any significant increase in traffic movements to and from the site beyond that of the existing lawful residential use of the site such that it isn't considered that there would be any highway safety concerns arising from the proposal. The provision of two car parking spaces would meet the provisions of policy TC9- Parking Provision in New Development of the Local Plan.

Arboricultural Impacts:

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 application has been considered by the Council's Tree Officer who has advised that the application is supported by an arboricultural statement and tree survey provided by the agent. The main trees on site are the group of Oak along the northern boundary which overall are considered B category trees by the Arb Officer. The only slight concern I have is the potential for root growth beneath the retaining wall and into the gravel drive to the south east which is considered possible. However no significant development is proposed in this area and the main dwelling is to be constructed outside of any constraints posed by the larger trees. Two small trees to the north of the proposed dwelling are young replaceable trees; therefore no arb concerns are raised.

Subject to a condition which requires the submission of an arboricultural method statement and tree protection plan it is considered that the proposal complies with the provisions of policy D3 of the Local Plan.

Landscaping:

The application is accompanied by a detailed landscaping scheme which proposes some Oak and Birch tree planting with the site which would be commensurate with the scale and form of development proposed. Traditional metal estate fencing is proposed for the boundaries of the site and a timber boarded sliding gate would be provided at the entrance. It is considered that adequate landscaping details have been provided for the proposal.

Appropriate Assessment:

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. Natural England has advised that the proposed development has the potential to have a harmful effect on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin.

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 site is located in close proximity to the Exe Estuary and the East Devon Pebblebed 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.

Natural England has advised that proposals for any **net increase** in residential units will have a likely significant effect on the qualifying features of the European Site(s) (habitats site(s)) through increased recreational pressure when considered either alone or in combination with other plans and projects.

It is accepted that 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. For new residential developments within 10 km of the Exe Estuary and the Pebblebed Heaths ordinarily the Council would secure a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per dwelling however this would apply to when there is a net increase in residential units on the site. In this case, there is a lawful residential dwelling on the site, the removal of which would be secured by

condition such that there would be no increase in the number of residential units in close proximity to European protected sites and therefore no additional recreational impacts arising.

Cat Predation:

In addition, in accordance with Strategy 47- Nature Conservation and Geology of the Local Plan, residential accommodation within 400 metres of the SPA is deemed not to be permitted primarily due the risk of cat predation. However on the basis that the proposal is for the replacement of an existing and lawful residential dwelling on the site and the site already benefits from a residential use, albeit one where the risk of predation by cats remains.

The ecology report accompanying the application highlights that predation by cats remains a threat to Nightjar and Dartford Warbler and whilst the closest records for these species are over 450 metres away, the habitat across the B3180, immediately to the north west of the site and areas north east across grazed pasture, 250 metres from the site appear to provide good habitat for both species. It is therefore accepted that there is a risk of predation of qualifying bird species if a cat(s) was kept at the dwelling.

Evidence has however been provided from the applicants that cats have resided within the static caravan and that the Council has had no mechanism in place and ultimately no control over residents of the caravan from the keeping of cats as pets. This proposal presents an opportunity for planning gain to control the keeping of domestic cats at the property and to reduce alone and in-combination adverse effects on qualifying bird species of the SPA.

The applicant is proposing through a Unilateral Undertaking an obligation which prohibits the keeping of domestic cats which would provide planning and ecological gain by reducing the number of dwellings on the site from keeping domestic cats within 400 metres of the SPA which would reduce alone and in-combination adverse effects on qualifying bird species of the SPA. This would be a tangible improvement over the existing situation where the Council has no control over the keeping of domestic cats on the site.

This approach has been accepted by Natural England through the Council's undertaking of an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 where it has been concluded that there would be no adverse effect on the integrity of the Exe Estuary and East Devon Pebblebed Heaths subject to the applicant entering into a legal agreement which prevents occupiers of the replacement dwelling from keeping domestic cats on the premises.

Other Ecological impacts:

Policy EN5 - Wildlife Habitats and Features of the Local Plan 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.

The application is accompanied by an Ecological Impact Assessment prepared by a suitably qualified ecologist which concludes that the majority of the site comprises amenity grassland, hard standing and buildings of low ecological value. There will be impacts to ornamental hedgerows within the site but these are of no ecological value.

The report concludes that the site presents negligible potential for roosting bats, and does not identify any direct impacts on dormice, reptiles and amphibians or birds. The report sets out a precautionary approach to development on the site and in respect of removal of vegetation which can be the subject of a condition. The report also provides ecological enhancement measures which includes a built in bat and bird box on the elevations of the new dwelling, soft landscaping of the site and ornamental borders around the dwelling. This would be the subject of a condition to ensure that there would be some ecological enhancement delivered through the development.

Biodiversity Net Gain:

To support smaller developers small scale self and custom build development are exempt from the BNG requirement. The application forms and CIL forms indicate that this development would be a self build and therefore BNG would not be applicable. Subject to a condition which requires the development to 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 to ensure the development is for a self-build dwelling and therefore exempt from providing biodiversity net-gain it is considered that the proposal is acceptable.

Other Issues:

A high pressure gas pipeline runs to the north of the site and the application site falls within the outer consultation zone for the purposes of consultation with the Health and Safety Executive. Using HSE's online advice tool results in no objection to the development owing to the proposals siting in relation to the pipeline, such that it is considered that the proposed dwelling would comply with the provisions of policy EN17- Notifiable Installations of the East Devon Local Plan. It should be noted that the existing static caravan also sits within the outer zone, based on the fact that there would be no net increase in residential units on the site, there would no greater risk than at present.

CONCLUSION

The site contains an existing lawful and habitable residential dwelling on the site which has been established through a recently approved certificate of lawfulness. On the basis that the mobile home does not constitute a 'permanent dwelling it isn't considered that the proposal can be assessed against the provisions of policy H6 of

the Local Plan which provides policy support for the replacement of existing dwellings in the countryside. This application is therefore considered to be a minor departure from the Local Plan because there are no policies within it which support the replacement of mobile homes with residential dwellings.

The National Planning Policy Framework states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. It has been demonstrated within this report there is an existing and habitable dwelling located on the site and that the proposed replacement dwelling would result in no additional material harm in respect of sustainability, landscape impact, residential amenity, trees and ecology and highway safety.

The concept of a fall-back position has been clarified within the Court of Appeal case 'Mansell Vs. Tonbridge and Malling Borough Council' which is considered to be relevant to the determination of this application where officers consider that the existing lawful residential use of the site to be a material planning consideration which should be afforded significant weight particularly as it has been demonstrated that there would be no greater impact from the proposed development over the existing use of the site.

This is on the basis that there would be no net increase in the number of residential dwellings on the site which would be safeguarded through the imposition of conditions which require removal of the static caravan within the site prior to occupation of the replacement dwelling. Subject to this condition there would be no material harm from having a replacement dwelling on the site, with the proposal providing planning gain through the provision of a better standard of living accommodation, an improved layout and improved amenity space and through the removal of an unsightly mobile home. Furthermore, the ability of the Council to restricting the keeping of domestic cats is considered to be planning and ecological gain to reduce alone and in-combination adverse effects on qualifying bird species of the SPA.

On balance, having regard for the above and subject to the applicant entering into a Unilateral Undertaking, it is considered that there are material considerations which justify a minor departure from the Local Plan and that the proposal would generally comply with the policies within the Local Plan when read as a whole. The application is therefore recommended for approval subject to the following conditions.

RECOMMENDATION

- 1. Adopt the Appropriate Assessment**
- 2. APPROVE subject to a Unilateral Undertaking which prevents future occupiers from keeping of domestic cats and the following conditions:**

1. Approval of the details appearance of the building (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.)
2. 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.)
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) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full arboricultural survey based on BS5837:2012 to include a Tree Constraints Plan, a Tree Protection Plan and Arboricultural Method Statement including site monitoring and supervision shall be provided for the protection of the 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. Details of method of construction of any hard surfaces (i.e access, drainage) in the vicinity of trees shall also be provided.

(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. Notwithstanding the submitted details, no part of the development hereby permitted shall be commenced until a detailed permanent surface water drainage management plan is submitted to, and approved in writing by, the Local Planning Authority. This detailed permanent surface water drainage management plan will be in accordance with the principles of sustainable drainage systems and shall be installed in accordance with the approved details.

(Reason: The details are required prior to commencement to ensure that they fit efficiently within the site layout and to ensure that surface water from the development is managed in accordance with the principles of sustainable drainage systems in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the Adopted East Devon Local Plan 2013-2031 and the guidance contained with the National Planning Policy Framework.)

6. The landscaping scheme approved as part of this outline application shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be

maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

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

7. The development hereby permitted shall be carried out in accordance with the ecological enhancement measures set out within Section 7 of the Ecological Impact Assessment prepared by Lakeway Ecological Consultancy dated 29th January 2024 ref 23-537-EclA-CT.

(Reason: In the interests of ecology and biodiversity in accordance with policy EN5- Wildlife Habitats and Features of the East Devon Local Plan 2013-2031).

8. 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).

9. 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 2 Part 1 Classes A, B, C, D or E for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the building or for the provision within the curtilages of the dwellinghouse hereby permitted of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, shall be undertaken.

(Reason: To ensure that extension and alterations cannot be made to the dwellings without planning permission in the interests of the character and appearance of the area and to protect the National Landscape in accordance with Strategy 7- Development in the Countryside, Strategy 46- Landscape Conservation and Enhancement and AONB's and policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031.)

10. Prior to first occupation of the replacement dwelling hereby approved, the static caravan and shown on the site/ Block Plan existing ref drawing no D004/24/101 shall be permanently removed from the site.

(Reason: The site is in an unsustainable countryside location where the provision of an additional residential dwelling is not supported by Local Plan policy and is within 400 metres of Pebblebed Heaths Special Protection Area where additional dwellings are not permitted primarily due to increased risks of cat predation in accordance with Strategy 7- Development in the Countryside, Strategy 46- Landscape Conservation and Enhancement and AONBs, Strategy 47- Nature Conservation and Geology and Policy H6- Replacement of Existing Dwellings in the Countryside of the East Devon Local Plan 2013-2031).

11. No caravans or mobile homes shall be stationed, stored, or kept on the land at any time for the lifetime of the development.

(Reason: To prevent a net increase in the number of residential dwellings on the site which is in an unsustainable countryside location where the provision of an additional residential dwelling is not supported by Local Plan policy and is within 400 metres of Pebblebed Heaths Special Protection Area where additional dwellings are not permitted primarily due to increased risks of cat predation in accordance with Strategy 7- Development in the Countryside, Strategy 46- Landscape Conservation and Enhancement and AONBs, Strategy 47- Nature Conservation and Geology and Policy H6- Replacement of Existing Dwellings in the Countryside of the East Devon Local Plan 2013-2031).

Plans relating to this application:

D004/24/100	Location Plan	25.07.24
D004/24/200	Proposed Site Plan	25.07.24
D004/24/300	Other Plans	25.07.24
	Arboriculturist Report	25.07.24
EIA	Ecological Assessment	25.07.24
	Flood Risk Assessment	25.07.24

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.

Appropriate Assessment		
The Conservation of Habitats and Species Regulations 2017, Section (63)		
Application Reference	24/1545/OUT	
Brief description of proposal	1no. proposed dwelling (Outline with matter of appearance only reserved) to replace existing static caravan with lawful use as a dwelling	
Location	Heather Down Farm, Aylesbeare	
Site is:	Within 10km of Dawlish Warren SAC and the Exe Estuary SPA site Within 10km of the Exe Estuary SPA site alone (UK9010081) Within 10km of the East Devon Heaths SPA (UK9010121) Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602) Within 10km of the Exe Estuary Ramsar (UK 542) (See Appendix 1 for list of interest features of the SPA/SAC)	
Step 1		
Screening for Likely Significant Effect on Lymptone Nurseries, Church Road, Lymptone		
Risk Assessment		
Could the Qualifying Features of the European site be affected by the proposal? Consider both construction and operational stages.	Yes - additional housing within 10km of the SPA/SAC will increase recreation impacts on the interest features. The site is within 400 metres of the East Devon Pebblebed Heaths SPA/SAC where there is concern principally in relation to cat predation.	
Conclusion of Screening		

Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?	In respect of additional recreational impacts, The site is located in close proximity to the Exe Estuary and the East Devon Pebblebed 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. Natural England has advised that proposals for any net increase in residential units will have a likely significant effect on the qualifying features of the European Site(s) (habitats site(s)) through increased recreational pressure when considered either alone or in combination with other plans and projects. It is accepted that 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. For new residential developments within 10 km of the Exe Estuary and the Pebblebed Heaths ordinarily the Council would secure a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per dwelling however this would apply to when there is a net increase in residential units on the site. In this case, there is a lawful residential dwelling on the site, the removal of which would be secured by condition such that there would be no increase in the number of residential units in close proximity to European protected sites and therefore no additional recreational impacts arising. In respect of cat predation: In accordance with Strategy 47- Nature Conservation and Geology of the Local Plan, residential accommodation within 400 metres of the SPA is deemed not to be permitted primarily due the risk of cat predation. However on the basis that the proposal is for the replacement of an existing and lawful residential dwelling on the site and the site already benefits from a residential use, albeit one where the risk of predation by cats remains. The ecology report accompanying the application highlights that predation by cats remains a threat to Nightjar and Dartford Warbler and whilst the closest records for these species are over 450 metres away, the habitat across the B3180, immediately to the north west of the site and areas north east across grazed pasture, 250 metres from the site appear to provide good habitat for both species. It is therefore accepted that there is a risk of predation of qualifying bird species if a cat(s) was kept at the dwelling. Evidence has however been provided from the applicants that cats have resided within the static caravan and that the Council has had no mechanism in place and ultimately no control over residents of the caravan from the keeping of cats as pets. This proposal presents an opportunity for planning gain to control the keeping of domestic cats at the property and to reduce alone and in-combination adverse effects on qualifying bird species of the SPA. The applicant is proposing through a S.106 agreement an obligation which prohibits the keeping of domestic cats which would provide planning and ecological gain by reducing the number of dwellings on the site from keeping domestic cats within 400 metres of the SPA which would reduce alone and in-combination adverse effects on qualifying bird species of the SPA. This would be a tangible improvement over the existing situation where the Council has no control over the keeping of domestic cats on the site. East Devon District Council concludes that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the residential use in the absence of mitigation An Appropriate Assessment of the plan or proposal is necessary.

Local Authority Officer	P.Golding	Date: 27.01.2025
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.		
In-combination Effects		
Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.	Additional housing or tourist accommodation within 10km of the SPA/SAC add to the existing issues of damage and disturbance arising from recreational use. Accommodation within 400 metres of the SPA is deemed to be not permitted primarily due to cat predation, but due to other issues such as recreational pressures, increased fire risk and the introduction of incompatible plants and animals. In –combination plans/projects include around 29,000 new dwellings allocated around the estuary in Teignbridge, Exeter and East Devon Local Plans. This many houses equates to around 65,000 additional people contributing to recreational impacts.	
Mitigation of in-combination effects.	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. 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 is planned at South West Exeter to attract recreational use away from the Exe Estuary and Dawlish Warren.	
Assessment of Impacts with Mitigation Measures		
Mitigation measures included in the proposal.	• No financial habitat mitigation contribution is being provided on the basis that there is a lawful residential dwelling already on the site such that there would be no additional recreational impacts arising. • A condition will be imposed requiring the removal of the static caravan once the replacement dwelling is ready for occupation to ensure no net gain in residential units on the site. • The applicant has committed to entering into a legal agreement which prevents occupiers of the replacement dwelling from keeping domestic cats on the premises. This being of ecological gain in reducing to reduce alone and in-combination adverse effects on qualifying bird species of the SPA.	
Are the proposed mitigation measures sufficient to overcome the likely significant effects?	Yes - the mitigation measures are considered to be sufficient.	
Conclusion		

List of mitigation measures and safeguards	- Condition to control removal of the static caravan to ensure no net increase in dwellings within 400 metres of the Pebblebed Heaths - S106 agreement which prevents occupiers of the replacement dwelling from keeping domestic cats on the premises. This being of ecological gain in reducing to reduce alone and in-combination adverse effects on qualifying bird species of the SPA.	
The Integrity Test	Adverse impacts on features necessary to maintain the integrity of the Exe Estuary and Pebblebed Heaths can be ruled out.	
Conclusion of Appropriate Assessment	East Devon District Council concludes that there would be NO adverse effect on integrity of Dawlish Warren SAC, Exe Estuary SPA or Pebblebed Heaths SPA/SAC or Exe Estuary Ramsar sites provided the mitigation measures are secured as above.	
Local Authority Officer	P.Golding	Date: 27.01.2025
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)

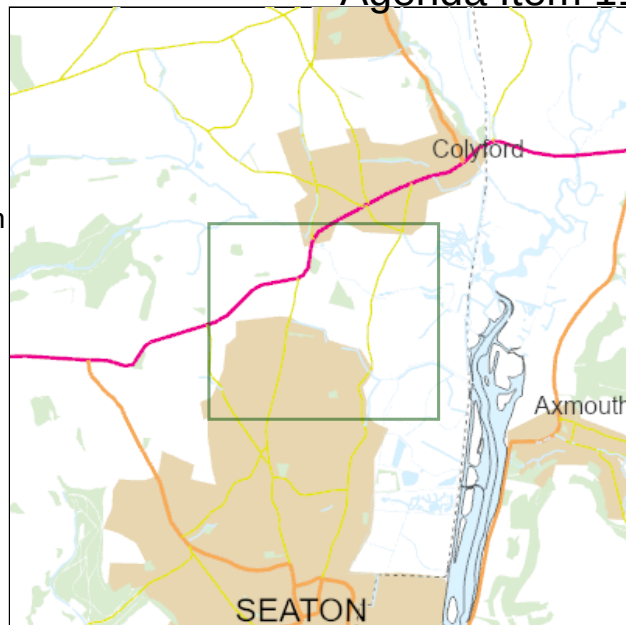
Ward Seaton

Reference 22/2781/MOUT

Applicant Baker Estates Ltd

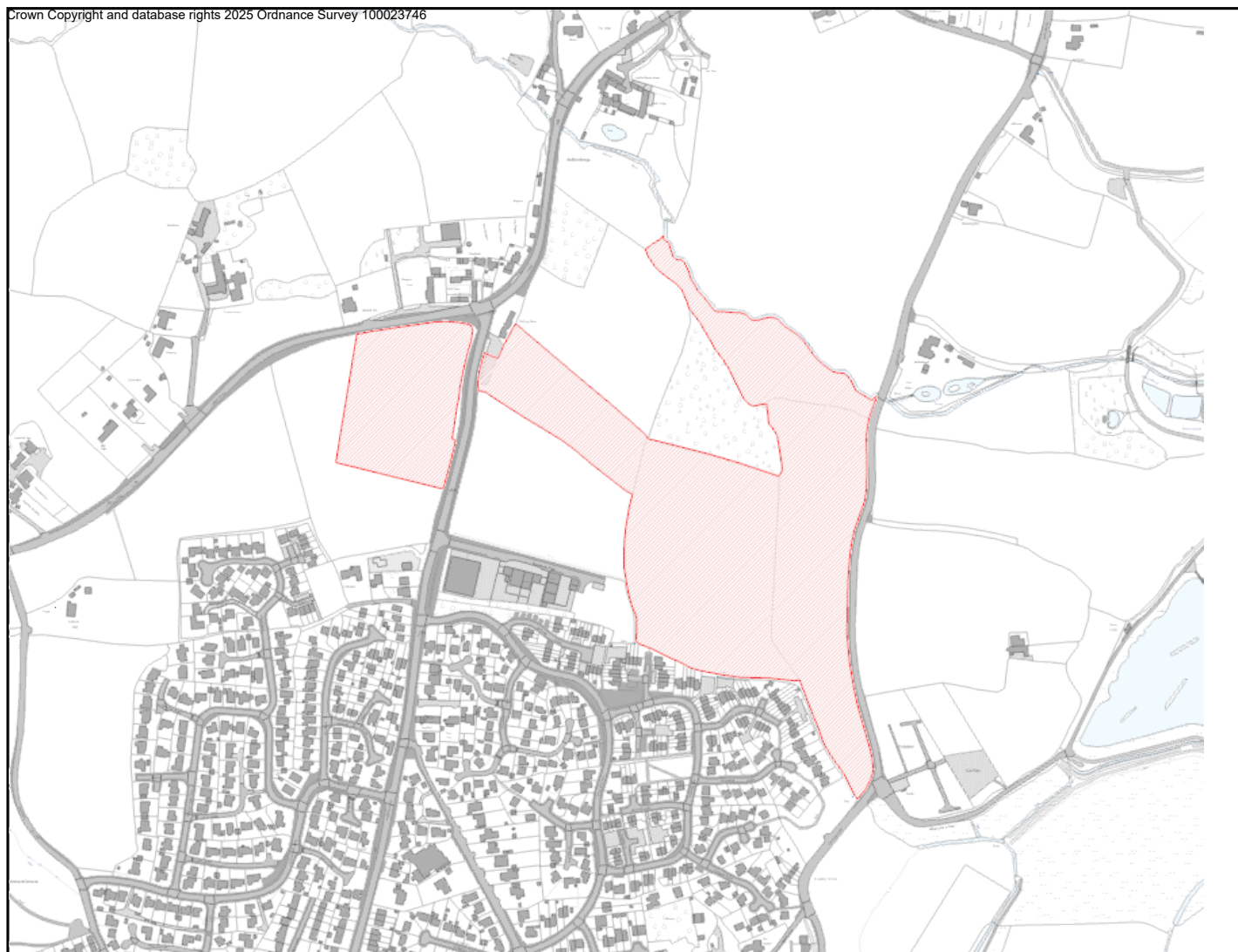
Location Land Adjacent To Harepath Road Seaton Devon EX12 2WH

Proposal Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.



RECOMMENDATION: Approval with conditions

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		Committee Date: 25.02.2025
Seaton (Seaton)	22/2781/MOUT	Target Date: 24.04.2023
Applicant:	Baker Estates Ltd	
Location:	Land Adjacent To Harepath Road	
Proposal:	Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The site is located on the northern edge of Seaton and includes land both within and outside of the Built-Up Area Boundary (BUAB), and also within the Green Wedge.

The proposal seeks outline planning permission for up to 130 dwellings, a football pitch and associated parking and welfare facilities on the northern edge of Seaton. Approval is sought now for the three proposed vehicular access points with all other matters being reserved for later approval.

The site is currently comprised of undeveloped fields, with intervening hedgerows and trees. It would bridge the gap from Colyford Road to Harepath Road and extend up Harepath Hill to the A3052. The site would abut existing commercial and residential development to the south.

The site lies across both sides of the Built-Up Area Boundary, intrudes into the Green Wedge and land allocated for commercial/recreational use. There is a small area of Flood Zones 2 & 3 on which would fall in an area proposed for open space and ecological mitigation.

The application has attracted a significant number of objections and the supporting information has been revised a number of times, principally to address the likely effects on the nearby Beer Quarry Caves SAC.

The proposed development conflicts with the general presumption against development outside of BUABs, and with the green wedge policy.

The development would have some harmful landscape effects and would also conflict with the Green Wedge strategy, contributing to the coalescence of Seaton and Colyford. It would also lead to the loss of the Best and Most Versatile agricultural land.

Effects on nearby grade II listed buildings are not possible to establish at this stage and will depend on the details of the reserved matters application.

In terms of benefits, the development would provide housing at a time that the Council is behind in its delivery of required housing. Furthermore, it would deliver 25% affordable housing (up to a maximum of 30.5 affordable homes) in an area where there is a need for 250 affordable homes and when affordable housing delivery across the District is behind target, in the context of a worsening affordability index. Accordingly, these are considered to be benefits to which very significant weight should be afforded.

In addition, the development would deliver a much-needed recreational facility, in a reasonably sustainable location, identified in the Council's own Playing Pitch Strategy which is now 10 years old. This is considered as significant benefit to the local community to which significant weight should be attached.

The development would not likely adversely affect the integrity of the Beer Quarry Caves SAC and would adequately mitigate the on-site ecological effects.

The inability to demonstrate a five-year housing land supply means that the housing policies in the Local Plan are out of date and the tilted balance in the NPPF therefore applies. This requires that permission be granted for sustainable development, which this proposal is considered to be. As the integrity of the SAC will be upheld, none of the disqualifying criteria of the tilted balance are applicable. It is therefore recommended that the Council adopts the Appropriate Assessment (HRA) and grants permission for the development, subject to the completion of a S.106 agreement and conditions set out below.

CONSULTATIONS

Local Consultations

Parish/Town Council

15/07/24 - Seaton Town Council object to the amended plans submitted for this application which relate to the Surface Water Drainage Strategy Plan as the only information submitted recently on 5 October 2023 is a drawing with little detail on it and in the Flood Risk Assessment and Drainage Strategy submitted by JRC Consulting Engineers on 28 July 2023 they state in Chapter 8 - Surface Water Strategy on page 24 that 'These calculations include the very latest climate change allowances which were released in May 2022 and allow for 10% impermeable area increase for urban creep'. Consideration needs to be taken into account that with climate change and more severe storms being encountered by the UK e.g. Storms Babet and Ciaran and with the Met Office stating that smaller scale convective summer storm activity is also projected to increase over the UK in the future there is going to be more problems going forward with the drainage of surface water.

Policy EN22 - Surface Run-Off Implications of New Development states that 'The surface water run-off implications of the proposal have been fully considered and found to be acceptable and 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'. Seaton Town Council felt the amended plans still do not adhere to this policy.

Therefore the Town Council object to these amendments and the application as they want to see up to date data regarding surface water drainage submitted for consideration and consultation and more information supplied by the developer concerning surface water drainage proposals for the site so that a proper and informed decision can be made by the Planning Committee regarding the amended plans. Also the amendments are contrary to Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan.

Seaton Town Council object to the amended plans submitted for this application which relate to the Technical Note which addresses the comments made by East Devon District Council's Ecologist as the Planning Committee felt that the proposal was a potential threat to wildlife habitat and could not be supported in its current form. The reply from EAD Ecology to the statement submitted by East Devon District Council's Ecologist does not go anywhere near to mitigating the concerns raised by the Ecologist in their submission statement.

Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites states that: 'Development or land-use changes likely to have an adverse effect, either directly or indirectly, on:

1. Local Nature Reserves.
2. County Wildlife Sites.
3. County Geological Sites

either as identified on the Proposals Map in the Local Plan or otherwise existing in the plan area will only be permitted if the justification for the proposals clearly outweighs any harm to the intrinsic nature conservation and/or scientific value of the site and 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.

Policy EN5 - Wildlife Habitats and Features 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 and 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'.

Seaton Town Council object to these amendments and the application on environmental grounds as they pose a potential threat to the wildlife habitat in its current form and the reply to the statement submitted by East Devon District Council's Ecologist from EAD Ecology does not go anywhere near to mitigating what the district ecologist submitted in their report. Also they are contrary to Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites and Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan. 15/07/24 - Seaton Town Council object to the amended plans submitted for this application which relate to the revised concept masterplan, landscape strategy, sections and lighting information.

On Drawing Number DR ' 1501 ' PC ' C Concept Masterplan Coloured submitted by Collier Planning in June 2024 it clearly shows on the layout a cut-through internal road from Harepath Road to Colyford Road. The County Highway Authority in their response dated 12 September 2023 state that 'it has been accepted to avoid cut-through's that there will be no through-route of Harepath Road - Colyford Road for this site.'.

In the Town Councils' comments submitted on 18 August 2023 and 10 November 2023 it clearly states that Members of Seaton Town Councils' Planning Committee had grave concerns over the proposed access from the development onto Colyford Road. The distance of the development from the town centre will mean there will be a heavy reliance on cars. It is therefore in conflict with Policy TA2 Accessibility of New Development of the East Devon Local Plan which says 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 development will produce considerably more traffic using Colyford Road which is one of the main

routes leading into Seaton. This road is narrow and bendy in parts and is incapable of carrying the extra volume of traffic this development will generate.

Parts of Colyford Road have no pedestrian pavement and vehicles can drive at considerable speed along it. This would be detrimental to the safety of vehicles exiting and entering the site. Policy TC7 Adequacy of Road Network and Site Access of the East Devon Local Plan states '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'. An important consideration with this application is its relationship to the existing highway network and in particular the suitability of the approach roads and access to the development site. Colyford Road is completely unsuitable for serving a development of the size proposed in this application. This proposal is in conflict with Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031 and advice contained within the National Planning Policy Framework 2024.

None of the amendments submitted in June 2024 have resolved the objections Seaton Town Council still have with this Outline Planning application namely:

Policy TA2 Accessibility of New Development of the East Devon Local Plan 2013-2021. The distance of the development from the town centre will mean there will be a heavy reliance on cars. It is therefore in conflict with Policy TA2 Accessibility of New Development of the East Devon Local Plan which says 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 TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031 as the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network as Colyford Road is incapable of carrying the extra volume of traffic this development will generate due to it being narrow with bends and parts of it have no pedestrian pavement.

Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2021 states that 'The surface water run-off implications of the proposal have been fully considered and found to be acceptable and 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'. Seaton Town Council felt the amended plans still do not adhere to this policy.

Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites of the East Devon Local Plan 2013-2021 as the proposal is a potential threat to wildlife habitat. Concerns raised by the East Devon District Council's Ecologist in their submission statement have not been fully addressed by EAD Ecology.

Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan 2013-2021 which 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.

Therefore, Seaton Town Council having looked at the amended plans relating to a revised concept masterplan, landscape strategy, sections and lighting information still object to this application as it is still contrary to the following policies in the East Devon Local Plan 2013-2031:

Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites

Policy EN5 - Wildlife Habitats and Features

Policy EN22 - Surface Run-Off Implications of New Development

Advice contained within the National Planning Policy Framework 2024.

Parish/Town Council

10/11/23 - Seaton Town Council object to the amended plans submitted for this application which relate to the Surface Water Drainage Strategy Plan as the only information submitted recently on 5 October 2023 is a drawing with little detail on it and in the Flood Risk Assessment and Drainage Strategy submitted by JRC Consulting Engineers on 28 July 2023 they state in Chapter 8 - Surface Water Strategy on page 24 that 'These calculations include the very latest climate change allowances which were released in May 2022 and allow for 10% impermeable area increase for urban creep'. Consideration needs to be taken into account that with climate change and more severe storms being encountered by the UK e.g. Storms Babet and Ciaran and with the Met Office stating that smaller scale convective summer storm activity is also projected to increase over the UK in the future there is going to be more problems going forward with the drainage of surface water.

Policy EN22 - Surface Run-Off Implications of New Development states that 'The surface water run-off implications of the proposal have been fully considered and found to be acceptable and 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'. Seaton Town Council felt the amended plans still do not adhere to this policy.

Therefore the Town Council object to these amendments and the application as they want to see up to date data regarding surface water drainage submitted for consideration and consultation and more information supplied by the developer concerning surface water drainage proposals for the site so that a proper and informed decision can be made by the Planning Committee regarding the amended plans. Also the amendments are contrary to Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan.

Seaton Town Council object to the amended plans submitted for this application which relate to the Technical Note which addresses the comments made by East Devon District Council's Ecologist as the Planning Committee felt that the proposal was a potential threat to wildlife habitat and could not be supported in its current form. The reply from EAD Ecology to the statement submitted by East Devon District Council's Ecologist does not go anywhere near to mitigating the concerns raised by the Ecologist in their submission statement. Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites states that: 'Development or land-use changes likely to have an adverse effect, either directly or indirectly, on:

1. Local Nature Reserves.
2. County Wildlife Sites.
3. County Geological Sites

either as identified on the Proposals Map in the Local Plan or otherwise existing in the plan area will only be permitted if the justification for the proposals clearly outweighs any harm to the intrinsic nature conservation and/or scientific value of the site and 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.

Policy EN5 - Wildlife Habitats and Features 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 and 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'.

Seaton Town Council object to these amendments and the application on environmental grounds as they pose a potential threat to the wildlife habitat in its current form and the reply to the statement submitted by East Devon District Council's Ecologist from EAD Ecology does not go anywhere near to mitigating what the district ecologist submitted in their report. Also they are contrary to Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites and Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan.

Parish/Town Council

18/08/23 - In light of the recent comments of the Environment Agency and the fact that, as at the date of the meeting, there was no view received from Highways, Members RESOLVED to oppose the application and requested that a full application be submitted by the applicant addressing all pertinent matters.

18/08/23 - Seaton Town Council object to this planning application.

Reasons for the objection:

Over the past decade three previous planning applications have been submitted for mixed use development, housing and football/sports pitches on Land Adjacent to Harepath Road. All three were refused permission by East Devon District Council and the one taken to appeal was dismissed by the Planning Inspector.

This latest application is an Outline application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure. Amended plans have been submitted relating to revised access to Colyford Road, revised ecological impact assessment, shadow Habitat Regulations Assessment & updated Flood Risk Assessment and Drainage Strategy.

Members of Seaton Town Councils' Planning Committee had grave concerns over the proposed access from the development onto Colyford Road and were disappointed to see that, so far, no comments for this application have been submitted by the County Highway Authority. This access point will be the main entry and exit route from the proposed development. They noted the revision to the access in the amended plans but still had concerns and could not support the application. The distance of the development from the town centre will mean there will be a heavy reliance on cars. It is therefore in conflict with Policy TA2 'Accessibility of New Development of the East Devon Local Plan which says 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 development will produce considerably more traffic using the Colyford Road which is one of the routes leading into Seaton. This road is narrow and bendy in parts and is incapable of carrying the extra volume of traffic this development will generate. Parts of Colyford Road have no pedestrian pavement and vehicles can drive at considerable speed along it. This would be detrimental to the safety of vehicles exiting and entering the site. Policy TC7 'Adequacy of Road Network and Site Access of The East Devon Local Plan states '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'. An important consideration with this application is its relationship to the existing highway network and in particular the suitability of the approach roads and access to the development site. Colyford Road is completely unsuitable for serving a development of the size proposed in this application. This proposal is in conflict with Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031 and advice contained within the National Planning Policy Framework 2021.

According to a Collision Map on the Devon County Council website which records collision data in Devon involving personal injury there have been two serious car collisions recorded on Colyford Road between 2018 and 2022. The first collision in June 2018 was classified as serious involving one vehicle with two casualties and the second in December 2020 again was classified as serious and involved one vehicle with one casualty. Both of these Road Traffic Collisions happened in the area of Colyford Road where the revised proposed site access from the development will be located.

Therefore, Seaton Town Council object to this application on the grounds that it is in conflict with the following:

Policy TA2 ' Accessibility of New Development of the East Devon Local Plan 2013-2021
Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031
Advice contained within the National Planning Policy Framework 2021

Clerk To Seaton Town Council
24/02/23 - Good morning,

Seaton Town Council considered planning application 22/2781/MOUT - Land Adjacent to Harepath Road, Seaton at a planning meeting held on Tuesday 14 February.

In light of comments submitted by the Environment Agency on 20 February the Town Council would like to reconsider the application. It is hoped that a meeting can be held on Monday 6 March and any comments could be submitted by the end of that week or the beginning of the following week.

Clerk To Colyford Parish Council

16/11/23 - Colyford Parish Council would like to make the comments below in response to the additional documentation of SURFACE WATER DRAINAGE STRATEGY and RESPONSE TO EDDC ECOLOGY RESPONSE being added to the planning application:-

-There are real issues concerning the impact on environmental habitation particularly in regards to Stafford Brook. It is proposed that two ponds be put in at the Seaton Road end of the development. If these ponds were to overflow anything contained in the ponds would flow into Stafford Brook, which has brown Trout in it and is used by deer. This in turn would flow onto the Wetlands and Colyford Common.

-Cutting down hedgerows will damage the habitat for dormice living there.

-Around 40 species of birds have been identified in the area. It has been proposed that every new house and 30 trees (which would have to be bought into the area and be of sufficient size to enable a bird box to be attached) should have a nesting box this would amount to around 130 nesting boxes which gives an indication of how many birds would be affected by the development and how it will change the ecology of the area.

-The bats there have been recognised as internationally important. Their main foraging and flight path route is from Beer to the Wetlands; the Parish Council is concerned that the proposed 10 meter landscape buffer is sufficient and therefore will not work.

-It is proposed that woodland is fenced off, this would effectively lock the wildlife in.

-Although it is not proposed by the developer to install lighting for the football pitches the Parish Council is concerned that retrospective permission may be applied for in the future.

Clerk To Colyford Parish Council

24/08/23 - This matter was discussed at length at last night's Colyford Parish Council meeting where two representatives of Baker Estates were present and were allowed a three minute presentation. During this they maintained that South West Water and the Environment Agency had approved the amended application and that the proposed Football Pitch would not require lighting as it was designed for use by women and children. More of this later.

Our original objections to this application stand and we do not view the amends to materially change anything. The new access point to the site remains on Coly road in an area with a 60 mph limit, is a narrow two way road with no footpaths. Any attempt to install a footpath would require destroying the existing hedge to provide room and while the hedge could be replanted this would take some years to establish with a resulting disruption to wildlife corridors.

One of our Councillors with some experience of developments has calculated the price's required for the various types of property proposed and this calls into question the commercial viability of the development if it is to be completed in line with the application and generate the profit levels developers normally work to. This in turn calls into question whether the application is made in good faith and Baker Estates intend to build in line with the application. We believe that they have in the recent past walked away from building the smaller/cheaper properties from a development in North Devon.

The application makes reference to Dark Areas and LED lighting but of course this only covers what Baker Estates build. For instance the Bungalow's may be single story but equally may be Dormer Bungalows or have rooms in the roof , in addition once occupied the residents may wish to and security lighting and a conservatory to their property.

Similarly once the football pitch is in place the users may want flood lighting to extend the period of use in winter months so the defence that its for women and children is not only sexist and patronising but also beggars belief. A recent Bat detector used over a two night period noted nine(and possibly twelve) species of bat using the hedges just north of the proposed site, as a corridor between the wetlands and their well known roosting sites Local residents have drawn our attention to the matter of sewage. Seaton sewage works is struggling to cope with its existing burden while the addition of 100+ new premises would undoubtedly cause further occasions when SWW pump raw sewage into the sea.

This leads on to surface water drainage which will inevitably drain into Stafford Brook and through there into the Wetlands and Colyford Common which is owned by the Burgesses. Further interference with the existing drainage pattern with further volumes of surface water may well cause flooding on the local roads as both Stafford Brook and the Coly pass under the A3052. Local health and school facilities are already under considerable pressure.

Clerk To Colyton Parish Council

01/03/23 - The Colyton Parish Council do not support this application due to concerns regarding the following:

1) Any creeping development on the Green Wedge between Colyford and Seaton would encourage the coalescence of the two settlements in contravention of the Colyton Parish Neighbourhood Plan Policy No. Coly4, and EDDC Local Plan 2013-2031, Strategy 8 and clause 6.24e.

2) Additional traffic generated, particularly with reference to the new junction with Colyford Road and the subsequent increase of traffic using the junction of Colyford Road and the A3052 in Colyford.

- 3) It is known there are problems with drainage in the area which will be exacerbated by this development
- 4) It is known there has been localised flooding of houses on an adjacent area of housing. More building over of green fields will not help alleviate this problem
- 5) The area is known for its bat population and although mitigation measures are proposed via bat routes, it is felt the proposals will have a detrimental effect
- 6) The open fields have much wildlife including visiting deer. Loss of this provision is not welcomed.
- 7) The additional pressures on the services provided by Seaton, e.g. Doctor's Surgeries, Dentists and Schools has not been explored
- 8) The development would involve the loss of prime agricultural land
- 9) The site offers beautiful views down from the top of Harepath Hill towards Seaton, and from Colyford itself. These views would be lost.
- 10) The site is close to the AONB and Seaton Wetlands. It is not clear how the additional houses will impact on both of these.
- 11) It is known that the Government backed Housing Targets for East Devon is being questioned. CPC requests the results of this review are first ascertained before any decision is made on this development.
- 12) At a previous appeal regarding this site the inspector did not support the proposals concluding - "The application site forms part of an important area of open countryside between Seaton and Colyford identified as Green Wedge in the East Devon Local Plan. The development would result in the loss of part of this high quality countryside, bringing the urban area of Seaton closer to Colyford to the detriment of the setting of Seaton in the local landscape and encouraging closer coalescence of the two settlements".

Technical Consultations

County Highway Authority
12/09/23 -

Though this application is outline only at this stage, I will not comment upon any internal site layout proposals, however it has been accepted to avoid cut-through's that there will be no through-route of Harepath Road - Colyford Road for this site.

I would also recommend the provision of a Construction and Environment Management Plan (CEMP) for this project, should it come forward for Reserved matters planning, due to the size of the development.

Recommendation:

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

DCC Flood Risk SuDS
FRM/ED/2781/2023

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission (included in recommended conditions at end of report).

EDDC Landscape Architect

For the reasons noted above the application as currently proposed is considered likely to give rise to unacceptable landscape and visual impacts and by extending development onto prominent land intervisible with Colyford is also likely also to contribute to settlement coalescence contrary to the aims of the Green Wedge designation.

EDDC District Ecologist

Habitat Regulations Assessment -

Light adverse bats are negatively influenced by urban areas and the proposed development of the site would materially change the nature of the site from an undeveloped agricultural landscape to a suburban development.

Despite reservations regarding the lack of proposed semi-natural cattle grazed parkland habitat, it is considered that the revised site design which includes the retention of H12 and other proposed measures, if successfully implemented, **would be unlikely to result in an Adverse Effect on the Integrity of the SAC.**

List of avoidance, mitigation and compensation measures:

- Construction Ecological Management Plan (CECoMP)
- Landscape and Ecological Management Plan (LEMP)
- 10 m minimum 'dark corridor' around the development site with a further 10 m landscape buffer zone bounded by hedges and fences backing onto the built development.
- 6 m dark corridor either side of hedgerow H12
- Detailed lighting design at reserves matters stage including light design, house design and layout.
- A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.
- Provision of native hedgerows, trees, scrub, and wildflower meadows.
- Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.
- A bespoke bat house suitable for use by horseshoe bats.
- Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.

Biodiversity Net Gain –

BNG is not a mandatory requirement [due to date of application] and measures have been proposed to enhance the wetland habitat area and these measures are not quantifiable within the metric. It is also noted the proposals are demonstrating a net gain in excess of 20% for both habitats and hedges based on the submitted outline landscape plan. The provision of BNG when it is not required is a benefit that weighs in favour of the proposal but only if it is secured and delivered, so it will be included as a requirement of the S.106, otherwise this benefit cannot be taken into account in the final planning balance.

Summary –

Despite reservations regarding the proposed development, assuming that the proposed mitigation, compensation, and enhancement measures are secured (in perpetuity) and implemented successfully, the outline submission is considered to be legally compliance (from a biodiversity perspective), based on current guidelines and current best practice.

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC). In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required, as set out in the Appropriate Assessment.

- o A Construction Ecological Management Plan for the development, to be appended to the Construction Environmental Management Plan.
- o A Landscape and Ecological Management Plan to incorporate management objectives, actions and responsibilities to ensure appropriate long-term habitat management to maximise the foraging value of the habitats provided for horseshoe and Myotis bats.
- o A detailed Lighting Assessment to ensure that dark corridors are maintained.
- o Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

EDDC Recycling & Waste Contract Manager

Thank you for sight of this.

There are no comments from R & W at this stage.

However, we would like to see a more detailed layout plan indicating the kerb-side collection points, locations of any communal recycling facilities and also enabling us to assess vehicle access.

Sports England

Conclusion

This being the case, Sport England offers its support for this this application.

Sport England recommends, based on our assessment, that if the Council is minded to approve the application, the following planning conditions should be imposed.

1. No development shall take place unless and until:
 - a) A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on drawing number..... shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
 - b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority after consultation with Sport England.

Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with LP Policy **

2. The playing field/s and pitch/es shall be constructed and laid out in accordance with the [planning application *, Section * and Drawing No. **] and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use or occupation [or other specified timeframe] of the development [or specified part of the development/] hereby permitted.

Reason: To ensure the quality of pitches is satisfactory and they are available for use before development (or agreed timescale) and to accord with LP Policy **.

Environment Agency

Environment Agency position:

We have no objection the proposed development as submitted subject to the inclusion of the following documents/plan on the list of approved documents:

- o Flood Risk Assessment & Drainage Strategy ref.: 1937w001 revision P2 dated 09/06/2023 by JRC Consulting Engineers,
- o Surface Water Drainage Strategy ref.: 1937-OSK02 revision P3 dated 28/09/2023.

The reason for this position 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.

South West Water 2/2/23

I refer to the above application and can confirm that South West Water has no objection subject to the surface water being managed by means of a SUDS to watercourses as detailed in the proposal.

The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

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.

Surface Water Services

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

DCC Historic Environment Officer

No objection subject to conditions

Conservation

To the north of the proposed site is Harepath Farm and the other independently listed farm buildings known as The Dairy, The Stables, The Linhay and Barn northeast of Harepath farmhouse. The farmhouse and farm buildings range from C18 - C19 and are listed grade II with group value. The designated assets are also known as Rolle Court. The farm group is openly visible from the convergence of Harepath Hill and Harepath Road. Visibility is shielded though by some existing hedgerows to the east and north of the football pitch site.

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

The farm group is an interesting group and through its close visibility and location from the road is a prominent group of buildings. Currently the land to the south and southeast is rural but with limited views of the farm steading and no known historic association.

The proposed sports pitch immediately south of Harepath Farm is largely screened from the farmhouse by vegetation south of Harepath Road but open from Harepath Hill. The pitch may be visible in acute-angled glimpsed views from the south end of the farmhouse only, but this does not detract from any of the heritage value of the asset. This land was not formerly part of its landholding, at least in the 19th century. It isn't clear whether there would be land regarding to form the sports pitch and how this would impact on the farmhouse and steading. The flood lighting proposals have been removed from earlier schemes which is an improvement. Hedgerows are shown on the eastern boundary of the football pitch and on the corner which shields views from Harepath Road. Should permission be granted these hedgerows should be maintained and boosted.

There may be minimal glimpsed views of the main development area to the east of Harepath road, from the farmhouse although again these are not views of land with any identified functional or historic association with the designated assets. The contribution this field plays to the setting of the steading is as a rural approach. Settings may change, however the provision of dwellings in the closer area of the steading if agreed, should be of group of buildings of a higher standard of design and materials so that they contribute positively to the setting of the steading. It is noted the development would be a dark development.

Conclusion

- o There is insufficient information on the levels of the football pitch and landscaping around it.
- o The provision of dwellings and mixed use in close proximity to the southeast of the steading, although not historically or functionally related could have an impact on the setting of the steading. The impact would be affected by quality of design, lighting, landscape materials and density.
- o The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant consent for any works to have special regard to the desirability of preserving the setting of the listed buildings. Here taking account of the above this has been taken into consideration.

PROVISIONAL RECOMMENDATION - PROPOSAL

Holding response

Historic England

In this case we are not offering advice.

Environmental Health

A BS4142:2014+A1:2019 assessment is required to determine the likely noise impact from any neighbouring commercial area on the new noise sensitive properties. The purpose of this noise assessment is to determine whether or not future residents are likely to be adversely affected by noise. This will help inform the decision making process for the proposed new residential dwellings. If the noise impact assessment highlights noise as an issue, mitigation will need to be considered and assessed in order to determine if it is at an appropriate level to achieve both satisfactory internal and external (amenity areas) noise levels.

A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lighting used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

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.

NHS Local (Eastern Locality)

16/06/23 –

Request funding towards local health services – please see full response at report end.

East Devon AONB

East Devon AONB would like to make the following observations about this planning proposal.

The proposed site falls within the area of East Devon covered by the District Council's recently adopted Bat Consultation Zones for Beer Quarry and Caves SAC .

The proposal therefore may be likely to cause significant effects on the SAC bat population and so a Habitat Regulation Assessment will be required.

Police Crime Prevention Officer

Various recommendations on designing crime safe development.

Devon County Council Education Dept

Apologies for the delay in responding to this application. The above application has been considered and in order to make the development acceptable in planning terms, an education contribution to mitigate its impact is requested, as set out below. This is in accordance with Devon County Council's Education Infrastructure Plan 2016-2033, which has been approved by Members.

It has been identified that the proposed 130 family type dwellings will generate an additional 32.50 primary pupils and 19.50 secondary pupils which would have a direct impact on Seaton Primary school and Axe Valley Community College.

It has been forecast that the nearest primary and secondary schools have capacity for the number of pupils likely to be generated by the proposed development. Therefore, a contribution will not be sought towards education infrastructure.

We will however require a contribution towards secondary school transport costs due the development being further than 2.25 miles from The Axe Valley Community College. The costs required are as follows:

19.50 Secondary pupils

£4.91 per day x 19.50 pupil x 190 academic days x 5 years = £90,957

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) and the cost of transporting pupils from the development to The Axe Valley Community College. 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.

It is anticipated that this school transport contribution would be provided through Section 106.

Other Representations

264 Objections received, summarized as:

Environmental Concerns:

1. **Loss of Biodiversity:** Significant harm to wildlife, including protected bat species, dormice, and birds. The area is described as rich in biodiversity, with habitats vital for several species.
2. **Impact on Wetlands and Green Wedge:** Proximity to Seaton Wetlands Nature Reserve and the green wedge between Seaton and Colyford, which are crucial for preserving the area's ecological balance and landscape.
3. **Flood Risks:** Concerns about inadequate drainage plans and potential flooding, particularly affecting nearby roads and residential areas. Questions raised about the reliability of proposed Sustainable Urban Drainage Systems (SUDS).

Infrastructure Concerns:

1. **Traffic and Road Safety:** Increased traffic on narrow, unsuitable roads like Colyford Road, exacerbating safety risks, especially near schools and pedestrian areas.

2. **Pressure on Public Services:** Overstretched local medical facilities, schools, and sewage systems cited as unable to accommodate the development's population increase.
3. **Lack of Sustainable Design:** Criticism of the lack of future-proofing, such as solar energy integration and effective light pollution control.

Social and Economic Issues:

1. **Housing Needs:** Emphasis on the need for affordable housing rather than large developments, with skepticism about the developer's commitment to delivering affordable homes.
2. **Tourism Impact:** Concerns about the negative effects on Seaton's appeal as a tourist destination, particularly given the aesthetic and ecological damage the development might cause.

Development Specific Concerns:

1. **Football Pitch Proposal:** The proposed pitch is seen as impractical due to its location, potential cost, and minimal community benefit.

Procedural and Policy-Based Arguments:

1. **Green Belt Policies:** Reference to national and local policies advocating the preservation of green belts and prioritization of brownfield sites for development.
2. **Community Opposition:** The plan is described as overwhelmingly opposed by local residents, with emphasis on the importance of heeding community voices.

6 letter of support received:

- Seaton has a need for more social and affordable housing.
- The Commercial /Mixed use are in the plan to be delivered by others needs to be explored in detail now, and not left for the future. Such that business development goes hand-in-hand with house building.
- Slow progress which has led to limited housing opportunities over the past 20 years.
- Bovis Homes achieved agreement for their attractive development of 150 homes. And indeed the Rowan Drive and Barnards Hill smaller developments, provided some much needed social housing for local families.
- developments of Primrose Way and Popular Tree Drive and all the roads of those two major roads were built on green land. The hundreds of homes provided have given homes and helped grow this much stunted town.

PLANNING HISTORY

Reference	Description	Decision	Date
15/2188/MOUT	Outline planning application for a mixed use development providing for class B1 (a) (offices up to 5050sqm), class B1(c) and B2 light/general industrial units (up to 3500sqm), open space and the erection of up to 150 no. dwellings (21 no. affordable) and associated roads and infrastructure including a main spine road (all matters reserved)	Refusal	13.12.2016

12/1185/MOUT	Outline planning application for a mixed use development providing for Class B1(a) offices (up to 3,100sqm GIA), Class B1(c) and B2 Industrial Units (up to 4,791sqm GIA), play space/open space, sports field, including two football pitches, multi-use games area, changing rooms and parking and erection of up to 170 dwellings (34 affordable) and associated roads and infrastructure including a main spine road (all matters reserved)	Refusal	14.06.2013

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

Strategy 25 (Development at Seaton)

Strategy 31 (Future Job and Employment Land Provision)

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

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)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN18 (Maintenance of Water Quality and Quantity)

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

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

RC2 (New Open Space, Sports Facilities and Parks)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

Draft East Devon Local Plan 2020 – 2042 (currently carry limited weight)

Strategic Policy SP01: Spatial strategy

Strategic Policy SP02: Levels of future housing development

Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area

Strategic Policy SP04: Employment provision and distribution strategy

Strategic Policy SP05: Development inside Settlement Boundaries

Strategic Policy SP06: Development beyond Settlement Boundaries

Strategic Policy SP07: Delivery of infrastructure

Strategic Policy SP08: Phased Delivery of Infrastructure and Services

Strategic Policy SD05: Seaton and its development allocations

Strategic Policy CC01: Climate emergency

Strategic Policy CC02: Moving toward Net-zero carbon development

Strategic Policy CC03: Promoting low carbon and renewable energy

Strategic Policy CC06: Embodied carbon

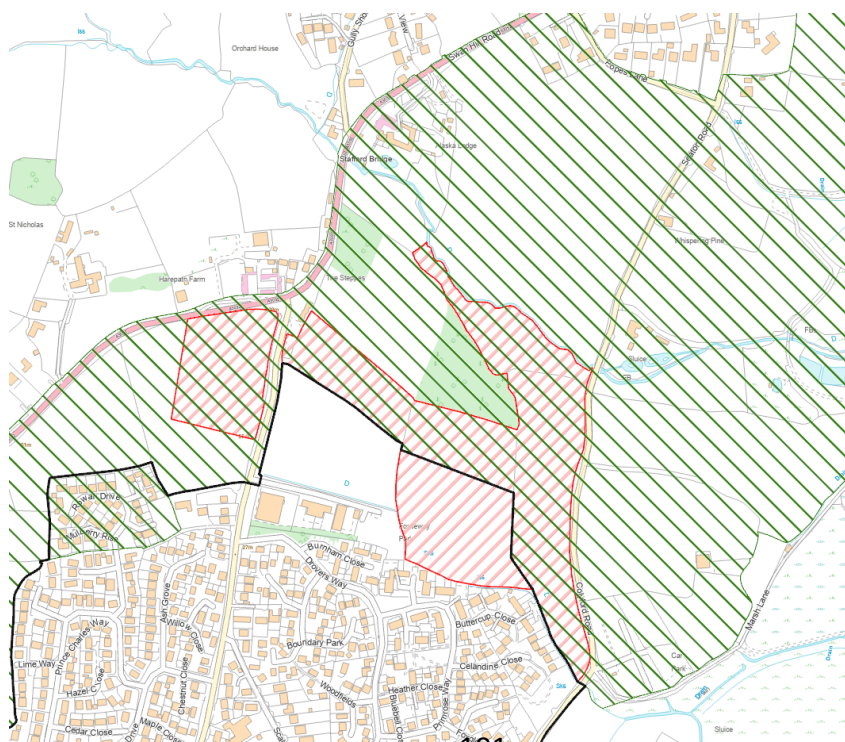
Strategic Policy AR01: Flooding

Strategic Policy AR02: Water efficiency

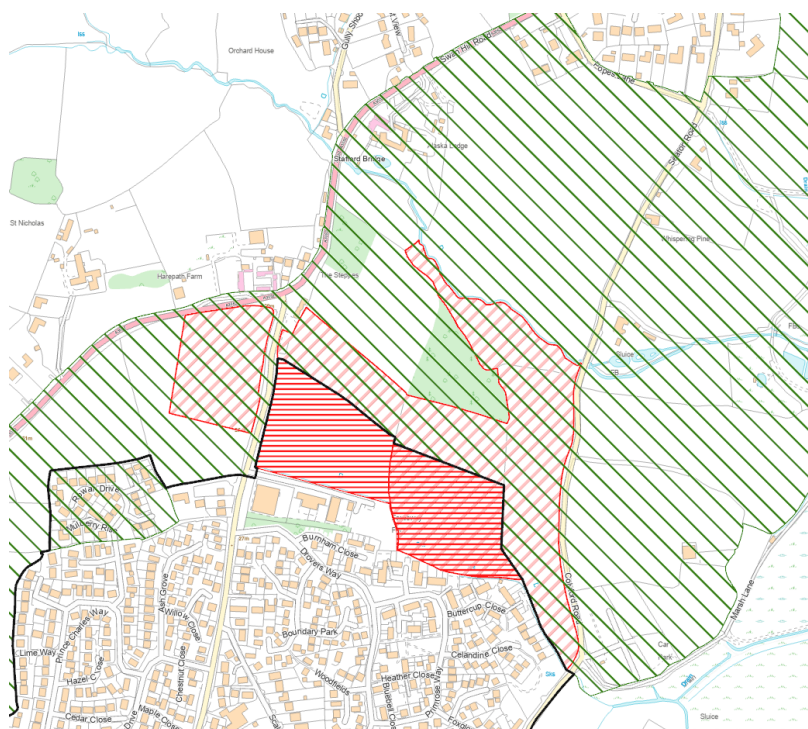
Strategic Policy HN01: Housing to address needs
 Strategic Policy HN02: Affordable housing
 Policy HN03: Housing to meet the needs of older people
 Policy HN04: Accessible and adaptable Housing
 Policy HN05: Self-build and custom build housing
 Strategic Policy DS01: Design and local distinctiveness
 Policy DS02: Housing density and efficient use of land
 Strategic Policy TR01: Prioritising walking, wheeling, cycling, and public transport
 Policy TR03: Travel plans, transport statements and transport assessments
 Policy TR04: Parking standards
 Strategic Policy OL01: Landscape features
 Policy OL09: Control of pollution
 Policy OL10: Development on high quality agricultural land
 Strategic Policy PB01: Protection of internationally and nationally important wildlife sites
 Policy PB02: Protection of regionally and locally important wildlife sites
 Policy PB03: Protection of irreplaceable habitats and important features
 Strategic Policy PB04: Habitats Regulations Assessment
 Strategic Policy PB05: Biodiversity Net Gain
 Policy PB07: Ecological enhancement and biodiversity in the built environment
 Policy PB08: Tree, hedges and woodland on development sites
 Policy PB09: Monitoring requirements for new planting schemes
 Strategic Policy OS01: Access to open space and recreation facilities
 Policy OS02: Sport, recreation and open space provision in association with development
 Policy OS03: Location of facilities for sport and recreation and open
 Policy OS05: Leisure and recreation developments in the countryside
 Strategic Policy HE01: Historic environment
 Policy HE02: Listed buildings
 Policy HE04: Archaeology and Scheduled Monuments

Site Location and Description

The site is located on the northern edge of Seaton and includes land both within and outside of the Built-Up Area Boundary (BUAB), and also within the Green Wedge. The following map shows the relative positions of each of these. The diagonal red hatched area is the application site, the black line indicates the extent of the BUAB and the green hatching denotes the Green Wedge.



Shown below (for clarity) is the same map with an additional layer which denotes the land allocated for mixed-use employment and recreation uses.



Proposed Development

The proposal seeks outline planning permission for up to 130 dwellings, a football pitch and associated parking and welfare facilities on the northern edge of Seaton. Approval is sought now for the three proposed vehicular access points with all other matters being reserved for later approval.

The site is currently comprised of undeveloped fields, with intervening hedgerows and trees. It would bridge the gap from Colyford Road to Harepath Road and extend up Harepath Hill to the A3052. The site would abut existing commercial and residential development to the south.

The site lies across both sides of the Built Up Area Boundary, intrudes into the Green Wedge and land allocated for commercial/recreational use. There is a small area of Flood Zones 2 & 3 on which would fall in an area proposed for open space and ecological mitigation.

ANALYSIS

Main considerations

The main material matters are considered to be:

- The principle of development, including the Green Wedge and Football Pitch
- Affordable Housing
- Landscape
- Heritage
- Residential/Neighbouring Amenity
- Ecology/Biodiversity, including SAC effects, BNG and on-site ecology
- Flood Risk and Sustainable Drainage
- Loss of Agricultural Land

Principle of development

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

The principle of the development and the impact of the supply of housing land supply on the decision-making process 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 partly outside of the defined settlement boundary of Seaton, 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 BUAB.

The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework, in the decision-taking section states:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; and

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

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

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

The National Planning Policy Framework (December 2024) (NPPF) states, at paragraph 78, that "local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old."

The most recent information indicates that the Council's 5-year housing land supply (5YHLS) stands at 2.97 years and as such the presumption in favour of sustainable development in paragraph 11 of the NPPF applies.

The proposed for development site is complicated because of the way it straddles different designations in the Local Plan (seen in the Site Description section of the report).

Of all of the proposed site that lies within the BUAB, the proposal seeks to place housing on land that forms part of the 118b mixed-use employment/recreation allocation under Strategy 25 (although layout is not a matter for which permission is now sought, the 'zone' for housing is somewhat fixed through the Habitat Regulations Assessment). At first glance this is contrary to Strategy 25. However, technically speaking, the application includes provision of a football pitch, which would align with the recreational element of the designation to a degree, and so is not necessarily out of conformity with Strategy 25. As noted previously approval is not being sought for layout at present, and although the agreed HRA assessment requires the different uses in a particular place, it could be possible in theory for a reserved matters application to vary the proposed 'illustrative' layout if that were supported by a refreshed and acceptable HRA. The Economic Development team were consulted on the application but no formal response was received. The site has not come forward for employment development since the LP adoption in 2016 (save for a recently submitted retail

planning application (24/2292/MOUT) on the portion of 118b nearest Harepath Road). As presented in the masterplans provided with the application, the development would conflict with the land allocations under Strategy 25.

The portion of the application site which lies outside of the BUAB (which also falls in land presently designated as Green Wedge) includes land for housing, ecological mitigation and biodiversity net gain (proposed voluntarily here as it is not compulsory because the application was submitted prior to BNG going live), and also the proposed football pitch.

Green Wedge –

The NPPF explains that in terms of implementation, policies (in Local Plans) should not be considered out-of-date simply because they were adopted or made prior to the publication of the new Framework (para. 232). Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Strategy 8 of the Local Plan states:

Within Green Wedges, as defined on the Proposal Map, development will not be permitted if it would add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

In January 2014 an Inspector refused planning permission for a major commercial, housing and recreation development on Land East of Harepath Road in Seaton, land which was and still is designated as Green Wedge (Planning application reference 12/1185/MOUT – PINS reference APP/U1105/A/13/2202124). This application site extended further north than the current proposal and also included all the 118b allocation in Strategy 25. This was issued during the preparation of the now adopted Local Plan and under the preceding 2012 version of the NPPF.

In the decision letter, the Inspector examined the Green Wedge policy. Starting at paragraph 51 of the letter it was stated that:

51. *Whereas the objectives of the Green Wedge policy may be similar to the purposes of a Green Belt, I do not consider that this means the policy has to be given the same status, or the area set out on the Proposals Map the same level of protection, conveyed by The Framework for Green Belt areas. That is, irrespective of what may have been said in the DCLG letters of 4 January 2013 and 3 April 2013 nothing in The Framework indicates that a Green Wedge policy is the equivalent to, or has equal weight as, Green Belt policy.*
52. *Nevertheless the Green Wedge policy has a reasonably long-standing provenance or 'pedigree' and it should not be set aside lightly. Its purpose is to safeguard the setting of built up areas by, amongst other matters, maintaining a separation between what are presently free-standing settlements. This intention is carried through into the eEDLP. It is not just a housing or development restraint policy; it has a strategic aim which has been originally agreed by the Secretary of State, subsequently identified as a 'saved' policy, and its continuation has been democratically endorsed and maintained by the Council – albeit that the eEDLP has yet to be examined and its policies adopted. That is, there is a clear strategic objective – the purpose of which is not solely housing restraint - which has been consistently supported through the development plan process.*

Neither the old or new NPPF makes reference to Green Wedges but taking a steer from the Inspector's comments above this does not mean that Strategy 8 is inconsistent with the Framework. It is a strategy that has been tested during the appeal referenced above and also in relation to the adoption of the current Local Plan. The revisions to the Framework do not diminish the strategic objectives of Strategy 8. It is therefore considered that full weight can be afforded to it.

A more recent appeal at Colyford (application 18/2376/MFUL – APP/U1105/W/19/3233226) also tested the Green Wedge policy. The Inspector gave full weight to Strategy 8 in dismissing that appeal.

Having found that Strategy 8 can be afforded full weight, the development must be tested against it. It is quite clear that there are three circumstances in which development must not be permitted in the Green Wedge;

1. if it would add to existing sporadic or isolated development; or
2. if it would damage the individual identity of a settlement; or
3. if it leads to or encourage settlement coalescence.

If the development fails on any of these considerations, it would be in conflict with the Strategy. Other material considerations would still be required to be balanced against the finding on this issue.

Would it add to existing sporadic or isolated development?

At present, Seaton ends quite obviously when travelling north along Harepath Road. The footway extends to Colyford and the street lighting stops near the application access point, but the built form of development that might be visible ceases and either side of the road is bounded by continuous green hedges and groups of trees. There is a clear visual separation between the two settlements and this separation is clearly visible from different views around the area.

The word 'sporadic' is derived via Medieval Latin from the Greek word "sporadikos", from "sporas" meaning 'scattered' (The Oxford English Dictionary, online). The word 'isolated' is derived originally from the Latin word "insula", meaning an "island", it carries the ordinary sense of something that is "... [placed] or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary" (The Oxford English Dictionary, second edition).

In the context of the Strategy and its objectives, there are no buildings between the settlements in the vicinity of the site proposed for development. The proposals therefore could not be said to add to sporadic development. Nor is it considered to add to isolated development but would instead be seen as an extension of the northern edge of Seaton.

Would it damage the individual identity of a settlement?

The Council's Landscape Architect finds that the development likely to give rise to unacceptable landscape and visual impacts and by extending development onto prominent land intervisible with Colyford is also likely also to contribute to settlement coalescence contrary to the aims of the Green Wedge designation.

In the appeal referred to above, the Inspector went on to state that (para 53) '*Any incursions into the Green Wedge would erode the physical separation and thereby could be seen to weaken its strategic function*'. Furthermore that '*the degree of separation between neighbouring settlements is judged not solely on physical separation or measured distance; also relevant is the extent or effectiveness of the visual break, plus a consideration of the psychological perception of when or where coalescence would occur.*' This reinforces the view that it is not necessary to see both settlements in the same field of view to have a perception that the gap would be diminished, although in this particular case, you can see both settlements in any of the views available.

It is clear from the number and content of representations made by interested parties that there is a perception that the development will be damaging in some degree to the individual identity of Seaton and Colyford, through a lessening of the green space between them. It is considered therefore that the development could damage the individual identity of Colyford and Seaton to some extent.

Would it lead to or encourage settlement coalescence?

The question is not 'will the development result in settlement coalescence', which clearly would require a far larger scale development in this location, but instead 'will it be a step on the road to such coalescence'?

It is unlikely that settlements in East Devon that are bounded by Green Wedges will face applications for development of land from one settlement boundary to another in its entirety. The Strategy therefore has been formulated to take account of piecemeal developments which, in combination over any period of time, could result in eventual coalescence. This is a logical way to draft such a strategy and it negates any argument that development of a single field does not lead to settlement coalescence. The Inspector recognised this (para 53) by stating '*Any incursions into the Green Wedge would erode the physical separation and thereby could be seen to weaken its strategic function*'.

The development proposed clearly would infill a number of undeveloped fields in-between the two settlements and therefore is a step towards coalescence. The proposed development would fail to accord Strategy 8 as it would damage the individual identity and lead towards the coalescence of Seaton and Colyford.

Football pitch –

The application describes the provision of a 'community football pitch' which is described as being an identified local need. The East Devon Playing Pitch Strategy (2015) states that the club's Colyford Road pitch is over capacity, too narrow and that the club needs additional pitches (1x youth, 11 v 11, and 1x youth 9 v 9 pitch). The facilities are also described as inadequate. The Action Plan from this document summarises this in the following tables.

Adopted East Devon Playing Pitch Strategy 2015

Seaton sub-area

Overview	Site	Issue	Action Ref.	Sport	Action	Priority	Who should deliver the action?
ENHANCE	Boshill Cross, Axmouth	Drainage coming towards the end of its life. Games occasionally cancelled and means that unable to set up additional sides or let other clubs use the site due to capacity constraints.	SE.1	F	Support club in installing new drainage if they intend on increasing number of teams playing on site. Recommend that club arrange an FA Pitch Improvement Programme (PIP) visit.	2	Club, FA, SE, EDDC, Axmouth Parish Council
		Occasionally lose footballs into the road (A358), could do with nets to reduce this risk.	SE.2	F	Explore possibility of installing nets.	3	Club, FA, SE, EDDC
ENHANCE	Chantry Bridge, Colyton	Changing facilities poor – boilers condemned	SE.3	F	Explore possibility of replacing boilers and refurbishing changing facilities so that Chantry Bridge can be made available for other football clubs in the area that are short of pitches.	2	Clubs, FA, SE, EDDC, Colyton Parish Council
PROVIDE	Colyford Road, Seaton	- Pitch too narrow and cannot be widened due to penned-in nature of the site - Site at capacity. Club run two adult and two	SE.4	F	Explore and encourage provision of a new home ground for Seaton Town FC in Seaton with a minimum of 2 full-sized pitches and one youth 9v9 pitch overmarking the second adult pitch, moveable goals for increased pitch flexibility and adequate ancillary facilities (car parking and changing). All pitches should be ideally provided on one site to help with ongoing viability and maintenance.	1	Club, EDDC, FA, SE, Seaton Town Council

Overview	Site	Issue	Action Ref.	Sport	Action	Priority	Who should deliver the action?
		youth teams off this one pitch and plans to increase teams	See Action Ref. SE.3				
		• Poor ancillary facilities	SE.5	F	Explore the potential of developing a floodlit 3G training pad in Seaton if demand does exist when considered against priority AGP projects.	3	Club, EDDC, FA, SE, Seaton Town Council
			See Action Ref. AX.1				
ENHANCE	Colyton Grammar School	• No hockey club currently playing here	SE.6	HO	Encourage formation of a satellite hockey club to use the site in 2014/15.	2	Club, School, DCC, EH, SE
ENHANCE	Elizabeth Road Recreation Ground, Seaton	• Pitch rated poor – slope and drainage major issues	SE.7	F	Explore levelling of pitch and installation of drainage.	2	Seaton Town Council, Clubs, FA, SE
ENHANCE	The Furzebreak, Beer	• Club would like a 3G training area at The Furzebreak	SE.8	F	Support the club in installing a 3G training surface at The Furzebreak if demand does exist when considered against priority AGP projects.	3	Club, FA, SE, Beer Parish Council
			See Action Ref. AX.1				

81

Overview	Site	Issue	Action Ref.	Sport	Action	Priority	Who should deliver the action?
		• Pitch majorly slopes off in one corner	SE.9	F	Encourage levelling work to improve standard of pitch.	2	Club, FA, SE
ENHANCE	Peace Memorial Playing Fields, Colyton	• Site floods badly especially main adult pitch	SE.10	F	Consider location of main pitch.	3	Club
		• Artificial cricket wicket no longer used but base still in place	SE.11	C	No demand for this facility at present, but should be retained in case of future demand.	3	Club, land owners, Colyton Parish Council, ECB
PROVIDE	General	• General need for youth 9v9 football pitches in Seaton sub-area	SE.12	F	Explore possibility of mini 7v7 pitch at Elizabeth Road Recreation Ground being remarked as a youth 9v9.	2	Club, Seaton Town Council, FA, SE, EDDC
PROVIDE		• Need for 1x youth 11v11 and 1x youth 9v9 football pitch in Seaton sub-area	See Action Ref. SE.4				

82

East Devon District Council are identified as one of the bodies who should deliver this provision.

The Football Association has rated the pitch as 'poor' due to its over usage. Seaton Town Football Club has a men's 1st and 2nd team, a women's team and are aiming to re-instate a men's reserve team. The youth division currently has teams for under 16, under 12, under 10, under 8 and under

6. All of the teams (save for U6) need to play on facilities approved by the FA and the league, facilities that don't exist in Seaton.

The junior teams are trying to use grounds at the Primary School, but only 1 small pitch is available here instead of the 3 required for junior events. In addition, therefore, they are using the grounds in the Elizabeth Road Playing Fields which are publicly accessible and therefore not ideal, either from a child protection standpoint, or practically with regards to dog waste and rubbish etc. They also do not comply with the FA standards. On top of this, the club is having to spend funds to hire the 4G pitch in Axminster and transport players to and fro.

The new pitch will be used for youth training and football matches, using a multiple small pitch layout, and also for the adult reserve team when necessary. All adult matches which draw a crowd and require refreshment facilities will be held at the current pitch where the club house provides all that is required. The reduction in use of this ground will allow it to recover such that the club can perform to its best standards.

The new pitch, therefore, does not require facilities for spectators or catering. It simply needs changing spaces and a groundsman store.

The pitch will be terraced into the slope of the site and constructed to FA standards using sand slit drainage. It is proposed to be formed within the first year of the development (if approved) but will take a few seasons before it is mature enough to cope with the use proposed.

Sport England were consulted and support the application in principle, note there is no detail design of the pitches yet available, and recommend some conditions which are set out in the recommendation at the end of the report.

Strategy 25, section 4 states:

Social and Community Facilities and sport and recreation provision – Provision of new sport and leisure facilities to meet the needs of the whole community will be strongly encouraged. Improvements to community and recreational facilities, particularly for young people, will be required to match new homes commitments and to redress the existing shortage of playing field space. Public and non-car transport links will be improved within and to and from the town, especially where supportive of sustainable tourism. Schools, health and other service providers will be supported to meet their accommodation needs.

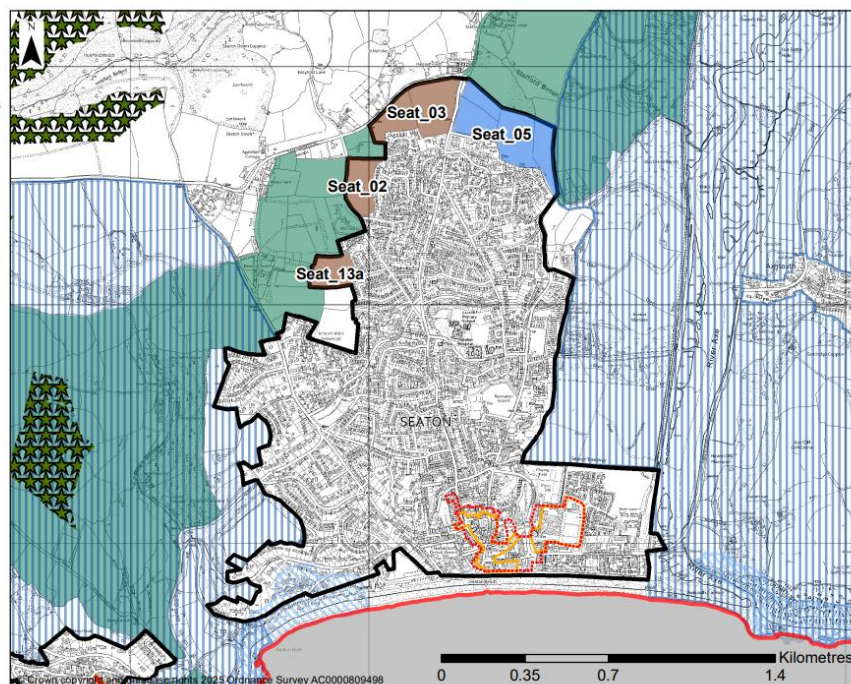
While it might be considered questionable whether the football pitch would meet to needs of the 'whole' community, one would not necessarily expect every individual planning application for a recreation facility to meet this requirement. Instead, it is a general statement of support for such proposals, which could be varied in their type and meet different sport and recreational needs of the community. It would not seem logical to refuse one section of the community permission to meet its needs just because it does not meet the whole community's needs.

Overall, it is considered that the policies in the LP are generally supportive of the principal of developing a new football pitch and this weighs in favour of granting permission.

Emerging Local Plan –

The emerging local plan will likely be out to public consultation (Reg 19) by the time this report is considered. This plan, under Strategic Policy SD05, allocates land north of Seaton on the west side of Harepath Hill (Seat_03) for around 75 dwellings. Land on the east side of Harepath Hill (Seat_05) is proposed for housing (up to 130 dwellings) and employment (around 2.2 hectares). Both of these designations would also remove any Green Wedge status of the land. SD05 does state that both sites would need to come forward as a co-ordinated and comprehensive development that delivers the proposed large-scale mixed-use development on the northern edge of Seaton and seeks to deliver the long-standing need for a football pitch as part of a viable package of planning obligations.

n.b. This inset map has been provided as an additional resource; the definitive version of the Policies Map is the interactive version which can be accessed here: <https://maps.strata.solutions/portal/apps/webappviewer/index.html?appid=8da794a146d94df680ee37c7589e9a1e>



East Devon Local Plan 2020-2042 (Reg 19 Consultation)
inset to Policies Map



However, given the early stage the emerging Local Plan is at only limited weight can be afforded to these policies at this time.

Affordable housing

As the site lies outside the BUAB for Seaton and in accordance with Strategy 34 the development should provide 50% affordable housing. However, full weight cannot be given the Local Plan policies on housing as the Council does not have the requisite housing land supply as noted above. Given that the site would deliver housing for Seaton and immediately abuts its development boundary it is considered appropriate to require the same affordable housing threshold as for sites within the town (25%).

There are 5939 households on the housing register in East Devon and 254 of those registering a preference for Seaton. This is a substantial need. Strategy 25 (Development at Seaton) of the current Local Plan only provides for one residential allocation for 30 dwellings at Rowan Drive which has already been completed.

The affordability of housing in East Devon is worse than the national average in England and Wales as shown in the following table. These figures show the affordability ratios nationally versus East Devon. The figures show house prices relative to earnings as a ratio. So, for England and Wales in 2021 house prices were 8.93 times earnings whereas in East Devon they were 10.88

Year	2013	2014	2015	2016	2017	2018	2019	2020	2021
England & Wales	6.74	6.95	7.37	7.59	7.77	7.85	7.73	7.75	8.93
East Devon	10.00	10.05	10.34	9.39	9.84	9.93	10.56	10.08	10.88

The proposed scheme could deliver up to 32.5 affordable homes (25% of 130 homes). Any non-whole units would be secured under the S.106 agreement as an off-site contribution in lieu of on-site provision in accordance with the Councils Affordable Housing SPD and using the commuted sum calculator therein. It should be noted that the application is for 'up to 130 dwellings' and the final number of dwellings may mean that the quantum of affordable housing required is a whole number, so an off-site contribution may not actually be required.

Based on the above it is considered that the provision of affordable housing should be given significant weight in the planning balance

Access

Policy TC2 (Accessibility of New Development) of the Local Plan 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 TC7 (Adequacy of Road Network and Site Access) of the Local Plan states that Planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

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

Full planning permission is sought for the means of access to the site. There are three accesses proposed; one from Colyford Road, serving the east side of the housing site, another from Harepath Road, serving the west side of the housing site, and the third from Harepath Road into the site of the proposed football pitch. The County Highway Authority is satisfied that safe access can be provided via the proposed access points as designed.

Where footpaths exist (Harepath Road), the proposed access points for the housing and football pitch include footways which will link to these to ensure opportunities for sustainable travel are available. Colyford Road does not have footways already, however there may be opportunities to link to a cycle/pedestrian footway internal to the site which links with Celandine Close, which in turn could provide reasonable access to the town avoiding the main roads. The Health Impact Assessment states the development will connect via pedestrian/cycle routes to surrounding infrastructure, as does the Planning Statement. The housing site is about 1.6km from the nearest point via Celandine Close, through the quieter streets to the Town Centre. Via Colyford Road this is 1.3km. Harepath Road also benefits from existing bus stops served by at least twice hourly buses.

The site is located adjacent to the existing settlement and is well served by existing footpaths and buses. There are opportunities to provide further pedestrian and cycle links via Celandine Close that are safer than using Colyford Road. The Football pitch is well related to the the community ensuring sustainable travel options can be used to access it. The development is considered to be sustainably located in terms of travel and provides safe access to and from the highway network in accordance with Strategy 3, 5B and policy TC2 of the Local Plan.

Landscape

The majority of the site lies in the open countryside for the purposes of the development plan. That said, the section within the BUAB is an undeveloped greenfield site. It is not within a National Landscape, the nearest being 550m to the east, where the tramline runs.

Strategy 46 (Landscape Conservation and Enhancement and AONBs) states that development will only be permitted where it conserves the landscape character of the area, does not undermine landscape quality and is appropriate to the economic, social and well being of the area.

Policy D1 (Design and Local Distinctiveness) of the Local Plan sets out detailed criteria to ensure that new development is of a high quality design and is locally distinctive. In particular development should respect the key characteristics and special qualities of the area and ensure the scale, massing, density, height, fenestration and materials of buildings relate well to their context. In addition development should not adversely affect the urban form in terms of significant street patterns, groups of buildings and open spaces.

Section 12 of the NPPF, 2024 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development (para 131). In addition, development should function well and add to the overall quality of the area; be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and be sympathetic to local character and history, including the surrounding built environment and landscape setting (para 135). Development that is not well designed should be refused (para 139).

The site is exposed to views from Harepath Road, Colyford Road. The A3052 (Harepath Hill), Axmouth and in other local views. Some of the site is more sensitive to change than other parcels, for instance field 4 is mainly away from existing development and retains a strong rural character and is located near to the Seaton Wetlands. Others are less sensitive being co-located with existing development or on land already allocated for development. The development will urbanise the site which is presently greenfield in nature to the detriment of its character and appearance and as a consequence it would run contrary to Strategy 46 of the Local Plan. This weighs negatively in the planning balance.

Heritage

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development proposals should not adversely affect the distinctive historic or architectural character of the area.

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

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

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant consent for any works to have special regard to the desirability of preserving the setting of the listed buildings.

Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

The proposed football pitch lies directly opposite the Harepath Farm, The Dairy, The Stables, The Linhay and Barn Grade II group of listed buildings. The application is in outline form (except for the means of access) and so it is not possible to establish the likely effects on these assets. Effects will likely only be in relation to their setting, this being derived in part from the rural fields surrounding these buildings which have an agricultural character. Further consideration will need to be given at the reserved matters stage. The Conservation Officer has expressed an expectation that the quality of the buildings nearest to the listed buildings should be of a higher design and materials so they contribute positively to the setting of these heritage assets.

In relation to archaeology DCC's archaeologist has advised that an archaeological watching brief should be secured through the usual planning condition, to record any items of interest.

At this stage there is no objection in relation to the effects on heritage assets.

Residential/Neighbour Amenity

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development should not adversely affect the amenity of occupiers of adjoining residential properties.

Policy EN14 (Control of Pollution) of the Local Plan states that permission will not be granted for development which results in unacceptable levels of pollution including smell, fumes and dust; pollution of surface or underground waters; noise; vibration; light intrusion and fly nuisance.

Para 130 of the NPPF, 2023 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

The proposal would result in dwellings being erected adjacent to existing dwellings, which is unlikely to cause any conflict, subject to suitable layout, design and landscaping.

The proposed housing would also be located adjacent to an existing and designated employment/recreation site under Strategy 25 (site 118b). This may cause some issues that need further consideration. The existing employment units are fairly modest in scale and appear to co-exist with the nearby housing without undue disturbance. The Environmental Health officer has suggested that a noise assessment would be required to inform a noise mitigation scheme and the layout and design of the new houses. An appropriate condition is recommended.

Ecology/Biodiversity

Strategy 47 (Nature Conservation and Geology) of the Local Plan states that all development proposals will need to conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats; maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features. The aims of this Strategy are reinforced in paras 180 to 182 of the NPPF, 2023.

The site is located in proximity (3.4km) to the Beer Quarry Cave Special Area of Conservation (SAC).

The site is located within a lesser horseshoe bat *Rhinolophus hipposideros* and Bechstein's bat *Myotis bechsteinii* core sustenance zone, and greater horseshoe bat *Rhinolophus ferrumequinum* landscape connectivity zone.

The site is also located within a lesser horseshoe bat and greater horseshoe bat Pinch Point.

There is a Key lesser horseshoe bat maternity roost (also a lesser horseshoe bat hibernation roost) approximately 150 m north-east of the site.

The designated area of the SAC is relatively small and comprises the quarry and caves and the immediately surrounding areas. However, the qualifying features (the bat populations) are dependent upon a much wider area outside the SAC boundary which provides foraging habitat and commuting routes and supports other critical roosts. Protection of key areas of habitat in the area is therefore essential in order to maintain and enhance the favourable conservation status of the qualifying features.

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated under the Conservation of Habitats and Species Regulations 2017 (as amended), which are commonly referred to as “The Habitats Regulations”. These sites are internationally important for nature conservation, and are afforded the highest level of protection of any ecologically designated sites in the UK.

EDDC is a Competent Authority under the Habitats Regulations, and therefore has a duty to carry out Habitats Regulation Assessment (HRA) in order to test if a proposed plan or project could significantly harm the qualifying features of a Site. This applies to the granting of any permissions by EDDC. HRA typically consists of two stages:

1. **Screening** - An assessment of whether there is a likely significant effect (LSE) on the qualifying features of a European site in absence of mitigation measures. If it does not, then the appropriate assessment stage does not need to be completed.
2. **Appropriate Assessment** – An assessment of whether LSEs can be mitigated, with full mitigation, avoidance and compensation details.

The screening stage concludes that Appropriate Assessment is required and the applicant has submitted supporting information to assist the Council in its duty. Through negotiation with the Council's ecologist, the application and its supporting materials has been revised to the extent that it has been concluded the development would be unlikely to result in an adverse effect on the integrity of the SAC. This is however contingent on various mitigation measures set out in Part D section 14 A-G 'Avoidance/Mitigation/Compensation' (summarised in section 20) of the HRA which sets out specific design requirements for the development but also requires the submission of further supporting information at the reserved matters stage (an application for reserved matters would also be subject to HRA anyway). These mitigation measures will be secured as part of the S.106 given that they will be required to be managed in perpetuity.

Biodiversity Net Gain –

BNG is not a mandatory requirement [due to date of application] and measures have been proposed to enhance the wetland habitat area and these measures are not quantifiable within the metric. It is also noted the proposals are demonstrating a possible net gain in excess of 20% for both habitats and hedges based on the submitted outline landscape plan. The provision of BNG when it is not required would be a benefit that weighs in favour of the proposal but only if it is secured and delivered. However, the applicant has indicated an unwillingness to be bound to deliver this quantum of BNG under the S106 (and it is not strictly required to make the development acceptable) and so the weight that can be attributed to this as a benefit is limited. Ecological enhancements proposed in the Ecological Impact Assessment are still likely though (to which attract moderate weight) and are secured in the S106 but there is no guarantee it will equate to 20% under the BNG metric.

On-site ecological effects –

The Council's ecologist states that there is no concern regarding nesting birds, dormice, reptiles & amphibians. There are no objections (other than points raised regarding bats) to the proposed

ecological mitigation and enhancement measures, subject to successful implementation and that these could be covered by planning conditions. Concerns regarding SAC related bats have been addressed through revisions to the Landscape Strategy.

Some concern is raised regarding the desire to provide floodlights for the football pitch. These would likely require planning permission in their own right but it is recommended that planning condition is imposed to prevent any lighting of this area due to its sensitivity to bats related to the SAC.

There are non-SAC related bat species of considerable importance in the local area too that need consideration, these being the grey long-eared bat. One of ten maternity roosts in the UK is located in the local area. However the habitat being lost is primarily arable habitat, which is of lower importance to grey long-eared bats, which are primarily associated with unimproved grassland and edge habitats, such as broadleaved woodland edge. The Council's ecologist recommends that the area to the north-east adjacent to the woodland as well as the area around the Stafford Brook (and ideally the woodland) be managed as semi-natural habitat, to future proof the location for grey long-eared (and other) bats. This can be secured through the use of planning conditions, which Natural England has also recommended. These would require the need for Construction and Ecological Management Plan, a landscape and ecological management plan, a Lighting Assessment, and monitoring regime for the development of the site.

Subject to securing the mitigation outlined above in the S.106 and by using planning conditions the development's effects on biodiversity are considered acceptable.

Flood Risk & Sustainable Drainage

Policy EN21 (River and Coastal Flooding) of the Local Plan states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use (minor development includes non-residential extensions with a footprint of less than 250 square metres, development that does not increase the size of the building or householder development unless it would create a separate dwelling) will be permitted in areas subject to river and coastal flooding.

Wherever possible developments should be sited in Flood Zone 1 as defined in the East Devon District Council Strategic Flood Risk Assessment¹⁰⁶. Only if there is no reasonably available site in Flood Zone 1 will locating the development in Flood Zone 2 and then Flood Zone 3 be considered. The flood vulnerability of proposed development, as set out in Appendix D of the East Devon Strategic Flood Risk Assessment will be taken into account.

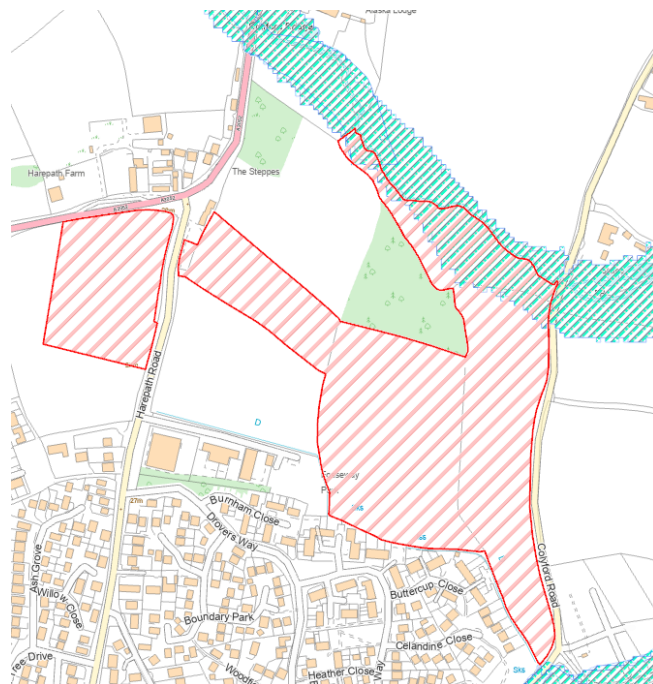
If, after following this sequential approach, acceptable sites cannot be found and the development is necessary for wider sustainable development reasons, development may be permitted if all of the following criteria are met.

1. It is demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk.
2. The proposed development is on previously developed land that is suitably located and available for development, unless no reasonable alternative sites are available.
3. A flood risk assessment demonstrates that the development will be safe, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

This shall not apply to 'highly vulnerable' development in Flood Zone 3a or 'less vulnerable'; 'more vulnerable'; or 'highly vulnerable' development in Flood Zone 3b as defined in the East Devon Strategic Flood Risk Assessment.

The Policy above is supported by the NPPF, 2024 which advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) (para 170) and sets out a requirement to apply the sequential and exceptions sets as set out above.

A small section of the site lies in flood zones 2 and 3.



Recent changes to the NPPF and NPPG confirm however that areas proposed to be used for public open space, biodiversity and amenity areas that lie in the flood risk areas will not necessarily trigger the need for a sequential test. This application has a concept masterplan which shows the area at risk of flooding will be used for open spaces and biodiversity, making the application of the sequential test unnecessary. It will be necessary to apply a condition preventing other development being proposed under the application for the approval of the reserved matters in the flood risk areas.

Policy EN22 (Surface Run-Off Implications of new Development) 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.

DCC's Flood Risk SuDS team were consulted on the application, being the Lead Local Flood Authority for major applications. Its initial objection was overcome through the submission of a revised Surface Water Drainage Strategy. Planning conditions have been recommended for the submission of further detailed drainage information with the application for the approval of the reserved matters. Therefore the development is considered acceptable in accordance with policies EN21 and EN22 of the Local Plan.

Policy EN13 (Development on High Quality Agricultural Land) of the Local plan states that the best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from development not associated with agriculture or forestry. Planning permission for development affecting such land will only be granted exceptionally if there is an overriding need for the development and either:

1. Sufficient land of a lower grade (Grades 3b, 4 and 5) is unavailable or available lower grade land has an environmental value recognised by a statutory wildlife, historic, landscape or archaeological designation and outweighs the agricultural considerations. Or
2. The benefits of the development justify the loss of high quality agricultural land.

If best and most versatile land needs to be developed and there is a choice between sites in different grades, land of the lowest grade available must be used except where other sustainability considerations, including intrinsic nature conservation value of a site, outweigh land quality issue.

The site between Harepath Road and Colyford Road is identified on the Council's mapping system as primarily being Grade 2 agricultural land, in other words the Best and Most Versatile (BMV) land. This designation also appears to extend to half or so of the field for the proposed football pitch, the remainder being undifferentiated Grade 3. The development would lead to the loss of BMV land contrary to policy EN13 which weighs against the proposal.

Other Matters

The Royal Devon University Healthcare NHS Foundation Trust has commented on the planning application. It seeks a £111,793.00 contribution towards health services. However, the request is not considered to be robustly justified to warrant such a contribution.

Census data from 2011 is used when data from 2021 is available. The main concern though is with the contracts for service delivery. At paragraph 29 of its letter it states that it predominantly uses a tariff approach for funding but does not explain either in the body of the report, nor in the glossary, what this means. The tariff is a fixed payment per patient seen that is set centrally for the delivery of an identified service - effectively it is payment by results. Without evidence to the contrary, it therefore stands to reason that any service paid under this mechanism is unaffected by population growth.

Paragraph 32 of its letter states that outpatient services are paid for via a block contract. There's relatively minimal explanation of what this means in its letter but more detail is given in some recent high court cases (The University Hospitals of Leicester NHS Trust, R (On the Application Of) v Harborough District Council [2023] EWHC 263 (Admin) (13 February 2023) and Worcestershire Acute Hospitals NHS Trust, R (On the Application Of) v Malvern Hills District Council & Ors [2023] EWHC 1995 (Admin) (31 July 2023)). It is a fixed amount of money paid for the delivery of services that may or may not make some allowance for population growth.

The request seems to be based on an amount of money for a variety of services - outpatient, elective and acute/emergency. Based on their own evidence it appears as though a proportion of this would be subject to a tariff approach which would bring the request down, if any request can be legally justified. Consequently, no contribution can be sought in respect of this development based on the information provided.

In addition, DCC has requested a contribution of £90,957.00 towards school transport funding, due the development being further than 2.25 miles from The Axe Valley Community College. However education infrastructure should now be provided through the Community Infrastructure Levy.

PLANNING BALANCE

The proposed development conflicts with the general presumption in Strategy 7 against development outside of BUABs, and with the green wedge policy. Neither does it align with the allocation for commercial/recreational use.

The development would have some harmful landscape effects and would also conflict with the Green Wedge strategy, leading towards the coalescence of Seaton and Colyford. It would also lead to the loss of the Best and Most Versatile agricultural land.

Effects on nearby grade II listed buildings could be acceptable provided the detailed plans submitted at reserved matters stage are carefully designed to take account of the need to conserve their setting.

In terms of benefits, the development would provide housing at a time that the Council cannot demonstrate a five year housing land supply, and where the shortfall is significant. Furthermore, it would deliver 25% affordable housing (up to a maximum of 30.5 affordable homes) in an area where there is a need for 250 affordable homes and when affordable housing delivery across the District is behind target, in the context of a worsening affordability index. Accordingly, these are considered to be benefits to which very significant weight should be afforded. There are also some benefits to the economy generated during the course of the construction period to which some weight can be attributed.

In addition, the development would deliver a much needed recreational facility, in a reasonably sustainable location, identified in the Council's own Playing Pitch Strategy which is now 10 years old. This is considered as significant benefit to the local community to which significant weight should be attached.

The development would not likely adversely affect the integrity of the Beer Quarry Caves SAC and would adequately mitigate the on-site ecological effects. There would be some ecological enhancements to the site, though the stated BNG gains could not be secured.

Taking the above into consideration, the development would provide social and economic benefits of significant weight. Biodiversity interests would be not only maintained but there would also be some ecological enhancements to the site. While there would be some landscape harm the overall balance (considering the definition of sustainable development in the NPPF which stands on 3 pillars: economic, social and environmental) is positive and the development can therefore be said to be sustainable.

The development is not in accordance with the allocations in the emerging Local Plan as presently drafted. For instance, Seat_03 is only allocated for housing (where the football pitch is suggested to be) and Seat 05 is allocated for both housing and employment when no employment is proposed as part of this application, and the development site includes land north and outside of Seat_05. Furthermore, the draft Local Plan requires that Seat_03 and Seat_05 be delivered as a co-ordinated and comprehensive development and this application leaves some of the allocated land out. Only limited weight can be afforded to the emerging Local Plan at this time in any event.

The inability to demonstrate a five year housing land supply means that the housing policies in the Local Plan are out of date and the tilted balance in the NPPF therefore applies. This requires that permission be granted for sustainable development. As the integrity of the SAC will be upheld, none of the disqualifying criteria of the tilted balance are applicable. It is therefore recommended that the Council adopts the Appropriate Assessment (HRA) and grants permission for the development, subject to the completion of a S.106 agreement and conditions set out below.

RECOMMENDATION

1. Adopt the shadow Habitat Regulations Assessment as its Appropriate Assessment.
2. Approve subject to the following matters to be secured by a Section 106 legal agreement:
 - 25% Affordable Housing. Delivery of 50% affordable housing by 50% occupation of open market units. Delivery of 100% affordable housing by 75% open market units;
 - Delivery of Public Open Space on-site and future management;
 - Travel Plan Measures and Monitoring (as proposed in sections 8.9, 9.3 & 12.3 of Planning Statement);
 - Monitoring fee including monitoring of LEMP
 - Delivery of ecological mitigation/ enhancement measures as set out in the Ecological Impact Assessment (EAD Ecology July 2023) (subject to revised details at reserved matters stage)
 - Submission of further SAC mitigation details at reserved matters application stage and delivery of mitigation specified in section 14 A-G of (summarised in section 20) the Habitat Regulations Assessment dated 19.7.2024 by East Devon District Council.
- Sports pitch Heads of Terms -
 - Delivery (completion of the works to form the pitch, car and cycle parking, access works and any associated facilities) of the football pitch in accordance with the scheme to be agreed under condition 11 before occupation of 65% of the dwellings;
 - Future management/ownership of the facility (to be agreed);
 - Pitch inspection 7 months post completion but prior to first use plus remedial works if necessary;
 - Within 18 months of the initial completion of the football pitch the final inspection and sign-off of the condition of the pitch and the transfer of the management/ownership to agreed body.

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.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)
2. Approval of the details of the layout, scale, appearance and 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 the Planning Authority shall have received and approved in writing 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;

(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; and

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

The development shall proceed in strict accordance with the approved CMP.

(Reason- To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policy TC7 (Adequacy of the Road Network and Site Access) of the East Devon Local Plan 2013-2033. This is a pre-commencement condition as it concerns how the development is carried out.)

5. 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 ensure the construction works do not give rise to undue noise, disturbance or pollution in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031. This is a pre-commencement condition as the CEMP concerns how the development is carried out.)

6. Prior to, or as part of the Reserved Matters, the following information shall be submitted to, and approved in writing by, the Local Planning Authority:

(a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with Devon County Council's groundwater monitoring policy.

(b) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy and the results of the information submitted in relation to (a) above.

(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(e) A plan indicating how exceedance flows will be safely managed at the site.

(f) Evidence there is agreement in principle from the landowner.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.

(Reason- The above condition is 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 NPPG and policy EN22 (Surface Water Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031). The condition is a pre-commencement because it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.)

7. No 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 2013-2031 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.)

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

(Reason - To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan 2013-2031.)

9. No development work shall commence on site until the following information has been submitted and approved:

- a) A full set of hard landscape details for proposed walls, fencing, retaining structures, hedgebanks, pavings and edgings, site furniture, play equipment and signage.

- b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation including lux levels plan. External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.

- c) A site levels plan indicating existing and proposed levels and showing the extent of earthworks and any retaining walls at 1:250 scale or greater. This shall be accompanied by a minimum of 6 sections through the site at a scale of 1:200 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings.

d) A landscape and green infrastructure strategy plan showing existing trees, hedgerow and habitat to be retained and removed; proposed tree and structure planting and new habitat to be created; existing and proposed watercourses, ponds and wetland areas; pedestrian and cycle routes through the site and how they connect to the existing network beyond.

e) Surface water drainage strategy incorporating an appropriate SuDS treatment train and details of SuDS features including proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc. The SuDS scheme shall be designed to enhance bio-diversity value and engineered elements should have a positive or neutral impact on visual amenity.

f) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- o a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- o methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- o location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- o schedules of volumes for each material.
- o expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.
- o identification of person responsible for supervising soil management.

g) A full set of soft landscape details including: i) Planting plan(s) showing locations, species and number of new tree, shrub and herbaceous planting, type and extent of new amenity/ species rich grass areas, existing vegetation to be retained and removed. ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting. iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule. iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

h) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Page 10 of 10 Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

10. No development shall take place until a Landscape and Ecology Management Plan (LEMP), based on the submitted Ecological Impact Assessment (EAD Ecology, 2023) and HRA

(EDDC, 2024), for a minimum period of 30 years (Habitats provided for SAC bats will need to be managed in perpetuity) has been submitted to, and approved in writing by, the Local Planning Authority which should include the following details:

- a) Extent, ownership and responsibilities for management and maintenance accompanied by a plan showing areas to be adopted, maintained by management company or other defined body and areas to be privately owned/ maintained.
- b) Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.
- c) A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
- d) Landscape and ecological aims and objectives for the site.
- e) Condition survey of existing trees, hedgerow and other habitat to be retained as a baseline for future monitoring and to identify any initial works required to address defects/ issues identified and bring them into good condition.
- f) Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:
 - i) Existing trees, woodland and hedgerows/banks. Hedgerow management shall be carried out in accordance with the Hedge Management Cycle as set out in Hedgeline guidance.
 - ii) New trees, woodland areas, hedges and amenity planting areas.
 - iii) Grass and wildflower areas.
 - iv) Biodiversity features – bat house, hibernacula, bat/ bird boxes etc.
 - v) Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- g) Arrangements for Inspection and monitoring of the site and maintenance practices.
- h) Arrangements for periodic review and update of the plan that may be required to meet the objectives of the plan and reflect any relevant changes to site, legislation and best practice guidance.

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.

The development hereby permitted shall not be occupied until all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), permeable garden fencing, reptile hibernacula, have been installed/constructed in accordance with details within the submitted LEMP.

The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Page 10 of 10 Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. To The maintain the integrity of the Beer Quarry Caves Special Area of Conservation and on-site biodiversity, in accordance with strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031). The LEMP is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

11. The reserved matters application for layout shall include:

- a) A detailed assessment of ground conditions of the land proposed for the new playing field land as shown on drawing number 1501-PL-C shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
- b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority after consultation with Sport England.

(Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with policy RC2 (New Open Space, Sports Facilities and Parks) of the East Devon Local Plan 2013-2031).

12. The playing field/s and pitch/es shall be constructed and laid out in accordance with the approved reserved matters and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011).

(Reason: To ensure the quality of pitches is satisfactory and they are available for use before development is completed and to accord with policy RC2 (New Open Space, Sports Facilities and Parks) of the East Devon Local Plan 2013-2031).

13. Any reserved matters application must include a noise assessment to BS4142:2014+A1:2019 to determine the likely noise impact from any neighbouring commercial area on the new noise sensitive properties. The purpose of this noise assessment is to determine whether or not future residents are likely to be adversely affected by noise and to inform the layout and design of the new development. If the noise impact assessment highlights noise as an issue, mitigation will need to be considered and assessed in order to determine if it is at an appropriate level to achieve both satisfactory internal and external (amenity areas) noise levels.

(Reason - To ensure the development is not adversely affected by noise from nearby existing commercial development in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

14. There shall be no artificial lighting of the any of the site laying west of Harepath Road including the section of the site proposed for the new football pitch, as indicated on the Concept Master Plan Coloured (drawing 1501-PL-C).

(Reason - The use of lighting in this area will likely adversely affect the integrity of the Beer Quarry Caves Special Area of Conservation, contrary to strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

15. A lighting scheme for the construction phase shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lighting used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable. Development shall take place in accordance with the approved details.

(Reason - To ensure the construction works do not give rise to undue disturbance or pollution in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031. This is a pre-commencement condition as the CEMP concerns how the development is carried out.)

16. No works shall commence on site unless the Local Planning Authority has been provided with a copy of the dormouse mitigation licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead. Any mitigation and compensation measures should be in accordance within an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.

(Reason - To avoid harm to protect species which would be contrary to strategy 47 (Nature Conservation and Geology) of the East Devon Local Plan 2013-2031).

17. No dwelling shall be first occupied until a Lighting Impact Assessment (LIA) based on the detailed site design and most recent guidelines (currently GN08/23), and in accordance with the approved HRA (EDDC, 2024), has been submitted to, and approved in writing by, the Local Planning Authority. The LIA should clearly demonstrate that dark corridors provided around the site are achievable without the attenuation of habitat features which long-term management cannot be guaranteed. The LIA should also be supported by evidence, where statements are made regarding no use of lighting, by the competent authority (The Local Highway Authority) or other stakeholders, that this is acceptable in the long-term. All external 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 - The use of lighting in this area will likely adversely affect the integrity of the Beer Quarry Caves Special Area of Conservation, contrary to strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

18. 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 (EAD Ecology, 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)
- h) Use of protective fences, exclusion barriers and warning signs. The approved CEcoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

(Reason - To ensure on-site biodiversity is not adversely affected in accordance with strategy 47 (Nature Conservation and Geology) of the East Devon Local Plan 2013-2031).

Plans relating to this application:

final v.2 (part 1)	Ecological Assessment	28.07.23
final v.2 (part 2)	Ecological Assessment	28.07.23
1937w001 + appendices	Flood Risk Assessment	28.07.23
19008-002 D : proposed site access	Other Plans	28.07.23
DR-1501-PL-C : concept master plan coloured	Other Plans	13.06.24
CLPD 093 P01 : landscape strategy	Landscaping	13.06.24
CLPD 093 P02 : landscape strategy	Landscaping	13.06.24
CLPD 093 P03 : landscaping indicative section A-AA	Additional Information	13.06.24
CLPD 093 P04 : landscaping indicative section B-BB	Additional Information	13.06.24
05878 TPP 08.11.22 : 1 of 3	Tree Protection Plan	20.12.22
05878 TPP 08.11.22 : 2 of 3	Tree Protection Plan	20.12.22

05878 TPP 08.11.22 : 3 of 3	Tree Protection Plan	20.12.22
19008-001 A : proposed site access	Other Plans	20.12.22
19008-003 A : proposed site access	Other Plans	20.12.22
DR-A-1001	Location Plan	20.12.22

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.

The Conservation of Habitats and Species Regulations 2017		East Devon District Council
Regulation 63 – Habitats Regulations Assessment		
Stage 1: Screening for Likely Significant Effect on the Beer Quarry and Caves SAC		
Part A: The proposal		
1. Type of permission/activity:	Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.	
2. Application reference no:	22/2781/MOUT	
3. Site address: Grid reference:	Land Adjacent to Harepath Road, Seaton, Devon, EX12 2WH NGR SY 24656 91715	
4. Brief description of proposal:	• Type of development Mixed use development comprising of up to 130 dwellings and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure. • Distance to the European site Approximately 3.4 km northeast of Beer Quarry and Caves Special Area of Conservation (SAC) • Is the proposal site within a consultation zone (landscape connectivity, core sustenance, pinch point, hibernation sustenance zone) The site is located within a lesser horseshoe bat <i>Rhinolophus hipposideros</i> and Bechstein's bat <i>Myotis bechsteinii</i> core sustenance zone, and greater horseshoe bat <i>Rhinolophus ferrumequinum</i> landscape connectivity zone. The site is also located within a lesser horseshoe bat and greater horseshoe bat Pinch Point. There is a Key lesser horseshoe bat maternity roost (also a lesser horseshoe bat hibernation roost) approximately 150 m north-east of the site. • Size 10.05 ha • Current land use (habitat type and immediately adjacent habitat types) The site lies on the northern edge of Seaton and was dominated by five arable fields sown with maize, cereal crops or with a grass ley. Arable margins were narrow (1-2m in most places) and dominated by coarse grasses.	

	A belt of unmanaged poor semi-improved grassland with encroaching tall ruderal and scattered scrub was present in the northeast of the Proposed Development site and was bordered by a shallow stream (Stafford Brook). Field boundaries were bordered by species-rich and species-poor hedgerows, several with mature trees or associated dry ditches. Semi-natural broadleaved woodland containing a pond was also present immediately adjacent to the north-eastern boundary.
5. European site name	Beer Quarry and Caves SAC (BQ&CSAC) – SAC EU Code UK0012585
6. Qualifying Features and Conservation Objectives: Ecological characteristics associated with the features (including those associated with the site, and information on general trends, issues or sensitivities associated with the features if available).	Annex II species that are a primary reason for selection of this site • 1323 – Bechsteins bat (<i>Myotis bechsteinii</i>). This complex of abandoned mines in south-west England is regularly used as a hibernation site by small numbers of Bechstein's bat <i>Myotis bechsteinii</i> as well as an important assemblage of other bat species.) Annex II species present as a qualifying feature, but not a primary reason for site selection • 1303 – Lesser horseshoe bat (<i>Rhinolophus hipposideros</i>) • 1304 – Greater horseshoe bat (<i>Rhinolophus Ferrumequinum</i>) Conservation Objectives (Natural England 27/11/2018): <i>"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;</i> <i>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;</i> • <i>The extent and distribution of qualifying natural habitats and habitats of qualifying species.</i> • <i>The structure and function (including typical species) of qualifying natural habitats.</i> • <i>The structure and function of the habitats of qualifying species</i> • <i>The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely.</i> • <i>The populations of qualifying species, and,</i> • <i>The distribution of qualifying species within the site.</i> <i>These Conservation Objectives should be read in conjunction with the accompanying Supplementary Advice document (where available), which provides more detailed advice and information to enable the application and achievement of the Objectives set out above."</i> Targets: • Lesser horseshoe bat <i>Maintain the abundance of the population at a level which is above 107 individuals, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.</i> • Greater horseshoe bat <i>Maintain the abundance of the hibernating population at a level which is above 146 individuals, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.</i> • Bechstein's bat

	<i>Maintain the presence of hibernating Bechstein's bat at the site, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.</i> • <i>Maintain the total extent of the habitats which support the features.</i> • <i>Maintain the distribution and continuity of the feature and its supporting habitat, across the site.</i> • <i>Restore the structural integrity of the roost space, with no recent collapses/falls or signs of geological instability.</i> • <i>Restore appropriate light levels, humidity, temperature and ventilation.</i> • <i>Restore the number of access points to the roost at an optimal size and in an unlit and unobstructed state, with surrounding vegetation providing sheltered flyways without obstructing accesses.</i> • <i>Restore the presence, structure and quality of any linear landscape features which function as flightlines.</i> • <i>Flightlines should remain unlit, functioning as dark corridors.</i> • <i>Maintain any core areas of feeding habitat outside of the SAC boundary that are critical to the bat features during their hibernation period.</i> • <i>Maintain the feature's ability, and that of its supporting habitat, to adapt or evolve to wider environmental change, either within or external to the site.</i> • <i>Restore concentrations and deposition of air pollutants to at or below the site relevant Critical Load or Level values given for this feature of the site on the Air.</i> • <i>Restore the management measures (either within and/or outside the site boundary as appropriate) which are necessary to Restore the structure functions and supporting processes associated with the feature and/or its supporting habitats.</i> • <i>Control and minimise human access to roost sites</i> • <i>Where the feature or its supporting habitat is dependent on surface water and/or groundwater, Maintain water quality and quantity to a standard which provides the necessary conditions to support the feature</i> The designated area of the SAC is relatively small and comprises the quarry and caves and the immediately surrounding areas. However, the qualifying features (the bat populations) are dependent upon a much wider area outside the SAC boundary which provides foraging habitat and commuting routes and supports other critical roosts. Protection of key areas of habitat in the area is therefore essential in order to maintain and enhance the favourable conservation status of the qualifying features.
7. Ecological survey Summary of effort and findings	<i>Name of documents containing ecological survey information:</i> Adkins (2012) Harepath Road, Seaton Bat Survey Report 2012. Bayley, A., and Reardon, E. (2018). Bat species use of the 'Green Wedge' landscape lying between and around Seaton and Colyford - A report requested on behalf of the East Devon Area of Outstanding Natural Beauty Partnership. EAD Ecology (2023) Shadow Habitats Regulations Assessment Land east and west of Harepath Road, Seaton. EAD Ecology (2023) Ecological Impact Assessment – Land east and west of Harepath Road, Seaton, Devon. Report for Baker Estates. EAD Ecology (2023) Ecological Impact Assessment – Appendices - Land east and west of Harepath Road, Seaton, Devon. Report for Baker Estates. Encompass Ecology (2014) Bat activity assessment and mitigation strategy. Land off Rowan Drive, Seaton.

Mathews, F. (2014). Proof of evidence against the refusal of planning permission of land east of Harepath Road, Seaton. EDDC ref: 12/1185/MOUT.

Richard Green Ecology (2015) Interim Ecological Survey Report – Land adjacent to Harepath Road, Seaton, Devon. Ecological Assessment – 15/2188/MOUT

The Lighting Bee (2023) Land at Seaton Lighting Strategy V0.4

Summary of survey effort (no. transects, static detector deployments and bat emergence surveys, if applicable):

Bat activity surveys of the Proposed Development site, comprising transect and static detector surveys, were undertaken between June – October 2019 and April – May 2020, with winter static detector surveys between February – March 2020. Full results of the surveys are presented in the EclA Report (EAD Ecology, 2023).

Previous bat activity and static surveys of the site and surrounding habitats have been undertaken between 2012-2018 by various consultants including Adkins (2012), Richard Green Ecology Ltd (2015), and Bayley and Reardon (2018).

Summary of relevant findings and Bat Activity Index (number of bat passes from greater and lesser horseshoe bats – note that Bechstein passes are unlikely due to low amplitude, flight patterns and cryptic call parameters):

The ecological surveys have demonstrated that the site is used by all three qualifying bat species associated with Beer Quarry and Caves SAC for both for commuting and foraging with seasonal use by all species noted and spatial distribution across the whole site.

The surveys have indicated that the areas surrounding the woodland and the riparian corridor in the north-east as the areas with highest levels of bat activity and of primary importance.

Lesser horseshoe bat use of the qualifying bat species is highest, which is likely given the proximity of the site to a lesser horseshoe bat maternity Key Roost, i.e., within 150 m of the site. The winter survey results also demonstrated the use of the site over the winter frequently by lesser horseshoe bats.

Bat transect surveys – active period (April – October)

The overall trends for the three qualifying bat species for the SAC are as follows:

Myotis bats (proportion assumed to be Bechstein's): The eastern half of the Survey Area (to the east of Harepath Road) had significantly more *Myotis* bat registrations; with only 11 *Myotis* bat registrations recorded in the west, and 134 in the east.

The north-eastern section of the Survey Area has the most *Myotis* bat registrations overall. However, there is also a concentration of activity along part of the south-eastern survey boundary (Hedgerow H11).

Greater horseshoe bat: Eleven greater horseshoe bat registrations were recorded during the transect surveys. These were all in the eastern half of the Survey Area with the exception of a single registration recorded along Hedgerow H5. The remaining registrations were recorded on Hedgerows H8-H10 and in proximity to Stafford Brook in the northeast of the Site.

Lesser horseshoe bat: Twenty-one lesser horseshoe bat registrations were recorded during the transect surveys. All registrations were recorded in the eastern half of the Survey Area, mainly along hedgerows H9 and H12, as well as within the north-eastern part of the Survey Area.

Bat static detector surveys – 'Active period'

At least ten species were recorded during the static detector survey with an overall total of 80,236 registrations. Common pipistrelle was the most abundant species comprising 69.10% of all recordings, followed by *Myotis* bats (10.14%). Lesser horseshoe bat (2.08%) and greater horseshoe bat (1.05%).

***Myotis* bats** were recorded at all static detector locations within the Survey Area. The three static detector positions that recorded BAI values above the Site average were those located in the northeast corner of the Site adjacent to semi-natural broadleaved woodland and a stream. This corresponds with the static detector locations with the highest *Myotis* bat activity levels during the active period (April-October) surveys.

Activity recorded within the Site over the winter period (November-March) was typically much lower than that recorded within the active period (April-October). However, the survey results showed that *Myotis* bats were using the Site during the hibernation period. The spatial distribution of *Myotis* bat activity was similar in winter to summer (higher activity in the northeast of the Site).

Greater horseshoe bats were recorded at all static detector locations within the Survey Area except for four positions located in the northwest and southeast of the Survey Area (Positions 2, 4, 8 and 9). The overall Survey Area winter Bat Activity Index (BAI) of 0.01 was recorded. Significantly reduced bat activity was recorded within the winter activity surveys when compared with levels during the active period.

However, greater horseshoe bats were shown to be using the Site in both February and March, albeit in lower numbers than typically recorded during the active period. The spatial distribution of greater horseshoe bat activity was similar in winter to summer, with higher activity levels recorded along the southern Site boundary and in the northeast of the Site.

Lesser horseshoe bats were recorded at all static detector locations within the Survey Area except Position 9. The overall Survey Area winter Bat Activity Index (BAI) of 0.08 was recorded.

The winter activity surveys showed comparable levels of lesser horseshoe bat activity at a number of Positions within the Site. This implies that the Site is of importance to lesser horseshoe bats during the both the active (April – June) and winter period (November – March). This is likely to be due to the proximity of the Site to the Key lesser horseshoe bat maternity (and hibernation) roost.

Static detector surveys – ‘Winter period’

At least ten bat species were recorded during the winter static detector surveys with an overall total of 11,239 registrations. Common pipistrelle was the most abundant species comprising 70.30% of all recordings. Lesser horseshoe bat (5.88%), Myotis bats (4.78%) greater horseshoe bat accounting for less than 1% of registrations.

Lesser horseshoe bat was the most abundant species at Positions 11 and 14 in the east of the Site. Light sensitive bat species were recorded at all static detector locations.

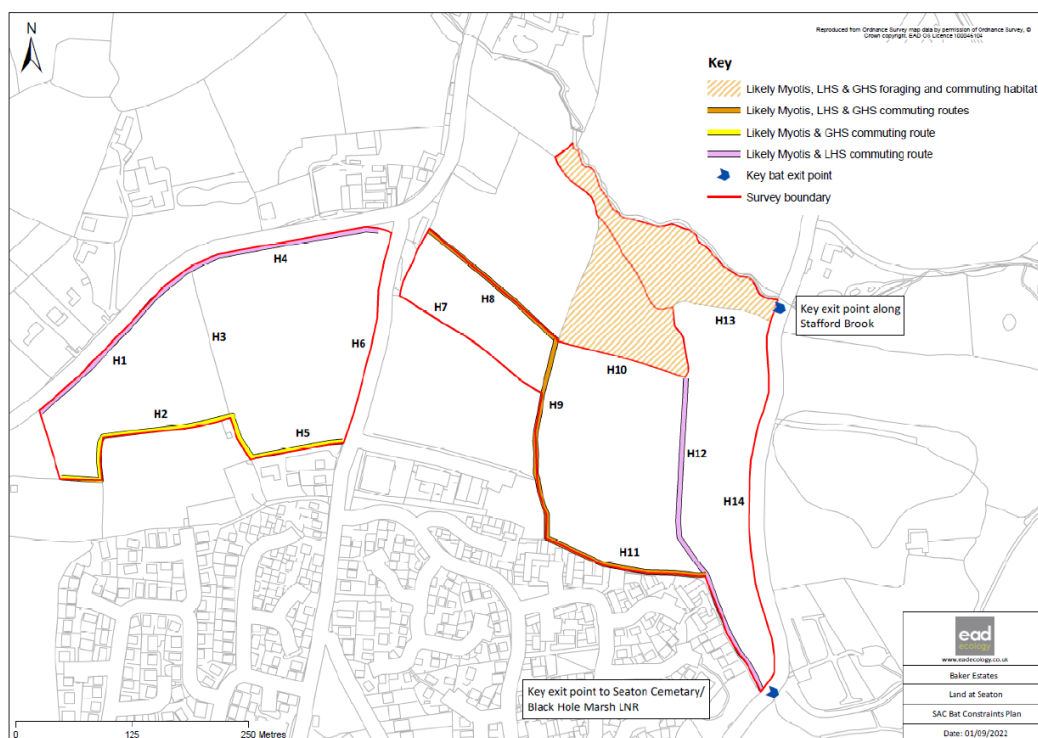
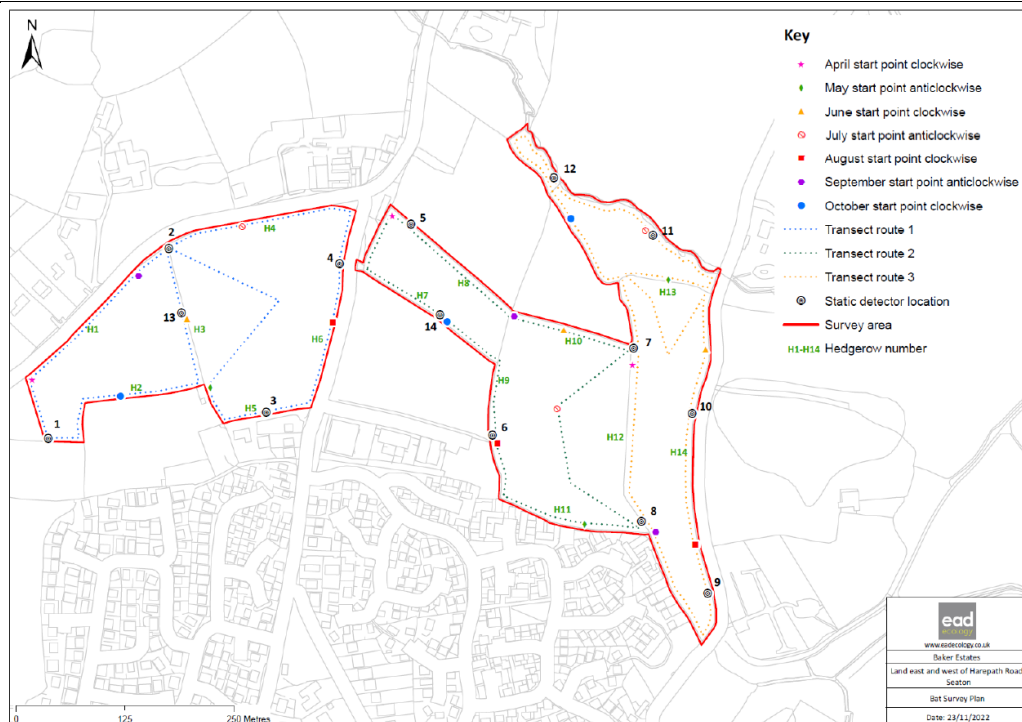
Myotis bats were recorded at all static detector locations within the Survey Area. The three static detector positions that recorded BAI values above the Site average were those located in the northeast corner of the Site adjacent to semi-natural broadleaved woodland and a stream. This corresponds with the static detector locations with the highest Myotis bat activity levels during the active period (April-October) surveys.

Activity recorded within the Site over the winter period (November-March) was typically much lower than that recorded within the active period (April-October). However, the survey results showed that Myotis bats were using the Site during the hibernation period. The spatial distribution of Myotis bat activity was similar in winter to summer (higher activity in the northeast of the Site).

Greater horseshoe bats were recorded at all static detector locations within the Survey Area except for four positions located in the northwest and southeast of the Survey Area (Positions 2, 4, 8 and 9). The overall Survey Area winter Bat Activity Index (BAI) of 0.01 was recorded. Significantly reduced bat activity was recorded within the winter activity surveys when compared with levels during the active period. However, greater horseshoe bats were shown to be using the Site in both February and March, albeit in lower numbers than typically recorded during the active period. The spatial distribution of greater horseshoe bat activity was similar in winter to summer, with higher activity levels recorded along the southern Site boundary and in the northeast of the Site.

Relevant figure excerpts from document (maps, tables, if relevant/concise):

Refer to EcIA (part 1 and 2) and submitted sHRA (EAD Ecology, 2023).



Part B: Screening assessment for Likely Significant Effect – In absence of proposed mitigation

8. Is this application necessary to the management of the site for nature conservation?

No

9. What BQ&CSAC consultation zones is the proposal within (insert "X")?

10 km GHB Landscape connectivity zone

X

4 km GHB Sustenance zone

2 km GHB Hibernation sustenance zone

11.2 km LHB Landscape connectivity zone

2.5 km LHB Sustenance zone

X

1.2 km LHB Hibernation sustenance zone

Refer to the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document and online mapping	10.25 km Bechstein's Landscape connectivity zone	
	2.5 km Bechstein's sustenance zone	X
	Pinch point	X
10. Summary assessment of potential impacts to Qualifying Features of the European site, in the <u>absence</u> of mitigation measures. Consider scale, extent, timing, duration, reversibility and likelihood of the potential effects. <i>Impacts of these types are considered to result in result in a Likely Significant Effect (LSE) on the SAC. Refer to the flow chart on page 19 of the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i> If the proposal is located in a Landscape Connectivity Zone (LCZ) ONLY, then the only impact to result in an LSE is "A – Landscape scale connectivity impacts". <i>Consider construction phase and operational phase. For some proposals, it may also be necessary to consider de-commissioning and after-use.</i>	<i>A – Landscape (large) scale connectivity impacts</i>	Unmitigated development of the site and associated lighting would result in the contraction and potential severance of a lesser horseshoe and greater horseshoe bat Pinch Point.
	<i>B - Direct impacts on the SAC roost or other key roost(s)</i>	The nearest SAC roost (a Key lesser horseshoe bat maternity roost) is located within 150 m of the site within a private residential site. The site and roost would not be accessible, or likely to be disturbed by noise, lighting, or dust during construction or operation. There would be no direct impacts on any SAC roost or key roost.
	<i>C - Change in habitat quality and composition (loss or change in quality of foraging habitat)</i>	Construction The loss of habitat during site clearance would reduce the availability of foraging habitat and damage of commuting routes used by SAC bats. This could also impact the Pinch Point and inhibit the movement of bats within their Landscape Connectivity Zone and between other key roosts in the region. Operation The development of the site would change the site from an agricultural landscape with historic hedge features to a sub-urban environment with public access and result in the direct loss of foraging and commuting habitat used by all qualifying bat species.
	<i>D - Severance or disturbance of linear features used for navigating or commuting</i>	Construction The development of the site will result in the severance of hedges (H9, H12, & H14) used by all bat qualifying species. Predicted impacts from lighting during construction and operation are provided in section 10.E below. Operation The severance of H9, H12, & H14 (including new access road) and potential insensitive management of H7 (being within the curtilage of residential dwellings) could also result in the degradation of these features used by qualifying bat species.
	<i>E - Disturbance from new illumination causing bats to change their use of an area/habitat</i>	Construction Construction lighting, including from compound buildings, security lighting, and vehicle lighting has the potential to result in the disturbance, avoidance and delay of horseshoe and Bechstein's bats from commuting and foraging over the site, including along retained site boundaries and woodland edge, which

		could also impede their access to foraging sites and dispersal into the wider environment. It could also impact on pregnant lesser horseshoe bats and their volant young from the nearby maternity roost having to expend further energy. <i>Operation</i> Lighting associated with the development including street lighting, lighting from residential dwellings (including security lighting, light spill from windows), and lights from vehicles could result in the avoidance of the site (or delay in used of the site) from light adverse horseshoe and Myotis bats from commuting and foraging over the site and into the wider landscape. Vehicle movements could also sever east/west permeability of the eastern part of the site. Lighting from the site (in combination with upgraded offsite street lighting) could also result in a vacuum effect resulting in the concentration of invertebrates into well-lit area avoided by light adverse horseshoe and myotis bats, reducing the availability if suitable prey from retained dark areas and resulting in increased competition from more light tolerant species such as pipistrelle and serotine bats. Any lighting associated with the proposed football pitch associated building, and vehicles could result in the disturbance of bats and avoidance of bats from commuting and foraging over the site.
	<i>F - Disturbance to or loss of land or features secured as mitigation for BQ&CSAC bats from previous planning applications or projects</i>	N/A – there would be no impact on previous land or mitigation features secured from previous planning application projects.
	<i>G – Loss, damage, restriction or disturbance of a pinch point</i>	<i>Construction</i> Site clearance and associated construction lighting could result in in the contraction and severance of the lesser horseshoe and greater horseshoe bat Pinch Point on the site, from bats avoiding the site and being further concentrated to the north of the site, away from development activity. <i>Operation</i> The provision of a major residential development located in in an area of existing agricultural landscape would materially change the nature of the site and could result in the avoidance of the site by horseshoe and myotis species and result in the contraction of the Pinch Point.

	<i>E - Other impacts – e.g. physical injury by wind turbines or vehicles</i>	Construction The movement of construction vehicles on the site are unlikely to result in the direct mortality of bats, given the low speeds of movement. Operation The new access road to the east part of the site and subsequent increase in car movements along Colyford Road could potentially result in some risk of mortality of juvenile lesser horseshoe bats from the nearby maternity roost which are noted as being particularly vulnerable to collision risk (Fensome and Matthews, 2016). However, Colyford Road would be restricted to 30 mph near the site entrance so direct mortality is hard to predict above a level considered significant.
11. Potential for in-combination effects (<i>other permissions granted and proposals in the area that could result in impacts when assessed in combination – review planning permissions in the vicinity with similar impacts</i>)	The proposed upgrade of street lighting by Devon County Council along Harepath Road to P4 class, especially at the junction with Harepath Hill has been modelled to show that lux levels along the entirety Harepath Road and bottom of Harepath Hill would be in levels in excess of those considered to impact on horseshoe and myotis bats, i.e., above 0.5 lux. This could act to sever the permeability of bats from the east site to the west site across Harepath Road and result in the contraction of the existing Pinch Point. An updated search of planning applications was undertaken from Branscombe in the West to the Axe Estuary in the east, and in a northerly direction to Colyton. All relevant planning applications considered in the assessment are shown below: 22/1522/MRES Land Adjacent Short Furlong Short Furlong Beer (Awaiting decision). Application for approval of reserved matters (Appearance, landscaping, layout and scale) following approval of outline application no 18/1957/MOUT18 - construction of up to 30 new dwellings (including affordable housing provision). • 21/1782/MFUL Seaton Heights Harepath Hill Seaton (Awaiting decision). Erection of No. 9 x 2-bed and No. 14 x 3-bed and 19 x 4 bed two storey detached holiday homes with associated parking and amenity space. • 18/2376/MFUL Land North of Kingsholme and West of Coly Road Colyford Colyton (Nondetermination appeal lodged; appeal dismissed). Proposed residential development of 15no. dwellings (10no. affordable) with site access and associated works. • 22/1846/FUL Land Off Gosling Walk Harepath Road Seaton (Awaiting decision). Construction of 4 no. dwellings. • 22/1457/MOUT Land at Whitecross Farm Colyford Road Seaton (Application withdrawn). Outline application with all matters reserved for spa facility (to include spa facility/activity buildings, associated outdoor recreation areas; a bar/restaurant/shop), accommodation. alterations to existing access and erection of farm buildings (relocated within site). This application lies directly adjacent to the proposed developments south-east boundary. The illustrative site layout indicates that the western most part of the site will be developed. The key bat flight corridor from the exit point on the southern	

	boundary of the proposed development to Seaton Cemetery/ Seaton Wetlands will be maintained. The planning applications for the identified developments set out above have been or will also be subject to Habitats Regulations Assessment. For each development to be acceptable in isolation, it would be necessary to demonstrate that there would not be an adverse effect on the integrity of the greater and lesser horseshoe bat and Bechstein's bat populations associated with the Beer Quarry and Caves SAC, which would include the delivery of avoidance and mitigation measures as required.
12. Natural England consultation comments (if available)	Natural England latest pre application comments are provided in Appendix 1 of the supporting SHRA. The formal Natural England consultation response to the submitted SHRA was provided on 16/08/2023 stated: NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC). In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required, as set out in the Appropriate Assessment. • A Construction Ecological Management Plan for the development, to be appended to the Construction Environmental Management Plan. • A Landscape and Ecological Management Plan to incorporate management objectives, actions and responsibilities to ensure appropriate long-term habitat management to maximise the foraging value of the habitats provided for horseshoe and Myotis bats. • A detailed Lighting Assessment to ensure that dark corridors are maintained. • Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Natural England's previous comments regarding appeal 12/1185/MOUT are also provided in the supporting proof of evidence. In particular, from 10/06/2013 which stated (section 8.2, pg. 17): <i><u>"The area of existing plantation woodland, the field to the north-east, and the area proposed for woodland planting north of the Stafford Brook are not within the redline of the planning application but management and enhancement of these areas needs to be secured to deliver an acceptable level of mitigation."</u></i>
Part C: Conclusion of Screening	
13. Is the proposal likely to have a significant effect 'alone' or 'in combination' on a European site?	We conclude that, in the absence of mitigation measures, a Significant Effect on the Beer Quarry and Caves SAC is likely, either 'alone' or 'in-combination' with other plans and projects. An Appropriate Assessment of the proposal will therefore be necessary.
Name Date	William Dommett 19/07/2024

The Conservation of Habitats and Species Regulations 2017

Regulation 63 – Habitats Regulations Assessment

Stage 2: Full Appropriate Assessment of effects on the qualifying features of the Beer Quarry and Caves SAC

Part D: Assessment of Impacts with Mitigation Measures

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.

14. Assessment of impacts taking account of mitigation measures included in the proposal and possible additional restrictions

Applicant's proposed mitigation – Provide document reference numbers and titles below:

EAD Ecology Ltd (2023) Ecological Impact Assessment and Appendix
The Lighting Bee (2023) Land at Seaton Lighting Strategy V0.4

EDDC Ecology Planning Response 22/2781/MOUT, 28/09/2023, V1.1

EDDC's Ecology's response to the submitted Technical Note 231013/P984/TN1

Landscape Strategy CLPD 093 P01
The Lighting Bee (2024) Land at Seaton - Lighting Impact Review
Concept Master Plan LSD-BSL-ZZ-XX-DR-C 1501-PL-C

Potential LSE (as identified in section 10. A-H)	Avoidance/Mitigation/Compensation measures proposed <i>Consider both Construction and Operational Phases, and monitoring requirements.</i>	Conclusion regarding effectiveness of mitigation and residual LSE <i>Consider how measures would be implemented, how certain you are that measures will remove LSE, how long it will take for measures to take effect, monitoring requirements and changes that would be made if monitoring shows failure of measures.</i>	Secured by
14. A - Landscape (large) scale connectivity impacts	Consideration regarding the potential contraction of the Pinch Point/landscape permeability are considered primarily relating to changes in habitat quality, disturbance of commuting routes, and potential impacts from lighting, which are discussed in sections 14.C-E.		
14.B - Direct	N/A	N/A	

impacts on the SAC roost or other key roost(s)			
14.C - Change in habitat quality and composition (loss or change in quality of foraging habitat)	Construction Construction would be undertaken in accordance with BS5837:2012 'Trees in relation to construction'. Retained trees and hedgerows would be protected from potential damage during construction through the use of temporary barriers (e.g. Heras fencing), which would be installed prior to the start of construction. All contractors' compounds would be located a minimum of 20m away from hedgerows, watercourses and the offsite woodland, and outside of the 'dark' habitat corridors along the boundaries to minimise potential lighting and disturbance effects. Operation Retention of the majority of hedgerows along the Site boundaries, together with new native hedgerow planting. Dark commuting habitat for Myotis and horseshoe bats would be maintained around the development through the creation of minimum 10m wide 'dark corridors' (<0.5 lux) along retained key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of new hedgerow planting before the development platform in accordance with Devon dark corridors guidance (DCC, 2022). Temporary fencing with a minimum 1.8m height would also be erected to provide screening until the new hedgerows matured. The dark corridors / landscape buffers forming part of the Proposed Development would be planted with new native hedgerows, mixed native trees and scrub, and wildflower meadow, to create new bat foraging habitats and provide screening, which would enhance the suitability of these areas for foraging / commuting horseshoe and Myotis bats.	<u>EAD Ecology view</u> Lesser horseshoe and Myotis bats used habitats within the Proposed Development site for occasional foraging and commuting, with part of a core foraging area identified in the north-east of the site. The baseline results also indicated that greater horseshoe bats used the Proposed Development site predominantly for commuting and for occasional foraging. Given that much of the existing foraging habitat on site is considered sub-optimal (arable habitat) for these bats, the habitat creation proposals particularly within the dark corridors / landscape buffers and the habitat enhancement proposals for the retained area adjacent to Stafford Brook in the north-east of the Proposed Development site would lead to a net increase in the extent of foraging habitats for bats including horseshoe and Myotis bat species. Dark commuting habitat for Myotis and horseshoe bats would be maintained around the development post-construction, ensuring permeability for these species through their Landscape Connectivity Zones and 'Pinch Point'. Temporary fencing would allow continued ecological permeability for bats associated with the SAC post-development. West to east movement/functionality would be maintained so that bats can continue to travel across the Proposed Development site to habitats to the east. North to south movement/functionality would be maintained between the two main departure points for commuting bats from the	All ecological mitigation measures during construction would be detailed in a Construction Ecological Management Plan (CECoMP) for the development, which would be appended to the Construction Environmental Management Plan (CEMP).

	A proposed orchard would be located within the species-rich wildflower meadow in the Public Open Space in the northeast of the Proposed Development and proposed wildflower grassland management to promote abundance of invertebrate food sources for foraging horseshoe bats. Proposed riparian woodland and scrub planting along Stafford Brook and wetland meadow creation adjacent to the watercourse. The area adjacent to Stafford Brook in the northeast of the Site would be retained. A bespoke horseshoe bat night / day roost would be built in the north-east of the Proposed Development. The detailed design of the bat roost would be set out in a Reserved Matters Application for the Proposed Development 2024 The scheme has been revised to include the retention of hedgerow H12 with a 6 m dark corridor provided on either side of the hedge. <i>Monitoring</i> Construction monitoring in line with the CEcoMP, including compliance checks by a qualified ecologist, would be undertaken throughout the construction period. Post-construction monitoring of the retained and created habitats would be undertaken to ensure successful establishment and management; a monitoring protocol would be contained in the LEMP. The proposed bat roost structure would be monitored by a Natural England Licensed bat ecologist in Years 1, 3, 5 and 10 following its construction (this would be included in the LEMP). Monitoring would consist of internal inspections of the roof void to search for evidence of use by bats i.e. presence of bats and / or droppings / feeding remains. Monitoring would inform any necessary changes to the roost structure, should these be required.	Proposed Development site (Stafford Brook and Seaton Cemetery / Black Hole Marsh). The proposed orchard located within the species-rich wildflower meadow in the Public Open Space in the northeast of the Proposed Development would provide additional foraging habitat. Wildflower grassland management to promote abundance of invertebrate food sources for foraging horseshoe bats. Proposed riparian woodland and scrub planting along Stafford Brook would link the watercourse with the offsite woodland, enhance connectivity and would provide an alternative flightline for bats connecting the Proposed Development with the wider landscape. The LEMP would include management objectives and actions to ensure appropriate long-term habitat management to maximise the foraging value of the habitats provided for horseshoe and Myotis bats. <u>EDDC Ecology view</u> 2024 revision to the masterplan The masterplan has been revised to include the retention of hedgerow H12 with a 6 m dark corridor buffer provided on either side. The revised masterplan includes vehicular access through H12, and H9 as this is required to provide a circular route for emergency purposes. Additional planting of standard trees at the severed nodes of the hedgerows are proposed to provide additional cover for foraging and commuting bats. A revised lighting impact assessment considered that based on the masterplan that the 6 m dark corridor either side of H12 is feasible. Further clarity regarding the use of functionally linked-habitat has been provided (The Habitats Regulation Journal, Issue 13). The Natural England position statement considers that habitat provided to compensate for habitat loss of functionally linked-habitat (outside of	

		designated site boundaries) would be considered as mitigation (not compensatory habitat) for HRA purposes. In my view, given the proximity to the Key maternity roost, the uncertainty of the value of the woodland (which has not been surveyed) and the lack of control of this woodland, it is considered that the provision of high quality semi-natural bat foraging habitat should be provided, such as cattle-grazed wood pasture. For HRA purposes, it is not disputed that the proposed revised scheme would result in an enhancement of habitats, compared to the existing intensive agricultural use and the 2024 revised scheme is an improvement on the previous scheme, which included the removal of H12. Assuming the mitigation measures are successfully and fully implemented, with sufficient monitoring and adaptive measures, secured in perpetuity, the measures are likely to be sufficient to avoid and mitigate against adverse effects on the integrity of the SAC. No Adverse Effect on Integrity is predicted.	
14.D - Severance or disturbance of linear features used for navigating or commuting	<i>Construction</i> Retention of the majority of hedgerows along the Site boundaries, together with new native hedgerow planting Retained trees and hedgerows would be protected from potential damage during construction through the use of temporary barriers (e.g. Heras fencing), which would be installed prior to the start of construction. All contractors' compounds would be located a minimum of 20 m away from hedgerows, watercourses, and the offsite woodland, and outside of the 'dark' habitat corridors along the boundaries to minimise potential disturbance effects.	The majority of hedgerows along the site boundaries identified as likely Myotis and / or horseshoe bat commuting routes have been retained and buffered. <u>EAD Ecology</u> The Proposed Development would ensure that bat species from the SAC would be able to navigate and commute through the site. Minimum 10m wide 'dark corridors' (<0.5 lux) will be created along key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of a new hedgerow before the development platform. <u>EDDC</u>	CEcoMP and a LEMP

	Lighting impacts discussed in section 14.E. <i>Operation</i> Creation of minimum 10m wide 'dark corridors' (<0.5 lux) along retained key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of new hedgerow planting before the development platform. 2024 A 6 m wide dark corridor would be provided either side of hedgerow H12, which is now retained.	2024 revision to the masterplan The proposed masterplan has been revised and now includes the retention of hedgerow H12 with a 6 dark corridor either side. Clarity on Natural England's position on functionally linked-habitat and consideration of mitigation vs compensation (for HRA purposes) has also been provided (see 14.C above). Assuming the mitigation measures are successfully and fully implemented, with sufficient monitoring and adaptive measures secured in perpetuity, the measures are likely to be sufficient to avoid and mitigate against adverse effects on the integrity of the SAC. No Adverse Effect on Integrity is predicted.	
14.E – <i>Disturbance from new illumination causing bats to change their use of an area/habitat</i>	<i>Construction</i> All contractors' compounds would be located a minimum of 20 m away from hedgerows, watercourses, and the offsite woodland, and outside of the 'dark' habitat corridors along the boundaries to minimise potential lighting and disturbance effects. Lighting would be avoided between March and October where possible, and no lighting would be left on during the night during the construction period. Any security lighting would be low-level and motion activated on short-timers. <i>Operation</i> It has been agreed with Devon County Council that the Proposed Development will be a 'dark development'. No street lighting is proposed to the roads within the Proposed Development and the proposed access junction with Colyford Road will not require lighting. No additional lighting to the DCC maintenance improvements on Harepath Road is proposed.	The key navigating and commuting 'dark corridors' corridors along the northern and southern boundaries would be maintained; connectivity between the two corridors would also be maintained through a 'dark corridor'. The extent of foraging habitat within the Proposed Development site would be increased and would not be affected by lighting. Lighting during construction could be controlled by the proposed mitigation measures, set out and secured through a CEcoMP. A mitigated lighting design for the footpath adjacent to Colyford Road is proposed to ensure that the dark corridor is maintained (<0.5lux) at the key exit point for bats from the Proposed Development to Seaton Cemetery / Black Hole Marsh. The DCC maintenance proposals to Harepath Road could result in a reduction in the functionality of the bat crossing points. However, the modelled maintenance scenario still retains some darker areas between luminaires (between	The production of a detailed lighting assessment, including lux contour plans with respect to light spill from external lighting and internal light spill from buildings, to ensure that the

	A mitigated lighting strategy has been designed to ensure that light levels do not exceed 0.5 lux within the proposed 'dark corridors'. This level of lighting (<0.5 lux) is generally accepted as providing a 'dark' environment, which would not deter light sensitive bat species such as greater/lesser horseshoe bats (GHS/LHS). Creation of minimum 10m wide 'dark corridors' (<0.5 lux) along retained key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of new hedgerow planting before the development platform. Private roads and drives will also remain unlit. The standalone footpaths throughout the Proposed Development are also proposed to be unlit with the exception of the footpath running south from the new access adjacent to Colyford Road. This would be lit to a P6 standard, utilising low-level bollard LED luminaries (1.3 m high) with amber 1750K light sources with back shields to provide single sided distribution at approximately 11 m spacings. Where the footpath crosses through the hedgerow on the southern boundary, to ensure the dark corridor is maintained (<0.5 lux) wayfinding lights are proposed with in-ground solar way marker lights with LED amber 1900K light sources at 5m spacings through the dark crossing point. These are specifically designed to have limited light spill and with 'bat hat' covers that prevent upward light spill. This footpath would link to the adoptable path from Foxglove Road to Celandine Close outside of the Proposed Development boundary. Levels of illuminance from the proposed footpath will therefore be limited to <0.5 lux vertically up to 2m in height, and <0.2 lux horizontally at ground level within the proposed dark corridor. The positioning of residential units and roads, as well as the locations of proposed hedgerow planting (with temporary fencing where required until vegetation matures to a minimum height of 2m) would ensure that	2-4 lux) at the southern extent of Harepath Road, which is a similar lux level as identified during the baseline lighting survey. In addition to these possible bat crossing points, bats could still move between the two parcels of the Proposed Development through habitat connectivity to the north as Harepath Hill, which would remain unlit. Therefore, habitat connectivity particularly along the identified commuting corridors along the northern and southern boundaries of the Proposed Development site and the north-south corridor H9 will be maintained. The revised masterplan also includes the retention of hedgerow H12 and a lighting impact assessment considered that a 6 m dark corridor either side of the hedge is achievable. It is considered that if successfully implemented, the measures proposed would be sufficient to avoid and mitigate against adverse effects on the integrity of the SAC. No Adverse Effect on Integrity is predicted.	lighting parameters outlined within the HRA are met. The proposed extension of the footpath adjacent to Colyford Road to connect to the adopted footpath off Celandine Close to the south-west of the Proposed Development could be secured through a s106 agreement. This would also set out any requirement for lighting

	lighting from internal sources and car headlights would not significantly increase light spill onto the corridors. In addition, the following measures would be implemented to ensure that 'dark corridors' are maintained; refer to The Lighting Strategy (The Lighting Bee, 2023): • Careful consideration would be given at the Reserved Matters stage to the locations within the Site of the residential roads and their hierarchy, to avoid roads being located adjacent to the dark corridors / buffer zone for bats. This would minimise the effects of vehicle headlights. Screening planting would also be provided at the interface between 10m landscape buffer and the development platform in the form of vegetation, hedgerows, and hedge banks, with temporary fencing of a minimum 1.8m height, where required until the vegetation matures to a minimum height of 2m. • Careful consideration would be given to the locations and orientations of proposed dwellings located adjacent to the 10m landscape buffer. Where the front or rear elevations of any proposed dwellings face the dark zones, sufficient offsets would be created between the two to ensure that the <0.5lux parameter is achieved in the 10m 'dark corridor'. Preliminary testing undertaken by The Lighting Bee (2023) demonstrates that this is achievable for the quantum of development proposed. Consideration would be given to locating bungalows, rather than houses, adjacent to 10m landscape buffer, particularly where the topography of the development area is higher than the adjacent landscape buffer/dark corridor.		e.g. to mirror those for the footpath section within the Proposed Development.

- It is anticipated that recessed lighting would be provided within properties adjacent to the 10m landscape buffers. Typically, downlight luminaires used in residential properties will have beam angles of 30-40 degrees. The recessed nature of downlights, and their smaller beam angles, reduces light spill compared with pendant luminaires.

Consideration would also be given to window locations, head heights and size, to reduce impacts from internal light spill into the proposed dark zones.

- Private external lighting to residential properties adjacent to the 10m landscape buffers would be carefully positioned, limited in number and operated by PIR (movement) detectors.

Luminaires to residential properties would be specified as downward directional with 0% Upward Light Output Ratios. If any low-level lighting is required to private drives, roads or parking courts, specialist downward directional bollard luminaires would be utilised. All external lighting would utilise LED light sources, with warm white colour temperatures of 3000K or less.

- Where any column mounted or bollard lighting is required, careful consideration would be given to the siting of luminaires, and luminaires with either back shields, or a narrow optic designed for the area to be lit, would be used to limit light spill into the proposed dark corridors.

- No lighting is proposed to the football pitch. Lighting may be provided to the associated welfare facilities for security, safety and amenity in accordance with the latest relevant British Standards and guidance. The design would be developed at the Reserved Matters stage.

	Any lighting associated with the welfare facilities for the football pitch would be LED with warm white colour temperatures (3000K or less), and downward directional with 0% Upward Light Output Ratios to minimise the impacts on bats and to comply with the requirements for an E2 Environmental Zone. Detailed analysis, including lighting calculations and assessment, will be provided at the Reserved Matters stage to demonstrate that light spill from all proposed external/internal lighting would not conflict with the <0.5lux light parameter for the dark corridors. All lighting proposals would be subject to approval by EDDC. 2024 The scheme has been revised to include the retention of hedgerow H12 with a 6 m dark corridor provided on either side of the hedge. A revised lighting impact assessment considered that the dark corridor is achievable based on the outline masterplan. <i>Monitoring</i> Lux level readings would be undertaken from baseline 'Pre-construction Monitoring Points', following the baseline methodology (The Lighting Bee, 2023). Measurements would be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.		
14.F - <i>Disturbance to or loss of land or features secured as mitigation</i>	N/A		

for BQ&CSAC bats from previous planning application s or projects			
14.G – Loss, damage, restriction or disturbanc e of a pinch point	It is considered that permeability throughout the site would be maintained, and potential lighting impacts are adequately addressed.		
14.H - Other impacts – e.g. physical injury by wind turbines or vehicles	N/A		

Part E. In-combination impacts

15. List of plans or projects with potential cumulative in-combination impacts

The proposed upgrade of street lighting by Devon County Council along Harepath Road to P4 class, especially at the junction with Harepath Hill has been modelled to show that lux levels along the entirety Harepath Road and bottom of Harepath Hill would be in levels in excess of those considered to impact on horseshoe and myotis bats, i.e., above 0.5 lux. This could act to sever the permeability of bats from the east site to the west site across Harepath Road and result in the contraction of the existing Pinch Point.

22/1522/MRES Land Adjacent Short Furlong Short Furlong Beer (Awaiting decision). Application for approval of reserved matters (Appearance, landscaping, layout and scale) following approval of outline application no 18/1957/MOUT18 - construction of up to 30 new dwellings (including affordable housing provision).

- 21/1782/MFUL Seaton Heights Harepath Hill Seaton (Awaiting decision). Erection of No. 9 x 2-bed and No. 14 x 3-bed and 19 x 4 bed two storey detached holiday homes with associated parking and amenity space.

- 18/2376/MFUL Land North of Kingsholme and West of Coly Road Colyford Colyton (Nondetermination appeal lodged; appeal dismissed). Proposed residential development of 15no. dwellings (10no. affordable) with site access and associated works.

- 22/1846/FUL Land Off Gosling Walk Harepath Road Seaton (Awaiting decision). Construction of 4 no. dwellings.

- 22/1457/MOUT Land at Whitecross Farm Colyford Road Seaton (Application withdrawn). Outline application with all matters reserved for spa facility (to include spa facility/activity buildings, associated outdoor recreation areas; a bar/restaurant/shop), accommodation. alterations to existing access and erection of farm buildings (relocated within site). This application lies directly adjacent to the proposed developments south-east boundary. The illustrative site layout indicates that the western most part of the site will be developed. The key bat flight corridor from the exit point on the southern boundary of the proposed development to Seaton Cemetery/ Seaton Wetlands will be maintained.

The planning applications for the identified developments set out above will also be subject to Habitats Regulations Assessment by EDDC. For each development to be acceptable in isolation, it would be necessary to demonstrate that there would not be an adverse effect on the integrity of the greater and lesser horseshoe bat and Bechstein's bat populations associated with the Beer Quarry and Caves SAC, which would include the delivery of avoidance and mitigation measures as required.

16. How impacts of current proposal combine with other plans or projects individually or in combination	The Proposed Development would have a limited residual adverse effect to carry forward to in combination assessment. Commuting and navigating habitat would be maintained. Foraging habitat would be increased although there is a concern regarding the success of such habitat in the submitted proposal to maintain the Pinch Point in perpetuity. It is reasonable to assume that other planning applications will also be subject to Habitats Regulations Assessment. For each development to be acceptable in isolation, it would be necessary to demonstrate that there would not be an adverse effect on the integrity of the greater and lesser horseshoe bat and Bechstein's bat populations associated with the Beer Quarry and Caves SAC, which would include the delivery of avoidance and mitigation measures as required. In summary, there would be no adverse effect on the integrity of the SAC in-combination with other development likely to come forward.
Part F: Further Information	
17. Compliance with current East Devon Local Plan <i>List relevant environmental policies/ strategies and how this proposal achieves or opposes these policies/ strategies</i>	The site is not allocated for development under Strategy 25 - Development at Seaton of the existing East Devon Local Plan 2013-2031. The proposed site design has minimised fragmentation of habitats in accordance with Strategy 47 - Nature Conservation and Geology.
18. Does the proposal take into account measures agreed at outline or pre-app stages (if applicable)	Yes.
19. Does the proposal take into account Natural England consultation responses, and include suitable measures as identified in the Natural England consultation? (if applicable)	On the whole yes, although comments raised regarding the inclusion of Hedgerow H7 during the pre-application advise have not been carried forward. This was not raised as an issue by Natural England during the approval of the submitted shadow HRA.
Part G. Conclusion of Appropriate Assessment - The Integrity Test	
20. List of avoidance/ mitigation/ compensation measures and safeguards to be covered by condition or	List of avoidance, mitigation and compensation measures, as per section 14: • Construction Ecological Management Plan (CECoMP) • Landscape and Ecological Management Plan (LEMP) • 10 m minimum 'dark corridor' around the development site with a further 10 m landscape buffer zone bounded by hedges and fences backing onto the built development. page 241

planning obligations (Unilateral Undertaking or S106)	• 6 m dark corridor either side of hedgerow H12 • Detailed lighting design at reserves matters stage including light design, house design and layout. • A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations. • Provision of native hedgerows, trees, scrub, and wildflower meadows. • Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting. • A bespoke bat house suitable for use by horseshoe bats. • Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.
21. Applicants conclusion of integrity test.	Light adverse bats are negativity influenced by urban areas and the proposed development of the site would materially change the nature of the site from an undeveloped agricultural landscape to a suburban development. Despite reservations regarding the lack of proposed semi-natural cattle grazed parkland habitat, it is considered that the revised site design which includes the retention of H12 and other proposed measures, if successfully implemented, would be unlikely to result in an Adverse Effect on the Integrity of the SAC.
22. Completed by: Date:	William Dommett 19/07/2024

Appendix 1: Mitigation proposals

Refer to EAD Ecology Ltd (2023) Ecological Impact Assessment and Appendix, The Lighting Bee (2023) Land at Seaton Lighting Strategy V0.4, Landscape Strategy CLPD 093, P01, The Lighting Bee (2024) Land at Seaton – Lighting Impact Review, Concept Master Plan LSD-BSL-ZZ-XX-DR-C 1501-PL-C

Consultations in full:

Technical Consultations

EDDC Landscape Architect
21/11/23

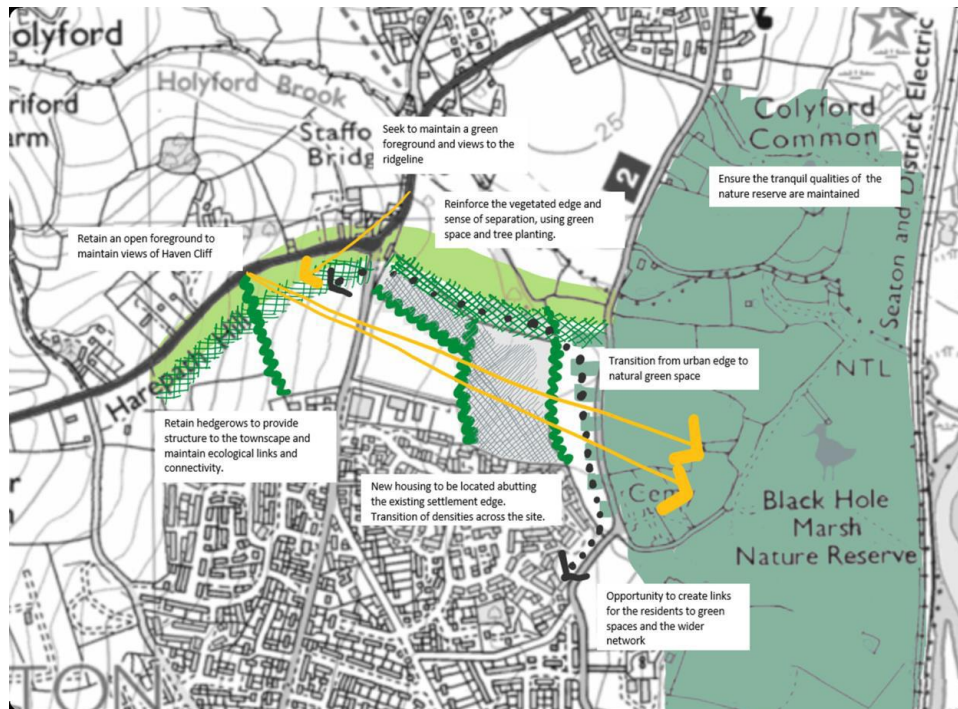
1 This note is prepared in response to the applicant's Response to the Landscape & Green Infrastructure Officer Consultation, recently submitted in further support of the above application.

2 It is accepted that land to the south of the application site is allocated in the current local plan for commercial/ recreation development and that this parcel, together with fields 2, 3 and 4 of the application site, are allocated for mixed use development in the draft local plan as Seat_05 for around 100 dwellings and 2.2 ha employment land. The application is for 130 dwellings which is a 30% increase on the draft local plan allocation for the site.

3 I agree with the overall assessment of sensitivity of the site to housing development as medium within the draft local plan evidence base. However, I consider the susceptibility¹ to vary across the site with fields 2 and 3 having lower susceptibility due to their position adjacent to existing housing or currently allocated employment land, the more urban character of Harepath Road to the west and the well treed hedgerow and woodland parcel to the north, which provides effective screening to views from that direction. Field 4 has a higher susceptibility to development as it retains a strong rural character, is adjacent to Seaton Wetlands and is open to views from Colyford Road/ Seaton Road while development is likely to entail the removal of the species rich hedgebank between it and field 3, as well as construction of a new access from it onto Colyford Road. Furthermore, limiting development to fields 2 and 3 (and land to the south) gives a much better landscape fit in relation to the existing northeastern edge of Seaton and tree and woodland cover to the north. As such I disagree with the draft local plan site assessment that development along the eastern site boundary would have less of a landscape impact than other areas of the site.

4 With respect to the Green Wedge I agree this does not of itself confer a high landscape value. It is also subject to review as part of the draft Local Plan. However, development of field 4 is likely to have a greater impact in consideration of Green Wedge issues than fields 2 and 3 as it is the only part of the site which has intervisibility with the edge of Colyford and is visible from Seaton Road within approximately 200m of the village boundary.

5 The LVIA submitted with the application included as figure 4.10 a plan (copied below) illustrating landscape recommendations '*based on the published analysis and site observations to be considered in the development of the masterplan*'. For the above reasons I concur with the indicated recommendations that development should be concentrated in fields 2 and 3 and that all existing hedgerows should be retained.



Copy of landscape recommendations presented as figure 4.10 in applicant's submitted landscape and visual appraisal

6 Comments justifying the location of the football pitch are noted although there still appears to be potential to move the pitch further away from Harepath Hill to reduce visual and heritage impact which should be explored at detail design stage.

7 LiDAR images have been prepared to represent existing and post development views from Popes Lane and LVA viewpoint 8 from Axmouth Road. The images are presented as panoramas with 90 degree horizontal field of view and need to be viewed in an arc at A1 size to represent actual viewing experience. The images, particularly for viewpoint 8 would have been better presented as single frame with 40 degree horizontal field of view allowing them to be viewed at A3 size at correct scale in accordance with best practice guidance. As LiDAR is very poor at distinguishing between vegetation and buildings the images should also have been supported by baseline photographs of the same views.

8 It is accepted that the site is not visible from Popes Lane itself on the southern edge of Colyford and that views of the site from adjacent properties situated on higher ground to the north are largely limited to upper floor windows.

9 In respect of viewpoint 8, the LiDAR image reflects the development extent shown in the overmarked photograph in my initial landscape response. The likely extent and form of employment buildings has been modelled on the LiDAR image and if they are taken as part of the existing landscape baseline the magnitude of effect of housing development in surrounding fields would be substantially reduced in this view.

10 My statement at para. 4.1 of my original landscape response was not limited to considerations of the green wedge and interrelationship with Colyford but also the impact of development within field 4 on local landscape character and landscape fabric and the visual impact on views from Colyford Road/ Seaton Road. I maintain my objection to this, notwithstanding the applicant's suggestion to limit outer perimeter housing within field 4 to single storey.

11 I consider proposed development within fields 2 and 3 to be acceptable in principle in terms of landscape and visual impact, while proposals for the sports pitch in field 1 could be accommodated satisfactorily subject to detail layout and design considerations.

EDDC Landscape Architect
22/8/23

1 INTRODUCTION

This report forms the EDDC's 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.

2 SITE DESCRIPTION & CONTEXT

The site is situated to the northern edge of Seaton and comprises five fields of varying size totalling 10.4 ha in all (refer figure 1 below). Field 1 lies to the west of Harepath Road and south of Harepath Hill. The remaining fields are situated between Harepath Road and Colyford Road. New vehicular access points are proposed off Harepath Road and Colyford Road.



Housing development is proposed within fields 2, 3 and 4. Only about half of field 1 is proposed to be developed as a football pitch with associated pavilion and car park situated towards the northeast field corner adjacent Harepath Hill and Harepath Road. Fields 1-4 are roughly rectangular, bounded by native hedgebanks. Field 5 is a small irregular parcel with a northerly aspect situated to the north of field 4 and bounded by Stafford Brook to the north and woodland to the southwest.

With the exception of field 5 there are no field trees. The southern boundary of fields 1, 3 and 4 and northern boundary of field 2 contain notable mature trees predominantly oak with some ash and there are poorer quality trees within the hedgebanks to the northeast

corner of field 1. Otherwise boundary hedge banks are generally treeless. A triangular parcel of mixed woodland is a prominent landscape feature lying to the north of field 3 and southwest and west of fields 5 and 4 respectively.

The site is generally level, lying at about 25m AOD but field 1 rises to the west with a slope of approximately 1:11 up to approximately 37m AOD within the proposed developed area. There are subtle changes in site levels particularly within field 4 where the ground rises from its southern and northern boundaries to a low ridgeline extending across it from the southern edge of the adjacent woodland.

The urban envelope of Seaton lies to the south comprising recent development for housing and employment, partially screened to its open edge by mature trees and hedgerow. Surrounding land to the east, north and west is predominantly agricultural with scattered residential development particularly to the north side of Harepath Hill, including the grade II listed Harepath Farm immediately opposite the proposed sports pitch in field 1. Seaton Wetlands nature reserve lies 300m to the east and beyond that is the Axe Estuary. The southern edge of Colyford lies some 360m north of field 2 and 530m north of the northern limit of proposed development shown on the masterplan in field 4.

Notwithstanding adjacent development to the south, both the site and Colyford Road to the east, retain a strong, open, rural character. Harepath Road itself has a more urban character where it passes between fields 1 and 2, due to the presence of footways to either side, the visibility of housing and industrial units, street lighting and overhead medium voltage power lines.

There is no public access within the site. National Cycle Route 2 (NCR2) follows Colyford Road along the eastern site boundary. An off-road section follows the western edge of Seaton Wetlands. There are no public rights of way in the vicinity from which the site is visible with the exception of Colyton footpath 24 from which there is a partial view of fields 1 and 3 at its eastern end adjacent to the B3172.

There are extensive views out from the site across the Axe estuary to the prominent land mass of Hawksdown Hill and Haven Ball within the East Devon AONB. Views to the north and northeast from fields 2 and 3 are constrained by boundary woodland and hedgerow but there is a panoramic view from higher ground within field 4 to the north and north east towards Colyford and extending to the AONB beyond. Views to the west and northwest are limited to some 500m due to a combination of landform and vegetation cover and to the south by the urban edge of Seaton.

Eastbound travellers on Harepath Hill have direct views over the site over a length of about 500m as it descends from the junction with Barnards Lane to Harepath Road, in which fields 1, 2, 3 and 4 are visible. Westbound travellers have occasional, glimpse and partial views of the site along the A3052 between the Axe bridge and the junction with Harepath Road, particularly on the approach to the junction, where field 1 and the edge of field 2 are visible through the boundary vegetation. Travellers on the B3172 Axmouth Road to the east of the estuary have occasional views over the site from gateways and over sections of low roadside hedge in which field 1 and parts of fields 2, 3, and 4 are visible. There is a long distance view over the site from Musbury Castle 4km to the north in which the site can be seen in the context of the urban edge of Seaton.

Principal visual receptors are likely to be:

- Residents of dwellings edging the development fields to the south and along Harepath Hill.
- Residents on the southern edge of Colyford particularly Popes Lane.

- Motorists, cyclists and pedestrians along the A3052 between the Axe bridge and Barnards Hill Lane who will have occasional, partial and glimpse views over the site on the approaches and closer views in the vicinity of the junction with Harepath Road and extending along the frontage of field 1.
- Motorists and cyclists along Colyford Road who have close views over field 4
- Motorists, cyclists and pedestrians along Harepath Road where it passes between fields 1 and 2.
- Motorists and cyclists along the B3172 Axmouth Road to the east side of the estuary.
- Visitors to Axmouth particularly the waterfront picnic area.

Visitors to Seaton Wetlands and users of the tramway and off-road cycle path have very restricted, if any, views to the site due to intervening landform and vegetation cover. The East Devon AONB boundary lies 500m to the east of the site. Fields 1, 2 and 5 are wholly within the Seaton-Colyford Green Wedge as defined in the Local Plan. The northern third of field 3 is also within the Green Wedge.

3 REVIEW OF LANDSCAPE RELATED INFORMATION

3.1 Review of LVIA

Methodology

The methodology generally follows best practice guidance as set out in Guidelines for Landscape and Visual Impact Assessment 3rd Edition.

Presentation of viewpoint photographs

No information is given on the technical aspects of photography and presentation of images. Images are presented in varying sizes and formats, mostly as wide panoramas, with no specified horizontal field of view. This is not in accordance with LI guidance note 06/19 - Visual Representation of Development Proposals - which recommends, where possible, that photographs are presented at A3 size with 40 degree horizontal field of view (HFoV), and which can be supported by up to two 60 degree HFoV images to show context.

Baseline assessment

The verified visual envelope, fig. 2.11, should have extended northwards to the A3052 between Boshill Cross and Colyford and up to the southern edge of Colyford.

Sensitivity of landscape and visual resource

The LVIA assesses the site and its context as being on the low to midway point on the sensitivity spectrum for the development proposed. While this may be correct in respect of fields 2 and 3 which are low lying, with thick vegetation to their northern boundaries, fields 1 and 4 are more prominent and open to views from the north and east. Field 1 has an association with the grade II listed Harepath Farm and forms part of its setting, while field 4 has intervisibility with Colyford and overlooks the Seaton Wetlands. A higher sensitivity should therefore be ascribed to fields 1 and 4 than fields 2 and 3. This is recognised in figure 4.1 of the LVIA - Landscape and Visual Recommendations - which indicates that built development should be restricted to fields 2 and 3, retaining the existing hedge bank between field 3 and 4 and leaving field 4 undeveloped as a transition from urban edge to natural greenspace as part of the proposed mitigation measures.

In the assessment of visual sensitivity summarised in table 3.1 of the LVIA, consideration should have been given to views from Colyford Road, which forms part of the NCR2. Due to its strong rural character in the vicinity of the site, the views it affords over field 4 and its designation as a National Cycle Route, sensitivity of travellers along it should consequently have been considered mid-high. The visual sensitivity of residents living on the southern edge of Colyford who have views over the site should have been considered and assessed as high.

Magnitude of landscape change

Table 5.1 summarises the assessed Magnitude of Landscape Change for identified receptors. The LVIA findings that that the proposals are likely to have negligible or no effect on the character and setting of the AONB are accepted.

While the mid-high magnitude of change of development on the landscape of the site and its immediate environs is accepted, the assessment of the change as neutral is not as, for fields 1 and 4 proposed development is likely to have an adverse effect on local rural character which they currently contribute positively to, as well as respectively, the setting of the grade II Harepath Farm and Seaton Wetlands.

In considering the effects on existing trees and hedgerow, table 5.1 of the LVIA states that *'there will be a partial loss of a short section of hedgerow to accommodate the access points to the site.'* It neglects to mention that the accompanying Landscape Strategy Plan and Illustrative Masterplan indicate the wholesale removal of the existing species rich hedgebank between fields 3 and 4, totalling 233m.

In respect of new landscape resources to be provided by the development as identified in table 5.1, it is accepted that there is a generous green infrastructure provision within the proposals. However, references to retaining a fish lake and possibly also the proposal for orchards, seems to be a carry-over from some other assessment as there is no fish pond on site and orchards are not a characteristic feature of the local landscape.

Magnitude of visual change

Due to a combination of distance and intervening landform and tree cover it is accepted that visual effects on receptors for viewpoints 1-7 are likely to be negligible. From Axmouth northwards along the B3172 Axmouth Road, including LVIA viewpoint 8, the effect of development becomes much more noticeable and will appear as an uncharacteristic, narrow swathe of built form interrupting the open, broad field pattern descending from Harepath Hill down to the estuary, as highlighted in the extract from the LVIA photo viewpoint 8 below resulting in an adverse magnitude of effect post completion in the mid-high range of the spectrum.



Figure 1 - Extract from LVIA photo viewpoint 8

The LVIA assessment of effect for viewpoints 9-13 is accepted. From viewpoint 14 proposed development would cut across views over the estuary to Axmouth and in view 12 would be likely to block view to Haven Hill resulting in adverse effect in the mid-range of the spectrum.

Views from Colyford Road have not been considered (refer photo below taken from entrance to cemetery and Seaton Wetlands), but are likely to have an adverse impact in the medium-high range of the spectrum for travellers along it.



Figure 2 - View looking north over field 4 from south of entrance to Seaton Wetlands and cemetery

The view northwards from the ridgeline in field 4 shows the visibility of houses on the edge of Colyford. Residents of these properties are likely to have a clear view of development within field 4 that is likely to have a magnitude of effect in the medium-high range of the spectrum at completion.



Figure 3 - View from southeast corner of woodland in field 4 looking northwards towards Colyford

3.2 Site masterplan

Recommendations for landscape mitigation and enhancement illustrated in figure 4.1 of the LVIA for treatment of the eastern edge of the proposed development have not been followed in the illustrative masterplan which extends built development into field 4. As noted above, this field has a high sensitivity to development due to its prominence, strong rural character, its role as setting for the wetlands and estuary and the consequential impact of its development on the designated green wedge. Limiting the extent of built development to field 3 would provide a better landscape fit picking up the line of existing development to the south and extending it to the southeast corner of the woodland to the north.

The proposed sports pitch is situated close to Harepath Hill where it would introduce an urbanising influence along the rural edge of the development that is likely to be detrimental also to the setting of Harepath Farm. Repositioning it closer to the southern field boundary would allow a softer transition from countryside to urban edge to the northern boundary.

3.3 Site access

Access provisions should include for the creation of a 3m width cycle path connecting from the southeast corner of the development through the southern end of field 4 to the existing greenspace to the south and from there for provision of a safe crossing point of Colyford Road for cyclists to connect on to the Seaton-Colyford off-road cycle path currently under construction. This is not reflected in the proposed Colyford Road access detail dwg. no. 1908-002 D which should be amended to show the path to the south as indicative subject to detail design. Visibility splays for the Colyford Road access are based on a 38mph road speed. Consideration should be given to extending the 30mph limit along Colyford Road which would reduce the extent of visibility splay and hence hedge removal required to form the access.

The access point onto Harepath Road (dwg. no. 19008-001 Rev A should include for a 3m width shared use path to the south side.

There is potential for a bridleway link to be provided along the northern site boundary to connect from Harepath Road to Seaton bridleway 7 which would greatly improve site connectivity with the wider rights of way network. This is hinted at in the landscape recommendations fig. 4.1 but not included in the landscape strategy and illustrative masterplan.

3.4 Other matters

Landscape management should extend to cover all of the existing hedgerow boundaries within fields 1-5 with appropriate gapping up and reinforcement and the positive management of the woodland between fields 3 and 5 to ensure that it provides effective screening and contributes positively to landscape character and biodiversity value in the long term.

It should be noted that although the northern boundary hedge to field 2 appears tall and well treed and currently provides good screening to views from the north, much of this comprises outgrown elm which becomes prone to Dutch Elm disease and dies back once stems reach 5m or so in height. There are also a number of mature ash within the hedge line which are showing signs of extensive ash die back and which are also likely to die in the short-medium term resulting in significant loss of screen cover which proposals should address.

4 CONCLUSIONS & RECOMMENDATIONS

4.1 Acceptability of proposals

For the reasons noted above the application as currently proposed is considered likely to give rise to unacceptable landscape and visual impacts and by extending development onto prominent land intervisible with Colyford is also likely also to contribute to settlement coalescence contrary to the aims of the Green Wedge designation.

Introduction

This report forms EDDC's Ecology's response to the submitted Technical Note 231013/P984/TN1 from EAD Ecology in response to the EDDC Ecology comments regarding planning application 22/2781/MOUT.

Habitats Regulation Assessment (HRA)

1.1.3 notes that EDDC has not fulfilled its requirement under the Habitats Regulations to undertake a Habitats Regulation Assessment (HRA) for the proposal. It notes the Natural England has not objected to the proposals based on the submitted shadow HRA (sHRA) subject to planning conditions for a Construction Ecological Management Plan (CECoMP); a Landscape Ecological Management Plan (LEMP), a detailed Lighting Assessment to ensure proposed dark corridors are maintained; and a Post-construction Monitoring Plan, extending to 10 years following completion of the development.

A HRA is currently being produced by EDDC and will be submitted to Natural England for comment.

Street lighting along Harepath Road

The submitted sHRA and Appropriate Assessment (AA) assumes that Devon County Council (DCC) highways will upgrade the street lighting to P4 class along Harepath Road within 12 months (prior to March 2024).

The submitted lighting strategy states (Section 5.3) requirements under Section 278 of the Highways Act 1980 requires the upgrade of the lighting along Harepath Road to be lit to P4 class.

DCC head of planning, transportation, and environment official comment on the application (12/09/2023) states:

The Environmental lighting strategy for this project is based upon the existing benchmark of Harepath Road streetlights being LED, as this was going to be completed this financial year by Devon County Council (DCC), unfortunately due to resources, there is now no set completion date for this conversion.

Further correspondence from Andy Ware Lighting Engineer for DCC stated on 18/09/2023:

There aren't any immediate plans to replace the existing DCC old style SON lanterns along Harepath Road with LED's at the present although this will happen at some point in the future & where the existing SON lanterns fail, these will be replaced with LED. The new LED lanterns that DCC use are full cut-off, Warm White 3000k & will be controlled via DCC's CMS with the streetlights out of the built up area of Harepath Road on part night operation.

However the Harepath Hill end of Harepath Road has been under discussion recently due to the proposed Baker Estates development where an area has been highlighted as a crossing point for bats. The lighting designer employed by Baker Estates is looking at reduced lighting / lower colour temperature LED's for this as part of the Lighting Strategy for the site.

The most recent correspondence (02/11/2023) from Andy Ware at DCC has stated that DCC has not had any further correspondence regarding the street lighting from the developer, such as measure to reduce lighting impacts at the northern end of Harepath Road. He did note that the required infrastructure to supply the central management system (CMS) has been installed in Seaton but could not provide any confirmation of time scales for replacement of the street lighting, *possibly* starting within 6-months but no clarification on whether it would be undertaken.

If the lighting is not replaced by DCC then this responsibility would fall to the developer, i.e., Baker Estates. The most recent correspondence from DCC would indicate the replacement of the street lighting is likely to be within the predicted time frame as used for the baseline assessment in the sHRA and EclA impact assessments.

No details regarding a reduction of colour temperature and/or reduced lighting at the northern end of Harepath Road by Harepath Hill have been provided, either by DCC or the developer. The proposed maintenance schedule would increase the lux levels along Harepath Road to above those considered to have an adverse effect on light adverse bat species, include all species associated with Beer Quarry and Caves SAC. It is possible that some bats may still cross the road with the increase light levels and that there would be a dark (<0.5 lux) area on the northern extent of Harepath Hill. However, additional measures to attenuate lighting at the northern extent of Harepath Road could have a significant and important impact, through increasing the dark corridor/permeability of the landscape for light adverse bats.

Habitats

3.1.2 - In terms of the removal of Hedgerow H12 it is stated that the concept design considered the retention of all hedgerows, *where possible*. The removal of H12 is stated as being unavoidable due to other development constraints, primarily accommodating the developers preferred quantum of development.

Policy 85 of the East Devon Local Plan 2020 to 2040 Preferred Options Regulation 18 Consultation Draft Plan (Current Draft - Autumn 2022) Protection of irreplaceable habitats and important features states that *“impacts for the removal of Important Hedgerows should be avoided and where they are proposed for removal, justification for impacts should be provided in full”*.

It is accepted that considering proposed hedgerow provision using the Biodiversity Metric 3.1 there would be a predicted 24.7% gain in hedgerow units on the site. It is also stated that the proposed hedgerow creation would maintain movements corridors of bats around the site and that Natural England provided no objection to this.

It should be noted that a newly planted hedgerow can take in excess of 5-10 years to fully mature and would lack the soil biota of a historic hedge bank. Approximately 23% of hedgerow decline, i.e., loss, has been recorded in the UKⁱ and the importance of hedgerows has been established, especially for broad wing bat species such as horseshoe bats which activity avoid open habitats, as well as the multiple ecosystem services they provide. Best practice management for existing established mature hedgerows for bats is considered on a cutting regime between 3 and 10 yearsⁱⁱ.

It is stated that the landscape strategy would provide permeability for bats around the site through the provision of dark corridors and a landscape buffer. This is considered a reasonable position in terms of bat movements over the site.

H12 offers a direct commuting route from the south-east corner of the off-site adjacent woodland to the established bat crossing point towards Seaton Marshes Local Nature Reserve (LNR), an extensive area of grazing marsh and high-quality bat foraging habitat.

Bats already habituated to using H12, including lesser horseshoe bats from the nearby maternity roost, would either have to commute towards the east and south, along Colyford Road or fly around the west and southern boundary of the site to get to this location. It is accepted that Colyford Road would remain unlit. However, the access point to the site would be subject to vehicle access, which can cause severance of commuting routes, or bats would have to follow the west and southern boundary. In addition, research has shown that low flying juvenal bat species, i.e., horseshoe bat species, are particular at risk of mortality and avoid roadⁱⁱⁱ which could indicate the lower levels of bat activity recorded on hedge H10 along Colyford Road.

Given that most of the site is arable, and the hedges are heavily managed, this would further indicate the hedges importance as a foraging resource, especially for the nearby lesser horseshoe bat maternity roost. Nearby linear features are considered important especially during periods of lactation, as female bats travel shorter distances to forage and it has been demonstrated that increasing these distances can negatively impact on juvenile growth and survival^{iv}.

In my view, given the historic nature of the H12, its confirmed used as a commuting route used by both lesser horseshoe and myotis bats for which Beer Quarry and Caves SAC is

designated for (and numerous other protected and notable species), and the intrinsic value of historic hedgerows, it should be retained and integrated in the site design.

3.1.3 - It is accepted that static bat detectors were placed at the southern and northern terminus of H12 and the hedge was subject to walked transects and that Natural England has not challenged the survey approach, evaluation or assessment.

I would agree that significant survey effort has been undertaken and it has identified the importance of H12 as a commuting and foraging resource, especially for lesser horseshoe bats in all seasons. A previous survey of the site (Bayley & Reardon, 2018) identified 12 different bat species at the central part of H12.

Despite comments regarding the locations of deployment of static bat detectors within H12 and the limited deployment period on hedge H7, no issue was raised regarding insufficient survey effort, timing, or methodology, i.e., it was not requested to undertake updated surveys or argued that survey effort was a reason for refusal.

3.1.3-3.1.5 - In my view, H7 has been shown to be used by all qualifying SAC bat species (and barbastelle bats) and could provide an important commuting route towards the west, under the current street lighting regime. The site design proposes the northern boundary as a commuting route. However, this terminates at an existing residential dwelling with an external security light, of which there is no control by the applicant and could have an adverse impact on commuting bats, e.g., if the light is left on. I accept that the southern boundary is also allocated for employment use and this will also require mitigation, such as avoidance of lighting on this hedge.

The planned maintenance of lighting along Harepath Road would raise lighting levels above 0.5 lux along Harepath Road at the termination of H7 and H8. Therefore, additional light attenuation measures at the northern extent of Harepath Road could be vital to ensure the permeability of bats from east to west.

It is accepted the concerns raised by Natural England were not carried over from their pre-application response, but there has been a change of staff at Natural England assessing the application and it may be that the different advisors have taken a different viewpoint.

3.1.6 - Regarding the proposed development exceeding outside of the allocated site boundary it is stated that it is acceptable for parts of the mitigation strategy to be delivered outside of the emerging allocation boundary for Policy Seat_05 and importantly the built development is within the allocation boundary. It is also stated that the emerging policy regarding the site within the East Devon Local Plan 2020 to 2040 Preferred Options Regulation 18 Consultation Draft Plan (Current Draft - Autumn 2022) is a material planning consideration.

As part of the evidence base and supporting documents relating to the draft local plan, Appendix 2 Site Selection – interim findings at Teir One and Teir two Settlements states for Seat_05 allocation”

Significant ecological impacts relating to bats will need to be addressed in bringing the site forward, specifically, the constriction of the bat pinch point located between the northern edge of Seaton and Colyford. The development of the entire site is unlikely to be acceptable from a Habitats Regulation Assessment (HRA) standpoint, but a smaller part of the site, along the southern and/or eastern boundary, would have less of an ecological and landscape impact, and could be considered further.

In order to ensure no adverse effect on the integrity of the Beer Quarry Caves SAC, suitable avoidance/mitigation/compensation measures would need to be identified. At this preliminary stage, it is considered that these would consist of a sensitive lighting plan (including sensitive site design, to ensure light levels of no more than 0.5 lux at the northern development boundary) and compensatory bat foraging and commuting habitat within the remainder of the proposed allocation site (to secure and enhance the pinch point in perpetuity).

Policy 86 – Habitats Regulations Assessment of the draft local plan *Protection of Beer Quarry Cave SAC bat pinch points between Seaton and Colyford, and between Colyford and Colyton* also states:

In order to protect the pinch points and secure their long-term suitability for the SAC bat species, planning permission will not be supported for any development proposals within the pinch points, and the council will not support any applications which reduce the quality of the bat foraging and commuting habitats within these pinch points. The objective is for these pinch points to be retained in perpetuity and enhanced where possible in order to guard against potential future development pressure.

The development site is located within a defined Pinch Point for lesser horseshoe and greater horseshoe bats associated with Beer Quarry and Caves SAC. It is accepted the site is within a preferred location for development in Seaton within the draft local plan. However, the submitted scheme is proposing mitigation measures outside of the allocation site boundary and is encroaching further into an existing area of open countryside, which has been demonstrated as of high value to bats include all associated with Beer Quarry and Caves SAC, and long-eared, and barbastelle bats.

In my view, given that light adverse bats are negatively influenced by urban areas and the proposed development of the site would materially change the nature of the site from an undeveloped agricultural landscape to a suburban development, notwithstanding the proposed lighting mitigation measures in accordance with DCC guidance^v, that the proposed open space habitat is not an equivalent or better provision of bat foraging habitat. There is a lack of clarity/research of how managed public open space provision is of high value for foraging and commuting bats, in comparison to the large amount of published data regarding the benefit of managed semi-natural habitats, such as non-wormed cattle grazed permanent pasture and parkland habitat and woodland/woodland edge and riparian habitat provision.

Nesting birds

3.1.7 - The provision of 30 tree bird boxes is welcome, as is the proposed provision of one bird box per dwelling and agree this could be detailed appropriately within a CECoMP and LEMP.

Dormice

3.18-1.19 - Despite my concerns regarding the removal of Hedge H12, the proposed compensation measures for dormice including new hedges, scrub, and woodland planting, in combination with dormouse nest boxes, is considered acceptable once these habitats have fully established. It is also agreed that there would be some element of an existing cat predation from the nearby development and these impacts are hard to quantify.

Comments regarding additionality and dormouse habitat provision have also been adequately addressed.

Reptiles and amphibians

3.1.10 - I have no issue with the reptile survey which was undertaken in accordance with survey guidelines. Even if a low population of grass snake was present, e.g., associated with the riparian habitats, proposed mitigation and compensation measures are considered acceptable.

3.1.11 - Further details have been provided regarding attempting to survey the adjacent woodland and how the limitations of the restricted access were mitigated for, e.g., using binoculars.

3.1.12 – No issues were raised previously with the proposed reptile and amphibian mitigation.

Bats

3.1.13 – The valuation of the site was stated as being “of at least of National importance for bats” primarily based on the assemblage of bat species in accordance with Table 3.3 of the Bat Mitigation Guidelines 2023^{vi}. These guidelines also state that that valuation of bat foraging and commuting habitat cannot be based on a matrix approach.

I am in agreement with EAD Ecology that the site is of International importance for bats, for reasons previously stated including its use by all Annex II bat species, all qualifying species associated with Beer Quarry and Caves SAC, use by grey long-eared bats, and the high assemblage of bat species found on the site.

In my view, the surveys have demonstrated that the habitats on the site, especially the hedges are classified as ‘functionally linked-land’, i.e., “*it provides a role or ‘function’ that land beyond the boundary of a European site might fulfil in terms of supporting the populations for which the site was designated or classified*”^{vii}. This is supported by the detailed survey work confirming use by all qualifying bat species, and proximity to a Key maternity roost within 150 m of the site.

3.1.14 – As detailed in response to paragraph 3.1.6, I take the view that the mitigation and avoidance strategy for bats should conform to the site allocation boundary as shown within Policy Seat_05 of the emerging local plan, as evidence by the accompanying site selection document and given that part of the proposed mitigation measures are exceeding outside of the built up area boundary (BUAB) into land designated as a green wedge.

As impacts and a contraction on the SAC Pinch Point would be irreversible, it is considered that any proposed mitigation measures outside of the allocation site boundary should be of the highest value for foraging and commuting bats, based on published scientific data regarding habitat management, to provide confidence that large scale development within the Pinch Point is adequately compensated for in perpetuity, without risk of long-term decline or inappropriate management.

3.1.15 – It is accepted that the landscape strategy and recommendations for habitat creation would provide a diverse range of habitats and likely a betterment for some species, such as pipistrelle, and serotine bats which are more tolerant within semi-urban environments. It is also commonly established that the urbanisation, removal of linear features, and lighting all have a negative influence broad winged species including horseshoe, some myotis, barbastelle, and long-eared species.

I am still of the view, that the introduction of public access and the development of the site would reduce the value of habitats for light adverse and broad wing species, in comparison

to farmland without public access. I would agree there is a broad scope to enhance the existing site, given the intensively farmed nature of the site, such as allowing hedges to grow tall with an infrequent cutting regime, increasing field margins, change to pasture from arable. However, I am also of the view that given the highly sensitive nature of the site, that any mitigation and compensation measures provided are of the upmost quality for bats (and other ecological receptors).

To my knowledge, there are no studies demonstrating how a housing development has provided a betterment (in comparison to semi-natural habitats) of bat foraging and commuting habitat for horseshoe and other rare bat species, e.g., such as a demonstrable increase in invertebrate abundance/foraging and commuting activity.

It is noted that Natural England has not objected to the development of the site, subject to appropriate planning conditions.

I hold the advice from Natural England in high regard and would agree with all their recommendations in terms of requirement for mitigation including a CEoMP, LEMP, Lighting Assessment, and monitoring regime for the development of the site.

I have participated in harp trapping and mist netting at Beer Quarry and Caves SAC and the surrounding landscape (including adjacent to the site), have acted as an authorised agent on project licence 2014-5176-SCI-SCI, monitoring flight lines and recording species within 4 km of Beer Caves SAC. I have also previously undertaken surveys of the site and have ten years' experience as an ecological consultant specialising in bats in East Devon. Therefore, my assessment is based on a good understanding of the landscape and it's important for bats.

I would also note the ecological survey work, Ecological Impact Assessment (EcIA), sHRA, and lighting strategy are of a high standard, and I have limited objections overall. However, as the Ecology Officer for the district my role is to provide objective appraisals of development proposals in terms of biodiversity, based on the best available scientific data and professional opinion. I am not against development per say and consider that measures must be proportional to the impact.

The location of the site is currently one of the most sensitive areas for bats in East Devon likely to be subject to development pressure, being one of two identified Pinch Points for SAC bats and within a Core Sustenance Zone for the Endangered grey long-eared bat. I consider it important to hold it to the highest account as any impacts from the development of the site will be irreversible.

3.1.16-3.1.17 – It is agreed that any long-term management of the site would need to be informed by a LEMP.

It has been suggested, should EDDC consider it necessary, that public access could be excluded from the area in the north-east adjacent to the woodland through a planning condition and its management, including proposed conservation grazing, could be set out within a LEMP. It is noted in the response that this is not considered to be required to make the avoidance and mitigating strategy for bats acceptable.

In my view, given the proximity to the Key maternity roost, the uncertainty of the value of the woodland (which has not been surveyed) and lack of control of this woodland, and for other reasons outlined, the provision of high quality semi-natural bat foraging habitat is required, to provide certainty that the development of the site is adequately compensated for, and to ensure that no further contraction of the Pinch Point between Seaton and Colyford.

The vital importance of the adjacent off-site woodland, area to the north-east, and around the Stafford Brook was raised during the previous planning appeal^{viii} for the site, with Natural England commenting at the time:

“The area of existing plantation woodland, the field to the north-east, and the area proposed for woodland planting north of the Stafford Brook are not within the redline of the planning application but management and enhancement of these areas needs to be secured to deliver an acceptable level of mitigation.”

Although, it would be possible to exclude this area and detail its management of semi-nature habitat, the submitted proposal does not include this, for example including a SUDS, so the submitted scheme would be in contrary to this.

It is agreed that public access from the site to the off-site wood could be deterred through fencing, planting, and other measures that could be detailed within a LEMP.

Community football pitch, parking, and welfare facilities

3.1.18 - The Technical Notes states that a planning condition would be sufficient to guarantee that no lighting is provided/installed at the proposed full sized football pitch.

The submitted planning statement (Collier, 2022) refers to the requirement of Seaton Town FC for a full-sized pitch and modern facilities and cites the East Devon Playing Pitch Strategy as material evidence for its provision. This East Devon Playing Pitch Strategy notes the aspiration of the Seaton Town for a floodlit 3G pitch, thus confirms that there is a desire for floodlit facilities.

Given it is proposed to provide a purpose-built full-sized football pitch (of which there is a recognised requirement) with modern facilities I am still of the opinion that there will be a demand for flood lighting this facility as no alternative flood lit proposals are suggested that would be delivered in line with Seaton Town FCs ambitions and consideration of the FAs requirements for floodlit facilities.

I am also still of the opinion that the proposed location of the football pitch would be better located towards the existing built form of Seaton rather than in the far east of the site adjacent to Harepath Hill (a confirmed SAC bat commuting route) and opposite the likely bat crossing point from the east part of the development site. It should also be noted that the southern boundary of the west site is also an important commuting route, and any development proposal would need to maintain this corridor.

3.1.19 - I accept that the proposed landscaping around the proposed pitch *could* offer a betterment in bat foraging habitat, in comparison to the existing arable habitat, subject to suitable planting and management. The playing pitch is still considered to offer a negligible foraging resource and likely subject to high levels of nutrient input and potentially pesticide use. It is also accepted that arable habitat is also likely to be subject to these management processes.

Subject to no lighting, appropriate habitat creation, and long-term management the existing location/design could offer some east/west permeability for bats notwithstanding comments regarding the upgrade of street lighting and potential impacts on bats crossing Harepath Road.

Biodiversity Net Gain (BNG)

3.1.20 - As highlighted by the Technical Note, the application is supported by calculations undertaken using the Biodiversity Metric 3.1, not 3.0.

3.1.21 - It is noted that BNG is not currently a policy, or a mandatory requirement and measures have been proposed to enhance the wetland habitat area and these measures are not quantifiable within the metric. It is also noted the proposals are demonstrating a net gain in excess of 20% for both habitats and hedges based on the submitted outline landscape plan.

3.1.22–3.1.23 - The Technical Note has addressed comments regarding additionality and dormice. Previous comments suggested the submission of two metrics could be an option of demonstrating additionality but was not specifically requested. I am satisfied that additionality for dormice has been addressed.

3.1.24 - In terms of the hedgerow BNG condition assessment, I am still of the view that a precautionary approach to predicted condition assessment should be assigned, especially with habitats in the public realm or where long-term management/intervention measures are based on covenants of sale that in reality are extremely hard to enforce.

It is noted that changing the proposed condition assessment from 'Good' to 'Moderate' would still achieve a predicted net gain of greater than 20% for hedgerow provision.

Other ecological receptors

3.1.25 - As detailed in my initial response, I have no objection (other than points raised regarding bats) to the proposed ecological mitigation and enhancement measures, subject to successful implementation and these could be covered by planning conditions.

I would re-iterate the importance of any drainage strategy to ensure there was no increase in run off or risk to the Stafford Brook and connecting habitats, i.e., Seaton Marshes.

Shadow Habitats Regulation Assessment

3.1.26-3.1.27 – I am largely in agreement with the submitted SHRA and its conclusions. There has been inconsistencies regarding proposed street lighting along Harepath Road since the SHRA was produced with changes in position regarding the upgrade of the lighting.

It is accepted based on the latest DCC correspondence that the SHRA and assessment/conclusions regarding the street lighting baseline is acceptable. However, it is also noted there is still a lack of detail or engagement over additional attenuation measures at the northern extent of Harepath Hill which could provide a benefit for SAC bats.

I am of the view that there is uncertainty regarding potential effects of the development from the lack of high value habitat provision for bats, the lack of inclusion of the adjacent woodland and its long term management, and given the potential indirect effect of the upgraded street lighting that effects could be significant.

It is accepted that absolute scientific certainty can never be demonstrated, and 'practical' scientific certainty when assessing potential significant effects in combination with strict monitoring and adaptive mechanisms can be relied on. The proposed monitoring scheme is proportionate and measures such as designing out lighting impacts in line with current guidelines. However, there is also a level of published scientific data on the benefits of semi-natural habitat provision for bats, i.e., providing certainty in their effectiveness. Given that once the site is developed, impacts are likely to be irreversible and adaptive measures could become hard to rectify any adverse effects.

EDDC: Conclusions and recommendations

3.1.28 - Pending further comments from Natural England on the revised HRA, my view is that the following offer reasons for refusal:

The site is not within the existing East Devon Local Plan 2013-2031 allocation boundary.

The proposed site design has not minimised fragmentation of habitats and there are questions whether the integrity of a European designated site would be maintained in contrary to Strategy 47 - Nature Conservation and Geology.

In terms of the draft East Devon Local Plan 2020-2040 policies:

There is insufficient detail/justification provided regarding the proposed removal of 220 m of Important Hedgerow in accordance with Policy 85 Protection of irreplaceable habitats and important features. This is also supported by Strategic Policy 23 – Seaton and its future development, where site Seat_05 is allocated for around 100 dwellings, so would appear there is scope to reduce the quantum of housing in line with the local plan and retain the hedge.

The submitted scheme is in contrary to Policy 86 – Habitats Regulations Assessment of the draft local plan *Protection of Beer Quarry Cave SAC bat pinch points between Seaton and Colyford, and between Colyford and Colyton*, in that this is a development within an identified Pinch Point, there is a potential reduction in the amount and quality bat foraging habitat, there is potential contraction of the Pinch Point, and the objective of enhancing the Pinch Point in perpetuity is not guaranteed.

Policy 96 Location of facilities for sport and recreation, open spaces and allotments of the draft local plan requires playing pitches to be within or adjoining built-up areas. The proposed location is within the BUAB but is located at the northern extent away from the existing build form.

3.1.29 – The proximity of the grey long-eared bat maternity roost, one of ten in the UK, has been acknowledged. It is stated that the majority of proposed habitat loss will be arable habitat, which is of lower importance to grey long-eared bats, which are primarily associated with unimproved grassland and edge habitats, such as broadleaved woodland edge. It also noted that hedgerow margins were limited, indicating the importance of the existing hedges on the site for grey long-eared bats.

3.1.30 – It is accepted that the provision of dark corridors, landscape buffers, and proposed habitat planting would provide habitat for grey long-eared and other bat species. The provision of new riparian woodland and scrub adjacent to the Stafford Brook is welcome, as is the provision of the proposed bat house which would provide habitat for grey long-eared, and other species including qualifying species associated with Beer Quarry and Caves SAC.

Given the scarcity and risk of extinction posed to grey long-eared bats in the UK, and given that site-level management in combination with landscape scale restoration is recognised as a measure to successfully conserve bats in an agricultural landscape through the restoration of semi-natural habitats and reduction of areas of intensive agriculture^{ix}, e.g., arable production, I am still of the view that the area to the north-east adjacent to the woodland as well as the area around the Stafford Brook (and ideally the woodland) be managed as semi-natural habitat, to future proof the location for grey long-eared (and other) bats. This is also in accordance with Lawton principles^x, the Environment Improvement Plan (EIP23)^{xi}, and previous comments made by Natural England.

3.1.31 – It is accepted based on the submitted proposals, the outline plan would achieve a net gain in excess of 20% for both habitats and hedgerows and that details regarding

additionality have been satisfied. It is also accepted the BNG will become a mandatory requirement and key tool for assessment of development proposals and is also a detailed within the EIP23 as a mechanism for enhancing biodiversity within development proposals.

In accordance with Principle 3^{xii}, the metric is not a complex or comprehensive ecological model and is not a substitute for expert ecological advice. Principle 5 states the metric is designed to inform decisions in conjunction with locally relevant evidence, expert input, or guidance.

I do not disagree that the submitted proposal would result in a net gain for habitats and hedges when measured using the metric and the submitted design would provide an enhancement of habitats over and above the existing intensive arable production of the site. However, I would argue that given the International importance of the site for bats, that bespoke compensation measures are also required, especially in the most sensitive areas for bats around the woodland.

3.1.32 – The point regarding LSE above and reasons for refusal are set out above. It is also accepted that BNG is neither policy or mandatory yet, and as such could not be enforced by planning condition.

3.1.33 – If EDDC are minded to approve, I would be happy to collaborate on wording of planning conditions with EAD Ecology and the planning team.

Summary

4.1.1 – It is accepted that the proposed reasons for refusal do not fully align with the submitted EclA or sHRA for reasons as described above. It should also be noted that there are a limited number of areas where there is a disagreement, primarily relating to the removal of, and the provision of semi-natural habitats, which in my view is critical to safeguard the Pinch Point in perpetuity and the viability of the nearby grey long-eared bat maternity roost.

It is possibly to take a different view to the statutory consultee which isn't taken lightly, and only relates to some limited areas that I consider necessary.

4.1.2-4.13 – A HRA is currently being produced and will be submitted to Natural England for consideration, as per the competent authorities' duties under Regulation 63. The submitted HRA will take 'regard' for Natural England's former position and the assessments within the submitted EclA and sHRA.

William Dommert MSc MCIEEM

District Ecologist

East Devon District Council

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EDDC District Ecologist
28/09/23

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.

3. Review of submitted details

4.

Ecological survey work for the site has encompassed several years between 2019 and 2023 including repeated extended phase 1 habitat surveys. The detailed hedgerow survey, surveys for potential bat roosts in trees, reptiles, and dormice were only undertaken in 2019. Surveys for great crested newts were undertaken in 2019 and repeated for some ponds again in 2021, surveys for otter and water vole and badgers were undertaken in 2019 and 2021, with a breeding bird survey undertaken in 2020. Bat activity surveys spanned two survey periods in 2019 and 2020. The EclA has been produced in accordance with CIEEM guidelines, and included desk study data and the applicant has utilised the Natural England discretionary advice service (DAS) and has had discussions with East Devon District Council (EDDC).

BS 42020:2013 Code of Practice for planning and development states that “ecological information should be sufficiently up to date (e.g., not normally more than two/three years old, or as stipulated in best practice guidance)”. Given that the majority of the surveys are within three years, and an updated surveys to undertaken habitat condition assessments were undertaken in August 2022 and June 2023, the current age of the survey data would be acceptable for a planning submission in 2023, e.g., as results from the 2019 surveys confirming presence of reptiles and dormice are unlikely to have changed significantly for these receptors.

Habitats

The proposed development is expected to result in the permanent loss of 9.76 ha of arable habitat, 0.24 ha of poor semi-improved grassland, 0.02 ha of dense scrub, 0.25 ha of tall ruderals, 220 m of species-rich hedgerow, and 20 m of species-poor hedgerow.

With the exception of the hedgerows and Stafford Brook within the survey boundary, the existing habitats on the site are considered to be of local ecological value, given their widespread nature and limited botanical diversity. Species-rich Devon hedge banks and streams are considered to be of county ecological value. It is also noted that the Stafford Brook is known to support breeding brook lamprey and European eel are regularly found on within the stream.

The proposed outline plan indicates that approximately 220 m of species-rich hedgerow (H12) would be removed from the site, as well as 20 m of species-poor hedge (a Priority Habitat).

H12 is considered important under the Hedgerow Regulations 1997, is a Devon Biodiversity Action Plan (DBAP) habitat, and a habitat of Principal Importance (NERC Act, 2006). In addition, the hedgerow is used as a commuting route used by qualifying species (lesser horseshoe and myotis bats) associated with Beer Quarry and Caves Special Area of Conservation (SAC), is assumed to be used by hazel dormouse, reptiles, common amphibians, nesting birds (including red listed₁ and Priority Species Linnet and amber listed White Throat), and is a historic hedgerow shown on 1890s OS maps.

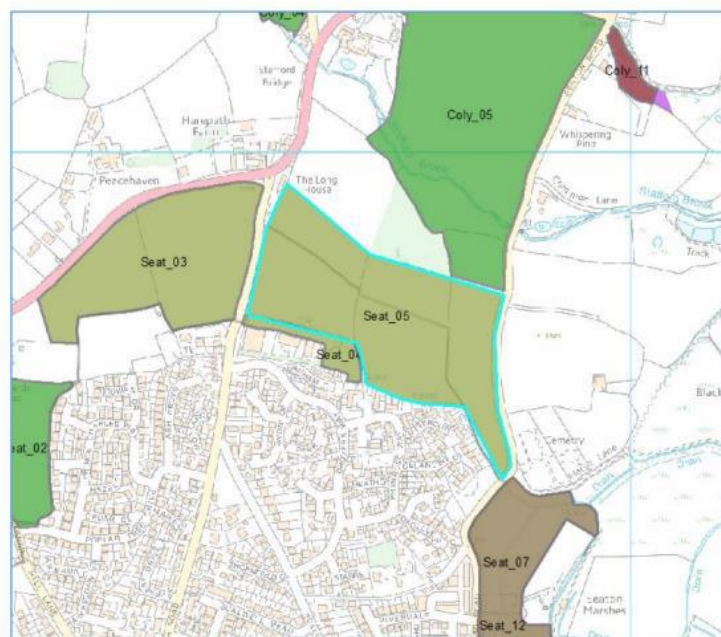
Given the ecological value of this historic hedgerow, including its confirmed use as a commuting route used by qualifying species associated with Beer Quarry and Caves SAC, it is unsure how the mitigation hierarchy has been followed using reasonable avoidance in the first instance and retaining this hedgerow within the development, even if the value of the hedgerow is reduced for foraging and commuting light adverse bats due to the proximity of the development. Historic Devon hedge banks provide multiple ecosystem services and habitat for a range of protected and notable species. The retention of existing linear features

is a key recommendation for habitat management for bat species (Eurobats, 2019). No static bat detector was placed in this important habitat feature proposed to be removed, with high levels of lesser horseshoe bat use noted during the manual activity survey. Therefore, its value to commuting and foraging bats could be undervalued.

The northern boundary of Hedgerow H7 is shown to be within the curtilage of dwellings and the southern boundary is outside of the site boundary, so long-term management and the ecological value of this hedge cannot be guaranteed. Natural England previously raise concerns that no dark corridor was being provided along this hedge as well as Hedge H8 to provide landscape permeability from the site across Harepath Road.

The supporting documents considers that H7 is not well used by bats, although this is based on limited survey data with a static bat detector being deployed on the hedge between February and April 2020, missing the previous 2019 summer/autumn survey period. From the limited survey data, it demonstrates that the hedge was used by Annex II species including lesser horseshoe (in winter and spring), greater horseshoe, barbastelle and myotis species. H7 also provide well used badger outlier setts likely associated with the large (not surveyed) badger sett in the area of woodland bounding the site.

The site allocation within the draft local plan 2020-2040 is for around 100 dwellings with the allocation boundary bounding hedgerow H8, southern boundary of the woodland continuing on the same line to Colyford Road. The submitted application is for approximately 130 dwellings on the site and the development boundary extends outside of the allocation boundary (and built up areas boundary) to the north-east. Refer to Figure 1.



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Figure 1 – Draft local plan site allocation boundary Seat_05

Given the ecologically important value of the hedgerows on the site, it is considered that any principle for development should retain these important habitat features, with minimal loss where required, e.g., for access. It is also unclear that given that hedgerow H12 is proposed for removal that no static bat detector was placed in this hedgerow, especially as the transect survey identified relatively high numbers of lesser horseshoe bats which are

adverse to crossing large open spaces and rely on a network of linear features for commuting through the environment.

Other than native bluebell (a Schedule 8 plant species) and Schedule 9 invasive montbretia and Himalayan balsam no other notable botanical species were noted. The habitats present and plant species lists indicates the site has high nutrient content e.g., with several thistles, docks, dandelion, common nettle etc. recorded.

Nesting birds

A total of 41 species were recorded during the surveys, of which 26 species were confirmed, probably or possibly breeding within the survey area. These included a number of Red listed and Amber listed and Priority Species.

The EcIA highlights the development would likely change the nature of the site from an arable/typical farmland assemblage of birds to a more urban assemblage of bird species. The proposed scrub, tree, hedgerow, and grassland provision over the site is likely to provide a supporting mosaic of habitat for nesting birds.

Recommendations are made for nest boxes to be provided at a ratio of one per two units. In accordance with BS42021:2022 Integral nest boxes should be provided at a ratio of one per unit.

Dormice

Dormice are confirmed as nesting on site and considered to be in all suitable habitat on the site included hedgerows and scrub. Clearance of hedges and woody vegetation prior to development will require a European protected species licence from Natural England.

Mitigation is proposed to replace habitat at a minimum ratio of 2:1 for habitat loss (240 m of hedge is proposed for removal as well as 0.02 ha of dense scrub) and 30 dormouse nest boxes.

Notwithstanding the comments regarding the mitigation hierarchy and avoidance of the loss of H12, the BNG metric indicates 980 m of new hedge native planting which is likely to be suitable in mitigation (once fully established), depending on implementation of planting, appropriate management etc.

However, there is likely to be increased pressure of onsite habitats from hedge management and cats. The proposed hedges largely bound residential dwellings with several gaps (at least 10 noted) for access which could deter dormice from using these hedges and the hedges could also be subject to insensitive management.

Reptiles and amphibians

The site supports a low population of slow worms which are distributed across the site associated with hedge banks. Given the number of ponds within the vicinity of the site, and that the reptile survey only encompassed the late-autumn survey period in September it is also possible that other common reptiles such as grass snake could occasionally be present.

The site is surrounded by several water bodies and include a stream (Stafford Brook) and is likely to support common amphibians such as common toad (a species of principal importance), likely associated with hedge banks woodland edge and scrub habitat.

The EcIA assumes the presence of great crested newts (GCN) is unlikely based on environmental DNA (eDNA) surveys of three of six ponds within 250 m of the site. It is noted that the closest pond to the site is located within the area of woodland bounding the site. The report notes the pond has a 'below average' Habitat Suitability Index (HSI) score and that it was too shallow to undertake an eDNA test. However, methods such as torching, egg searching, netting, and use of bow traps could provide alternatives to provide more confidence in its potential use by GCN. It is also noted that the 'land owner could not be contacted'. The woodland formed part of previous development curtilage for this site so the new owners must have had contact details of the woodland owners so unsure what level of effort was made to survey this important habitat feature adjacent to the site. No evidence of correspondence etc. has been provided.

Proposed outline mitigation measures for supervised habitat manipulation and provision of reptile hibernacula are considered proportionate for the identified population of slow worms and presence of amphibians on the site, subject to details provided within a Construction Ecological Management Plan (CECoMP) and Landscape and Ecological Management Plan (LEMP).

Bats

The site is located within a lesser horseshoe bat key sustenance zone², is within 150 m of a key lesser horseshoe bat maternity roost (also a lesser horseshoe bat hibernation roost, whiskered bat maternity roost, greater horseshoe, grey long-eared, and common pipistrelle bat roost) and is located within an identified pinch point³ for bats associated with Beer Quarry and Caves Special Area of Conservation (SAC). The site is also within a Bechstein's bat sustenance zone, and a greater horseshoe bat landscape connectivity zone.

In addition, the site lies within a core sustenance zone (CSZ)⁴ of a grey long-eared bat maternity roost located approximately 500 m from the site.

The manual and static bat activity surveys (including historic surveys of the site) identified the use of the site by at least 10 different bat species over the entire survey period encompassing all seasons, i.e., spring, summer, autumn, and winter, including all UK Annex II bat species, all qualifying bat species associated with Beer Quarry and Caves SAC, light adverse long-eared bat species, myotis, and barbastelle bats accounting for between 10% (transect survey) and 14.9% (static survey) of all bat calls recorded.

Approximately 78-79% of all bat calls are from pipistrelle species, with noctule, serotine, Leisler's accounting between 6% (static survey) and 12% (transect survey) of calls. It is noted that due to the similarities in call parameters it is not possible to fully categorise myotis bat calls to species level, especially as all calls were recorded in zero-crossing format, not full spectrum. Therefore, the presence of Bechstein's bat is assumed, given the site is within a sustenance zone for this species and there is potentially suitable habitat adjacent to the site, although this was not surveyed.

Given the directional nature and high attenuation rate of horseshoe bat calls and quite nature of long-eared bat echolocation calls, it is possible there may be some under recording of these species, in comparison to louder calling species such as pipistrelle and serotine bats.

Given the assemblage of bats using the site, its location within sustenance zones of qualifying species associated with Beer Quarry and Caves SAC, its proximity to a key maternity roost, being within a pinch point associated with the SAC, and the presence of other rare bats including Annex II barbastelle bat and being within the CSZ of a grey long-eared bat maternity roost, which is the rarest and most at risk bat species in the UK

considered to be Endangered⁵, the value of the site for bats is considered of at least of National importance for bats (Reason, P.F., and Wray, S., 2023). In summary, proposed habitat mitigation and compensation measures for bats, including those associated with Beer Quarry and Caves SAC, include:

- 10 m minimum 'dark corridor' around the development site with a further 10 m landscape buffer zone bounded by hedges and fences backing onto the built development.
- A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.
- Provision of native hedgerows, trees, scrub, and wildflower meadows.
- Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.
- A bespoke bat house suitable for use by horseshoe bats.

The location of the majority of proposed bat compensatory foraging habitat is located outside of the draft site allocation boundary (refer to Figure 1), i.e., to the east and north-east of the woodland on the northern boundary of the site. The draft site selection document states "...*compensatory bat foraging and commuting habitat within the remainder of the proposed allocation site (to secure and enhance the pinch point in perpetuity)*". Therefore, it appears that compensatory habitat is being proposed outside of the allocation boundary and reasonable avoidance strategies to maintain foraging and commuting habitat on the site is being exceeded.

The landscape strategy for the site indicates that the dark corridor and proposed landscape buffer will provide recreational routes around the development, with formal and informal play areas with these also extending into to the area of proposed POS to the east of the woodland and orchard.

The adjacent Seaton Wetlands is a Local Nature Reserve (LNR) and County Wildlife Site (CWS) with no access for dog walkers, given the sites importance for birds. Therefore, it is likely the areas of POS (including to the east of the woodland) and accessible dark corridors/landscape buffers would be subject to frequent use by recreational users, including dog walkers, from the new development and surrounding existing development to the south where there is a proposed footpath connection. This could result in deleterious effect on the proposed habitats which include 'species-rich' grassland. Given the existing agricultural use of the land and indicative high nutrient levels, the provision of species-rich grassland of high value to bats within publically accessible areas is considered unlikely to result in significant insect biomass and botanical diversity without significant long-term and sustained management.

Bat surveys have identify the areas surrounding the woodland as the most important areas for foraging bats, with several hedges over the site noted as commuting routes for bats associated with Beer Quarry and Caves SAC (including H12 which is proposed for removal). There is currently no public access over the site so the introduction of development and public access to the site, including the area of managed POS habitat is considered likely to reduce the value of these habitats for bats.

In addition, with the proposed development of the site, despite the proposed light mitigation measures, the proposals would result in the development over a large part of the existing site, removing an established bat commuting route, and concentrating the majority of bat mitigation in an area subject to the existing highest levels of bat activity, i.e., along the riparian corridor in the north-east potentially compromising the carrying capacity for these habitats to maintain the existing bat populations.

Following the Lawton principles of 'Bigger, better, and more joined up', and established favourable habitat management for bats, it is considered that as well as enhancing the riparian corridor as recommended that the area to the east and north-east of the woodland be excluded from public access and provided as low intensity non-wormed cattle grazed permanent pasture and parkland with trees, managed in perpetuity in accordance with best practice habitat management recommendations for bats. This is considered important given the assemblage of bat species recorded over the site, that the woodland to the north has not been surveyed (and its value not fully accounted for) and the surrounding edge habitats are particularly important habitats for myotis, lesser horseshoe, and grey long-eared bats.

This would provide long-term suitable habitat for foraging and commuting bats, including volant juvenile lesser horseshoe bats associated with the nearby maternity roost, as well as providing habitat for bat species associated with Beer Quarry and Caves SAC during the transitional periods in the spring and autumn, as well as providing habitat for grey long-eared bats. This would also buffer the development from the most sensitive areas for bats.

Community football pitch, parking and welfare facilities

The proposed football pitch is located in the north-east part of the western parcel of the proposed development. This is adjacent to likely crossing points of bats associated with Beer Quarry and Caves SAC from the main development site (although no crossing point bat surveys were undertaken). There are existing dark (<0.5 lux) spaces due to faulty and/or vegetation covered street lights in this location. However, these are proposed to be upgraded by Devon County Council (DCC) which could also result in an effective severance of the crossing point. In addition, Harepath Hill is unlit and hedgerows H1 and H4 bounding the road are confirmed commuting routes used by lesser horseshoe and myotis bats.

The submitted documents state that '*No lighting is proposed to the football pitch*', although this statement is not backed up by any confirmation by Seaton Town FC or the proposed users of the new community football pitch. The existing town football club has existing lighting on the pitch. Seaton Town FC are part of the Football Association (FA) Devon and Exeter Football League. The FA guide to floodlighting (FA, 2013) state that the minimum standard for non-league clubs for the lowest tier of the league (Grade G), that floodlighting to 180 lux is required to illuminate the playing surface.

Given that it is proposed to provide a brand-new football facility for the community it is considered that providing no lighting for this facility would severely restrict its use, i.e., given that it would preclude the use of the facilities over the majority of the autumn (October) to spring (March) period, where sunset is approximately between 18:45 or earlier. Therefore, it would only be of practical use in the daytime in this period and could not be used for winter evening training or matches and could also restrict any aspirations for the new pitch to be used within any league or cups that require minimum standard lighting requirements.

The location of the proposed football pitch would introduce a heavily modified habitat of no value to bats, i.e., monoculture grassland habitat, with heavily managed surrounding habitats to support spectators.

Therefore, from an ecological perspective it is considered that the location of the football pitch and facilities would be better located to the south closer to the built development form with the northern edge in line with the proposed allocation for employment land, to maintain landscape permeability and the viability of commuting bats from the east/west is maintained and protected, especially considering the potential impacts from upgrading the street lighting along Harepath Road.

Biodiversity Net Gain

The application is supported by a biodiversity net gain (BNG) calculation using the Biodiversity Metric 3.0. All three habitat types (habitats, hedgerows, and watercourses) are included in the baseline calculations.

An assessment of the watercourse has been undertaken by a competent assessor. However, there is no proposed 10% gain in watercourse biodiversity units with some proposed removal of agricultural habitat which does not contribute to any improvement of the watercourse using the metric.

The metric calculations for the proposed landscape strategy indicates the proposed landscaping could result in a gain of 10.9 habitat units (a 37.59% gain) and 6.74 hedgerow units (a 24.78% gain). Reference is made to consideration of additionally for habitats provided for SAC bats and that habitat provided in the dark corridors, landscape buffers, and to the south of the Stafford Brook were only include in the calculations up to no net loss. However, it is not fully clear how this is differentiated from the habitat to provide the gains over and above non net loss, e.g., though submission of two metrics, and additionally of habitats provided for hazel dormouse are not mentioned.

The proposed condition assessment of hedges within the metric are considered to be of 'Good' ecological value, including all the hedges bounding the built development separated by a 1.8 m post and wire fence. The EclA states that a restrictive covenant within the title deeds would restrict the permitted management of the hedges. However, the certainty that all hedges would remain in good condition in the long term when adjoining residential properties is debatable, as other measures such as non-native invasive plant species, deposition of garden waste etc. is unlikely to be regulated. In addition, to achieve good condition requires over 90% of the hedgerow base to be undisturbed where one side of the hedgerow will be in publically accessible areas and the other adjacent to residential gardens. In terms of hedgerows with trees there is also unlikely to be any mature/ancient/veteran trees present, and over 90% of the hedgerow base without some form of undisturbed ground. Therefore, moderate condition would be considered a more realistic and precautionary valuation of the proposed habitat creation.

Other ecological receptors including badgers, water vole, otter, and other Section 41 Species of Principal Importance

The submitted ecological survey information, general ecological avoidance, mitigation, enhancement measures for other ecological receptors are considered acceptable and proportionate.

Measure to ensure development does not cause any additional flood risk from the site is critical for the management and status of the adjacent Seaton Wetlands CWS/LNR and should be fully implemented in the construction and operation of the development.

Shadow Habitats Regulation Assessment (HRA)

It terms of the submitted shadow Habitats Regulation Assessment (HRA), I support the conclusions in terms of screening out Likely Significant Effects (LSEs) on the qualifying features of the River Axe SAC, Sidmouth to West Bay SAC and Lyme Bay and Torbay Marine SAC.

I also support the scoping in of Beer Quarry and Caves SAC to Stage 2 Appropriate Assessment (AA) as the proposals could result in an adverse impact on the qualifying features of the SAC primarily through habitat loss, modification, and fragmentation through

direct habitat loss and indirect impacts through an increase in lighting both during construction and operation.

The ecological surveys have demonstrated that the site is used by all three qualifying bat species associated with Beer Quarry and Caves SAC for both for commuting and foraging with seasonal use by all species noted and spatial distribution across the whole site. The surveys have indicated that the areas surrounding the woodland and the riparian corridor in the north-east as the areas with highest levels of bat activity and of primary importance. Lesser horseshoe bat use of the qualifying bat species is highest, which is likely given the proximity of the site to a lesser horseshoe bat maternity Key Roost⁶, i.e., within 150 m of the site. The winter survey results also demonstrated the use of the site over the winter frequently by lesser horseshoe bats.

Mitigation measures have been informed by a Lighting Impact Assessment (LIA) based on the parameters of the outline plan and draft Devon County Council guidance. This indicates that it is feasible base on the outline plan that a *minimum* recommended 10 m dark corridor (<0.5 lux) and further 10 m landscape buffer could be provided around the development footprint.

Proposed mitigation measures regarding lighting on the development site, the provision of a bat house, new hedgerow provision, long-term management and monitoring provisions are all considered necessary and relevant and would provide permeability around the boundaries of the development for light adverse bats.

The removal of Hedgerow H12 would sever a confirmed lesser horseshoe and myotis bat commuting route (a historic hedge from at least 1890) and loss of foraging habitat. It is also considered that the provision of Public Open Space (POS) adjacent to the woodland boundary is considered unlikely to result in significant foraging resource for bats, in comparison to semi-natural habitats including grazed pasture and parkland. It is considered that with the removal of H12, the decline of hedge H8 which is noted to have several trees with ash dieback and maturing elms, and the urbanised development of the site, that the woodland edge habitat is likely to be an even more important resource for foraging SAC bats, especially juvenile lesser horseshoe bats, breeding and hibernating lesser horseshoe bats, and myotis bats post development. The woodland edge is also noted to support foraging greater horseshoe bats. As no survey of the woodland has been undertaken there could also potentially be unrecorded Bechstein's bat roosts within the woodland.

The location of the proposed football pitch is located at the northern extent of the western site, adjacent to the assumed crossing point of SAC bats from the eastern site. It also abuts Harepath Hill an unlit road with the northern boundary a confirmed commuting route used by lesser horseshoe and myotis bats. The existing lighting regime along Harepath Road is subject to change in the future, but yet unknown date. The location of the proposed football pitch would introduce a heavily modified habitat of no value to bats, i.e., monoculture grassland habitat, with heavily managed surrounding habitats to support spectators and could further encroach/erode the current Pinch Point for SAC bats.

Based on the submitted scheme, including the location of the proposed football pitch and lack of clarity regarding proposed lighting of the football pitch, the removal of a significant historic habitat feature (H12) using by commuting and foraging qualifying species, and the lack of provision of high-quality bat foraging habitat surrounding the woodland based on guidance for habitat management for bats, on balance it is considered that there is some scientific doubt regarding the submitted scheme and that a LSE on the qualifying features of Beer Quarry and Caves SAC cannot be ruled out.

In particular, this is considering the sensitive nature of the site located within multiple sustenance zones, a Pinch Point, and that impacts from the development would be irreversible. It would result in the degradation of off-site supporting habitat and functionally linked habitat supporting a Key Roost. Therefore, as it is considered there could be an LSE from the proposed scheme and the current scheme should be rejected.

3. Conclusions and recommendations

1.1. Acceptability of the proposal

Based on the submitted outline scheme I would object to the proposal, based on the removal of removal of hedge H12, the location of the proposed football club and sports pitch, the encroachment of the development outside of the draft allocation site boundary to the area to the east of the broadleaved woodland, and the exclusion of the woodland and its long-term management from the development proposal.

1.2. Reasons

It is considered that the submitted proposal would result in a negative adverse ecological impact especially in regards to the loss of Hedgerow H12, a commuting route used by qualifying species associated with Beer Quarry and Caves SAC, and that the proposed compensatory bat foraging habitat, i.e., areas of managed Public Open Space (POS) would be of limited value for bats especially for qualifying species associated with Beer Quarry and Caves SAC (including the key maternity roost within 150 m of the site), breeding grey long-eared bats, barbastelle bats (and other bat species).

The site is within 2 km of a grey long-eared bat maternity roost, one of 10 known maternity colonies within the UK, with grey long-eared bats considered to be Endangered, i.e., facing a very high risk of extinction in the wild in the near future. The Environment Act 2021 has targets to reduce the risk of species extinction by 2042, when compared to the risk of species extinction by 2022. Seaton Wetlands is a confirmed foraging area used by grey long-eared bats who primarily forage on unimproved grassland, broadleaved woodland, and riparian vegetation. The ecological surveys of the site have confirmed its use by long-eared bats and given the proximity to the maternity colony the presence of grey long-eared bats on the site is assumed. Key recommendations to maintain the favourable conservation status of grey long-eared bats and to mitigate the risk of extinction include the restoration of favourable foraging areas including semi-natural habitats within their current range (Natural England, 2021). Therefore, it is considered the current design would result in a detrimental loss of existing foraging habitat and the proposed Public Open Space habitat to the east of the woodland would be insufficient to compensate for the development of the site and pose a risk to the local grey long-eared bat colony.

The outline biodiversity metric calculation is demonstrating a net gain for habitats and hedge units. Reference to additionality is made regarding SAC bats as well as a high strategic significance score attributed to existing and proposed habitat creation as the site is within bat sustenance zones associated with Beer Quarry and Caves SAC. Irrespective of strategic significance scores the biodiversity metric provides a proxy to describe biodiversity value of habitats and cannot fully account for the cumulative biodiversity value of a site derived from its historic value, assemblages of protected and notable species, and wider landscape importance of features, such as Pinch Points or potential long-term impacts from climate change.

The suitability of provision of foraging habitat based on publicly accessible open space habitats is not quantified to a satisfactory degree, with information/reference to how this is

suitable other than saying management could be secured through planning conditions such as a LEMP.

For reasons stated it is also considered that there is some scientific doubt that the proposals would not fully mitigate impacts on qualifying features of Beer Quarry and Caves SAC and there could be an LSE from the proposed scheme. Therefore, the current scheme should be rejected.

1.3. Recommendations

It is recommended that H12 be integrated within the site design and the area to the east and north-east of the woodland around the Stafford Brook be excluded from public access and managed as low intensity grazed pasture and parkland habitat in line with current best practice and guidance for habitat management for bats. This would also buffer the key bat foraging habitat in the north-east and the Stafford Brook which is used by otter, water vole (also Endangered), brook lamprey and European eel.

In addition, it is recommended that the area of woodland bounding the site be included as critical habitat for SAC and other bats and its long-term management secured for any development of the site. Public Open Space (POS) should be retained with the allocation site boundary.

The location of the proposed football pitch adjacent to a bat crossing point and commuting route along Harepath Hill and uncertainty regarding potential lighting in the future, and risk to the severance of landscape permeability also provide a negative concern within the current design. Therefore, it is recommended the football pitch and buildings be moved south towards the built development in line with the employment land allocation boundary and away from the commuting routes along Harepath Hill and hedges H1 and H4 using by qualifying bat species associated with Beer Quarry and Caves SAC. Consideration should also be given to enhancing this linear corridor along Harepath Hill to maintain and enhance its integrity as a commuting route.

Any compensatory habitat creation measures for SAC bats would need be implemented and fully functioning prior impacts occurring, such as habitat clearance on the site. For example, existing and new hedges should be at least 3 m wide x 3 m tall with established suitable habitat within any dark corridors and landscape buffers with monitoring to demonstrating their functional use.

The removal of permitted development rights for dwellings adjacent to any compensatory habitats especially regarding installation of Velux, extensions, and external lighting are also considered necessary.

In terms of considerations of ecological receptors including dormice, reptiles, amphibians, nesting birds, badgers, and other species such S41 species, the proposed mitigation measures are considered proportionate subject to securing their mitigation and enhancement measures and taking into account any recommendations made such as the increase in bird nesting provision.

1.4. Conditions

Should this application be approved, the following conditions should be imposed.

- *No works shall commence on site unless the Local Planning Authority has been provided with a copy of the dormouse mitigation licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead. Any mitigation and compensation measures should be in accordance within an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.*
- *The development shall deliver at least a 10% biodiversity net gain (BNG) for all habitat types within the development boundary. Any subsequent reserves matters application and detailed site design should be supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0), a biodiversity gain plan, and habitat maintenance and management plan following best practice principle, including BS 8683, and following current or subsequently updated BNG guidelines. Any net gain calculations should clearly demonstrate how any proposed habitats for any protected species account for up to no net loss and that other habitats not provided result in an ecological enhancement.*
- *No works shall commence on site unless the Local Planning Authority has been provided with a Lighting Impact Assessment (LIA) based on the details site design and most recent guidelines (currently GN08/23) has been submitted and approved in writing. The LIA should clearly demonstrate that dark corridors provided around the site are achievable without the attenuation of habitat features which long-terms management cannot be guaranteed. The LIA should also be supported by evidence where statements are made regarding no use of lighting by the competent authority (DCC) or stakeholders (Seaton Town FC) that this is acceptable in the in the long-term. All external 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.*
- *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 EcIA (EAD Ecology, 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)*
 - 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.*
- *A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development based on the submitted Ecological Impact Assessment (EAD Ecology, 2023) and shadow HRA (EAD Ecology, 2023). The content of the LEMP shall 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). Habitats provided for SAC bats will need to be managed in perpetuity.
 - 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.
- The development hereby permitted shall not be occupied until all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), permeable garden fencing, reptile hibernacula, have been installed/constructed in accordance with details within the submitted LEMP.

William Dommett MSc MCIEEM
District Ecologist
East Devon District Council

ⁱ Barr, C.; Gillespie, M. Estimating hedgerow length and pattern characteristics in Great Britain using 496 Countryside Survey data. *J. Environ Manage* 2000, 60, 23-32.

ⁱⁱ Froidevaux JSP, Boughey KL, Hawkins CL, Broyles M, Jones G. Managing hedgerows for nocturnal wildlife: Do bats and their insect prey benefit from targeted agri-environment schemes? *J Appl Ecol.* 2019;56:1610–1623.

ⁱⁱⁱ Fensome, A.G. and Mathews, F. (2016), Roads and bats: a meta-analysis and review of the evidence on vehicle collisions and barrier effects. *Mam Rev*, 46: 311-323.

^{iv} Finch D, Schofield H, Mathews F. Habitat Associations of Bats in an Agricultural Landscape: Linear Features Versus Open Habitats. *Animals (Basel)*. 2020 Oct 12;10(10):1856.

^v Devon County Council. Building with Nature: Devon Technical Guidance Maintaining dark corridors through the landscape for bats. Beta format during 2022.

^{vi} Reason, P.F. and Wray, S. (2023). UK Bat Mitigation Guidelines: a guide to impact assessment, mitigation and compensation for developments affecting bats. Chartered Institute of Ecology and Environmental Management, Ampfield.

^{vii} Chapman, C. & Tyldesley, D. 2016. Functional linkage: How areas that are functionally linked to European sites have been considered when they may be affected by plans and projects - a review of authoritative decisions. Natural England Commissioned Reports, Number 207.

viii Mathews, F. (2014). Proof of evidence against the refusal of planning permission of land east of Harepath Road, Seaton. EDDC ref: 12/1185/MOUT.

ix Froidevaux JSP, Boughey KL, Hawkins CL, Broyles M, Jones G. Managing hedgerows for nocturnal wildlife: Do bats and their insect prey benefit from targeted agri-environment schemes? J Appl Ecol. 2019;56:1610–1623.

x Lawton, J. L. (2010). Making Space for Nature: A review of England's Wildlife Sites and Ecological Network.

xi DEFRA (2023). Environmental Improvement Plan 2023. First revision of the 25 Year Environment Plan.

xii Natural England (2023). The Biodiversity Metric 4.0 User Guide - Natural England Joint Publication JP039

Clerk To Colyton Parish Council

01/03/23 - The Colyton Parish Council do not support this application due to concerns regarding the following:

- 1) Any creeping development on the Green Wedge between Colyford and Seaton would encourage the coalescence of the two settlements in contravention of the Colyton Parish Neighbourhood Plan Policy No. Coly4, and EDDC Local Plan 2013-2031, Strategy 8 and clause 6.24e.
- 2) Additional traffic generated, particularly with reference to the new junction with Colyford Road and the subsequent increase of traffic using the junction of Colyford Road and the A3052 in Colyford.
- 3) It is known there are problems with drainage in the area which will be exacerbated by this development
- 4) It is known there has been localised flooding of houses on an adjacent area of housing. More building over of green fields will not help alleviate this problem
- 5) The area is known for its bat population and although mitigation measures are proposed via bat routes, it is felt the proposals will have a detrimental effect
- 6) The open fields have much wildlife including visiting deer. Loss of this provision is not welcomed.
- 7) The additional pressures on the services provided by Seaton, e.g. Doctor's Surgeries, Dentists and Schools has not been explored
- 8) The development would involve the loss of prime agricultural land
- 9) The site offers beautiful views down from the top of Harepath Hill towards Seaton, and from Colyford itself. These views would be lost.
- 10) The site is close to the AONB and Seaton Wetlands. It is not clear how the additional houses will impact on both of these.

11) It is known that the Government backed Housing Targets for East Devon is being questioned. CPC requests the results of this review are first ascertained before any decision is made on this development.

12) At a previous appeal regarding this site the inspector did not support the proposals concluding - "The application site forms part of an important area of open countryside between Seaton and Colyford identified as Green Wedge in the East Devon Local Plan. The development would result in the loss of part of this high quality countryside, bringing the urban area of Seaton closer to Colyford to the detriment of the setting of Seaton in the local landscape and encouraging closer coalescence of the two settlements".

Natural England

31/07/24 –

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC).

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required, as set out in the Appropriate Assessment.

- Construction Ecological Management Plan (CEcoMP)
- Landscape and Ecological Management Plan (LEMP)
- 10 m minimum 'dark corridor' around the development site with a further 10m landscape buffer zone bounded by hedges and fences backing onto the built development.
- 6 m dark corridor either side of hedgerow H12
- Detailed lighting design at reserves matters stage including light design, house design and layout.
- A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.
- Provision of native hedgerows, trees, scrub, and wildflower meadows.
- Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.
- A bespoke bat house suitable for use by horseshoe bats.
- Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Natural England

27/02/24 –

Natural England notes that your authority, as competent authority, has undertaken a revised appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question, particularly the removal of a large section of hedgerow H12. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within regulation 64.

Campaign To Protect Rural England

23/02/23 - Please see scanned letter, received 23/02/23, under the documents tab.

Devon Wildlife Trust

07/03/23 - Please see scanned objection letter, received 07/03/23, under the documents tab.

Clerk To Colyford Parish Council

24/08/23 - This matter was discussed at length at last night's Colyford Parish Council meeting where two representatives of Baker Estates were present and were allowed a three minute presentation. During this they maintained that South West Water and the Environment Agency had approved the amended application and that the proposed Football Pitch would not require lighting as it was designed for use by women and children. More of this later.

Our original objections to this application stand and we do not view the amends to materially change anything. The new access point to the site remains on Coly road in an area with a 60 mph limit, is a narrow two way road with no footpaths. Any attempt to install a footpath would require destroying the existing hedge to provide room and while the hedge could be

replanted this would take some years to establish with a resulting disruption to wildlife corridors.

One of our Councillors with some experience of developments has calculated the price's required for the various types of property proposed and this calls into question the commercial viability of the development if it is to be completed in line with the application and generate the profit levels developers normally work to. This in turn calls into question whether the application is made in good faith and Baker Estates intend to build in line with the application. We believe that they have in the recent past walked away from building the smaller/cheaper properties from a development in North Devon.

The application makes reference to Dark Areas and LED lighting but of course this only covers what Baker Estates build. For instance the Bungalow's may be single story but equally may be Dormer Bungalows or have rooms in the roof , in addition once occupied the residents may wish to and security lighting and a conservatory to their property.

Similarly once the football pitch is in place the users may want flood lighting to extend the period of use in winter months so the defence that its for women and children is not only sexist and patronising but also beggars belief. A recent Bat detector used over a two night period noted nine(and possibly twelve) species of bat using the hedges just north of the proposed site, as a corridor between the wetlands and their well known roosting sites Local residents have drawn our attention to the matter of sewage. Seaton sewage works is struggling to cope with its existing burden while the addition of 100+ new premises would undoubtedly cause further occasions when SWW pump raw sewage into the sea.

This leads on to surface water drainage which will inevitably drain into Stafford Brook and through there into the Wetlands and Colyford Common which is owned by the Burgesses. Further interference with the existing drainage pattern with further volumes of surface water may well cause flooding on the local roads as both Stafford Brook and the Coly pass under the A3052.

Local health and school facilities are already under considerable pressure.

DCC Flood Risk SuDS Consultation DO NOT USE

23/02/23 - Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has proposed to manage surface water within rain gardens, as well as swales and detention basins prior to discharging into 2 separate catchments. The site appears to fall partly within the Stafford Brook catchment and mostly within the catchment of the watercourse along the southern boundary of the site.

The applicant has assessed the impacts of urbanisation for a 1 in 100 year return period. However, the applicant should assess both catchments for return periods from 1 in 1 year up to 1 in 100 years. The applicant has confirmed that they will assess the culverts.

The applicant has assessed the water quality indices for the access roads with less than 300 vehicle movements per day. However, for a site of 130 dwellings, we would expect there to likely be more than 300 movements per day. At the next stage of planning, the applicant will need to assess the access roads with more than 300 vehicle movements per day.

Maintenance details are required at this stage.

The applicant has confirmed that the site layout will be informed by the exceedance routes.

Yours Faithfully

Joshua Lewis
Flood and Coastal Risk Officer

South West Water
6/11/24

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.

Asset Protection

Please refer to the plan previously submitted 02/02/23, which shows the approximate location of public 300mm trunk water main in the vicinity of the site. Please note that no development will be permitted within 3.5 metres of the water mains. The water mains must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3.5 metre easement, the water main will need to be diverted at the expense of the applicant.

www.southwestwater.co.uk/developer-services/water-services-and-connections/buildingnear-water-mains/

Further information regarding the options to divert a public water main can be found on our website via the link below:

www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-ofwater-mains/

Should you require any further information, please contact the Pre Development Team via email: DeveloperServicesPlanning@southwestwater.co.uk.

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 2020.

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, rain water 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)

Discharge to surface water body

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

It is noted the applicant proposes to attenuate surface water discharge on site, through the use of two basins.

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

South West Water response relates to surface water discharge to our network, where the discharge is from buildings and yards belonging to buildings. Where the applicant has highlighted that the surface water does not connect to South West Water network, we are not commenting on this as it is not our responsibility.

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

South West Water are not responsible for Highway Drainage and our comments do not relate to accepting any of these flows. The applicant should discuss and agree with the Highway Authority, where the highway water connects to.

If the applicant wishes to connect this development to the South West Water network, they should engage with us separately to see if we can accommodate this. No highway drainage will be permitted to be discharged to SWW foul or combined public sewer network either directly or indirectly.

If the applicant is looking to have their sewers adopted (surface and foul), they should design and construction the sewers to the current version of the Design and Construction Guidance. The process for doing this can be found on South West Water's website at Adoption of new sewers | Building & Development | South West Water

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.

A hydraulic modelling assessment has shown there will not be a need for any network reinforcement to supply this site.

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.

Specific network reinforcement will not be required for the wastewater network to receive the flows from this site. Seaton North SPST is programmed to receive investment to ensure it meets its permit requirements. This should be completed before the development starts to be inhabited.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

www.southwestwater.co.uk/building-and-development/services/pre-development-services

I trust this clarifies the water and drainage material planning considerations for your LPA, however, if you have any questions or queries, please the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

DCC Historic Environment Officer

09/02/23 - Dear Sir/Madam,

Application No. 22/2781/MOUT

Land Adjacent To Harepath Road, Seaton, Devon, EX12 2WH - Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure: Historic Environment

My ref: ARCH/DM/ED/38308a

I refer to the above application and your recent consultation. The proposed development site has been demonstrated, by previous archaeological investigations, to contain heritage assets with archaeological interest. These investigations demonstrate prehistoric and Romano-British occupation and possible funerary activity across the site. As such, groundworks for the construction of the proposed development will expose and destroy archaeological and artefactual deposits associated with the known prehistoric and Romano-British activity within the application area. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

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

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

Reason

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

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

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

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

Reason

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

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works commencing with the excavation of a series of evaluative trenches to determine the full extent of the archaeological deposits, identified by the earlier investigations, that will be affected by the development. Based on the results of this initial stage of works the scope of any further archaeological mitigation can be determined and implemented in advance of construction works. This archaeological mitigation work will take the form of full area excavation of areas where archaeological deposits have been demonstrated to survive. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

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

<https://new.devon.gov.uk/historicenvironment/development-management/>.

Stephen Reed

Senior Historic Environment Officer

Conservation

27/11/23 - CONSULTATION REPLY TO EAST TEAM
LISTED BUILDING CONSENT/CONSERVATION AREA
PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: Land Adjacent To Harepath Road Seaton Devon EX12 2WH

GRADE:.II

APPLICATION NO: 22/2781/FUL

CONSERVATION AREA: No

PROPOSAL: Outline planning permission is sought (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The site is situated to the northern edge of Seaton and comprises of five fields of varying size totalling 10.4 ha in all. Field 1 lies to the west of Harepath Road and south of Harepath Hill and the farm steading. The remaining fields are situated between Harepath Road and Colyford Road to the southeast of the steading. New vehicular access points are proposed off Harepath Road and Colyford Road.

To the north of the proposed site is Harepath Farm and the other independently listed farm buildings known as The Dairy, The Stables, The Linhay and Barn northeast of Harepath farmhouse. The farmhouse and farm buildings range from C18 - C19 and are listed grade II with group value. The designated assets are also known as Rolle Court. The farm group is openly visible from the convergence of Harepath Hill and Harepath Road. Visibility is shielded though by some existing hedgerows to the east and north of the football pitch site.

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

The farm group is an interesting group and through its close visibility and location from the road is a prominent group of buildings. Currently the land to the south and southeast is rural but with limited views of the farm steading and no known historic association.

The proposed sports pitch immediately south of Harepath Farm is largely screened from the farmhouse by vegetation south of Harepath Road but open from Harepath Hill. The pitch may be visible in acute-angled glimpsed views from the south end of the farmhouse only, but this does not detract from any of the heritage value of the asset. This land was not formerly part of its landholding, at least in the 19th century. It isn't clear whether there would be land regarding to form the sports pitch and how this would impact on the farmhouse and steading. The flood lighting proposals have been removed from earlier schemes which is an improvement. Hedgerows are shown on the eastern boundary of the football pitch on the corner which shields views from Harepath Road. Should permission be granted these hedgerows should be maintained and boosted.

There may be minimal glimpsed views of the main development area to the east of Harepath road, from the farmhouse although again these are not views of land with any identified functional or historic association with the designated assets. The contribution this field plays to the setting of the steading is as a rural approach. Settings may change, however the provision of dwellings in the closer area of the steading if agreed, should be of group of buildings of a higher standard of design and materials so that they contribute positively to the setting of the steading. It is noted the development would be a dark development.

Conclusion

- o There is insufficient information on the levels of the football pitch and landscaping around it.
- o The provision of dwellings and mixed use in close proximity to the southeast of the steading, although not historically or functionally related could have an impact on the setting of the steading. The impact would be affected by quality of design, lighting, landscape materials and density.

o The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant consent for any works to have special regard to the desirability of preserving the setting of the listed buildings. Here taking account of the above this has been taken into consideration.

POLICIES

Listed Buildings and Conservation Areas Act 1990, section 66 and 72

NPPF section 16

East Devon District Council, EN9

Conservation Area Appraisal.

PROVISIONAL RECOMMENDATION - PROPOSAL

Holding response

DATE: 21/11/23

INITIALS: M.Pearce

County Highway Authority

12/09/23 - Observations:

I have visited the site in question and reviewed the planning documents.

The site is designated for development within the forthcoming East Devon Local Plan.

The Primary access road onto Harepath Road at 5.5m is an acceptable road width, it may require widening to 6m upon bends within the estate roads, to facilitate free-flowing traffic.

The visibility splay upon Harepath Road of 59m in both the East direction and the West direction is acceptable to Manual for Streets 1 and 2, our current best practice guidance, for a speed survey 85th percentile of 37mph.

The Tactile paving across Harepath Road is appreciated to help sustainable travel, especially to the proposed football ground access. The proposed vehicle cross-over access for the football ground is acceptable, as is the width of 5.5m and the two adjacent footways. This further encourages cyclist and footway travel.

The Environmental lighting strategy for this project is based upon the existing benchmark of Harepath Road streetlights being LED, as this was going to be completed this financial year by Devon County Council (DCC), unfortunately due to resources, there is now no set completion date for this conversion.

After discussions with DCC, the proposed access onto Colyford Road has been re-located into the 30mph zone, hence the superseded access plan for this one, avoiding the creation of a required Traffic Regulation Order (TRO), whilst still fulfilling the required visibility splay of Manual for Streets 1 and 2, 43m in each direction in accordance with the speed limit of 30mph.

The 2m footway width on each proposed access is acceptable, to help encourage sustainable travel, should this application be granted, upon any Reserved Matters application, I recommend the provision of secure cycle storage and a Travel Plan with a Travel Plan co-coordinator to help mitigate the trip generation from this site. This will be further enhanced with the intended proposal of the internal footway into Seaton residential area.

Colyford Road in the proposed location of access is currently unlit and after the review of a Road Safety Audit (RSA 1), we are happy to accept this scenario, with the 'dark development' concept, having many environmental benefits. Though the internal footway is planned to contain low-light bollards/studs, this will remain un-adopted by the County Highway Authority (CHA).

Though this application is outline only at this stage, I will not comment upon any internal site layout proposals, however it has been accepted to avoid cut-through's that there will be no through-route of Harepath Road - Colyford Road for this site.

I would also recommend the provision of a Construction and Environment Management Plan (CEMP) for this project, should it come forward for Reserved matters planning, due to the size of the development.

Recommendation:

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

Officer authorised to sign on behalf of the County Council

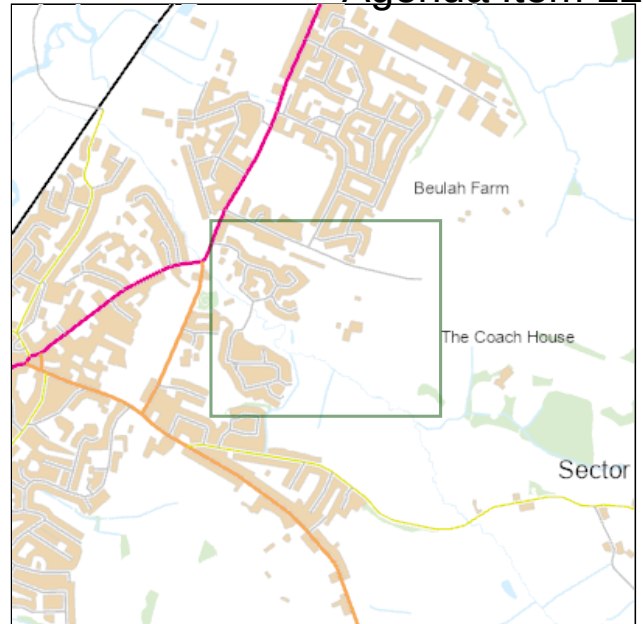
Ward Axminster

Reference 21/3025/MFUL

Applicant Neal Summerfield Homes

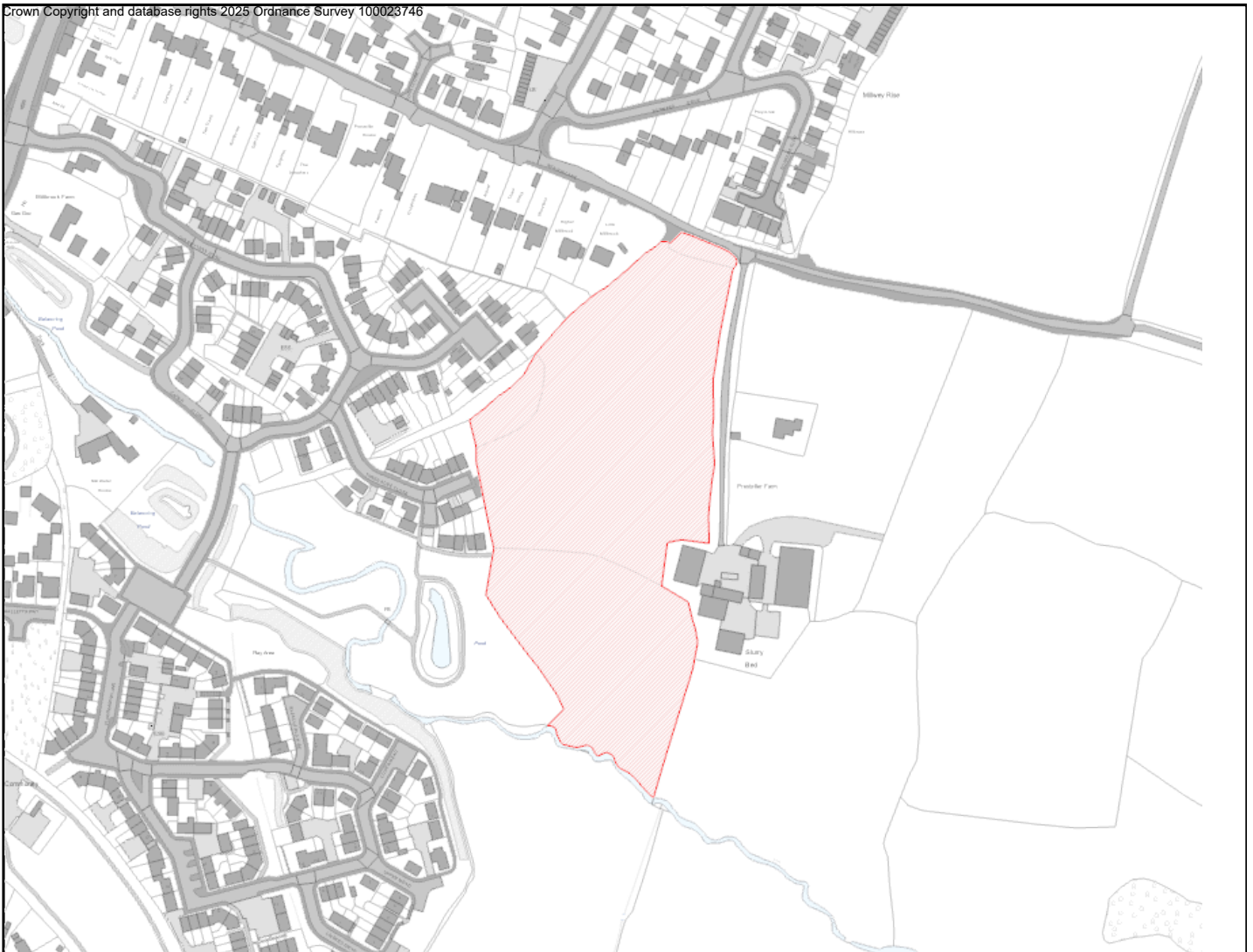
Location Land West Of Prestaller Farm Beavor Lane Axminster

Proposal Erection of 29 dwellings to include highways, drainage, landscaping and ancillary incidental works.



RECOMMENDATION: Approval with conditions

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		Committee Date: 25.02.2025
Axminster (Axminster)	21/3025/MFUL	Target Date: 28.02.2025
Applicant:	Neal Summerfield Homes	
Location:	Land West Of Prestaller Farm Beavor Lane	
Proposal:	Erection of 29 dwellings to include highways, drainage, landscaping and ancillary incidental works.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The site is within the BUAB and the Strategy 20 allocation of the Local Plan. The principle of development is therefore acceptable. The development will provide 29 houses and associated infrastructure. The development provides the necessary proportion of affordable housing, taking into account viability, which will be secured via a S106 agreement. The layout, appearance, landscaping, scale and access arrangements are acceptable and appropriate in their context. The site lies within a Critical Drainage Area and part of the design includes SUDS basins of the required specification to ensure that no additional burden of surface water run-off is added to existing levels.

The site lies in the catchment of the River Axe SAC, which is suffering from excess phosphate levels. On the basis that the appropriate mitigation specified in the shadow Habitat Regulations Assessment can be secured, the development is acceptable. Confirmation of the Council's Appropriate Assessment from Natural England is expected but must be confirmed before permission is granted.

The development will deliver some much needed housing in Axminster where the wider Strategy 20 allocation has stalled, all material matters have been satisfactorily addressed and it is therefore recommended that permission be granted.

CONSULTATIONS

Local Consultations

Axminster - Cllr Paul Hayward

18/10/23 - I regret that I am unable to support this application at the present time, having taken into account all of the planning information available to me.

Axminster - Cllr Andrew Moulding

10/02/22 - At this stage and taking into account various comments from statutory consultees, I recommend that this application is refused.

Axminster - Cllr Sarah Jackson

21/01/22 - Just a couple of initial observations from me as there does not appear to be adequate information to satisfy planning policy, or the wide range of concerns highlighted by other consultees and the public and so I cannot support this application.

This parcel of land is noted as a possible area of future expansion in the Axminster Masterplan; a plan which surely cannot progress without forward delivery of the necessary infrastructure including the relief road. With that in mind, it seems the intention would have originally been for this site to come forward at a later stage with access via one of the central Masterplan plots, rather than via Beavor Lane and Three Acre close. Indeed, the Masterplan document discounts access to further areas of development via Beavor Lane, and Three Acre Close appears utterly unsuitable as an access point for both construction vehicles or the traffic associated with 30 additional dwellings.

Further to this, the site is extremely steep, and constructions will required very disruptive works for those in surrounding dwellings both in terms of pile driving and transport of aggregates and building materials via these two potential access roads.

Whatever the committee's thoughts on the proposals at hand, I would strongly encourage them to undertake a site visit to properly appreciate the topography of the site which is incredibly challenging as well as to appreciate how unsuitable the potential access points are at Three Acre Close and Beavor Lane (particularly at a time where residents are at home and subsequently their vehicles too).

I would encourage the applicant, officers and the committee to give serious consideration to the impact of surface water runoff. Recent flooding in the area cannot be ignored. I understand that instances of sudden heavy rain are expected to become more frequent with climate change, and much of the flooding elsewhere was associated with the watercourses that this site would naturally feed into (specifically the Millbrook).

There have also been issues raised that may warrant further investigation such as the presence of protected species, the location of a previous quarry, and an alleged designation as "not fit for human habitation" in relatively recent history. I seek reassurance regarding these issues.

Clerk To Axminster Town Council

14/03/23 - The Town Council met on 13th March 2023 to re-consider this application in light of new planning documents submitted by the agent/applicant.

At that meeting, it was resolved by a majority vote that the Council wished to maintain its objection (opposition) to the proposals for the same reasons as previously submitted (having reviewed and noted the new documents) but also wished to highlight that the documents failed to address one of the key concerns held by this authority ie the flooding impact of the site on properties lower down the Mill Brook valley as a result of surface water run-off. The documents have made it clear that the development site is not at risk from flooding, but members are already aware of this fact.

However, recent heavy rainfall events in the town have resulted in significant amounts of surface water off-flow which has caused highway flooding, property flooding along the lower Mill Brook and other associated issues. It is this worrying trend that the Council would wish to be dealt with and covered by further evidence and mitigation measures.

Clerk To Axminster Town Council

15/11/22 - "The Town Council wishes to repeat our opposition to this application on the same grounds as per our comment submission in January 2022, given that the applicant has failed to sufficiently address the Town Council's concerns from that time.

Recommendation: Refusal.

Parish/Town Council

11/01/22 - By a unanimous vote of the Town Council at their meeting of the 10th January 2022, it was resolved that the Council did NOT support this application (ie. that it wished to register its objection) on the following grounds:

- i) That the application contravenes EDDC Local Plan Strategy 20 in respect of potential harm to the River Axe and non-compliance with the developing Axe Nutrient Management Plan.
- ii) That the development (as proposed) has the potential to exacerbate flooding issues in the Millbrook area and that no measures have been proposed to mitigate or minimise flood risk in this area and in areas downstream/elsewhere in the town.
- iii) That the applicant has failed to provide either an Environmental Impact Assessment, or a Waste Audit Statement, to demonstrate how the proposed development would contribute towards the bio-diversity and climate change aims and objectives previously agreed as policy by this Town Council (there being no mention of provision for renewable energy services to the dwellings).
- iv) That the Council has been unable to establish the provision of data/evidence to demonstrate measures to safeguard habitats for protected species such as bats and dormice.
- v) That the applicant has failed to provide satisfactory evidence to demonstrate proposals to alleviate traffic and highway safety concerns within the housing

development to the west of the proposed development site which would form the primary point of access for new occupants.

vi) Finally, that Council would wish to see additional landscaping mitigation measures to compensate for the loss of hedgerows, trees and other native habitats.

Technical Consultations

EDDC Ecologist

28/02/24

The application is supported by a Nutrient Neutrality Assessment (NNA) Report and shadow Habitats Regulation Assessment (sHRA) screening opinion and appropriate assessment.

The sHRA considered that the development, in the absence of mitigation, could result in a Likely Significant Effect (LSE) on the qualifying features of the River Axe Special Area of Conservation (SAC) and provides an appropriate assessment based on a submitted nutrient mitigation scheme. The nutrient budget calculations are based on the 2022 Natural England methodology, River Axe SAC catchment calculator, and CIRIA 808 guidance for removal of phosphorus (P) using sustainable urban drainage systems (SUDS).

The submitted mitigation scheme to offset the residual P from the development required the replacement of two septic tanks with efficient (in terms of P removal) package treatment plants (PTPs). The locations of the proposed septic tank replacements have been screened against the small-scale thresholds criteria and are upstream of the development site within the River Axe affected catchment. Therefore, assuming suitable planning obligations and conditions are applied, the upgrade of the septic tanks would provide sufficient nutrient mitigation for the proposed development.

The sHRA has been submitted to Natural England as the statutory consultee for comment. If Natural England raise no objections to the proposed mitigation, it is considered that the conclusions of appropriate assessment could be adopted by the Local Planning Authority, in its role as the competent authority under the Habitats Regulations.

EDDC Landscape Architect

4/09/24 –

Some further amendments would improve the scheme [some of these are already provided in the latest plans].

Submitted soft landscape details are generally acceptable.

Conditions recommended

EDDC Trees

22/03/23 –

No objections but raises some queries over retention, access and maintenance of some hedges adjacent to particular plots.

Environment Agency

23/11/22 -

Environment Agency position:

We recommend the application is not determined until it is clear how the proposal will satisfy Strategy 20 of the East Devon Local Plan and the requirement for nutrient neutrality from new housing which could affect European sites (in this case the River Axe Special Area of Conservation) already failing for nutrients.

Environmental Health

04/11/22 - 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.

Contaminated Land Officer

04/11/22 – Unexpected contamination condition recommended.

Natural England

18 Mar 2024

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED.

DCC Flood Risk SuDS Consultation

Comment Date: Tue 06 Jun 2023

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage subject to conditions.

Housing Strategy/Enabling Officer

16/11/22 - The number of dwellings has reduced to 29 which reduces the affordable housing provision to 7.25 units. This means 7 on-site and 0.25 as a commuted sum which will be £11,559. The applicant has sought to address the distribution of the affordable units so they are not all located in one area. The revised plan is acceptable, and the units are now better dispersed throughout the site.

Devon County Council, Minerals & Waste

22/12/21 – Recommend a Waste Audit Statement

County Highway Authority

04/05/22 -
No objection

Police Architectural Liaison Officer - Kris Calderhead
03/01/22 - I have no objection in relation to the following planning application:

Devon County Archaeologist
10/01/22 -

I refer to the above application and your recent consultation. A programme of archaeological geophysical survey and field evaluation has demonstrated that this development site is of low archaeological potential. As such, no further archaeological mitigation is required and the Historic Environment Team has no comments to make on this planning application.

Historic England
04/01/22 – No comments.

Devon County Council Education Dept
Comment Date: Thu 23 Nov 2023

Please find an amended response for the above planning application. The number of family type dwellings has been reduced from 30 to 25 and the costs have been adjusted accordingly. The original response is attached for reference.

Regarding the above planning application, Devon County Council has identified that the proposed increase of 25 family type dwellings will generate an additional 6.25 primary pupils and 3.75 secondary pupils which would have a direct impact on primary and secondary schools in Axminster.

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 forecasted that there is currently not capacity at the nearest primary school for the number of pupils likely to be generated by the proposed development and therefore Devon County Council will seek a contribution directly towards additional primary education infrastructure at the local school that serves the address of the proposed development. The contribution sought for primary is £106,856 (based on the DfE extension rate of £17,097 per pupil). This will relate directly to providing education facilities for those living in the development.

We have currently forecast that there is enough spare capacity at the local secondary school for the pupils expected to be generated by this development and therefore a contribution towards secondary education would not be sought.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates 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. It is anticipated that these contributions would be provided for through CIL.

Royal Society For The Protection Of Birds
04/01/22 -

Recommend swift bricks.

Other Representations

19 letters of objection raising the following matters:

- Additional housing has affected existing infrastructure/services already, you can't keep adding more
- Will not help flooding problems due to the Mill Book culvert.
- Water seen running off the proposed development site already with the brook nearly bursting its banks
- Residents in Three Acre Close already see a worrying amount of water draining into the public space in front of the properties with the overspill pool bursting its banks, flooding public spaces, damaging footpaths and flooding some properties. Existing balance ponds make no difference.
- Concerns regarding construction access.
- Concerns over vehicular access as cars park on Three Acre Close as no off-road parking is available.
- Bats and birds seen on the site.
- Residents will have to drive to work which will raise emissions.
- A385 is incapable of handling extra traffic.
- The Kit Bridge is in a poor state and cannot cope with extra traffic.
- Concerns regarding noise, disturbance and loss of privacy during construction.
- What will happen to the public footpath?
- Many locals need affordable houses larger than 1 & 2 bed properties.

2 neutral letters raising the following matters:

- Exceeding Building Regulations is welcomed
- EV charging being 'available' at most plots welcome but with increased electricity prices, owners will want solar PV panels – where are they?
- Swift boxes would be welcome.
- An access from Beavor Lane would make more sense.

PLANNING HISTORY

Reference	Description	Decision	Date
None			

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 20 (Development at Axminster)

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 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)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

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

EN21 (River and Coastal Flooding)

H2 (Range and Mix of New Housing 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)

Draft East Devon Local Plan 2020 – 2042 (currently carry limited weight)

Strategic Policy SP01: Spatial strategy

Strategic Policy SP02: Levels of future housing development

Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area

Strategic Policy SP04: Employment provision and distribution strategy

Strategic Policy SP05: Development inside Settlement Boundaries

Strategic Policy SP06: Development beyond Settlement Boundaries

Strategic Policy SP07: Delivery of infrastructure

Strategic Policy SP08: Phased Delivery of Infrastructure and Services

Strategic Policy SD02: Axminster and its development allocations

Strategic Policy CC01: Climate emergency

Strategic Policy CC02: Moving toward Net-zero carbon development

Strategic Policy CC03: Promoting low carbon and renewable energy

Strategic Policy CC06: Embodied carbon

Strategic Policy AR01: Flooding

Strategic Policy AR02: Water efficiency

Strategic Policy HN01: Housing to address needs

Strategic Policy HN02: Affordable housing

Policy HN03: Housing to meet the needs of older people

Policy HN04: Accessible and adaptable Housing

Policy HN05: Self-build and custom build housing

Strategic Policy DS01: Design and local distinctiveness

Policy DS02: Housing density and efficient use of land

Strategic Policy TR01: Prioritising walking, wheeling, cycling, and public transport

Policy TR03: Travel plans, transport statements and transport assessments

Policy TR04: Parking standards

Strategic Policy OL01: Landscape features

Policy OL09: Control of pollution

Policy OL10: Development on high quality agricultural land

Strategic Policy PB01: Protection of internationally and nationally important wildlife sites

Policy PB02: Protection of regionally and locally important wildlife sites

Policy PB03: Protection of irreplaceable habitats and important features

Strategic Policy PB04: Habitats Regulations Assessment

Strategic Policy PB05: Biodiversity Net Gain

Policy PB07: Ecological enhancement and biodiversity in the built environment

Policy PB08: Tree, hedges and woodland on development sites

Policy PB09: Monitoring requirements for new planting schemes

Strategic Policy OS01: Access to open space and recreation facilities

Policy OS02: Sport, recreation and open space provision in association with development

Policy OS03: Location of facilities for sport and recreation and open

Policy OS05: Leisure and recreation developments in the countryside

Strategic Policy HE01: Historic environment

Policy HE02: Listed buildings

Policy HE04: Archaeology and Scheduled Monuments

Devon Waste Plan 2011 – 2031

Policy W4 (Waste Prevention)

The East Devon First Homes Interim Guidance Note May 2022

East Devon Affordable Housing Supplementary Planning Document November 2020

Trees & Development Supplementary Planning Guidance April 2005

Site Location and Description

The site is located in the Mill Brook valley on the east side of Axminster. It is presently pastureland (2 fields) bounded by hedgerows typical of a pastoral setting. On its western side it abuts the 'Mill Brook' development with vehicular access proposed from Three Acre Close (presently a cul-de-sac). On the north side lies Beavor Lane, which is a single public road serving a few properties and terminating east of the site where it runs into a public footpath. To the south lies the Mill Brook itself and to the east lies Prestaller Farm and further pastureland.

The site lies in the E105 allocation for Axminster as defined in the Local Plan under Strategy 20. The most southerly parts of the site adjacent to the brook are designated as Flood Zones 2 & 3 while the whole site (as much of this valley) is designated as a Critical Drainage Area. A public footpath (Axminster footpath 19) runs from Beavor Lane, down the east side of the site and then joins up with another (Axminster Footpath 75) which runs east/west across the site. The site also falls in the catchment area for the River Axe (designated as a Special Conservation Area and Site of Special Scientific Interest) which has been classed as failing in terms of habitat quality by Natural England.

ANALYSIS

Main Issues

The main issues in the consideration of this application are:

- The principle of development
- Affordable Housing requirements
- Design, layout, appearance, landscape
- Flooding and drainage
- River Axe SAC and SSSI
- On site ecology
- Trees
- Highways & Public Rights of Way
- Effects on existing neighbouring properties
- Strategy 20 requirements
- 5 Year Housing Land Supply

Principle

This site forms part of the allocation of development for Axminster under Strategy 20 of the Local Plan (site E105). While previous work has been undertaken in respect of drawing up a Master Plan for the allocation as required by Strategy 20, together with the other main interested parties (the Crown Estate and Persimmon Homes), this parcel of land was never included in that exercise as it did not appear that the land owner wanted to engage in that process at the time. The three major planning application submitted by the Crown Estate and Persimmon Homes have stalled and remain undetermined due to uncertainty over the funding of the relief road which is required under Strategy 20, and in part due to the unresolved matter of the effect of nutrients on the River Axe Special Area of Conservation and Site of Special Scientific Interest.

Notwithstanding the above the site is located where residential development is acceptable in principle under Strategy 20.

Affordable Housing

The target under Strategy 34 is a provision of 25% affordable homes. The development proposed is for 29 houses (revised down from 30 originally), 7.25 of which were originally proposed to be affordable units. However, the developer has recently been requested to improve the number of dwellings that meet the Nationally Described Space Standards because 20 of them did not meet the standards initially. Revisions to the plans, and in some cases changes in house types, have meant that the viability of the scheme has been challenged through the submission of a viability appraisal. Cost increases since the application was submitted have also been a factor, as has the larger build costs associated with the relief, the access road and considerable SUDS requirements.

The Council has taken advice from an independent viability consultant and through negotiations between the parties the scheme can now provide for 4 units of affordable homes (discounted market sale) on the site and a £60,000.00 contribution towards affordable housing off-site. This is in accordance with the Strategy and the Council's Supplementary Planning Guidance on Affordable Housing. A Section 106 agreement would be required to secure delivery of the above.

Revisions to the layout have improved the distribution of the affordable units which are now better integrated into the layout of the site.

The Housing Enabling Officer has been party to the viability negotiations and has confirmed that the use of discounted market sale (30% of marker price) is an acceptable tenure.

Design, Layout, Appearance

All of the housing on this site is proposed in the northern field, which is mainly due to this being the most level of both of the fields within the site. The access road winds its way up to the housing from the adjacent Three Acre Close, first heading south through the northern field, through the hedge line before turning back north and breaching the hedge line again to re-enter the northern field where the houses are.

The western slopes of the northern field are to be retained as amenity land with both informal open spaces and hedgerow and woodland planting proposed. The southern field would contain a section of the access highway, informal open space with a greater emphasis on woodland planting than the northern field but also it would be dominated by two attenuation ponds which are required due the drainage sensitivities of the site (being a critical drainage area).

The site has been challenging in terms of providing a sustainable drainage solution due the sloping nature of the site near the bottom of a valley which is in a critical drainage area. The use of two attenuation ponds on the southern field (which itself is quite steep in places) will appear quite engineered but it is considered that the adjacent woodland planting will soften its appearance in time.

The existing public footpath that crosses the site just south of the hedgerow which separates the northern and southern fields will unfortunately be severed twice where the access road crosses it. There are limited options in terms of achieving vehicular access to the estate and the gradients have to an extent made this necessary. The route will be maintained on its current line but an additional pedestrian circulation route will be added through in between the attenuation ponds which links with the exiting footpath, providing an alternative route (Landscape Green Infrastructure Plan 3187.001 Rev F refers).

The site layout and design and layout have undergone some revisions since original submission. There is now a direct pedestrian route through the estate from Beavor Lane, which improves connectivity between the rest of the Strategy 20 allocation (if delivered) but also existing residential development to the north and the town centre. Between plots 27 and 28 the exit at the southern end of the footpath has been revised

to remove what was a previously slightly awkward alignment that conflicted with some parking spaces (a concern noted in the landscape officer's comments).

The location of the affordable housing has been revised which has reduced the original clustering of these units. Less units are now proposed close to the neighbouring farm which has enabled larger more useable gardens to be designed.

Various other minor revisions have been made improving the layout in terms of reducing unnecessary parking (in favour of larger gardens), not terminating view with fences or garages and clarifying the separation between private and public realms with quality means of enclosure (metal railings).

The appearance of the proposed dwellings follows a pleasing traditional form with traditionally proportioned windows, doors, pitched roofs and feature chimneys on selected properties. All properties will now have some form of solar PV panels provided which are required to improve the sustainability of the development.

The diversity of the materials used has increased with dwellings using a mix of red brick, white render and Lias stone facing. Roof tiles will include a mix of grey and brown roof tiles.

House Type	GIA (m2)	Bedroom Nos	No of dwellings	NDSS size (m2)	NDSS Compliance?
624 (AH)	58	1	4	58	Y
755 (OM)	70	2	3	70	Y
844 (OM)	79	3	2	84	N
878 (OM)	84	3	8	84	Y
1173 (OM)	109	4	2	97	Y
905 (OM)	84	3	6	84	Y
1900 (OM)	180	5	3	128	Y
1057 (OM)	100	4	1	97	Y

Nationally Described Space Standards

Revisions to the plans for the houses now mean that only 2 do not meet the NDSS requirements, those being house-type 844. The reasons given were that the plot sizes were awkward and that it was not felt that increasing the house-types was appropriate. The plot sizes don't appear to be a constraint so this is somewhat disappointing.

However, the scheme has been through a long period of design review and revisions, a process that pre-dated the Council's recent decisions on other planning applications concerning NDSS. Although the Council has won some appeals recently in relation to NDSS requirements, the Council still has not formally adopted these standards, although they are proposed in the emerging local plan. The scheme is much improved in terms of NDSS targets from its starting point (where 20 did not meet standards) and revisions have affected viability to a degree. The Council also finds itself with a very reduced five year housing land supply following the revisions

to the NPPF in December 2024 and to withhold permission at this point could risk a costly appeal for some modest shortfalls in floorspace.

Overall, the design layout and appearance of the development is considered acceptable.

Flooding and Drainage

Much of the site lies outside of any flood zone, save for the areas immediately adjacent to the stream (Mill Brook) at the far southern boundary of the site where the banks of the stream fall into Flood Zones 2 and 3. Recent changes to the NPPF and NPPG confirm that areas proposed to be used for public open space, biodiversity and amenity areas that lie in the flood risk areas will not necessarily trigger the need for a sequential test. No development lies in the flood risk areas so a sequential test is not required.

The site lies in a Critical Drainage Area and the NPPG advises that 'areas at risk of flooding are those at risk from any source...'. Further, 'It can also include an area within Flood Zone 1 which the Environment Agency has notified the local planning authority as having critical drainage problems'. The guidance here simply says it 'can' include Critical Drainage Areas but gives not guidance on how to decide whether this applies or not. It is considered in this case that it does not include the site as explained below.

The NPPF says elsewhere that the Sequential Test should be applied to 'Major' and 'Non-major development' proposed in areas at risk of flooding, but it will not be required where 'The site has been allocated for development and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test).' In this case the site is allocated for housing in the current adopted Local Plan. The Local Plan was subject to a Strategic Flood Risk Assessment. The Axminster CDA information sheet published by the EA is dated May 2015. The date of the Planning Inspector's report into the adopted Local Plan is dated January 2016. It is therefore concluded that the site has been considered against and passed the sequential test.. The EA has advised it does not have any concerns regarding flood risk.

As the site lies in a Critical Drainage Area significant weight needs to be given to designing a suitable sustainable drainage system that will not give worsen the drainage characteristics of this area. The proposed drainage system includes a pair of large swales in the southern portion of the site, which will attenuate run-off. These will be landscaped/planted to provide pedestrian circulation routes around the site.

Several revisions to the SUDS features have been made to accommodate the requirements of the Sustainable Drainage Team at Devon County Council. With its objection now withdrawn and with the imposition of a pre-commencement planning condition requiring further information on the drainage, the management of surface water and silt run-off during construction, details of the adoption/management of the SUDS systems and details of how exceedance flows will be managed, the

development is considered acceptable in terms of drainage. It therefore complies with policies EN1 and EN22 of the Local Plan.

River Axe SAC and SSSI

Natural England has recently issued guidance in relation to the current conservation status of the River Axe Special Area of Conservation (SAC) which is considered to be in an 'unfavourable condition'. The advice is that the condition status is affected by increased phosphate levels in the river. Excessive levels of such nutrients can lead to rapid growth of certain plants through the process of eutrophication, leading to a loss of biodiversity and the decline in the condition of designated sites. In order to achieve improvements in water quality it is advised that substantial reductions in nutrients are needed and that mitigation solutions will be needed to enable new development to proceed without causing further harm.

New residential development can increase the impacts on the designated sites due to wastewater discharge from water treatment works or from private treatment works that discharge within the catchment area and lead to increase in phosphate levels.

In this instance the application proposes three septic tank replacements (serving four properties). Two of these are located in Somerset but within the catchment of the River Axe. They would be replaced with GRAF OneClean PTP (with no chemical dosing) package treatment plants. All of the replacements would take place upstream of the development site as required by Natural England guidance.

The Council as the Competent Authority should only grant permission if they are certain at the time of Appropriate Assessment that a plan or project (in this case the proposed development) will not adversely affect the integrity of a habitats site i.e. where no reasonable scientific doubt remains as to the absence of effects. In this regard, new residential development, such as that proposed will, without appropriate mitigation, lead to increased phosphate loading (from greywater discharge) and as such should not be permitted.

The sHRA has been submitted to Natural England as the statutory consultee for comment. If Natural England raise no objections to the proposed mitigation, it is considered that the conclusions of appropriate assessment could be adopted by the Local Planning Authority, in its role as the competent authority under the Habitats Regulations. A response is expected in time for the meeting when members will be updated.

The mechanism for delivery of the mitigation would be via a S106 agreement between the developer, the Council and the third-party landowners whose septic tanks are being replaced. This may involve a separate S106 from the usual S106 used to secure affordable housing and other matters, as the third parties would not want to, nor need to be, bound up in liability for matters beyond the septic tank replacements. The development is in accordance with strategy 47 and policy EN5 of the Local Plan in relation to these matters.

On-site ecology

A bat activity report has been submitted with the application. This concludes that the site is of no value to roosting bats and is of 'district' value for commuting and foraging bats. The southern, western and dividing boundary hedgerows form important features for foraging and commuting bats. These would be retained although the access road would pierce the central hedgerow in two places. The additional planting proposed is expected to mitigate the effect the development will have on bats and can be secured with planning conditions. It is not expected that the development will require a licence from Natural England in relation to bats.

A dormouse survey has demonstrated that dormice are present on the site. A licence from Natural England will be necessary for the development to go ahead (under the Conservation of Habitats and Species Regulations 2010).

However, Planning Practice Guidance (PPG) requires that the Local Planning Authority is satisfied that a licence is likely to be granted before it grants planning permission.

To this end, it is required to consider proposals against three licensing tests for European protected species. If these are not satisfied, a licence cannot be issued and the developer may not be able to implement a grant of planning permission.

The proposals are assessed against the three tests as follows:

1. The activity is for a certain purpose

The activities are required to develop the site which has been allocated for development in the Local Plan. This is to meet an identified and robustly tested housing need to meet the needs of the town and district, which is considered to be a matter of overriding public interest. Further, benefits to the local economy would be gained through the employment in relation to the construction works which will add a significant if temporary uplift to the economy.

2. There is no satisfactory alternative to the activity that will cause less harm to the species

The form of the site has dictated the proposed layout, with the access having to twice sever the central hedgerow, resulting in approximately 32m of habitat loss (this being the most substantial and obvious effect). The feasibility of an alternative road access has not been explored but the only realistic alternative would be from Beavor Lane. This would likely require the widening of Beavor Lane which would involve removing a far greater section of hedges. Most of these are in different ownerships anyway and so this option is far from being a practical alternative anyway.

In relation to other effects which relates to the proximity of the houses to habitats, given the site is allocated for housing there is little other option other than to ensure the mitigation proposed in the report.

3. The development does not harm the long term conservation status of the species

The proposed avoidance, mitigation and compensation measures for the dormice identified - including the provision of a new hedgerow, woodland planting and general landscaping, have been sympathetically designed, in consultation with suitably qualified experts, so as to appropriately safeguard their conservation status.

In conclusion, it is considered likely that a licence for the works affecting dormice would be granted and is therefore not a barrier to granting planning permission.

Trees

Advice on the effect of the development on trees has been provided by both the landscape officer and two tree officers. Of concern to the tree officer however (and landscape officer) is the proposed vehicular access off Beavor Lane to serve 3 houses. This would entail the removal of a field maple (T4 - Category B), hawthorn (T5 – Cat C) and hedgebank whereas it has been suggested that the access could use the existing field access to the west. This access however does not appear to be a suitable width and would likely require some hedgebank to be removed along with three category C trees T1, T2 and T3 (field maple, common oak and ash respectively). In this context there is not considered to be a significant difference therefore in terms of effect and this element of the proposal is considered acceptable. 5 silver birch and four hornbeam trees are proposed to be planted along the Beavor Lane boundary to compensate for the two lost trees.

Some revisions have been made to address the relationship of the development to existing trees around the perimeter of the site and suitable tree protection measures are identified on the plans. The revised planting plans show a good number of new trees to be planted which are distributed around the site, along with new sections of hedgerow and enhancement to retained hedgerows. Subject to suitable conditions regarding tree and hedgerow protection and landscaping the development is considered acceptable in terms of trees and hedgerows. The development complies with policies D2 and D3 of the Local Plan in this respect.

Highways & Public Rights of Way

Access is primarily provided by a continuation of the highways off Three Acre Close as previously described. Three dwellings will be accessed from Beavor Lane. Sufficient parking is provided. The development will lead to the alteration of the footpath crossing the site but will retain the same level of public access as before. Devon County Council raise no objection to the proposals. Sufficient parking is provided and the site is well related to the town in terms of sustainable travel, being 630m from the town centre. There are good links to the public rights of way network leading into the surrounding countryside. The development complies with strategies 3 and 5b and policies TC2, TC7 and TC9 of the Local Plan.

Effects on nearby dwellings

The layout of the site is such that there are only three dwellings that would come close to existing neighbouring properties. These proposed properties would be orientated side by side to a degree which should minimise opportunities for overlooking. The site level itself is elevated above the existing neighbouring dwellings also. The substantial

landscaping proposals include tree planting along the north-west boundary of the site nearest the neighbouring dwellings which also assists in alleviating effects on these properties. There are no overriding reasons why the development cannot be supported on these grounds.

Amenity for occupants of the dwellings is acceptable. The garden spaces vary in size and are reasonably level in the main. While some gardens (notably the affordable units) are modest and tiered, the site has generous levels of open space and has good access to nearby recreation facilities and the public rights of way network leading into the surrounding countryside. The level nature of the area for houses permits good light levels in the dwellings.

A lot of the concerns raised include the existing drainage characteristics and the effectiveness of the existing SUDS schemes in the existing residential development. The proposed drainage system has been refined in accordance with the advice from the Sustainable Drainage team at DCC which has since removed its initial objection.

Strategy 20 requirements

Strategy 20 brings with it a number of different land uses which are proposed to be delivered in the whole allocation area. This includes employment land, a range of social, community and open space facilities, a 210-pupil primary school (including nursery) and a north/south relief road for the town. This requirement falls equally developers in any of the allocated areas.

At the time of the master planning exercise for Strategy 20 the landowner of the subject site did not involve themselves although all interested parties were given an opportunity to do so. Work on the masterplan has stalled in part due to the Housing Infrastructure Fund bid resulting in a financial support package from the Government which was not what was expected, which appears to have made the delivery of the relief road unviable at present. Therefore, at present there is nothing for the applicant in this case to contribute towards and any funding secured would in all probability be clawed back at a later date, in line with standard clauses used in Section 106 agreement in relation to unspent contributions.

During the consideration of the planning applications (still live but dormant) on the adjacent sites in the allocated area Devon County Council advised that it no longer needed additional school places, with plans instead being agreed to make such provision at existing educational sites in the town. The recently received request from DCC's Education team outlined a contribution request. However, this is now secured via CIL, which the response acknowledges.

The site under consideration is not well suited to employment land provision as it is accessed through an existing residential area and would not make a good neighbour to existing houses nearby. The master plan for the allocation met all the required need for employment land provision on the other sites. It is not necessarily appropriate to seek an individual provision on every land owner's site within the allocation anyway. The master planning exercise identified the most suitable locations for each land use and although this site was not included in that exercise, sufficient land was found elsewhere in the allocation.

5 Year Housing Land Supply (5YHLS)

The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework, in the decision-taking section states:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; and

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

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

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

The National Planning Policy Framework (December 2024) (NPPF) states, at paragraph 78, that "local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old."

The most recent information indicates that the Council's 5-year housing land supply (5YHLS) stands at 2.97 years and as such the presumption in favour of sustainable development in paragraph 11 of the NPPF applies.

Planning Obligations

A S106 will be required to secure the affordable housing provision. This includes 4 units on-site plus a commuted sum (£60,000.00) payable to be used in affordable housing provision off-site.

This is in accordance with the Strategy and the Council's Supplementary Planning Guidance on Affordable Housing.

Nutrient mitigation measures will also need to be included in the obligation(s).

CONCLUSION

The site is within the Built Up Area Boundary and the Strategy 20 allocation of the Local Plan. The principle of development is therefore acceptable. The development provides less than the expected proportion of affordable housing, but instead an amount which can be delivered while maintaining the viability of the development. This will be secured via a S106 agreement. The layout, appearance, landscaping, scale and access arrangements are acceptable and appropriate in their context.

On the basis that appropriate mitigation can be secured in respect of avoiding excess nutrients discharging into the River Axe SAC can be secured, the development is acceptable. Confirmation of the Council's Appropriate Assessment from Natural England has been confirmed.

The development will deliver some much-needed housing in Axminster where the wider Strategy 20 allocation has stalled, all material matters have been satisfactorily addressed and it is therefore recommended that permission be granted.

RECOMMENDATION

That the Council adopts the shadow Habitat Regulations Assessment as its Appropriate Assessment.

That subject to the completion of a S106 agreement which secures:

- The nutrient mitigation measures outlined in the shadow Habitats Regulation Assessment; and
- The provision of 4 on-site affordable housing units (Discounted Market units with minimum 30% discount in perpetuity) and a commuted sum of £60,000.00 for affordable housing provision off-site.

that permission be GRANTED subject to the following conditions:

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

Dormouse Presence/Absence Survey Report Revision 01 December 2021
(Ecological Services Ltd)
Bat Activity Report Revision 01 December 2021 (Ecological Services Ltd)

Written confirmation from a suitably qualified expert that the required mitigation and enhancement has been carried out across the whole site shall be provided to the Local Planning Authority prior to the first occupation of the final dwelling to be completed.

(Reason: To ensure that adequate mitigation and enhancement for bats and dormice are provided in accordance with Strategies 3 (Sustainable

Development), 5 (Environment) and 47 (Nature Conservation and Geology) of the East Devon Local Plan 2013 - 2031).

4. 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 - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)

5. Prior to the commencement of the development, the tree protection details on the plans hereby approved shall have been implemented. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details of which shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The development shall be carried out strictly in accordance with the agreed details.

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

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

(b) 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.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - The conditions is a pre-commencement condition because it concerns how the development is carried out. 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 2016.)

6. Prior to any construction above foundation level, details of materials to be used externally shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be built in the materials approved.
(Reason - To ensure that the materials 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.)

7. 1) Prior to the commencement of the development details of proposed SuDS basins and associated inlets/ outlets, forebays, check dams etc. shall have been submitted to, and approved in writing by, the Local Planning Authority. Submitted details shall include detailed plans and sections of the basins showing proposed soil make up, forebays etc. and a detailed method statement for construction of the outlet to the watercourse to prevent adverse impact on intervening trees and hedgebank. In accordance with the CIRIA SuDS design manual the design of the basins and headwalls should have a positive or neutral impact on amenity.

- 2) Prior to the commencement of development and notwithstanding the landscape details submitted, no development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 20 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:
 - o Extent, ownership and responsibilities for management and maintenance.
 - o Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.
 - o A description and evaluation of landscape and ecological features to be created/
managed and any site constraints that might influence management.
 - o Landscape and ecological aims and objectives for the site.
 - o Detailed maintenance works schedules covering regular cyclical work and less
regular/occasional works in relation to:
 - o Existing trees, woodland and hedgerows.
 - o New trees, woodland areas, hedges and amenity planting areas.
 - o Grass and wildflower areas.
 - o Biodiversity features - hibernaculae, bat/ bird boxes etc.
 - o Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
 - o Arrangements for Inspection and monitoring of the site and maintenance practices.
 - o Arrangements for periodic review of the plan.

Management, maintenance, inspection and monitoring shall be carried out in accordance with the approved plan.

- 3) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with

the exception of planting which shall be completed no later than the first planting season following first use.

4) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the Local Planning Authority.

(Reason - The conditions is a pre-commencement condition because it concerns how the development will affect existing and proposed ecology and landscape features. In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

8. Prior to the commencement of the development hereby approved a Waste Audit Statement shall be submitted to, and agreed in writing by, the Local Planning Authority. The Statement shall explain how waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy contained within Devon County Council's Waste Management and Infrastructure Supplementary Planning Document (July 2015) , with a clear focus on waste prevention in the first instance.

(Reason: The conditions is a pre-commencement condition because it concerns how the development is carried out. In the interests of minimising waste in accordance with Strategy S3 (Sustainable Development) of the East Devon Local Plan 2013 - 2031 and policy W4 (Waste Prevention) of the Devon Waste Plan 2011 - 2031).

9. Prior to the commencement of development a Construction and Environment Management Plan (CEMP) must be submitted to, 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: The conditions is a pre-commencement condition because it concerns how the development is carried out. To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with policy EN14 of the East Devon Local Plan 2013 - 2031.)

10. 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 in accordance with policy EN14 of the East Devon Local Plan 2013 - 2031.)

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 enlargement of the dwellings hereby permitted under Schedule 2 Part 1 Classes A or D, no buildings under Class E nor hard surfaces under Class F shall be erected or constructed.

(Reason - The site lies in a Critical Drainage Area where surface water runoff needs to be strictly controlled in order to reduce the risk of flooding and such developments will require careful consideration in terms of these effects in accordance with policies EN21 (River and Coastal Flooding) and EN22 (Surface Water Run-Off Implications of New Development) of the East Devon Local Plan 2013 - 2031.)

12. Prior to the commencement of development and the following information shall have been submitted to and approved in writing by the Local Planning Authority:
- (a) A detailed drainage design based upon the approved Drainage Strategy Drawings (Drawing No. 141332C.101-01, Rev. P6, dated 13th March 2023, Drawing No. 141332C.101-02, Rev. P6, dated 13th March 2023 and Drawing No. 141332C.101-03, Rev. P08, dated 20th March 2023).
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
 - (d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

(Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and NPPG, and effects in accordance with policies EN21 (River and Coastal Flooding) and EN22 (Surface Water Run-Off Implications of New Development) of the East Devon Local Plan 2013 - 2031. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.)

Plans relating to this application:

141332_SK.03- 01 P3 : vehicle tracking-fire 1 of 2	Other Plans	01.11.22
141332_SK.03- 02 P3 : vehicle tracking-fire 2 of 2	Other Plans	01.11.22
141332_SK.04- 01 P3 : vehicle tracking-refuse 1 of 2	Other Plans	01.11.22
141332_SK.04- 02 P3 : vehicle tracking-refuse 2 of 2	Other Plans	01.11.22
141332_SK.06- 01 P2 : visibility splay	Other Plans	01.11.22
141332_SK.08- 01 P3 : highway cross sections	Sections	01.11.22
141332_SK.10- 01 P3 : highway dimensions	Other Plans	01.11.22
141332_SK.10- 02 P3 : highway dimensions	Other Plans	01.11.22
141332_SK.11- 01 P2 : site sections	Sections	01.11.22
302 D : house type 755	Proposed Combined Plans	01.11.22
311 D : house type 844	Proposed Combined Plans	01.11.22

312 F : housetype 1173	Proposed Combined Plans	01.11.22
313 D : housetype 1057	Proposed Combined Plans	01.11.22
318 B : housetype 1900 brick	Proposed Combined Plans	01.11.22
P204 : E + H	Sections	01.11.22
	Sustainability Statement	01.11.22
P105 J : Enclosures	Other Plans	20.01.25
05657.TPP. AIA. Rev D 03.02.23	Tree Protection Plan	14.06.23
05657.TPP Rev D 03.02.23	Tree Protection Plan	14.06.23
P102 rev J: Including Southern POS	Proposed Site Plan	20.01.25
P103 M : Development Area Only	Proposed Site Plan	20.01.25
P104 K : Materials	Other Plans	20.01.25
P106 H : Surfaces	Other Plans	20.01.25
P107 H : Parking	Other Plans	20.01.25
P108 H : Refuse Collection	Other Plans	20.01.25
P109 E : PV location	Other Plans	20.01.25
P202 E : A + B	Street Scene	20.01.25
P203 D : C+D	Street Scene	20.01.25

P205 A : G +F	Sections	20.01.25
303 E: Proposed Housetype 878	Proposed Combined Plans	20.01.25
304 E: Proposed Housetype 878 SA	Proposed Combined Plans	20.01.25
305 E: Housetype 878 Bay Window Brick	Proposed Combined Plans	20.01.25
306 E: Housetype 878 Bay Window Stone	Proposed Combined Plans	20.01.25
308 E: Housetype 878 Hipped Roof Render	Proposed Combined Plans	20.01.25
316 B: Housetype 1900	Proposed Combined Plans	20.01.25
317 D: Housetype 1900 Render	Proposed Combined Plans	20.01.25
321: Housetype 624	Proposed Combined Plans	20.01.25
322: Housetype 905 Brick	Proposed Combined Plans	20.01.25
323: Housetype 905 Render	Proposed Combined Plans	20.01.25
351 D : Double Garage	Proposed Combined Plans	20.01.25
141332C.100-01 P10: External Levels 1 of 3	Other Plans	27.01.25
141332C.100-02 P8: External Levels 2 of 3	Other Plans	27.01.25

141332C.100-03 P4: External Levels 3 of 3	Other Plans	27.01.25
3187.001 rev I: Landscape Green Infrastructure Plan	Landscaping	27.01.25
3187.002.I rev I: Planting Sheet 1 of 3	Landscaping	27.01.25
3187.002.2 rev I: Planting Sheet 2 of 3	Landscaping	27.01.25
3187.002.3 rev I: Planting Sheet 3 of 3	Landscaping	27.01.25
Dormice	Protected Species Report	18.11.21
Bat Survey	Protected Species Report	18.11.21
350 B : PROPOSED CARPORT - 2 SPACE	Proposed Combined Plans	18.11.21
352 B : PROPOSED CARPORT - 3 SPACE	Proposed Combined Plans	18.11.21
P100 A	Location Plan	18.11.21
141332_C.102- 01 P1 : long sections	Sections	21.03.22
Travel Plan	General Correspondence	18.11.21
141332_C.300 P1 : highway	Construction Details or Drawings	21.03.22

141332_C.102-02 P2 : Long Sections	Sections	25.03.22
141332_C.300 P2	Construction Details or Drawings	25.03.22
05657.AIA.TPP. Rev D 03.02.23.S1	Tree Protection Plan	04.04.23
05657.AIA.TPP. Rev D 03.02.23.S2	Tree Protection Plan	04.04.23
141332-01-P3	Flood Risk Assessment	14.02.23
141332_C.101-01 P5 : drainage strategy 1 of 3	Other Plans	14.02.23
141332-GFRR - FEH Method : micro drainage	General Correspondence	26.04.23
141332_C.101-01 P6 : drainage strategy 2 of 3	Other Plans	26.04.23
141332_C.101-01 P6 : drainage strategy 1 of 3	Other Plans	26.04.23
141332-100plus 40 plus urban 20.03.23 : micro drainage	General Correspondence	26.04.23
141332-Southern Swale (2) : micro drainage	General Correspondence	26.04.23
141332C.101-03 : drainage strategy 3 of 3	Other Plans	26.04.23
141332_SK.07.0 1 P4 : flood exceedance	Other Plans	26.04.23

141332_SK.07.0 2 P4 : flood exceedance	Other Plans	26.04.23
141332_SK.09- 01 P4 : pond	Sections	26.04.23
141332_SK.12- 01 P2 : impermeable area	Other Plans	26.04.23

List of Background Papers

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

Natural England

Comment Date: Mon 18 Mar 2024

Thank you for your consultation on the above dated 28 February 2024.

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:

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Axe Special Area of Conservation (SAC).
- damage or destroy the interest features for which River Axe Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- runoff from the urban element of the proposed development to be routed to an attenuation pond.
- replacement of two septic tanks, which serve three properties in the River Axe catchment, with package treatment plants.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Further advice on mitigation:

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

European sites - River Axe SAC:

Based on the plans submitted and mitigation proposed, Natural England considers that the proposed development will not have likely significant effects on the River Axe SAC and has no objection.

River Axe SSSI:

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

Protected species:

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice

(<https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

4/09/24 –

1 INTRODUCTION

This report forms the EDDC's landscape response to amended details recently submitted in respect of the application for the above site.

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

2 REVIEW OF SUBMITTED INFORMATION

2.1 Layout

The proposed vehicular access on to Beavor Lane entails the loss of two trees including a B category field maple and a section of hedgebank and will result in an increase in vehicular traffic onto the existing bridleway. There is scope to provide a vehicular access from the south instead as indicated in the over-marked plan extract with just a pedestrian/ cycle link onto Beavor Lane at the location of the existing field access as indicated in the over-marked plan extract below:



The latest plans retain a vehicular access onto Beavor Lane but provide a pedestrian/ cycleway link connecting the northern housing area (plots 27 – 29) with the southern part of the site but access at its southern end is awkward and narrow. If this was to be accepted the pathway should be adjusted by swinging the southern end westwards to align with the end of the roadway as indicated in the over-marked extract below:



2.2 Boundaries

The surfaces and enclosures plans indicate the soft landscape areas between the parking bays to plots 24-26 are to be part of the individual plot curtilages as highlighted in plan extract below. This will jeopardise the retention of the proposed street trees and plot boundaries should be amended so these areas are retained by the management company. Additional street trees should be provide as indicated by red circles.



Similarly land to the east of plots 17-18 between the garden boundaries and road edge and the existing hedge to the west of plots 15 and 27 should be communal maintained by the management company.

2.3 SuDS attenuation basins

As currently proposed the location of the proposed attenuation basins will channel footpath users along a narrow route around or between them which is consequently likely to become poached and muddy particularly in winter. If the current design is to be constructed a surfaced path in bound gravel should be provided between the two SuDS basins to address this and provide all-season access for footpath users.

There are water runoff issues that affect the path immediately to the east and west of the site boundaries and these should be addressed as part of the scheme proposals to prevent path erosion.

The outlet from the attenuation basin discharges via a new sewer through the southern boundary hedgebank to the tree lined watercourse to the southwest. This has potential to adversely impact the hedgebank and the RPAs of riparian trees which does not appear to have been considered in the arboricultural assessment. A detailed method statement should be provided to cover this and the tree protection plan amended accordingly.

2.4 Soft landscape proposals – Drawings 3187.002.1, 2 and 3 Rev F

Submitted soft landscape details are generally acceptable.

The plant schedule on dwg. 3187.002.1 should be amended to included type of rootstocks for proposed fruit trees. The planting density of native hedge and woodland mixes should also be indicated.

The specification on dwg. 3187.002.2 should be amended as follows:

Tree planting – to be in accordance with BS8545 - Trees from nursery to independence in the landscape. Tree pits to be excavated to a depth sufficient to accommodate depth of roots. Backfill with excavated soils to match surrounding soil horizons.

The specification should include for over-seeding existing grass sward with wildflower seed mixes. This should include harrowing/ scarifying to create bare areas of ground. Maintenance regime for wildflower/tussock/ retained grass land should be provided.

3 ACCEPTABILITY OF PROPOSALS

Further amendments are required to address the above points.

Should the application be approved the following conditions should be attached:

1) No development shall take place until details of proposed SuDS basins and associated inlets/ outlets, forebays, check dams etc. have been submitted and approved. Submitted details shall include detailed plans and sections of the basins showing proposed soil make up, forebays etc. and a detailed method statement for construction of the outlet to the watercourse to prevent adverse impact on intervening trees and hedgebank. In accordance with the CIRIA SuDS design manual the design of the basins and headwalls should have a positive or neutral impact on amenity.

2) Notwithstanding the landscape details submitted, no development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 20 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:

- Extent, ownership and responsibilities for management and maintenance accompanied by a site plan showing private curtilages areas to be adopted, and areas to be maintained by the management company.
- Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.
- A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
- Landscape and ecological aims and objectives for the site.
- Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:
 - Existing trees, woodland and hedgerows.
 - New trees, woodland areas, hedges and amenity planting areas.
 - Grass and wildflower areas.
 - Biodiversity features - hibernaculae, bat/ bird boxes etc.
 - Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- Arrangements for Inspection and monitoring of the site and maintenance practices.
- Arrangements for periodic review of the plan.

Management, maintenance, inspection and monitoring shall be carried out in accordance with the approved plan.

3) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

4) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before

development starts to ensure that it properly integrates into the development from an early stage.)

10/5/23 –

1 INTRODUCTION

This report forms the EDDC's landscape response to amended details recently submitted in respect of the application for the above site.

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

2 REVIEW OF SUBMITTED INFORMATION

2.1 Layout

The proposed vehicular access on to Beavor Lane entails the loss of two trees including a B category field maple and a section of hedgebank and will result in an increase in vehicular traffic onto the existing bridleway. There is scope to provide a vehicular access from the south instead as indicated in the over-marked plan extract with just a pedestrian/ cycle link onto Beavor Lane at the location of the existing field access as indicated in the over-marked plan extract below:



The latest plans retain a vehicular access onto Beavor Lane but provide a pedestrian/ cycleway link connecting the northern housing area (plots 27 – 29) with the southern part of the site but access at its southern end is awkward and narrow. If this was to be accepted the cycleway should be by swinging the southern end of the path westwards to align with the end of the road way as indicated in the over-marked extract below:



The proposed retaining wall in the southeast corner of the rear garden to plot 7 is too close to the existing hedgebank and should be repositioned at least 1m clear of it.

2.2 Boundaries

The enclosures plan indicates the soft landscape areas between the parking bays to plots 24-26 are to be part of the individual plot curtilages as highlighted in plan extract below. This will jeopardise the retention of the proposed street trees and plot boundaries should be amended so these areas are retained by the management company. Additional street trees should be provide as indicated by red circles.



2.3 SuDS attenuation basins

Due to the relatively steep slopes the attenuation basins have a very engineered appearance and their location obstructs the direct line and easiest gradient which footpath users currently take across the field. Consideration should be given to providing some underground storage capacity to reduce the extent of the attenuation basins and allow them to be better sited and more naturalistic in appearance.

As currently proposed the location of the proposed attenuation basins will channel footpath users along a narrow route around them which is consequently likely to become poached and muddy. If the current design is to be constructed a surfaced path in bound gravel should be provided to address this and provide all-season access for footpath users.

There are water runoff issues that affect the path immediately to the east and west of the site boundaries and these should be addressed as part of the scheme proposals to prevent path erosion.

The outlet from the attenuation basin discharges via a new sewer through the southern boundary hedgebank to the tree lined watercourse to the southwest. This has potential to adversely impact the hedgebank and the RPAs of riparian trees which does not appear to have been considered in the arboricultural assessment. A detailed method statement should be provided to cover this and the tree protection plan amended accordingly.

2.4 Soft landscape proposals – Drawings 3187.002.1, 2 and 3 Rev F

Submitted soft landscape details are generally acceptable.

The plant schedule on dwg. 3187.002.1 should be amended to included type of rootstocks for proposed fruit trees. The planting density of native hedge and woodland mixes should also be indicated.

The specification on dwg. 3187.002.2 should be amended as follows:

Tree planting – to be in accordance with BS8545 - Trees form nursery to independence in the landscape. Tree pits to be excavated to a depth sufficient to accommodate depth of roots. Backfill with excavated soils to match surrounding soil horizons.

Native woodland and hedge mixes should be planted into cleared ground by mechanical stripping or herbicide application and provided with weed suppressant mulch mats or bark mulch.

The specification should include for over-seeding existing grass sward with wildflower seed mixes. This should include harrowing/ scarifying to create bare areas of ground. Maintenance regime for wildflower/tussock/ retained grass land should be provided.

3 ACCEPTABILITY OF PROPOSALS

Further amendments are required to address the above points.

Should the application be approved the following conditions should be attached:

1) No development shall take place until details of proposed SuDS basins and associated inlets/ outlets, forebays, check dams etc. have been submitted and approved. Submitted details shall include detailed plans and sections of the basins showing proposed soil make up, forebays etc. and a detailed method statement for construction of the outlet to the watercourse to prevent adverse impact on intervening trees and hedgebank. In accordance with the CIRIA SuDS design manual the design of the basins and headwalls should have a positive or neutral impact on amenity.

2) Notwithstanding the landscape details submitted, no development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 20 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:

- Extent, ownership and responsibilities for management and maintenance.
- Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.
- A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
- Landscape and ecological aims and objectives for the site.
- Detailed maintenance works schedules covering regular cyclical work and less regular/occasional works in relation to:
 - Existing trees, woodland and hedgerows.

- New trees, woodland areas, hedges and amenity planting areas.
 - Grass and wildflower areas.
 - Biodiversity features - hibernaculae, bat/ bird boxes etc.
 - Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- Arrangements for Inspection and monitoring of the site and maintenance practices.
 - Arrangements for periodic review of the plan.

Management, maintenance, inspection and monitoring shall be carried out in accordance with the approved plan.

3) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

4) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

22/03/22 -

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.

The site is situated to the south of Beavor Lane which provides the present means of access. It comprises two fields under pasture extending to 2.5Ha and set between recent housing development to the west and southwest, older housing areas to the north and northwest and the Prestaller Farm building complex to the southeast. The site has a southwesterly aspect and falls to an unnamed stream just beyond the southern boundary. The fields are surrounded by hedgerow with some trees. Land to the northeast, east and southeast is presently undeveloped but is included in a large housing allocation within the current Local Plan, as is the site itself.

A public footpath runs in an east-west line through the southernmost field, continuing eastwards with a spur off northwards linking to Beavor Lane to the far side of the eastern site boundary.

Proposed access will principally be taken from the adjoining housing estate to the west with a further access formed off Beavor Lane serving units adjacent to the northern site boundary.

2 REVIEW OF SUBMITTED INFORMATION

2.1 Layout

2.1.1 Generally

The site design is a suburban type layout of mostly detached units fronting standard width roadways with driveway parking to the sides in a generally geometric arrangement in contrast to the more informal layout of the recent Millbrook housing estate to the west and southwest. Development is concentrated towards the northeastern side of the site where ground slopes are less steep leaving a swathe of undeveloped land, barring the proposed access road, on the steeper slopes to the west and south. The opportunity to create an informal layout appropriate to the rural-edge setting of the site and possibly incorporating a small village green type space in the heart of the scheme has been missed.

2.1.2 Treatment of Beavor Lane

The proposal to create a new vehicular access from Beavor Lane to serve plots 27-30 will entail the loss of existing mature trees to the frontage with Beavor Lane and will increase vehicular traffic along it. Beavor Lane is a narrow, historic lane which is also a public bridleway. The loss of trees and increase in vehicular traffic will have an adverse impact on the character of the lane. Increase in vehicular use could also affect safety of bridleway users. The need for a vehicular access from Beavor Lane seems unnecessary as this could be provided by extending the main site access road from Three Acre Close northwards and providing only a cycle/ pedestrian link onto Beavor Lane via the existing field access in the northwest corner. The sketch overlays (figures 1 and 2) below show how this could be achieved by relocating the garage to plots 27/28 and extending the access road northwards at a gradient of 1:55.

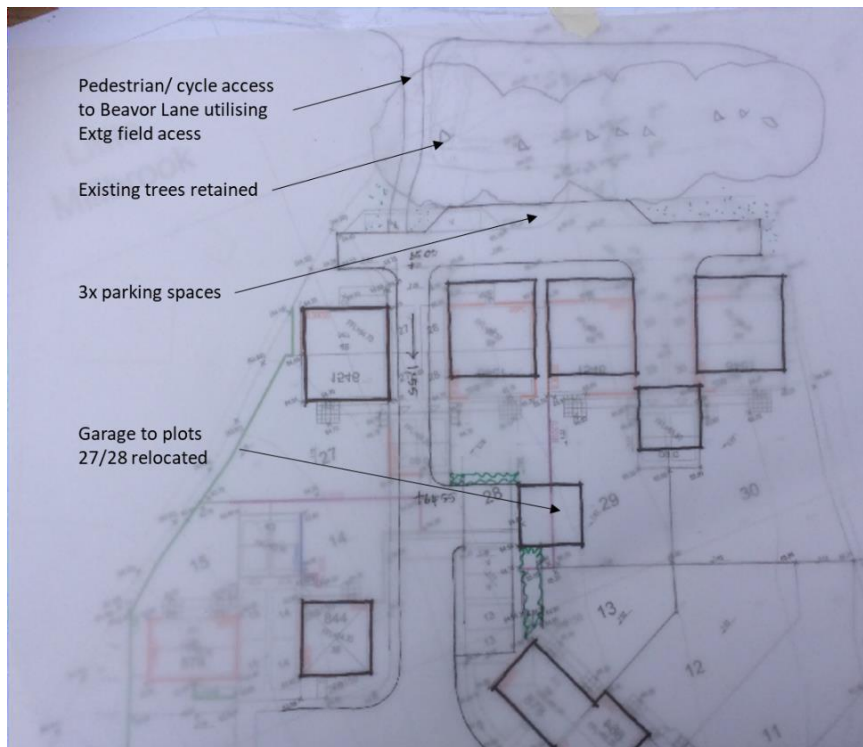


Figure 1 - Alternative access arrangement for plots 27-30 from the south

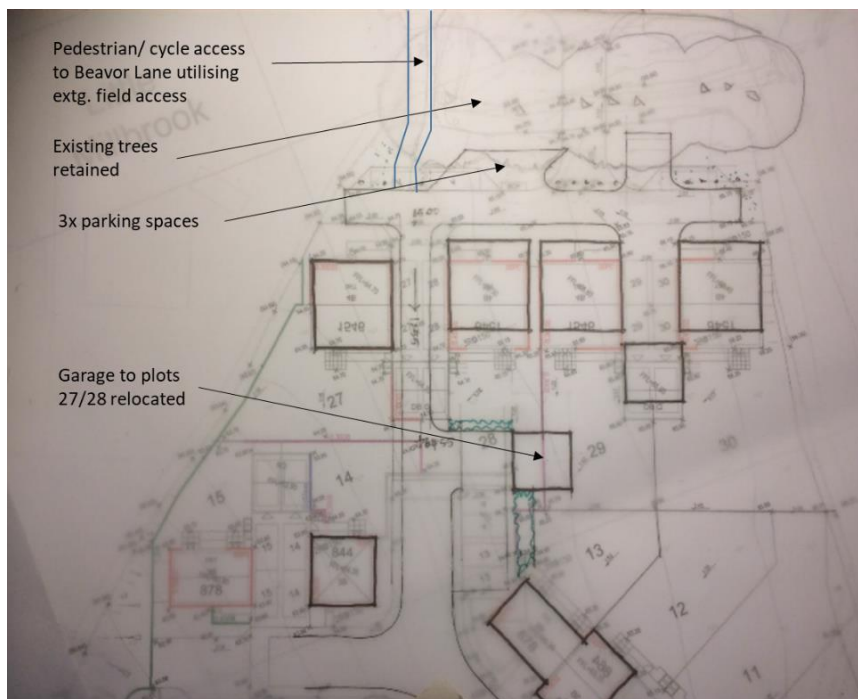


Figure 2 - Alternative access arrangement for plots 27-30 from the south

2.1.3 Plots 19-22

a) Plot 21 has a double garage and four additional parking spaces allotted to it. With the exception of plot 20, which has four spaces, no other plot has more than 3 spaces. The need for plot 21 to have six spaces is unclear, especially as the arrangement results in a relatively small rear garden for the property.

b) The arrangement of plots 19-22 is dominated by parking, while the straight access road serving them leads the eye to a framed opening between plots 21 and 22 which goes nowhere. It would seem more appropriate to close down this opening by relocating the garage to plot 22 into it to create a more enclosed courtyard as indicated in fig. 3 below.



Figure 3 – Possible alternative arrangement to frontages plots 19-22

2.1.4 Plots 1-7

Plots 1-7 appear to be shoe-horned into the southwest corner of the site, pressed against existing boundary trees and hedgerow which are likely to overshadow their rear gardens.

As noted in the submitted tree survey these trees are principally outgrown elm. As such they are likely to be short lived and require felling in the near future. Their loss would expose the somewhat dilapidated agricultural building to views from the adjacent dwellings. The layout and landscape proposals should account for this and provide an appropriate green buffer to screen views of the farmyard and buildings from the dwellings.

2.2 Public rights of way

2.2.1 Access to Beavor Lane

A new right of access for pedestrians and cyclists should be provided through the site along the site access road from Three Acre Field to connect through to Beavor Lane.

2.2.2 Diversion of Axminster footpath 75

The proposed diversion of the existing public footpaths should follow the natural desire line across the southern field between the eastern and western access gates with a spur heading up along the eastern boundary to the gateway access on footpath 19 leading through Prestaller Farm as this provides a more natural, level route for users of footpath 75, compared to that shown on the site plan.

It is noted that there are drainage issues resulting in erosion and ponding on the existing footpath (Axminster 75) at the eastern and western boundaries of the site. The proposals should include for appropriate drainage works to direct surface water off the path and improve access for pedestrians.

2.3 SuDS and Drainage

a) Proposed drainage detail do not include plots 27-30. Drainage details for these plots should be provided.

b) The proposed land drain between inspection chambers LD6 and LD8 appears to compromise the existing boundary hedgerow and should be adjusted to avoid this.

c) There are a number of trees adjacent to the watercourse beyond the southern site boundary which are not shown on the submitted tree survey or tree constraints plan. Proposed outlets to the watercourse west of LD9 and from the southernmost SuDS basin could compromise the RPAs of these trees. Further assessment of the potential arboricultural impact of this should be provided and the drainage adjusted accordingly as necessary.

d) The proposed SuDS attenuation basins have an over engineered appearance that also interrupts the natural desire line for users of footpath 75. The design of the basins should be reworked to provide a more naturalistic solution that respects this and works and marries better with existing site levels.

e) There is an opportunity to include some SuDS drainage provision in the open space area in the northern field linking to the SuDS basins in the southern field which would help in making the proposed basins more naturalistic.

f) Details of proposed inlets and outlets to SuDS basins should be provided.

g) Water butts should be provided to rear gardens to collect roof runoff for garden watering purposes.

EDDC Trees

22/03/23 - I note the amendments/comments made by the applicant and these address the following points raised:

- o The additional tree planting and tree protection adjacent to Beavor Lane
- o I accept the point regarding trying to maintain character of Beavor Lane.
- o The addition of tree protection adjacent to the riparian woodland to the south of the site.

- o Additional details relating to the hedgerow removal/retention running east to west through the site.
- o Point noted regarding the ownership of the additional access on Beavor Lane.

With regards to the management of the boundary hedgerows and their suburbanisation, possible loss and future management, where they abut residential curtilage. I have reviewed the Enclosures plan Drawing No. 1629/P105 Rev E, as suggested and I note the following:

- o The hedgerow adjacent to plots numbers 7 to 11 and 29 is bordered by a 1100mm high post and rail fence. This which will allow light to the hedgerow and maintain photosynthetic function. It is unclear how the hedgerow will be maintained.
- o The hedgerow adjacent to plots 6, 15 and 27 is shown being bordered by a brick faced retaining wall, with an 1800mm high closeboard fence adjacent to the hedgerow. This will reduce light reaching the hedgerow, negatively impacting on its long-term physiological condition. It is unclear how the hedgerow will be maintained adjacent to these plots.
- o The hedgerow to the rear of plots 1 to 6 seem to form the actual residential curtilage. It is unclear how hedgerow is going to be maintained adjacent to these plots, or what is to stop the new occupants removing the hedgerow to extend their garden space.

With respect of and in addition to the above I would refer to my earlier comments:

"If these hedgerows form part of domestic curtilage, there will be a gradual urbanisation of these boundary features. There is also insufficient space for mechanised equipment to access these areas, for the continued management of these features. How will the internal faces of these hedgerows be managed post development?

Ideally these old local landscapes features would be retained and enhanced within scheme's public open space, and their ongoing management secured as part of an approved landscape management plan"

One additional minor point which I missed on my earlier consultation, can we have the dimensions showing the offset of the tree protection fencing annotated on the tree protection plan, so that it is clear where the protective fencing will be installed?

Best regards,

Stuart Baker Bsc (Hons) M.Arbor.A
Arboricultural Officer

14/12/22 –

Site Access Northern Boundary Adjacent to Beavor Lane.

The short section of grass verge, hedgerow and small trees located between the two agricultural access tracks (Image 1), contribute to the general rural character of the eastern end of Beavor Lane. I have undertaken a TPO assessment and a copy of

this is attached. The trees fall short of the necessary amenity score to justify their protection with a TPO. That said there would be a harm to the rural character of the lane if the new access was constructed as proposed. I also note one of the trees proposed to be removed is a BS5837:2012 category B Field maple.



Image 1: Google Street View image showing section of grass verge, hedgerow and trees.

Whilst it may not be possible to object to the loss of these trees purely on tree grounds, I do note the lack of new soft landscaping planting on this boundary in mitigation for the tree loss and harm to the rural character of Beavor Lane (Image 2):



Image 2. Extract from the application's Landscape and Green Infrastructure Plan.

Would it be possible to infill the existing agricultural access on the western end of the site's northern boundary with new grass verge, hedgerow and tree planting to

compensate for the loss of amenity. In addition establish proactive management of this boundary, as an traditional hedgerow with standard trees?

Ongoing management of Eastern and Western boundary hedgerows.

The proposed plans show the construction of dwellings and garden boundaries in close proximity to the eastern and western boundary hedgerows. I have marked these areas (blue) in images 3 and 4 below. If these hedgerows form part of domestic curtilage, there will be a gradual urbanisation of these boundary features. There is also insufficient space for mechanised equipment to access these areas, for the continued management of these features. How will the internal faces of these hedgerows be managed post development?

Ideally these old local landscapes features would be retained and enhanced within scheme's public open space, and their ongoing management secured as part of an approved landscape management plan.



Image 3. Northern half of site with areas of hedgerow management concern marked in light blue.



Image 4. Southern half of site with areas of hedgerow management concern marked in light blue.

Southern Site Boundary Adjacent to Attenuation Basin.

There is a lineal riparian wooded strip of trees, growing along / adjacent to the sites southern boundary (Image 5) and stream. These trees are not included within the site's existing arboricultural survey. The proposed attenuation basin may impact on the Root Protection Area of these trees. Prior to any planning approval these trees will need to be surveyed in accordance with BS5837:2012 and the finding of which added to the arboricultural report, AMS and TPP. The extent of their RPA may impact on the design and layout of the adjacent attenuation basin.



Image 5. Location of trees adjacent to the proposed attenuation basin marked in blue

Amendments to Tree Protection Plan (TPP).

Should the existing scheme be approved a number of minor amendments should be sought to the TPP.

- a) Can the red hatching on the TPP be updated to show only the two sections of hedgerow to be removed. This could be made more explicit by including the dimensions of the retained and removed sections of hedgerow. There is also no tree protection fencing show around the retained section of hedgerow.

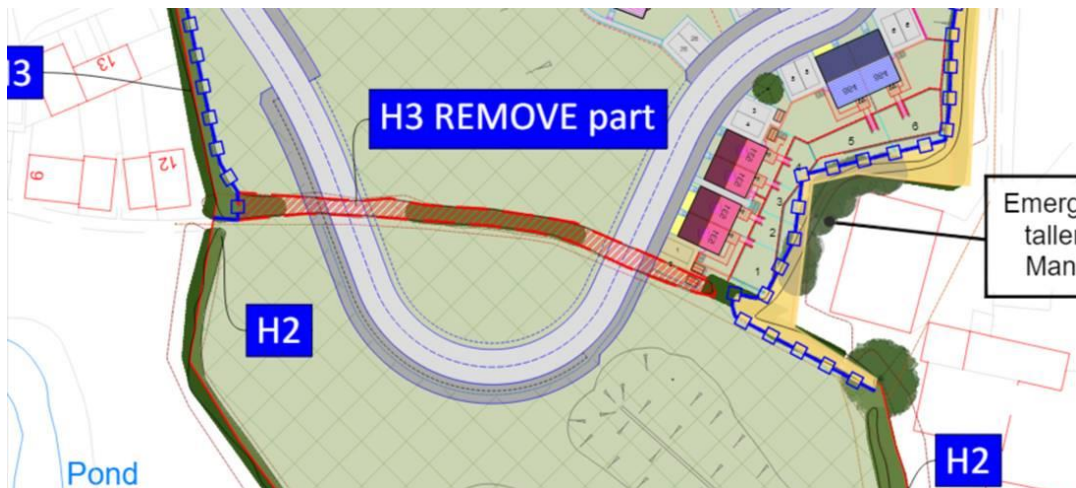


Image 6. Extract from the TPP with the entire hedgerow marked in red hatching. According to the adjacent key, this whole hedgerow is to be removed.

- b) Can the tree protection fencing be extended to include the grass verges on the site's northern boundary. This will avoid them becoming martials drop-off point, or a contractors parking area, causing compaction of the ground and damage to the RPA of the retained trees.

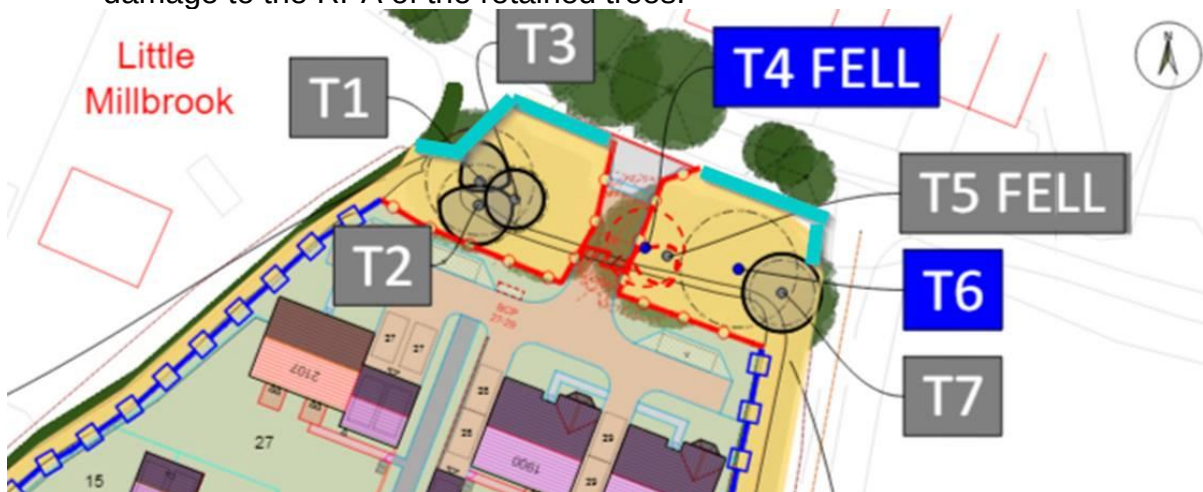


Image 7. Suggest extension to Tree Protection Fencing marked in blue.

Planning conditions.

Should the scheme be approved (and subject to the above changes), any planning approval should also include a condition requiring the submission of and compliance with, a detailed Arboricultural Method Statement and TPP. This should include provision for the following arboricultural site monitoring visits:

- i) Inspection of and signing off, of the correctly installed tree protection measures.
- ii) Monthly Ad-hock arboricultural inspection of tree protection measures.
- iii) Arboricultural sign off of the completion of construction works, prior to the removal of the tree protection measures.

04/08/22 - I agree with the comments provided by the landscape officer dated 22nd March in regards to the access off Beavor Lane to plots 27 to 30. This appears unnecessary, resulting in the loss of tree cover and fragmentation of habitat. The alternative proposed by the officer is considered more appropriate. The current proposal involves the loss of T4, a Field Maple which has been classified as a B category tree with an estimated remaining contribution of 40 years and a Hawthorn. Due to the low number of trees on site, it is considered even more appropriate to retain these trees. No justification has been provided to substantiate why it is appropriate to remove T4 especially when there is a category C tree (T3, an Ash, 10 years contribution) located to the west: moving the entrance west is another option, though as already stated the suggestion provide by the landscape officer is more suitable.

Environment Agency

10/01/22 - Thank you for consulting us on this application.

Environment Agency position:

We recommend that this application is not determined until it has been demonstrated that the proposed development is consistent with the Axe Nutrient Management Plan. This position is consistent with Strategy 20 of the East Devon District Council Local Plan.

Reason - Nutrient Management:

The site is located within the area allocated for mixed use development, E105, under Strategy 20 of the East Devon District Council Local Plan. Strategy 20 indicates that new growth in Axminster will need to propose adequate mitigation to negate the additional phosphate load that would be caused by development. This links to the Nutrient Management Plan which has been created in line with Strategy 20. We therefore recommend that you consult with Natural England on this matter also.

Advice - Flood Risk:

Notwithstanding the issue of nutrient management, we advise that we do not have concerns relating to flood risk. Where the development is carried out in accordance with the submitted plans, the residential units will be located in Flood Zone 1 (low probability of flooding) and on considerably higher ground than the area remaining undeveloped in flood zone 3 (high probability of flooding). If the proposed site layout (including residential properties or SuDS) changes we request to be re-consulted, to ensure that the new development will remain safe from flooding.

Please contact us again if you require any further information.

Environmental Health

04/11/22 - 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.

Contaminated Land Officer

04/11/22 - 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.

DCC Flood Risk SuDS Consultation

Comment Date: Tue 06 Jun 2023

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
 - (a) A detailed drainage design based upon the approved Drainage Strategy Drawings (Drawing No. 141332C.101-01, Rev. P6, dated 13th March 2023, Drawing No. 141332C.101-02, Rev. P6, dated 13th March 2023 and Drawing No. 141332C.101-03, Rev. P08, dated 20th March 2023).
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
 - (d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

The applicant have confirmed that infiltration is unviable for this development site.

The derived greenfield runoff rate, Q_{bar} is 7.8l/s for an impermeable area of 0.679ha. The 10% urban creep shall be allowed for during the detailed design.

The proposed volume for the northern swale is 298.26m³ and 516.23m³ for the southern swale.

The applicant are proposing additional features like low flow channel and land drain along the western boundary of the proposed development site to cope with the existing overland flow and exceedance flow.

Any temporary or permanent works need to take place within this watercourse to facilitate the proposed development would require Land Drainage Consent must be obtained from Devon County Council's Flood and Coastal Risk Management Team prior to any works commencing. Details of this procedure can be found at: <https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>.

14/3/23 -Recommendation:

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

Observations:

The applicant have confirmed that infiltration is unviable for this development site. The derived greenfield runoff rate, Q_{bar} is 7.8l/s for an impermeable area of 0.679ha. The 10% urban creep shall be allowed for during the detailed design.

The model output results indicated that a storage volume of 498.2m³ is required to provide a 1 in 100 years event. Looking at the submitted Drainage Strategy Sheet 3 of 3, the proposed Northern Swale storage volume is 133.18m³ and 220.23m³ for the Southern Swale, giving a total of 353.41m³. This is below the required storage volume of 498.2m³. The applicant shall clarify this and make the necessary amendment.

The applicant are proposing additional features like low flow channel and land drain along the western boundary of the proposed development site to cope with the existing overland flow and exceedance flow.

We would be happy to provide a further review if additional information is submitted to the local planning authority.

06/01/22 - Recommendation:

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

Observations:

Although the applicant has submitted three drainage layout drawings we would require further information at this stage:

- The applicant should fully assess the use of infiltration at this site in line with the preferred option outlined in the surface water management hierarchy. On site tests to BRE 365 standard should be undertaken. Please note that if infiltration results indicate that soakaways are viable at the site, we have a requirement for groundwater monitoring.
- We would require calculations/model outputs clearly demonstrating the existing greenfield runoff rates at the site. Please note we only accept impermeable areas only for the runoff rate calculations. We would require attenuation calculations to provide evidence that the attenuation has been sized for the 1 in 100 year plus 40% event. We also have a requirement for FEH rainfall to be used rather than FSR and for 10% urban creep to be included within the attenuation calculations.
- We are aware of an existing overland flow path from this site which has resulted with flooding nearby. The applicant should carefully consider the exceedance flow paths from this site and provide this information in a plan. We would welcome any additional features along the western boundary such as double road gullies and/or cut off drain to reduce the risk of runoff leaving this steep site.
- We would require information on who is likely to maintain the drainage proposed at the site as well as typical maintenance schedule for the basins.
- The applicant should provide further information on the basins at this stage. The basins should be designed to fulfill the 4 features of SuDS and to be sympathetic to the wider landscape. We would recommend a landscape officer comments on the design of the proposed basins. We would require that the basins have varied side slopes with no side steeper than 1 in 3 in line with the Ciria SuDS Manual. We would recommend that the basins have a freeboard of 300 mm on top of the maximum water table.

- The applicant should confirm that the basins are located outside of flood zone 2 and 3 when considering the latest Environment Agency climate change allowances for watercourse.

We would be happy to provide a further review if additional information is submitted to the local planning authority.

29/11/22 - Recommendation:

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

Observations:

Following our previous consultation response FRM/ED/3025/2021, dated 20th April 2022, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Drainage Layout Sheet 1 of 3 (Drawing No. 141332C.101-01, Rev. P4)
- Drainage Layout Sheet 2 of 3 (Drawing No. 141332C.101-02, Rev. P4)
- Drainage Layout Sheet 3 of 3 (Drawing No. 141332C.101-03, Rev. P4)
- Flood Exceedance Plan (Drawing No. 141332_SK.07-01, Rev. P2)
- Flood Exceedance Plan (Drawing No. 141332_SK.07-02, Rev. P2)

Although the above additional information has been submitted, it does not answer the queries raised previously in our formal response dated 20th April 2022. I have re-listed the queries below for information:

- The applicant should fully assess the use of infiltration at this site in line with the preferred option outlined in the surface water management hierarchy. On site tests to BRE 365 standard should be undertaken. Please note that if infiltration results indicate that soakaways are viable at the site, we have a requirement for groundwater monitoring.
- We would require calculations/model outputs clearly demonstrating the existing greenfield runoff rates at the site. Please note we only accept impermeable areas only for the runoff rate calculations. We would require attenuation calculations to provide evidence that the attenuation has been sized for the 1 in 100 year plus 40% event. We also have a requirement for FEH rainfall to be used rather than FSR and for 10% urban creep to be included within the attenuation calculations.
- We are aware of an existing overland flow path from this site which has resulted with flooding nearby. The applicant should carefully consider the exceedance flow paths from this site and provide this information in a plan. We would welcome any additional features along the western boundary such as double road gullies and/or cut off drain to reduce the risk of runoff leaving this steep site.

- We would require information on who is likely to maintain the drainage proposed at the site as well as typical maintenance schedule for the basins.

- The applicant should provide further information on the basins at this stage. The basins should be designed to fulfill the 4 features of SuDS and to be sympathetic to the wider landscape. We would recommend a landscape officer comments on the design of the proposed basins. We would require that the basins have varied side slopes with no side steeper than 1 in 3 in line with the Ciria SuDS Manual. We would recommend that the basins have a freeboard of 300 mm on top of the maximum water table.

- The applicant should confirm that the basins are located outside of flood zone 2 and 3 when considering the latest Environment Agency climate change allowances for watercourse.

We would be happy to provide a further review if additional information is submitted to the local planning authority.

20/04/22 - Recommendation:

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

Observations:

Following my previous consultation response FRM/ED/3025/2021, dated 06.01.22, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Drainage Layout Sheet 1 of 3 P2
- Drainage Layout Sheet 2 of 3 P2
- Drainage Layout Sheet 3 of 3 P3

Although the above additional information has been submitted, it does not answer the queries raised previously in my formal response dated 06.01.22.

I have re-listed my queries below for information:

- The applicant should fully assess the use of infiltration at this site in line with the preferred option outlined in the surface water management hierarchy. On site tests to BRE 365 standard should be undertaken. Please note that if infiltration results indicate that soakaways are viable at the site, we have a requirement for groundwater monitoring.

- We would require calculations/model outputs clearly demonstrating the existing greenfield runoff rates at the site. Please note we only accept impermeable areas only for the runoff rate calculations. We would require attenuation calculations to provide evidence that the attenuation has been sized for the 1 in 100 year plus 40%

event. We also have a requirement for FEH rainfall to be used rather than FSR and for 10% urban creep to be included within the attenuation calculations.

- We are aware of an existing overland flow path from this site which has resulted with flooding nearby. The applicant should carefully consider the exceedance flow paths from this site and provide this information in a plan. We would welcome any additional features along the western boundary such as double road gullies and/or cut off drain to reduce the risk of runoff leaving this steep site.

- We would require information on who is likely to maintain the drainage proposed at the site as well as typical maintenance schedule for the basins.

- The applicant should provide further information on the basins at this stage. The basins should be designed to fulfill the 4 features of SuDS and to be sympathetic to the wider landscape. We would recommend a landscape officer comments on the design of the proposed basins. We would require that the basins have varied side slopes with no side steeper than 1 in 3 in line with the Ciria SuDS Manual. We would recommend that the basins have a freeboard of 300 mm on top of the maximum water table.

- The applicant should confirm that the basins are located outside of flood zone 2 and 3 when considering the latest Environment Agency climate change allowances for watercourse.

We would be happy to provide a further review if additional information is submitted to the local planning authority.

Housing Strategy/Enabling Officer -

16/11/22 - The number of dwellings has reduced to 29 which reduces the affordable housing provision to 7.25 units. This means 7 on-site and 0.25 as a commuted sum which will be £11,559. The applicant has sought to address the distribution of the affordable units so they are not all located in one area. The revised plan is acceptable, and the units are now better dispersed throughout the site.

03/02/22 - This site is located within the Axminster built up area boundary and is allocated for mixed use development. Under strategy 34 a target of 25% affordable housing is required. The applicants are proposing to provide 7 units on-site and a commuted sum of £23,118 for the 0.5 of a unit. The commuted sum amount is correct and the 7 on-site units meets policy requirements. The affordable units comprise 4 x 1 bedroom houses for rent and 3 x 2 bedroom houses for a discounted market tenure referred to as 'My Home'. Strategy 34 sets a target of 70% for rent and 30% for affordable home ownership which includes discounted market units. This would result in 5 rented units and 2 units for affordable home ownership. The tenure split proposed is more weighted to affordable home ownership however it meets the requirement in NPPF for 10% of all properties to be for affordable home ownership. Whilst the need for 1 bedroom affordable units to rent is very high in the district it is also important to get a good balance of unit/bedroom sizes. The 1 bedroom units will meet a need and houses are preferable to flats however it would provide a better mix if there were also some 2 bedroom houses.

The discount level for the 'My Home' tenure have not been confirmed stating that it could be 70%, 75% or 80% discount on market prices. In line with recent changes to Government policy for First Homes (see below) these units should have a discount of 30% (70% of Market Value). This will be secured through a S106 agreement to ensure the discount remains in perpetuity. Eligibility for these units should also be covered in the S106 agreement.

The affordable units are all grouped together and are not dispersed throughout the development. They are also located on the steep part of the site with split level gardens and are backing onto agricultural buildings.

As the developer will be responsible for selling the affordable home ownership units and will not be transferring them to a registered provider I am concerned that the 4 x rented units may not appeal to a registered provider as there are too few of them. Early discussions should be had with a provider, it may be the case the interest would be improved if the discounted market units were shared ownership instead. Therefore flexibility is recommended with the affordable home ownership products to ensure delivery of the rented units.

The government have introduced through a written ministerial statement and planning policy guidance a new affordable housing tenure called First Homes. First Homes are for eligible first time buyers and are sold with a 30% discount on market price in perpetuity. On initial sale a price cap of £250,000 (after discount) is applied. Eligibility includes an income cap for purchasers and requirement to fund the purchase with a 50% mortgage. First Home should account for 25% of affordable housing provision and is the governments preferred discounted market tenure. EDDC have produced an interim guidance note which will be going to strategic planning committee in February. This will confirm our approach to dealing with First Homes. Whilst this guidance and the introduction of First Homes does not supersede policy within our local plan it is a material consideration in any planning decision and will be weighted accordingly. The application whilst not mentioning First Homes is intending to provide a very similar product.

Devon County Council, Minerals & Waste
22/12/21 - Dear Sir/Madam,

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 and it is therefore recommended that a condition is attached to any consent to require the submission of a statement in advance of the commencement of development.

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.

Kind regards,

Kate Broad
Planning, Transportation and Environment
Devon County Council

County Highway Authority

04/05/22 - Observations:

The County Highway Authority (CHA) has visited the site and examined all documents within the application and has the following comments:

Strategy 20,

The proposed site lies within the E105 Mixed Use Allocation (Strategy 20) on the Proposals Map for development and should therefore be subject to the provisions laid down in the Local Plan for Strategy 20 - Development at Axminster, which are:

- a) North and East of the town (E105) for mixed uses to incorporate;
 - i) Around 650 new homes;
 - ii) 8 Hectares of land for mixed job generating commercial and employment uses;
 - iii) a range of social, community and open space facilities to support development;
 - iv) a 210 pupil primary school (1.5ha site - which forms part of the overall 8 hectare employment allocation), including a nursery and accommodation to support children's centre services; and
 - v) a North South relief road for the town will be delivered as part of this development linking Chard Road (A358) to Lyme Road (B261).

A Masterplan will be required for this site and development will be subject to improved public transport provision. and Prior to the granting of planning permission for any major residential schemes at Axminster, the Council will agree, with the Environment Agency and Natural England, a timetable for the review or development of a Nutrient Management Plan for the River Axe.

This plan will set out detailed actions that allow for new growth at Axminster to progress with adequate mitigation in place to negate the additional phosphate load that would be caused. The Nutrient Management Plan will work in collaboration with the diffuse Water Pollution Plan, and will seek to restore water quality for the River Axe SAC to enable it to meet its conservation objectives within a specified timescale,

and in accordance with commitments to European Directives Depending on the findings of the plan, growth will only proceed in accordance with the mitigation delivery set out within that plan.

Growth at Axminster will also be informed by the current status of the relevant discharge consents for waste water treatment works, and any upgrade required to support new growth will be the subject of Habitats Regulations Assessment prior to planning permission being given. The determination of such development applications will be informed by Habitat Regulations Assessment that takes account of the consent requirements.

Addendum 20/04/2022:

The CHA has reviewed the amended and additional plans submitted, including the cross-sections, long-sections and visibility splays, as well as the provided Transport Statement. We are now happy to raise no objection to this planning application.

Recommendation:

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

Officer authorised to sign on behalf of the County Council
20 April 2022

11/01/22 - Observations:

The County Highway Authority (CHA) has visited the site and examined all documents within the application and has the following comments:

Strategy 20

The proposed site lies within the E105 Mixed Use Allocation (Strategy 20) on the Proposals Map for development and should therefore be subject to the provisions laid down in the Local Plan for Strategy 20 - Development at Axminster, which are: a) North and East of the town (E105) for mixed uses to incorporate; i) Around 650 new homes; ii) 8 Hectares of land for mixed job generating commercial and employment uses; iii) a range of social, community and open space facilities to support development; iv) a 210 pupil primary school (1.5ha site - which forms part of the overall 8 hectare employment allocation), including a nursery and accommodation to support children's centre services; and v) a North South relief road for the town will be delivered as part of this development linking Chard Road (A358) to Lyme Road (B261).

A Masterplan will be required for this site and development will be subject to improved public transport provision. and Prior to the granting of planning permission for any major residential schemes at Axminster, the Council will agree, with the Environment Agency and Natural England, a timetable for the review or development of a Nutrient Management Plan for the River Axe. This plan will set out detailed actions that allow for new growth at Axminster to progress with adequate mitigation in place to negate the additional phosphate load that would be caused. The Nutrient Management Plan will work in collaboration with the diffuse Water Pollution Plan, and will seek to restore water quality for the River Axe SAC to enable it to meet its

conservation objectives within a specified timescale, and in accordance with commitments to European Directives. Depending on the findings of the plan, growth will only proceed in accordance with the mitigation delivery set out within that plan. Growth at Axminster will also be informed by the current status of the relevant discharge consents for waste water treatment works, and any upgrade required to support new growth will be the subject of Habitats Regulations Assessment prior to planning permission being given. The determination of such development applications will be informed by Habitat Regulations Assessment that takes account of the consent requirements.

Submitted Documents:

The proposed development application does not contain sufficient details, in the form of:

Access Road Long Sections

Access Road Cross Sections

Access Road Dimensions

Access Drainage Proposals

Access Road Street Lighting

Development Transport Assessment or Transport Statement

Conclusion:

At this stage, we object to the application because it does not comply with Strategy 20 of the East Devon Local Plan 2013 to 2031 and the of the lack of suitable information which has been submitted.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, road layout, road construction, road gradients, surface water drainage.

Officer authorised to sign on behalf of the County Council

11 January 2022

Police Architectural Liaison Officer - Kris Calderhead

03/01/22 - I have no objection in relation to the following planning application:

21/3025/MFUL | Erection of 30 dwellings to include highways, drainage, landscaping and ancillary incidental works | Land West Of Prestaller Farm Beavor Lane Axminster

Many thanks

Kris Calderhead

Designing Out Crime Officer

Environment Agency

23/11/22 - Thank you for your consultation of 03 November 2022 in respect of the above planning application.

Environment Agency position:

We recommend the application is not determined until it is clear how the proposal will satisfy Strategy 20 of the East Devon Local Plan and the requirement for nutrient neutrality from new housing which could affect European sites (in this case the River Axe Special Area of Conservation) already failing for nutrients. Our advice regarding nutrient neutrality is set out below.

Advice - Nutrient neutrality:

The 'Dutch N judgement' by the Court of Justice of the European Union on 7 November 2018 put a significant constraint on Local Planning Authorities' ability to approve housing development where additional nutrients in effluent from new housing will affect European sites (such as Special Areas of Conservation/SACs), which are already failing to achieve favourable status due to nutrient levels. In essence the nutrients from new housing must be offset so that it can be considered 'nutrient neutral' and therefore not make the situation worse.

The River Axe SAC is such a site which is not in a favourable condition and the waterbody is failing to achieve good ecological status due to excess sedimentation and phosphorus, which is partially attributed to waste water discharges. Natural England (NE) is responsible for promoting nature conservation and protecting biodiversity, including ensuring that the network of European sites is appropriately maintained or restored to favourable conservation status. As such we defer to NE on this matter and we note that they too have requested further information in this regard. Nonetheless, we are responsible more generally for protecting and improving the water environment and hold a great deal of evidence on the condition of waterbodies and therefore have a keen interest in supporting NE's position.

Devon County Archaeologist

10/01/22 - My ref: Arch/DM/ED/37239a

I refer to the above application and your recent consultation. A programme of archaeological geophysical survey and field evaluation has demonstrated that this development site is of low archaeological potential. As such, no further archaeological mitigation is required and the Historic Environment Team has no comments to make on this planning application.

Historic England

04/01/22 - Thank you for your letter of 17 December 2021 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Yours sincerely

Rhiannon Rhys

Other Representations

Royal Society For The Protection Of Birds

04/01/22 - The RSPB would like to comment on this application.

We note that it is a low-density development and with significant areas of "green space", that the mature hedgerows and trees will be retained and a mitigation plan to conserve hazel dormice will be put in place.

We are however concerned that no consideration has been given to the species that normally share our homes and gardens.

House sparrows, starlings, swifts and house martins are included (category red) in the most recent list of species of conservation concern, they all nest/roost in cavities found in older properties and mature trees, as do crevice roosting bats.

The only way to conserve them is by creating artificial nest/roost sites, this is an easy, inexpensive and effective solution supported by both National Government see

<https://www.gov.uk/government/news/brookshire-orders-house-builders-to-protect-wildlife>

<https://www.gov.uk/guidance/natural-environment>

<https://www.endsreport.com/article/1591661/net-gain-guidance-8-things-need-know>

and the Construction Industry

<https://www.nhbcfoundation.org/publication/biodiversity-in-new-housing-developments-creating-wildlife-friendly-communities/>

We recommend integral swift/universal "bricks" which will be used by all the avian species referred to above see attached.

An average of a minimum of one of the above per residential unit is currently accepted as best practice !!

There are also strong cases for making garden boundaries hedgehog "friendly", installing bat tubes or similar for crevice roosting bats and "bee bricks" for solitary bee species.

We recommend that plans with details and locations of the above are made a condition of the consent if granted.

Stephen Fitt

RSPB England, Exeter Office.

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.

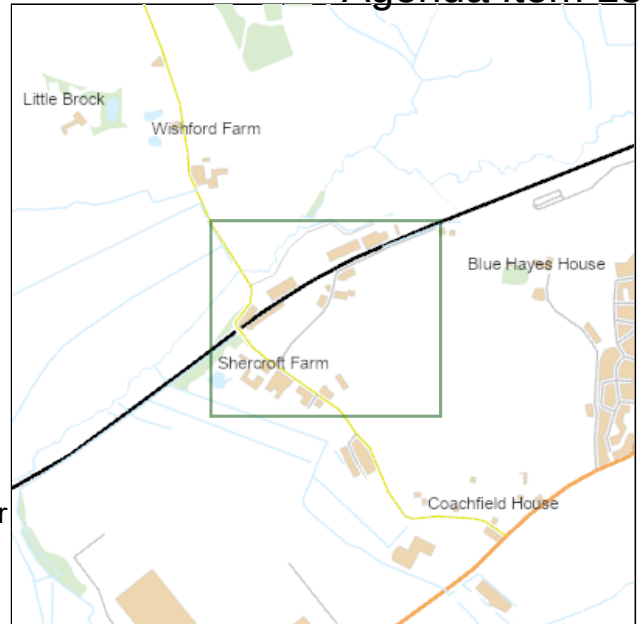
Ward Broadclyst

Reference 21/2604/OUT

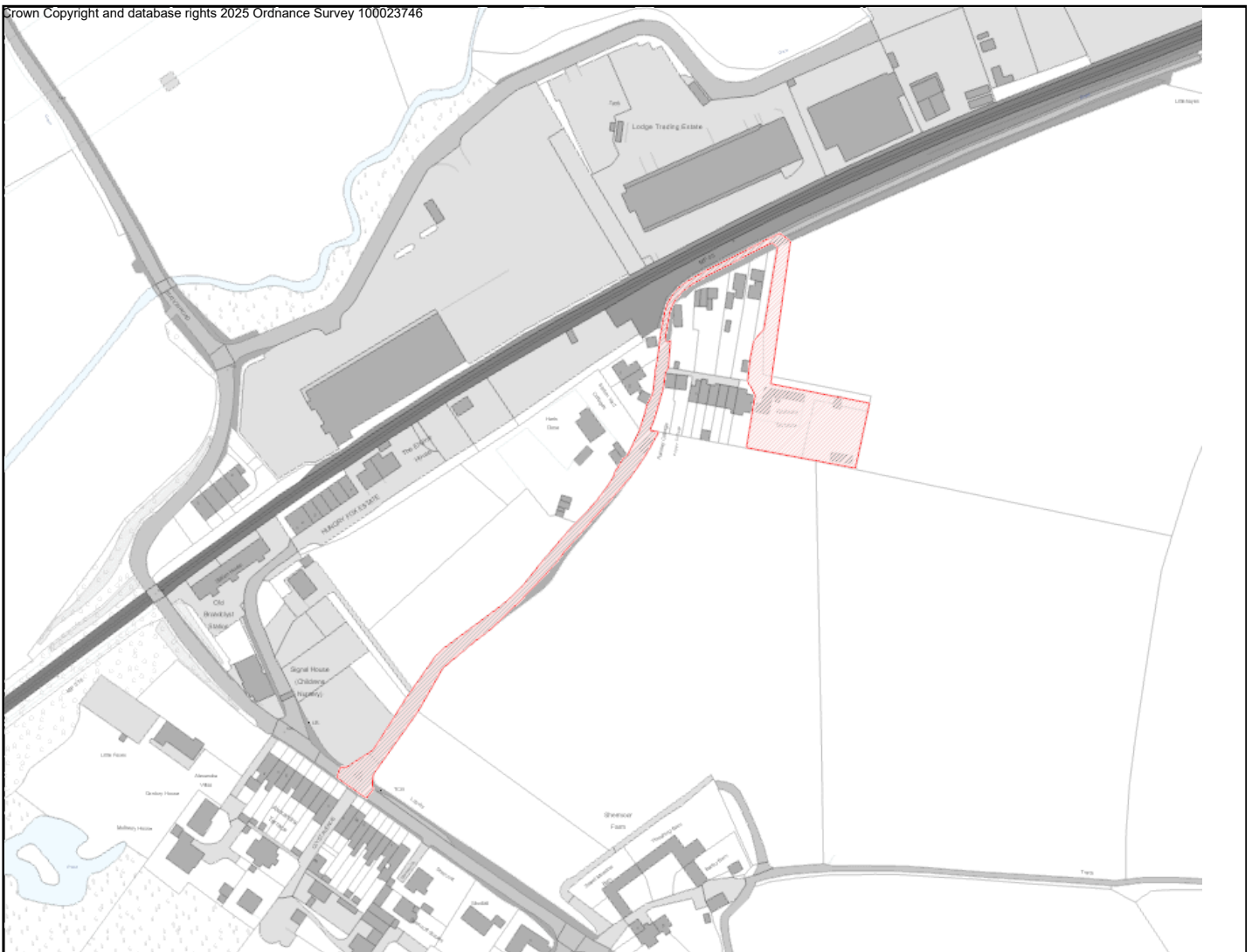
Applicant Mrs Sarah Chamberlain

Location 6 Railway Terrace Broadclyst Station Exeter
EX5 3AX

Proposal Outline application, with all matters reserved, for the erection of seven dwellings.



RECOMMENDATION: Approval subject to a section 106 legal agreement and with conditions



		Committee Date: 25.02.2025
Broadclyst (Broadclyst)	21/2604/OUT	Target Date: 08.12.2021
Applicant:	Mrs Sarah Chamberlain	
Location:	6 Railway Terrace Broadclyst Station	
Proposal:	Outline application, with all matters reserved, for the erection of seven dwellings.	

RECOMMENDATION: Approval subject to a section 106 legal agreement and with conditions

EXECUTIVE SUMMARY

The outline planning application proposes the development of the site for the erection of 7 dwellings.

Planning Committee resolved to approve this application on the 30th September 2022 and since that time negotiations have been underway with the applicant to secure the required legal agreement. In 2024 it became apparent that due to challenges with viability the originally envisaged agreement could not be secured and therefore work was switched to better understanding the viability constraints for the site and what could be considered affordable while making sure the site remained deliverable.

Until that time contributions were being sought at the same rate as the major expansion areas that comprise the principle form of development in the town. However a development of 7 dwellings on an infill style plot is distinctively different and the viability work has demonstrated that in this instance it can't carry the same level of contributions. In particular, differences arise due to the economies of scale that the larger sites can benefit from (build costs), their ability to blend land value across larger tracts of land and the ability to deliver some obligations on site (rather than having to deliver all contribution as off site financial equivalents).

Having worked through the viability appraisal submitted by the applicant and having had this independently assessed for the Council, it was concluded that a headline value of c. £72,000 could reasonably be secured from the scheme without compromising its viability. This would provide for appropriate contributions towards affordable housing and habitat mitigation. In addition and based on the Council's evidence it was identified that an additional contribution could also be secured towards other infrastructure in the town. Through negotiation this was agreed as an extra £28,000 bringing the total to £100,000. Although comprising a

reduction of a little over 50% in overall contributions to that initially sought, it represents a meaningful and justified total and one that allows the development to come forward.

Since the original report was provided and considered by members a number of policy update need to be noted. These comprise:

1. the adoption of the Cranbrook Plan meaning that the application site is now part of the Built Up Area Boundary for Broadclyst Station.
2. the Broadclyst Neighbourhood Plan has been made.
3. The emerging East Devon Local Plan is currently out for its Regulation 19 consultation.

Both the Cranbrook Plan and Broadclyst Neighbourhood Plan form part of the development plan and represent the starting point for determination of the application. In addition policies in the emerging Local Plan can attract limited weight dependant on the level of unresolved objection for those of relevance. As such it is a material consideration.

Importantly (and as a result of the Cranbrook Plan's adoption), the principle for development of this site is established.

The remainder of this summary replicates that from the report in September 2022:

The site is a rectangular parcel of land and current boundary treatment means that the impact of the development would in part be mitigated in the short term, and more particularly seen within an urban context when the expansion development is brought forward.

While the site is served by a single private lane, and on this basis highway access is not ideal, it is on balance considered acceptable noting the relatively low number of vehicle trips generated, the slow speeds and the visibility between passing places

A range of identified requirements including pedestrian and vehicular access to the boundary with the Bluehayes allocation as well as other on and off site obligations which are necessary to make the proposal acceptable need to be secured through a Section 106 agreement. Subject to this the scheme is recommended for approval.

UPDATE REPORT January 2025

This update builds upon the report (set out in full below) that was presented to Members in September 2022 and which recommended approval of the scheme for the construction of 7 Dwellings on land at Railway Terrace Broadclyst. At that time Members resolved to approve the proposal subject to a Section 106 agreement and various conditions. Since then discussions have taken place with the applicant and their team in respect of the Section 106 agreement and more recently viability. This follows the attempted sale of the site to a number of builders who have declined to purchase due to the level of contributions being sought.

Policies CB10 (Cranbrook Affordable Housing) and CB6 (Cranbrook Infrastructure Delivery) of the Cranbrook Plan set out the expectations that all development within the built up area boundaries of Cranbrook and Broadclyst Station

- deliver 15% affordable housing (or equivalent as an off site contribution in line with government advice) and
- make proportionate contributions to on and/or off site infrastructure in and around the town to mitigate for the increased occupation associated with the development.

In this instance and owing to the fact that the site is too small to deliver public amenities and affordable housing on site, this was all to be commuted into a financial payment for off site delivery. The consequence of this was that a financial sum of c £210,000 (or £222,000 including land purchase costs) was being sought. On a per dwelling basis this amounts to a basic contribution of £30,000 per dwelling – significantly more than the typical £19,000 (indexed) per dwelling contribution that is attributable to the large expansion areas allocated through the Cranbrook Plan. Both figures are correct and in accordance with policy CB6 – the difference being attributable to the ability for the larger sites to wrap up costs in on-site delivery (particularly in respect of affordable housing) rather than having to outlay all as a financial contribution.

A Viability appraisal has therefore been submitted by the applicant to evidence the difficulties that the S106 request has been causing and this has been reviewed by an independent consultant on behalf of the Council. This process has demonstrated that while unviable with the original contribution request, the scheme can be made viable with the following baseline components:

- 1) an affordable housing contribution of £57,000 – (rounded, this comprises a policy compliant figure)
- 2) habitat mitigation contributions of £14,731 – (this results in a shortfall of £2,312 against the expected contribution set out in the Cranbrook IDP and the supporting Habitats Regulations Assessment and will be addressed in the following paragraphs)

In addition the appraisal also shows a residual land value. This is in effect a profit over and above that allowed for in the appraisal which was set at 17.5% of Value - a level that was itself used within the Cranbrook Plan Viability appraisal and which sits mid-way between the government supported parameters of 15-20%.

Given that the site is within the Built Up Area Boundary, is relatively flat and is a former paddock/small holding site, risks for the development are considered to be relatively low. A profit of 17.5% is therefore considered appropriate meaning that the residual value can reasonably be used to meet (in part) the residual obligations.

The headline residual figure identified within the Council's independent appraisal is c£44,000. However viability appraisals are made up of a number of different key components and small changes to even of one of these can result in significant change to the output - for this reason there remains a difference of opinion between viability consultants. In seeking to resolve this matter a residual figure of £28,300 has been agreed by the applicant. This is only £15,700 short of the Council's figure and avoids the need for costly and time consuming appeals for both the applicant and the Council.

The result of this contribution means that after the small shortfall in habitat mitigation is covered (a necessity to ensure that the scheme continues to address the otherwise likely significant effects on designated environments), around £26,000 can be split between the remaining projects. Rather than overly fragmenting this, it is recommended that it is split between projects in education and the town centre - all based on supporting the sustainability and health and wellbeing of residents – key objectives of the Plan and fundamental to Policy CB1. If the sum is split between these three, it means that each would receive around 45% of their expected contributions. The split of the residual £28,000 would then be as follows:

- 1) £2,312 - Residual Habitat Mitigation contribution
- 2) £16,000 - Primary Education needs serving Cranbrook
- 3) £10,000 – Health/Well being hub and or Sports Centre

While other projects identified within the IDP would as a result of this split, receive no funding, the proportions that would otherwise materialise, would be particularly small. From a management and effectiveness point of view the pooling of funds for a limited number of projects is considered a better option.

Both adopted Policy and National guidance recognise that viability is an important part of the development process and that contributions should not be set so high as to unreasonably stall development. Policy and guidance recognise that where viability constraints can be proved, development should be promoted although overage clauses can be imposed to further clawback any additional “excess profit”. In this instance the contributions that were established through the Cranbrook IDP and Plan making exercise were focussed on and devised for large scale strategic housing delivery. Given the site area and number of dwellings associated with this proposal, its characteristics are very different from that envisaged in the original approach. The viability appraisal has demonstrated how the scheme can be made viable – the results of which are not considered unreasonable, meaning that its deliverability can be achieved.

Deliverability is an important test particularly within a period where the Council is currently unable to demonstrate its 5 year housing land supply. Noting that these 7 dwellings would come forward within the built-up area boundary (and therefore in a sustainable location) but do not form part of any allocation, they would comprise

windfall dwellings and make a material contribution towards the Council's housing position. This aspect adds considerable weight in support of the proposal.

Before finally concluding this update section, further consideration is required in respect of the overage clause referenced above. The primary policy hook for this comes from CB10 in circumstances where a less than full Affordable Housing contribution is being secured. In this instance it is recommended that Affordable housing is addressed in full while other contributions are reduced. While this benefits the important affordable housing delivery, it somewhat weakens the policy basis on which such a mechanism can be secured. However it is also noted that both the baseline 106 contributions and the agreed residual value is proposed for capture within the Section 106. The advice that the Council has received is that as a result there is little to be gained from the imposition of an overage clause given the size and scale of the scheme and the remaining margins available. This is not therefore something that is recommended in this instance.

Other updates:

Cranbrook Plan – this Plan is now adopted
Relevant policies as listed in original report

Broadclyst Neighbourhood Plan – this was Made on the 20 July 2023

Relevant policies comprise:
Policy D1 High Quality Design
Policy DC1. Energy Efficient New Buildings
Policy DC3: Sustainable Drainage
Policy DC4. Residential Storage
Policy T3. Parking Provision
Policy NE5: Landscape and Biodiversity

These additional policies are to be noted in the decision making but are not considered to significantly alter the conclusions previously set out. In terms of design, D1 reflects the expectations of the Cranbrook Plan. While concerns were noted from the Parish Council in 2021 it was considered that detailed design was a reserved matters consideration and could be picked up in subsequent applications. While the form and layout are unlikely to change significantly (owing to the configuration of the site) in the context of an urban extension which lies to the immediate south and east of the site, which is both allocated and has a resolution to approve on the resulting application, the semi-detached forms and elongated terrace do not cause harm.

Energy Efficiency and sustainable drainage picked up in the DC1 and DC3 are both features of the Cranbrook Plan and were previously recommended as being controlled by condition. This approach continues to be applicable and would now be supported by the additional policies. In a similar manner residential storage (advocated by Policy DC4) is a feature of both layout and internal space standards. The Cranbrook Plan requires development to comply with the Nationally Described Space standards, thereby improving internal standards and external amenity. In addition storage can be further considered at the Reserved Matters stage.

Parking provision as identified in Policy T3 is also relevant but given the indicative layout can be properly addressed on site at the next stage of planning.

Finally NE5 requires amongst other aspects developments to deliver 10% Biodiversity Net Gain. While BNG is now a statutory requirement for all new applications, the submission date of the current proposal pre dates this. However the Cranbrook Plan also requires 10% BNG and therefore this can continue to be secured on a policy basis rather than as a statutory requirement.

The emerging Local Plan recognises that not all policies are applicable to the Cranbrook Plan Area and provides a direction as to how each should be applied. In this instance, those that are applicable, relevant and can carry some limited weight in the decision taking comprise:

Strategic Policy DS01: Design and Local Distinctiveness – this policy does not supersede the Cranbrook Plan but sits alongside it emphasising that need for high quality design and local distinctiveness. In so doing it supports the approach that the CP takes, the assessment that is set out above and the considerations more fully described in the original report. It also introduces the need for nationally described space standards, although this is already a requirement of the CP.

Strategic Policy TR01: Prioritising walking wheeling cycling and public transport recognises the priority that should be given to these modes of transport within new development. It supports the approach previously set out in respect of the need to take access routes to the boundary of the site and to ensure that good connectivity can be established between this site and the services and facilities in Cranbrook.

It is noted within the emerging Plan (Policy PB05: Biodiversity Net Gain) that this seeks to secure 20% BNG on development sites. Currently this policy would carry extremely limited weight due to the level of unresolved objections but in any event does not apply to the Cranbrook Plan Area.

Finally Policy PB08 (Trees hedges and woodland on development sites) requires detailed assessment and consideration of the proximity of development to trees and hedges. It is not considered that this requires additional information at this stage noting that it comprises an outline application. The site is of a sufficient size to accommodate the proposed development and appropriate assessment can take place at the reserved matters stage.

Concluding this update section, and in having regard to the assessment in respect of viability, it remains that the application is recommended for approval in line with the updated recommendations and conditions at the end of this report.

ORIGINAL REPORT:

CONSULTATIONS

Local Consultations

Broadclyst Parish Council

Thank you for consulting Broadclyst Parish Council on the outline application with all matters reserved for the proposed erection of 7 new dwellings: 1 detached house and 6 semi –detached houses.

The Broadclyst Neighbourhood Plan Officer has considered the proposal against policies in the emerging Broadclyst Neighbourhood Plan; Council has agreed that her report forms the basis of its representation.

Broadclyst NP policies.

There is little evidence of the following policies being delivered in this planning application.

1. D1 High Quality Design: bullet points 1, and D6 1 and 4.

The design and layout of the site does not respect or complement local character in relation to scale enclosure and façade. The existing local built character layout is a terrace of six houses of limited size but uniform style.

The new detached house does not reflect an understanding of the scale, enclosure, and façade rhythm of the surrounding built environment and therefore does not respect the existing character. A detached house is not appropriate in this location. The semi-detached design is more in keeping and has considered orientation and layout that is more in keeping with the local character, but size of semi-detached housing is in stark contrast.

We would expect the proposal to deliver housing type/tenure in line with requirements in the EDDC Local Plan; the proposal does not currently deliver any affordable housing.

2. D1 bullet 10.

An access route to Bluehayes is referred throughout the Design and Access Statement and shown in Figure 3. This will only be in conformity with NP policies if this access is conditioned, to ensure that a route into the Bluehayes site is safeguarded.

However, this access will need to be designed and located in alignment with the Bluehayes (Cranbrook Western Expansion zone). The present location might be inappropriate.

3. DC2 Incorporating renewable energy generation is not included.

4. DC3 Sustainable Drainage is not included and permeable paving driveways and parking areas are not considered or included.
5. T3 no provision of parking areas which have a maximum surface permeability
6. H6 (point 2).

The Transport Assessment has not addressed the priority order of: pedestrians, cyclists and thirdly vehicles. The role and provision of pedestrian use is poorly addressed. Where are people to cross Station Road? There are no pavements so they have to stand on the road.

7. T3: (bullet 4) car parking spaces are provided but requirement of electric charging points is not provided, and (bullet 7) requirement of cycle storage being covered is not provided.
8. NE5, d. All development is to require a biodiversity gain of 10% This has not been included or considered in the application.

The Clyst Valley Regional Park (CVRP)

This site lies wholly within the CVRP and the Broadclyst Neighbourhood Plan has had to be amended to acknowledge and incorporate the CVRP framework. The following clause has had to be added to the policies:

Proposals within the Clyst Valley Regional Park need to be aligned with the Regional Park objectives and make a contribution to green infrastructure and or public benefit. Nowhere in this application is there reference to the CVRP and development within the CVRP needs to be in conformity with CVRP objectives.

Transport Assessment:

1. In this document all the data provided is for 6 dwelling rather than proposed 7, meaning that all figures require adjustment and are therefore not accurate.
2. The solution to ease splay and visibility onto Station Road is to get rid of the existing green triangle. It was noted that a main drain hatch cover is presently protected by the existing green triangle. The hatch structure has not been considered in the TA.
3. Issues with cars queuing to get out at the junction will cause queuing on Station Road. Splay has answered visibility, but flow in & out not mitigated by getting rid of the mound. The design of existing road means that passing of cars is very limited after the junction area as the road is single track only.

Cranbrook Masterplan:

CB8 Cranbrook and Broadclyst Station Built-up Area Boundaries

The Cranbrook and Broadclyst Station Built-up Area Boundaries are defined on the Cranbrook policies map. Within the built-up area boundaries, development will be permitted if:

- 1.It would be compatible with the character of the site and its surroundings;
- 2.It would not lead to unacceptable pressure on infrastructure or services;
- 6.It would not impair highway safety or traffic flows;

There are issues with the present proposal meeting points 1, 2 & 6. (NB: we understand that the BUAB for Broadclyst Station may not be recognised in strategic proposals for Cranbrook western expansion zone, but as the applicant referred to the BUAB, we have included comment).

Conclusion.

The application falls short of being acceptable when measured against policies in the Broadclyst Neighbourhood Plan. Whilst some of the non-conformities can be addressed, we find that the impact of development and complexities with access to the site, are not considered to be outweighed by the benefits, and therefore cannot support this outline proposal.

Clerk To Cranbrook Town Council

Cranbrook Town Council's Planning Committee considered application 21/2604/OUT on 25 October 2021.

The Committee noted that the site was located in a private lane with access onto Station Road adjacent to the railway bridge. Station Road did attract complaints around congestion and at present the site would require use of the motor vehicle to gain access to facilities. On the face of it, it could therefore attract an objection as an unsustainable location. However the indicative proposals do include a foot / cycle link to the Bluehayes expansion area and this would provide good access to public transport including bus and rail services as well as more direct access to local neighbourhood shops and school that are due to come forward as part of Cranbrook's western expansion area. In light of this it would be unreasonable to maintain an objection on the basis of sustainability although the application could consider a road link to the town as an alternative to Station Road (particularly as current proposals seek to divert through traffic from Station Road on to the Bluehayes MLR).

The relationship of the site to Cranbrook is clear and is set out in the application's supporting documents. It is quite clear that this relationship is key to the success or otherwise of the application both in whether it might gain approval and in its integration if approved. The indicative terrace of homes, as shown in the accompanying documents is consistent with its immediate neighbours in Railway Terrace and would appear to be acceptable in principle. Whilst quite different from the vernacular in Cranbrook, there is no reason to feel that the two styles could not be complimentary. From an integration point of view, having a physical link between the town and the private lane would be positive and a benefit to all residents of the lane.

The Committee resolved to support planning application 21/2604/OUT.

Additional comments

The comments from the Planning Committee following the meeting held 8th August 2022:

Resolved to support the application 21/2604/OUT as the amended plans do not alter the previous recommendation of the Council subject to a full biodiversity survey be conditioned in any grant of outline consent

Technical Consultations

EDDC Landscape Architect

I have reviewed the additional information recently submitted in connection with the above application. This includes a BS 5837 tree survey and drainage details. I note there are potential conflicts where the proposed foul and storm water drainage encroach on RPAs of adjacent trees alongside the site access road. This does not seem to have been considered in the arboricultural report and further consideration of this should be required and plans amended as necessary. Proposed storm drainage comprises underground attenuation crates which will provide no biodiversity enhancement.

Aside from tree and hedgerow issues, as the site layout is unchanged my previous comments remain relevant. In particular I consider the application to be an overdevelopment of the site and recommend removal of one unit which would enable the provision of a wildlife area adjacent to the eastern site boundary.

Should the application be approved the following landscape condition should be required:

- a) A full set of hard landscape details for proposed walls, fencing, retaining structures, pavings and edgings.
- b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation including lux levels plan.
External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.
- c) A full set of soft landscape details including:
 - i) Planting plan(s) showing locations, species and number of new tree, shrub and herbaceous planting, type and extent of new grass areas, existing vegetation to be retained and removed.
 - ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.
 - iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant

support and protection during establishment period and 5 year maintenance schedule.

iv) A management plan for the management and maintenance of existing trees and hedgerow and any ecological habitat provision for a minimum 10 year period. The plan should identify responsibilities for maintenance.

iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

DCC Flood Risk SuDS Consultation

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the above planning application, which is outlined below.

Although we are not a statutory consultee, the applicant is still required to provide the Local Planning Authority with a surface water drainage management plan which demonstrates how surface water runoff from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems (SuDS). The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found here:

<https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>.

Observations:

The applicant has noted that surface water is anticipated to be managed via soakaways. The applicant has also noted that details of the surface water drainage strategy shall be submitted at the reserved matters stage.

However, details of surface water management are required at this stage. The applicant should demonstrate a viable surface water drainage system. This system must be designed up to the 1 in 100 year (+40% allowance for climate change) rainfall event.

The applicant should complete infiltration tests at this stage to demonstrate the viability of managing surface water via infiltration.

The applicant must confirm how the surface water drainage system shall be maintained. The applicant must also confirm how exceedance flows shall be managed.

The applicant should review Devon County Council's Sustainable Drainage Design Guide:

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

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning (Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the above planning application, which is outlined below.

Additional comments

Following my previous consultation response (FRM/ED/2604/2021; dated 4th November 2021), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

If the Local Planning Authority is minded to grant planning permission for this site, they may also be minded to impose a pre-commencement condition on the planning permission to secure the detailed design of the proposed surface water drainage system. They may also be minded to impose a pre-commencement condition to secure details of surface water management during the construction stage.

The detailed design condition should also highlight the necessity for floatation calculations. The applicant encountered groundwater during the soakaway tests. The applicant must ensure that groundwater will not affect the surface water drainage system.

At the detailed design stage, the applicant should confirm the proposed exceedance routes. The routes should be safely designed.

Devon County Highway Authority

The application documents include a Design and Access Statement and Transport assessment, within these documents it is referenced that although no dedicated cycleway facilities exist, Station Road is a quiet country Road, I would like to note with Cranbrook a short distance away, Station Road Business park and through-traffic avoiding Junction 29, this road can get busy.

However that being said, to Cranbrook and with discussions with Cranbrook Town Council, this would be a positive benefit to the highway network and sustainability.

I see no problem with the proposal to remove the central island on the junction with Station Road, although this grass mound is kept below 0.6m high therefore extending the visibility will be minimal.

The trip generation from 7 dwellings will not intensify vehicular traffic in this location adversely, especially if the sustainable travel links come through. I will reserve comments on the site layout as the application is a reserved matters item, although

with 7 dwellings the site access would need to be 4.8m wide with at minimal passing places to allow simultaneous entrance and egress.

Recommendation:

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

Devon County Council Education Dept

DCC has identified that the proposed increase of 7 family type dwellings will generate an additional 1.75 primary pupil and 1.05 secondary pupils.

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 the nearest primary schools do not have capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek a contribution directly towards additional education infrastructure at the local primary schools that serve the address of the proposed development. The contribution sought for primary would be £28,756 (based on the DfE extension rate of £16,432 per pupil). These contributions would relate directly to providing education facilities for those living in the development.

We have forecast that the nearest secondary school has enough capacity for the pupils expected to be generated by this development and therefore a contribution towards secondary education would not be sought.

All infrastructure contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to these contributions 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) and the costs of transporting children to Ilfracombe Academy. 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. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum. It is anticipated that these contributions would be provided for through CIL.

Police Architectural Liaison Officer - Kris Calderhead

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application. I have no objection in relation to the scheme but would like to make the following comments and recommendations for consideration should the application progress.

- o The layout should be designed to provide overlooking and active frontages to the new internal street.
- o Detailed design should avoid having accessible space to the rear of residential back gardens, as this is generally accepted to assist in preventing crime.
- o Boundary treatments to the front of dwellings 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 / buffers (i.e. 1m high by 1m deep planting or low-level railings) should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.
- o If any existing hedgerow is likely to comprise new rear garden boundaries then it 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. Additionally, clear ownership and responsibility for the hedge must be established in order to ensure its effective maintenance and upkeep.
- o The site lighting strategy must provide proper and effective lighting for all relevant spaces which should include any pedestrian links, parking areas as well as new streets. Lighting is advised to meet BS 5489:2020.

DCC Historic Environment Officer

The Historic Environment Team has no comments to make on this planning application.

Contaminated Land Officer

No development approved by this planning permission shall commence until a remediation strategy to deal with any identified risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - I. all previous uses
 - II. potential contaminants associated with those uses
 - III. a conceptual model of the site indicating sources, pathways and receptors

IV. potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

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

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

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

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN16.

EDDC Recycling & Waste Contract Manager

We have some reservations about recycling and waste collections at this proposed properties.

We already have difficulties servicing the existing properties as illustrated by the attached reply from my SUEZ colleague.

As the planning process progresses we would like to see a layout plan showing the proposed collection point for each property so that we can assess more carefully if we can gain vehicle access.

As an alternative it might be preferable to provide a shared recycling and bin store for a set of individual containers for each property at a location we can get vehicle access.

Email from Suez dated 15/10/21:
Hi

All collections down here are completed Narrow access on both services.

I am not too pleased with the layout of the houses, I do not see how we can collect from these properties, the original Railway terrace properties are collected by walking up the back of the properties, shared access.

The access to the properties does not have a clear turning area, it also has a long reserve back. That can only be accessed when proceeding up the road to the far properties at the end of the no through road, therefore I would suggest a bin store area at the bottom of the lane, or similar.

Exeter & Devon Airport - Airfield Operations+Safeguarding

I acknowledge receipt of the above planning application for the proposed development at the above location.

This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria.

In terms of the Air Navigation Order, it is an offence to endanger an aircraft or its occupants by any means. In view of this I have included, as an attachment, Airport Operators Association (AOA) Advice note 4 Cranes and other Construction Issues which all developers and contractors must abide by during construction and commissioning.

Accordingly, Exeter Airport have no safeguarding objections to this development provided that all safeguarding criteria are met, as stipulated in the AOA Advice Note, and there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter Airport.

Natural England

Thank you for your consultation on the above dated 14 October 2021 which was received by Natural England on the same date.

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] - FURTHER INFORMATION REQUIRED

Habitats Regulations Assessment - Recreational Impacts on European Sites

This development falls within the 'zone of influence' for the Exe Estuary SPA, East Devon Pebblebed Heaths SAC and East Devon Heaths SPA, as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured.

Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to 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).

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context. Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

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 - Additional advice

Natural England offers the following additional advice:
Landscape

Paragraph 174 of the National Planning Policy Framework (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 & 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.

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 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

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.

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.

Protected Species

Natural England has produced standing advice¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. 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.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. 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, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and 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. List of priority habitats and species can be found here². 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.

1 <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

2 <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Ancient woodland, ancient and veteran trees You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 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 by planning authorities 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.

Environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures.

Opportunities for enhancement might include:

- o Providing a new footpath through the new development to link into existing rights of way.
- o Restoring a neglected hedgerow.
- o Creating a new pond as an attractive feature on the site.
- o Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- o Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- o Incorporating swift boxes or bat boxes into the design of new buildings.
- o Designing lighting to encourage wildlife.
- o Adding a green roof to new buildings.

Natural England's Biodiversity Metric 3.0 may 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 Biodiversity Metric 3.0 and is designed for use where certain criteria are met. It is available as a beta test version.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- o Links to existing greenspace and/or opportunities to enhance and improve access.
- o Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- o Planting additional street trees.
- o Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- o Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

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 Biodiversity Metric 3.0 and is available as a beta test version.

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 other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 100 and 174 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 the 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.

Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

Network Rail

Thank you for your email dated 14 October 2021 together with the opportunity to comment on this proposal.

Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

The Design and Access statement states: "Whilst the final surface water and foul drainage details will be provided as part of a reserved matters application, it is anticipated that the proposed new dwellings will connect to a new surface water soakaway and either a septic tank or private package sewage treatment plant system". Network rail wish to be consulted on any drainage plans due to the proximity of the site to the railway. Any drainage plans submitted should show the location and distance of the surface water disposal system from the Network Rail boundary.

DRAINAGE

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's

property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels - if altered, to be such that water flows away from the railway. Drainage is not to show up on Buried service checks.

SAFETY

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.

South West Water

Thank you for your consultation request.

Based on the documents provided, South West Water have no comments or objections.

Environmental Health

I recommend approval with conditions:

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.

Other Representations

21 letters of objection from 19 addressees which identify the following issues:

- Terrible site access for emergency vehicles - particularly fire appliances which would be unable to take the bends in the road and lead to a blocking of the lane

- Access lane is unsuitable for additional vehicle movements associated with the development with only one passing place, poor alignment no lighting, ditches to the side and the risk of accidents to children and pets.
- In appropriate facilities along the lane for pedestrians
- Traffic study was undertaken a month before covid restrictions were lifted and is therefore not accurate
- Visibility is obstructed by parked cars in the adjacent layby and the applicant does not have rights to remove the central mound
- Applicant proposes connection to a hypothetical footpath and cycle way on adjacent land
- These additional houses are not needed noting the housing including affordable housing being delivered in Cranbrook
- The design of semidetached properties is out of keeping with the terrace
- The development represents over development with risk that it will encourage additional development - all with associated loss of wildlife habitat
- Plant machinery and deliveries will cause sever nuisance and obstruction for the duration of the build and risk damaging other neighbouring property
- Local heavy clay soils means that septic tanks and private package sewage treatment plants won't work efficiently and result in odour and potential pollution
- No affordable housing provided
- Loss of privacy and potential increase in crime
- Development will increase risk of light pollution
- Development will increase risk of surface water runoff and associated risk of flooding
- Proposals will increase stress to all local residents
- Development is for profit only

1 letter of support which raises the following issues

- Confident that the houses will be built to a great standard.
- The lane has accommodated a lot of vehicles previously without issue - including skip lorries for a local joiner business
- The access has issues due to other businesses and should not prevent this proposal

PLANNING HISTORY

Reference	Description	Decision	Date
89/P2259	Erection Of 3 Terraced Houses On Land Adjoining Le Ruche.	Refusal	30.11.1989
92/P0438	Single Storey Pitch Roof Extension To Provide Granny Annexe.	Approval with conditions	18.05.1992

POLICIES

Neighbourhood Plans

Broadclyst Neighbourhood Plan (In Preparation)

Adopted East Devon Local Plan 2013-2031 Policies

EN16 (Contaminated Land)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Cranbrook Plan (Found sound but not yet adopted)

CB1 (Health and Well being At Cranbrook)

CB6 (Cranbrook Infrastructure Delivery)

CB8 (Cranbrook and Broadclyst Station Built Up Area Boundaries)

CB11 (Cranbrook Affordable Housing)

CB13 (Delivering Zero Carbon)

CB15 (Delivery of Suitable Alternative Natural)

CB16 (Design Codes and Place making)

CB17 (Amenity of Future occupiers)

CB18 (Digital connectivity)

CB21 (Parking at Cranbrook)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Site Description

6 Railway Terrace is an end terrace property that is located to the east of Station Road. The terrace is arranged on a north-west south-east axis and number 6 lies at the eastern end. Unlike the other properties which sit within the terrace, number 6 enjoys a long side garden and paddock that projects the terrace "block" further to the south east. This area is subdivided by fencing and currently has a number of sheds outbuildings and a stable on it which have been used to support the site's current use as a small holding. Hedges and a variety of trees lie on the north, south and eastern boundaries of the rectangular plot.

Access for the existing dwelling is taken from Station Road along a private lane which after leaving Station Road, extends firstly in a north-westerly direction before backing to the north and then veering eastern-wards. A southern access driveway then branches off from the main lane and extends to the existing property. This arrangement allows the lane to pass around existing gardens of the houses within the terrace.

Other than the terrace a small number of existing houses which lie to the west of the terrace are also served from the lane together with two detached dwellings which are located at its far eastern extent where it lies close to the railway line.

Proposal

The application which has been submitted in outline with all matters reserved, seeks permission for the demolition of all sheds, stable and other outbuildings within the garden and paddock together with a previously constructed side extension. In their place, it is proposed to construct 7 dwellings. While in outline, the indicative layout plan that is submitted with the application indicates an attached dwelling in place of the existing extension (extending the terrace to 7 properties in total) together with 3 pairs of semi-detached dwellings - all arranged in the same plan form as the existing terrace. As with the existing terrace the properties would have their outlook north south, with gardens located to the south and parking to the north - the latter accessed from the same lane which serves the existing terrace and other surrounding properties.

ANALYSIS

As the application is submitted in outline it is in effect simply trying to secure the principle for development of this site for the 7 dwellings proposed. On this basis the report will consider in detail the current policy position and in particular the status of the Cranbrook Plan. It will also review the key detailed issues which have an effect on the principle - for this application, those are considered as access, drainage and impact on the local character. The report will also consider a number of more detailed policy requirements, likely contributions necessary in the event of approval and an appropriate assessment.

Policy Background

The application site is surrounded on three sides by an allocation for residential development that was established through the East Devon Local Plan 2013 to 2031 (EDLP). This Plan was adopted by the District Council on 28 January, 2016. Two outline applications (both covering the same area) for residential development of this allocation have been submitted. While these applications remain to be determined they give confidence that the allocation will be brought forward and delivered and therefore help to demonstrate that the principle for residential development on three sides of the application site is well established through adopted policy. As such there is a strong argument that the site represents sustainable development despite the fact that it is not allocated. Provided suitable connection is made with the allocation, the development will have excellent access to a range of services, facilities and public transport. In accordance with the NPPF and in particular paragraph 38 which in part states that Local Authorities should "seek to approve applications for sustainable development where possible" there is a strong argument in favour of the principle for this development.

Cranbrook Plan

Since the EDLP was adopted, the Council has also produced the Cranbrook Plan 2013 - 2031, which will form part of the overall Development Plan for East Devon. It seeks to integrate with and expand upon the adopted EDLP and again proposes to allocate land that surrounds the application site.

The Cranbrook Plan also introduces a built up area boundary (BUAB) for both the Bluehayes expansion area and separately for Broadclyst Station - for part of their length, these areas have contiguous boundaries. The application site sits within the BUAB for Broadclyst Station.

Having been through two rounds of public hearing sessions and the public consultation on proposed Main modifications, the Inspector who was examining the Cranbrook Plan wrote to the Council on the 11 August 2022. In that letter the Inspector formally advised that with her recommended changes the Plan is sound. The Council are moving towards adoption of the Plan during September but it has not yet completed that process. As such the Plan is not yet part of the Development Plan for the District but does in effect carry substantial weight and is a material consideration in the determination of this application.

With the adopted and proposed allocation of land on three sides and the inclusion of the site within the Built Up Area Boundary which has now been found, the principle of development in this location is strongly supported by policy. While technically contrary to the Development Plan there are no grounds to resist the application on this basis.

Layout

The accompanying plans and documents indicate a development of 7 x 2-storey dwellings comprising 3 pairs of semi-detached dwellings, with the seventh dwelling attached to the western end of the existing terrace. Each dwelling is shown as being served by 2 no. car parking spaces to the front (north side), which are served by the shared surface access road adjoining the northern site boundary.

It is considered that the indicative layout showing 7 dwellings extending in a line from No. 6, could be adequately accommodated on the site without appearing cramped, overbearing, or poorly related to existing dwellings in the terrace and those others located locally; providing sufficient amenity space in the form of south facing rear gardens; and, sufficient parking provision for two cars on each plot. This provision complies with the requirements of the Cranbrook Plan - Policy CB20, which sets out a minimum of 1.7 spaces per dwelling. The existing fencing on the northern site boundary, and trees and hedging on the western and southern site boundaries are shown as being retained, and would provide screening and a degree of softness for the development which would assist in assimilating it into its surroundings.

The proposed layout is considered to be acceptable, indicating how the site could be developed with seven dwellings. In the event of planning permission being granted, it should be conditioned that any submission for Reserved matters approval should closely follow the indicative layout as shown on the proposed block plan by XL Planning shown as Figure 3 in the Railway Terrace, Broadclyst - Technical statement - June, 2021.

Landscape and visual Impact including wider biodiversity

The application site comprises a rectangular shaped plot of approximately 0.2 ha, containing a number of outbuildings, garden structures, animal shelters and a separate stable block. It is bounded by close-boarded fencing on its northern side; has a mature

hedge containing hedgerow trees marking its eastern boundary; and, a low hedge interspersed with trees on its southern boundary. Except for the attached dwellings in the adjoining terrace to the west, land use to the other three sides is currently agricultural. To the north and beyond the immediate field lies the Exeter- London Waterloo railway line.

While in plan form the introduction of an additional 7 dwellings elongates built form and could appear as an awkward developed incursion into the rural landscape, the visual impact of the development is likely to be very limited. This is not least the case as, when the adjoining allocation is developed (for which there is a high degree of confidence) the context of the site will change significantly. Were the 7 dwellings to come forward in advance of the allocation, existing hedgerow trees and boundary treatment would in any event help to soften the wider impact. With this arrangement, it is acknowledged that the development would appear a little more awkward, but it remains nonetheless an acceptable impact.

One caution that must be noted here is the presence of disease within the trees along the short eastern boundary. These trees have reached a height where they are now beginning to suffer and even over the course of the application, their decline has been noticeable. Were all the trees on this boundary to fail, it would expose the narrow profile of the development from the east. This is unfortunate but not an issue over which development could be resisted. It is considered that at Reserved Matters stage, suitable mitigation could be secured if necessary.

In terms of ecology, consultants acting for the applicant have undertaken a preliminary ecological appraisal, consisting of daytime visual inspection for bats and birds, and habitat assessment in January 2022. Recognising the presence of buildings and structures that were suitable for bat roosting two bat emergence surveys were undertaken in May and June 2022. The outcome of these surveys is that the site is a confirmed day roost for common pipistrelle and whiskered bats and a European protected species licence (EPSL) will be required to carry out the proposed demolition. In addition a range of mitigation measures are identified including provision of temporary bat boxes, a detailed lighting design to ensure that light levels around the site remains low and that integrated bird boxes and bat tubes are incorporated into the new dwellings. All these measures can be secured by condition in the event that the application is approved.

In advance of National Legislation, the Cranbrook Plan makes it a requirement that sites deliver 10% Biodiversity Net Gain. It is acknowledged that for small sites this can be challenging and as it is an application where all matters are reserved, the consultant ecologist has submitted high level commentary on the likelihood of obtaining 10% rather than undertaking a full assessment against the latest Metric 3. In summary the ecologist considers that 10% on site can be achieved. However given the limited support for this claim it is considered appropriate that in the event that the application is approved, it is supported by a legal agreement. This could place an obligation on the land owner or future developer which recognises that in the event that 10% on site cannot be achieved, off site credits are acquired to ensure the full value of BNG is still delivered.

This approach is not one that would be supported for larger sites but given the scale of development, and the safeguarding that can be secured through the legal agreement is considered a reasonable approach in this instance.

Highways, access, movement and links

The application has been submitted in outline but nonetheless it is important to consider whether a realistic access to serve the site can be obtained. Apart from the principle of development and the relationship/impact on the surrounding area, the main concerns and objections that have been received, relate to the use of the single track lane, its suitability to serve the development both during the construction and operational stages and the safety implications in respect of its junction with Station Road.

Considering firstly Station Road, it is noted that this is a busy link serving Dog Village and Lodge Trading estate to the north and the London Road, airport and other employment sites to the south. It is however acknowledged and set out within the Transport Assessment that accompanies the application that vehicle speeds in the vicinity of the access are relatively low. This results partly from the number of parked cars arising from existing houses that are opposite the entrance and partly from the geometry and alignment of the road which in particular has a notorious sharp S bend just to the north where it crosses the railway line.

While in outline, the application indicates the removal of the central mound that forms a triangle in the middle of the access. While of only limited benefit, this would allow vehicles emerging from the access to position themselves slightly further to the north within the junction and thereby improve their visibility to the south. In this direction oncoming traffic should be positioned to the far side of the road - although with parked cars it is often the case that they are in fact in the middle of the road. As a result of this arrangement vehicle speeds are relatively low and it is considered that sufficient visibility can be obtained. Visibility to the north is better and noting that vehicles are on the near side of the road is important.

Understandably concern has been raised about the ability for cars to pass each other within what amounts to a long private lane. An assessment of the passing places that are available is therefore important. The first passing place is around 120m in from the entrance. While there is one slight bend between the entrance and this passing place, space to manoeuvre in the approach to the bend is relatively good and from the bend there is then a clear line of sight to the passing area. Helpfully there is subsequently a line of sight between that passing place and the next which is approximately 80m further on in the vicinity of existing garages. From this point and over the next 75m or so, the road passes through a more village like environment, with the small number of houses and garages set at varying angles and proximity to the lane but with manoeuvring space available. Beyond and where the land runs parallel with the railway line, the lane is of a different character being wider, with clear visibility and more than sufficient turning and passing space in the entrance to the driveway where it branches to the south and the application site.

Overall, this issue is more balanced, but in considering the vehicle numbers, slow speeds and passing opportunities, it is considered acceptable, although additional improvements, were these to be possible, would certainly assist.

The Local Highway Authority recognise that the trip generation from 7 dwellings will not intensify vehicular traffic in this location adversely, noting that this is particularly the case if the sustainable travel links come through. They are right to reference this latter point as with the likelihood of development occurring to the north south and east of the site, access from this site into that of the adjacent allocation would allow residents easy access to the range of services facilities and importantly public transport that will be available. It is recommended that in the event of approval a condition is imposed on this application that requires the private driveway to be taken to the site boundary on its eastern edge, as this would allow vehicles to access and connect with development in the allocation when this comes forward. Policy in the Cranbrook Plan ensures that access points are taken to the boundary of the allocation to ensure that connectivity can be secured and therefore the chance of this link being achieved is high. Such a link would reduce the traffic using the lane and facilitate use of the enhanced access and junction arrangements that will connect Bluehayes with London Road.

In addition it is also considered that a pedestrian and cycle link is formed and while it would have been an advantage if this would have connected along the full length of the lane, it is understood that land ownership issues makes this difficult to secure. On balance it is considered reasonable to secure this link for the 7 dwellings with a right for others to connect into it if they wish. It is not considered that this access point necessarily needs to run parallel with the access driveway and could connect to a different part of the adjacent allocation.

Flooding and drainage

The site lies within Flood Risk Zone 1 (Low Risk) according to the Environment Agency's Flood Risk Map. Devon County Council as Lead Local Flood Authority (LLFA) identified that the applicant needed to prepare a surface water drainage management plan which demonstrated how surface water runoff from the development would be disposed of in a manner that does not increase flood risk elsewhere and, in accordance with the principles of Sustainable Drainage Systems (SuDS).

Since this request was made, additional information has been received which identifies that due to the high water table and impermeable nature of the ground condition attenuation and controlled discharge was necessary rather than using infiltration. Given experience from Cranbrook, this arrangement is not surprising.

In this instance given the lack of any locally suitable water course to discharge to, the applicant is proposing to install an attenuation tank under the car parking and driveways of the 7 dwellings with a restricted outfall to mimic as closely as possible greenfield rates. They have sought to increase the very low calculated 0.6l/s rate to 1l/s to help prevent blockages. It is proposed that this would connect with the combined public sewer located to the north. Maintenance for this facility would need to be secured and could be controlled by condition and/or through a legal agreement.

As part of this method for dealing with surface water drainage, an allowance has to be made for climate change. Within the submitted statement that allowance has been set at 40% which was the correct position at that time. However following a change in advice published by the Environment Agency, allowances are now refined and for East Devon this means an allowance should be made of 45%. This marginal increase means that a larger storage system would be needed, but given the available space this should be capable of being accommodated. At this stage and noting the scale of the application, it is not considered necessary to have an updated statement. However a condition should be imposed on any grant of approval to require the final design to be revised and a 45% allowance made. Maintenance and updated exceedance flows could also be reviewed again at Reserved Matters stage.

Foul drainage would be connected either to the existing private network that currently serves the host property or directly to the adopted network to the north. The latter in particular is an acceptable arrangement and can be managed at the detailed stage.

Affordable housing and housing mix

The application proposes 7 dwellings and is submitted in outline. While National Policy indicates that on site affordable housing should not be sought for schemes less than 10 dwellings Paragraph 23 of the planning Practice guidance Reference ID: 23b-023-20190901 sets out that "In designated rural areas local planning authorities may instead choose to set their own lower threshold in plans and seek affordable housing contributions from developments above that threshold. Designated rural areas applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty." This more particularly set out within the Affordable Housing SPD adopted in November 2020.

The site of the current application falls into this category and in line with other contributions East Devon seek obligations on schemes of 5 dwellings or more. While not adopted yet the Cranbrook Plan has been found sound and on that basis and in accordance with Policy CB10 a contribution equivalent to 15% affordable housing can be secured. While lower than the rest of East Devon, this recognises the infrastructure costs that are local to Cranbrook and Broadclyst Station development and will be discussed in subsequent paragraphs. If approved the affordable housing contribution would need to be secured by a legal agreement

With regard to the on-site housing mix, the indicative layout indicates 3 pairs of semi-detached dwellings and 1 dwelling attached to the end of the existing terrace. Policy CB15 (Design Codes and Place Making) requires at clause 4 "Homes for everyone" - namely a mix of housing types and tenures to suit local requirements. In this instance the site is small and self-restricting as to the variety of size and type that can be achieved. Given the plot constraints and the known local market for this size of units, no objections are raised in this regard.

Education provision

Devon County Council - Education Department has commented on the application and has forecast that the nearest primary schools do not have capacity for the number of

pupils likely to be generated by the proposed development. The County Council have therefore sought a contribution towards additional education infrastructure at the local primary schools that serve the address of the proposed development. The contribution sought for primary would be £28,756 (based on the DfE extension rate of £16,432 per pupil). Such a sum would be secured as a planning obligation by entering into a S.106 Legal Agreement.

It is considered that the amount requested, which is based on established educational formulae (related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the costs of transporting children to school is acceptable in establishing the contribution sought and that such a contribution is fairly and reasonably related in scale to the development proposed.

One area of particular contention within the hearing sessions for the Cranbrook DPD was phasing and the trigger that prevents new housing coming forward within the expansion areas ahead of the first new primary school. This phasing approach which sought to put education at the forefront of delivery has been found sound. However the current scheme which is for 7 dwellings (only generating 1.75 primary pupils) is not caught by this phasing requirement which is only effective within the allocated expansion areas. As such it is considered reasonable that a contribution is sought and secured in this instance

Other matters

Historic Assets - Archaeology, Conservation and Listed Buildings

The site is not located in or near any Conservation Area, and there are no Buildings Listed as being of Architectural or historic merit on or in the vicinity of the site. Devon County Council's Historic Environment Team has advised that it has no comments to make on the application. In respect of any impact on Historic assets, the proposed development is considered to be acceptable.

Environmental Health

The concerns raised by neighbours in respect of noise and disturbance, dust and fumes, and deliveries during construction, and other construction associated activities have been noted. The Council's Environmental Health Team has considered the application in this regard, and has raised no objections to the proposed development subject to a condition securing a Construction and Environment Management Plan (CEMP) being applied to any permission granted. This would also prohibit any burning on site or the use of high frequency audible reversing alarms, and should secure the best possible site management practise in terms of maintaining and controlling Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. In this regard, with such a condition in place, the proposed development is considered to be acceptable.

In respect of the potential for the site or part of it comprising contaminated land, a safeguarding condition has been proposed by the Council's Environmental Health Team. This should be attached to any permission that may be granted. Compliance with such a condition should ensure that any contamination that may or may not be

present would be adequately mitigated against and would render the site safe for human habitation.

Recycling and Waste

The comments received from the Council's recycling and Waste Contract manager regarding recycling and bin stores are noted. Details for bin and recycling storage facilities on site and access to them would be dealt with at the Reserved Matters stage as they would form a part of the overall site layout and design. Details can be secured by way of a condition being attached to any permission that may be granted.

Airport safeguarding and Network Rail

The comments received from both Exeter Airport - Safeguarding; and, Network Rail are noted. Exeter Airport has raised no objection from an airport safeguarding stance; and, the comments received from Network Rail regarding drainage details can be forwarded to the applicant as an Informative Note attached to any permission that may be granted.

Other Cranbrook Plan matters

The Cranbrook Plan also secures high quality development which should be built to be zero Carbon. Policy CB12 seeks to minimise the need for travel, minimise energy demand, maximise the proportion of energy from renewable sources and ensure in use performance is measured. On a scheme of this scale, the latter is difficult to achieve but requirements 1, 2 and 3 can be fully addressed. Requirement 1 can be met through ensuring good connectivity with the rest of the Bluehayes development as previously discussed and requirement 2 can be met through achieving a minimum of 19% carbon reduction improvements over the 2013 Part L building Regulations (or current Building Regulations - whichever is higher). This can be secured by condition.

Requirement 3 expects the connection of the development to the District Heat network which already serves Cranbrook Phase 1 and is expected to be rolled out for the Cranbrook expansion areas in the coming months. However this application site is poorly related to the network for early connection and therefore while it is still expected that connection is made, interim or alternative renewable energy provision is required. To meet the expectation of this policy, it is expected that in the event of approval a legal agreement secures best endeavours to connect to the Heat Network but that in the event that this is not possible, alternative renewable energy solutions are delivered to serve the 7 dwellings.

Policy CB16 (Amenity of Future occupiers) requires that homes within the Plan are built in accordance with Nationally Described Space Standards. This requirement is an important component of driving up the quality of homes in Cranbrook and therefore can be secured by condition for these units in the event of permission being granted.

Finally Policy CB17 (Digital technology) requires all new homes to be ready for digital connectivity and in the absence of further guidance the minimum is the requirement for ducting with capacity for more than one provider to install fibre optic cables or sub ducting is provided. Such ducting can be secured by condition.

Infrastructure Obligations

Policy CB6 of the Cranbrook Plan recognises that development which comes forward on unallocated sites but within the Cranbrook Plan area continue to place additional pressures on local infrastructure and this site is no exception. Based on the terms of this policy and in noting the size of the site and the government advice in respect of small sites, contributions rather than direct on site delivery is expected for most infrastructure requirements relevant to this proposal.

Policy CB6 sets out that the infrastructure obligations are derived from 4 categories. Categories 1 and 2 will be addressed in detail and 3 and 4 will be considered more briefly

Category 1 - Physical Infrastructure to be provided by all (generally on site)

For this particular development proposal and noting the size and scale of the development site, some requirements of this category can be expected on site and some will have to be provided as commuted sums off site. In summary:

- Provision and enhancements of open space covering 4 typologies - off site
- Biodiversity net gain - expected to be delivered on site but can be transferred to off-site credits if necessary
- SANGS - off site financial contribution
- Enhanced building requirements (Fabric first measures) - necessarily on site
- Connection to the District Heat Network - as discussed above, all reasonable endeavours to connect are required to be made but if such cannot be made (primarily due to a lack of any local connection point) then alternative energy efficiency measures will be required.
- EV charging provision - to be provided on-site in accordance with Policy or Building Regs

Category 2 - Contributions necessary from all development

Infrastructure in this category is entirely based on off-site measures. As such to meet the obligations, contributions are expected for each of the following three categories:

- SANGS maintenance
- Additional Habitat mitigation
- Travel planning

Category 3 - This category is site specific and to be delivered by the developer. In this case there is no specific on site infrastructure that would need to be captured for/required by this proposal.

Category 4 - This is off site contributions used to balance the overall package of contributions to ensure a fair and equitable distribution of obligations when measured against those derived from category 3. Category 4 items to which a contribution could be secured include the health and Wellbeing hub, leisure centre, sustainable transport and off site walking and cycling.

In addition and for non-allocated sites, Policy makes an overriding requirement that proportionate contributions shall be made to "on and off site infrastructure in and around the town to mitigate for the increased occupations associated with the development". On this basis contributions towards primary school education (which is otherwise a category 3 item) can still be reasonably secured where additional pressures would result over and above that identified for the allocated housing. For the 7 dwellings identified and based on Q1 2020 figures, proportionate contributions towards category 3 and 4 projects and those more generally located in and around the town amounts to £14,948 per dwelling. This includes contributions towards education.

For the avoidance of doubt CIL does not, in effect, apply at Broadclyst Station, where new residential development is zero rated.

Appropriate Assessment

Natural England has advised that this development falls within the 'zone of influence' for the Exe Estuary SPA, East Devon Pebblebed Heaths SAC; and, East Devon Heaths SPA, all of which are protected areas where the impact of visitors should be mitigated against to both manage visitor numbers and protect the natural resource they are visiting. This is picked up within Policy CB14 of the Cranbrook Plan which requires suitable mitigation to be made to ensure that there is no likely significant effect on these protected environments.

Legislation also requires that the Local Planning Authority undertake an appropriate assessment before determination of an application and that it can only support and approve proposals where it is demonstrated that adverse effects on a sites integrity are prevented.

Supporting the Cranbrook Plan is a specific Habitat Regulations Assessment which found the suite of measures embodied within the Plan to be appropriate and that provided these are followed there is confidence that adverse effects on integrity can be avoided.

In fulfilling this requirement Policy CB14 sets out an expectation that mitigation should be provided - this is in the form of SANGS (delivery and maintenance) and a contribution towards off site measures. The first to encourage recreational activities on less sensitive land (taking pressure off the protected environments), the second to fund direct measures on and around the protected environments to mitigate/manage and reduce the direct impact.

Noting that this site is too small to provide onsite SANGS, it is required to provide the following contributions:

- £990 per dwelling for delivery and enhancement of SANGS
- £600 per dwelling for maintenance of SANGS
- £496 per dwelling to provide habitat mitigation on and around the protected environments

These required contributions fall as category 1 and category 2 obligations based on the above criteria and would therefore be ring fenced for these uses. The figures have

been derived from work done on habitat mitigation measures through the Cranbrook Plan.

The applicants have agreed to make such a contribution in accordance with the provisions of The Conservation of Habitats and Species Regulations 2017 which can be secured as part of the Section 106 agreement. On this basis it is concluded that the scheme can provide adequate mitigation to ensure that there is no significant effect on the designated environments as a result of this development.

RECOMMENDATIONS (Updated February 2025)

1. APPROVE the Appropriate Assessment set out about
2. APPROVE the application subject a Section 106 legal agreement that secures:
 - Off site financial contributions towards SANGS delivery and habitat mitigation in line with the Cranbrook IDP and HRA (£17,044 Q3 2024)
 - 10% Biodiversity net gain to be delivered as on-site habitat or failing that off site credits
 - Off-site affordable housing contribution £57,000 (index linked from Q3 2024)
 - Off-site financial contribution towards education of £16,000 (Q3 2024)
 - Off site financial contribution towards Town Centre amenities (Health Hub and or Sports Centre) £10,000 (Q3 2024)

and the following conditions:

1. Approval of the details of the layout scale and appearance of the buildings, the means of access thereto 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.)
2. 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.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)
3. Reserved Matters – Layout

The layout of the scheme proposed at reserved matters stage shall broadly follow the indicative layout set out on the Block Plan prepared by XL Planning and shown as Figure 3 in the Railway Terrace Broadclyst Station Technical Statement dated June 2021.

Reason: In the interest of providing a layout that protects residential amenity of existing neighbouring properties and facilitates future connection within surrounding land all in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and Policy CB15 of the Cranbrook Plan.

4. Reserved Matters – Ecological update

Accompanying the reserved matters application(s) shall be an updated Ecological Phase 1 appraisal which re-evaluates the site and sets out the potential ecological effects of the development. It shall also include any Phase 2 survey as necessary and ensure that all identified mitigation is addressed within the reserved matters proposals.

Reason: Owing to the time period between determination of the application and submission of a reserved matters application updated information is required to ensure that adequate ecological mitigation is delivered on site appropriate to the ecological conditions at the time and in accordance with Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan.

5. Reserved matters – Access to the boundary

For the avoidance of doubt and notwithstanding the indicative block plan drawing P/BP shown in Appendix B of the Technical Statement dated June 2021, vehicular access to serve the 7 dwellings hereby permitted, and existing retained dwelling known as 6 Railway Terrace, shall be taken to the eastern boundary of the site. The driveway which forms this access shall be properly constructed and surfaced in its entirety (including to the eastern boundary) before first occupation of at least three of the properties hereby permitted. In the event of connection with development parcels to the east, it shall thereafter be retained as an open and unobstructed private driveway serving the eight identified properties.

With the same triggers, provision for a footway and cycle path shall also be made on site and taken to the eastern site boundary with the adjoining Bluehayes allocation. This too shall be surfaced and available before first occupation of at least three of the properties hereby permitted. In the event of connection with development parcels to the east, it shall thereafter be retained as an open and unobstructed route.

Reason: To ensure that an opportunity for adequate connection and integration within the allocated expansion area to the east (known as Bluehayes) is secured in the interest of proper planning, and sustainability and to ensure that a safer alternative access route could be provided all in accordance with Policies TC7 (Adequacy of Road network and sit access) of the adopted East Devon Local Plan and Policy CB15 (Design Codes and Place making) of the Cranbrook Plan.

6. Reserved Matters requirement – Nationally described space standards

Dwellings hereby permitted shall be designed, laid out and constructed in a manner which ensures that they comply with the requirements of the nationally described space standards (NDSS).

Reason: To clarify the terms of the permission and expectations for the dwellings in accordance with Policy CB16 (Amenity of future occupiers) of the Cranbrook Plan.

7. Reserved Matters – detailed drainage proposals

The reserved matters application(s) shall be accompanied by full drainage details which demonstrate where and how both foul and surface water arising from the development shall be managed.

For the avoidance of doubt, foul and surface water shall be kept entirely separate. In addition surface water drainage calculations shall make an allowance for climate change based on the current and updated requirements - that being 45% rather than 40% as used within the details which accompanied this outline application.

Reason: For the avoidance of doubt and in the interest of securing a robust drainage scheme in accordance with Policy EN22 (Surface Run off implications of new development) of the East Devon Local Plans

8. Reserved Matters – Waste and recycling

Accompanying the reserved matters application shall be full details of waste and recycling collection point(s) and any housing/structure required for it. In accordance with approved details, the point(s) and associated structures shall be provided in full prior to the first occupation of any of the 7 new dwellings.

Reason To ensure that details of waste and recycling are considered early in the detailed planning of the site and that these recognise the layout of the scheme, the length of the private driveway and the limited passing opportunity for refuse vehicles, in accordance with Policy D1 (Design and Distinctiveness) of the adopted East Devon Local Plan.

9 Reserved Matters – Energy Strategy

Accompanying the reserved matters application(s) shall be a detailed energy strategy which sets out how the development hereby permitted can reach Zero Carbon through a mix of onsite fabric first measures and renewable energy generation. It is anticipated that connection to the District Heat Network (DHN) will form part of the suite of measures employed.

Where evidence is provided that a connection to the DHN is not reasonably practicable having used all reasonable endeavours, details (including all technical details) of additional on plot renewable energy technology necessary to ensure that the scheme can still reach zero Carbon shall be submitted to and agreed in writing by the Local Planning Authority. Connection to and operation

of the on plot renewable energy technology shall be made prior to first occupation of the residential dwellings.

Where connection to the District Heat Network is achieved, details of the necessary on site infrastructure, which ensures that systems within the property connect at the plot boundary shall have been submitted to and agreed in writing by the Local Planning Authority. In this scenario the buildings shall be constructed so that the internal systems for space and water heating are connected to the decentralised energy network prior to the first occupation of the residential dwellings.

Development shall only be undertaken in accordance with the approved details.

Reason: In the interests of sustainable development in accordance with Strategy 38 (Sustainable Design and Construction) and Strategy 40 (Decentralised Energy Network) of the Adopted East Devon Local Plan 2013-2031) and Policy CB12 (Delivering Zero Carbon) of the Cranbrook Plan

10 Pre commencement – Tree protection

Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

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

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

(b) 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.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(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 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. Pre commencement – CEMP

A Construction and Environment Management Plan must be submitted to and approved by the Local Planning Authority prior to any works commencing on site and must be implemented and remain in place throughout the development.

The CEMP shall address at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements.

In addition the following stipulations shall be strictly observed:

- 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.
- There shall be no high frequency audible reversing alarms used on the site.

(Reason: A pre-commencement condition is required to ensure that the details are agreed before the start of works to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)

12. Pre occupation – Management of surface water

The development hereby permitted shall not be first occupied until a scheme for the maintenance and management of the surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt this shall include details of any proposed adoption of the system and how maintenance of the private sections of the network would be funded and how and when the maintenance would be implemented.

Reason: In the interest of securing a robust drainage scheme which is properly maintained and managed interests of flood prevention in accordance with Policy EN22 (Surface Run off implications of new development) of the East Devon Local Plan.

13. Prior to installation - Below ground infrastructure

Prior to the installation of below ground infrastructure, details of the infrastructure and a timetable for their installation shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include the design and layout (with positions, dimensions and levels) of service trenches, ditches, drains, pipes, cabling, electric vehicle charging points and other excavations.

Ducting for electronic communications shall be provided. This shall be capable of accommodating at least 2 providers' sub ducting or fibre optic cables that enable electronic communications services network suppliers to connect freely between the boundary of the site and the inside of all buildings. The relevant infrastructure shall be installed in accordance with the approved details.

Reason: To facilitate the development of gigabit technology for the development, and in the interests of amenity, to ensure that above ground landscaping is not compromised by arrangements for below ground infrastructure in accordance with Strategy 3 (Sustainable Development), Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End), and 38 (Sustainable Design and Construction) and policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013 - 2031 together with Policy CB17 (Digital Connectivity) of the Cranbrook plan.

14. Compliance – Land contamination

In the event of any contamination of soil and/or ground or surface water being discovered during excavation of the site or development, the Local Planning Authority must 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 accordance with the requirements of Policy EN16 - Contaminated Land of the Adopted East Devon Local Plan 2013-2031.)

Informative:

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

Plans relating to this application:

EX/SLP	Location Plan	13.10.21
2021_041_01 :	Landscaping	30.09.21
topographic survey		
0500 P1 :	Other Plans	07.02.22
Drainage strategy		

List of Background Papers

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

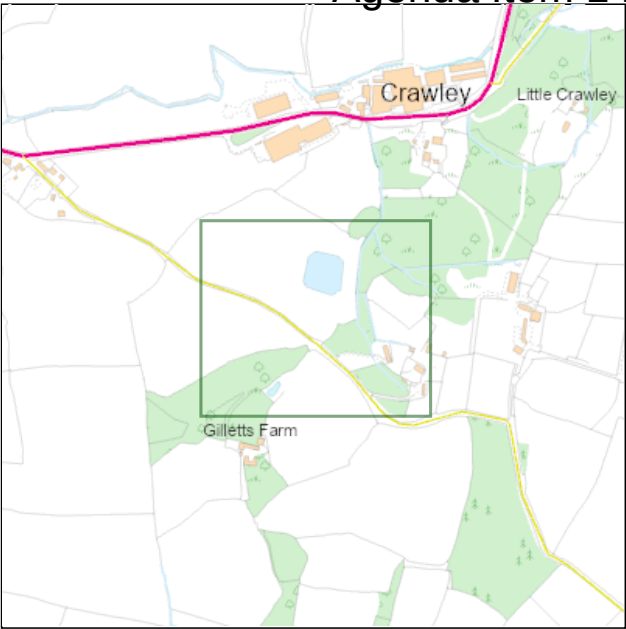
Ward Yarty

Reference 24/1185/FUL

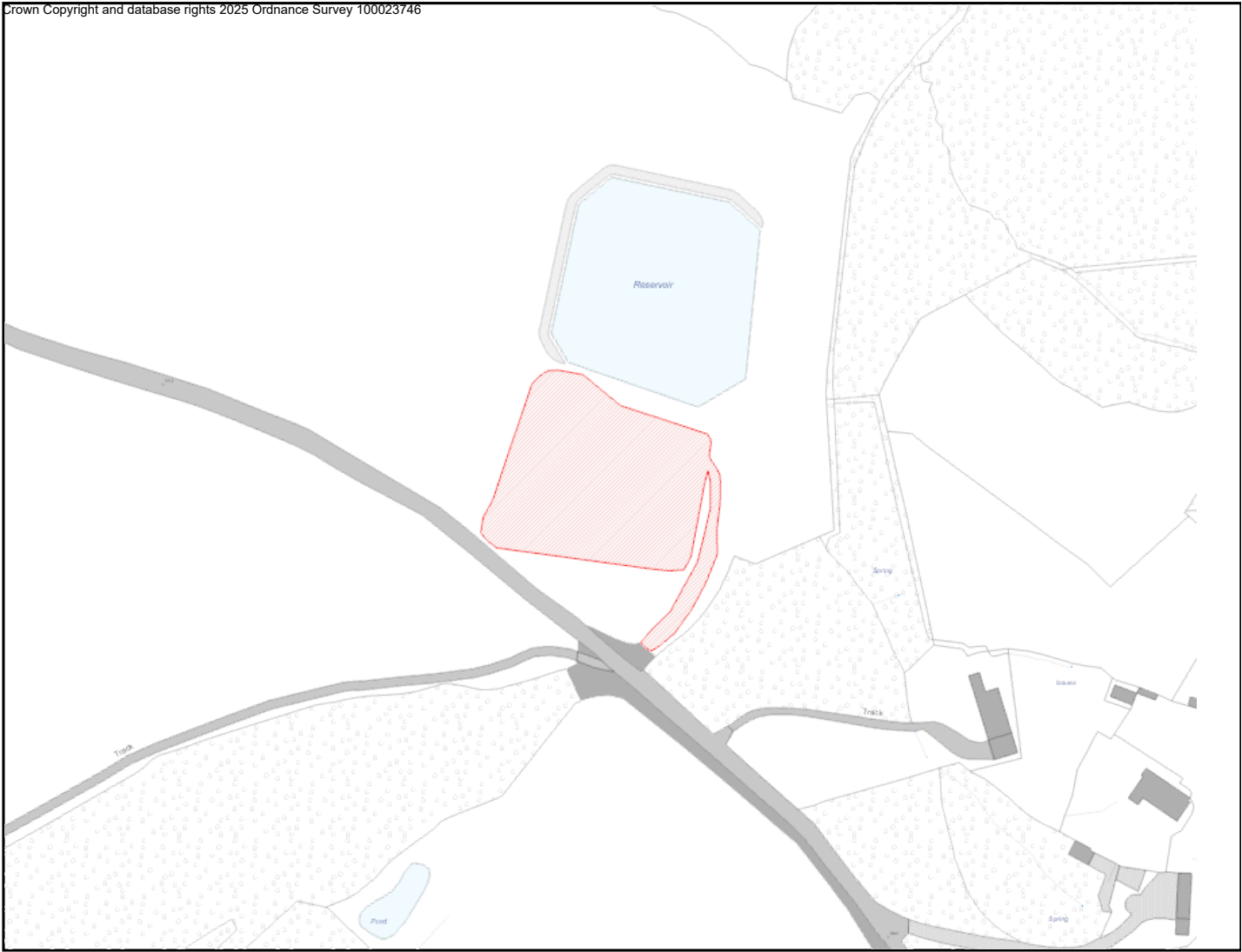
Applicant Mr Derek Dyer

Location Land Off James Lane Yarcombe

Proposal Proposed construction of an earth banked agricultural slurry store.



RECOMMENDATION: Approval with conditions



		Committee Date: 25.02.2025
Yarty (Membury)	24/1185/FUL	Target Date: 20.08.2024
Applicant:	Mr Derek Dyer	
Location:	Land Off James Lane Yarcombe	
Proposal:	Proposed construction of an earth banked agricultural slurry store.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Committee because the recommendation is contrary to the view of the Ward Member.

The application seeks planning permission for a new slurry store to serve Crawley Farm and is necessary to comply with regulations on slurry storage to prevent environmental pollution.

The proposed slurry store would be well integrated with its surroundings, blending with the landscape and existing structures once new landscaping has established. The nearest dwelling is 125 meters away, and the slurry store would have an impermeable cover to mitigate odour and fly nuisance, with no concerns raised by the Environmental Health Officer. Vehicle movements during construction and operation are not expected to significantly affect highway safety or tranquillity.

Other considerations, such as the impact on the River Axe SAC, biodiversity net gain, geology, and soil conditions, have been addressed satisfactorily. Tree protection measures would be implemented to prevent damage during construction. The proposal would not facilitate farm expansion, thus avoiding adverse impacts on the SAC.

In conclusion, the proposed slurry store at Crawley Farm meets the requirements of Policy D7 and other relevant policies. The development is necessary for regulatory compliance and would integrate well with its surroundings without adverse impacts. With appropriate conditions, it is recommended that planning permission be granted.

CONSULTATIONS

Local Consultations

Yarty - Cllr Duncan Mackinder

I accept that correct storage of slurry is essential to protect the environment and local residents and I can believe as stated in the Agricultural Statement para 7.1.2 that the Environment Agency is actively enforcing regulations related to storage of slurry. In addition, I believe that EDDC as LPA should be very concerned to avoid a repeat of the recent catastrophic failure of a slurry store (for example <https://www.gov.uk/government/news/community-service-for-farmers-polluting-dam-of-manure>). Thus such applications as this need detailed scrutiny to ensure they meet requirements without posing any unacceptable future risks.

Several aspects of this application concern me, namely:

The location plan shows an adjacent structure named 'reservoir', though the Agricultural Statement para 6.3.1 and planning application 07/0004/MFUL | Construction of a lined dirty water lagoon | Crawley Farm Yarcombe Devon EX14 9AY and indeed the view from Google maps satellite coverage show this to be a slurry lagoon. Has any consideration been given to whether a catastrophic failure of existing lagoon or the new slurry store could negatively impact the adjacent slurry store? Would it not make more sense to separate these structures as far as possible to prevent such a possibility? Whilst the term 'reservoir' may be valid, however in common use it refers to storage of water and as such generally has high biodiversity value so use in this context is unfortunate with the potential give those consulting the documents the wrong impression.

The Agricultural Statement para 6.1.3 states the store will be earth lined with clay soil, which para 6.1.6 states will be to a depth of 1m. The cross section drawings do not show this, and presumably that means the excavations must be deeper than stated by another 1m. There appears to be no study or description of the underlying geology to demonstrate that it will remain stable. Given prevalence in this part of the district of greensand which is extremely porous and structurally weak, I think it very important such factors be considered and plans explicitly state the nature of the site geology and how the proposed development will cope with the expected geological substrate. Should the seal of the store be breached, if the underlying substrate is greensand, the result is highly likely to be rapid and widespread pollution of the underlying geology which will in turn impact any local springs, wells and bore holes used for human or agricultural use. There appears to be no attempt to discover and map these from which an assessment could be made on how threatened they would be should such pollution enter the ground beneath the store. What would be the impact on the integrity of the store structure from significant ingress of water from such a seal failure given the site geology?

The Agricultural Statement para 6.4.1 states a BNG small sites metric has been completed, however the relevant document does not appear to show any area in which biodiversity is improved and appears to relate solely to the parcel of land within which the slurry store is to be related. The area of the parcel is reduced by the

area of the slurry store. How does this increase biodiversity unless it is a gain of flora and fauna specialising on inhabiting slurry stores which are already well provided for by the adjacent slurry lagoon.

The Agricultural Statement para 6.5.1 states there will be no negative impact on residential amenity as the building is within the curtilage of the existing farm yard. The use of the word 'building' and the lack of any map defining what the applicant considers the curtilage of the farm yard, led me to conclude this statement could simply have been copy/pasted from a different document and thus not be relevant here. By consulting the location plan provided and local maps from both OS and Google, it is obvious there are a number of other properties closer to this slurry store than Crawley Farm (and presumably curtilage) that the store relates to. Para 6.5.1 provides no evidence or reference to other application documents to demonstrate these properties would not be affected, or if affected by how much. In addition, there is nothing to explain proposed location within the land parcel chosen - for example on the other side of the existing lagoon would be both closer to source of the slurry (Crawley Farm) and further from other properties.

For the reasons above, I recommend this application be REJECTED.

Other Representations

Two objections have been received raising the following concerns:

- It could set a dangerous precedent for locating slurry stores in isolated, visible areas far from farms in AONBs.
- There is already a large slurry lagoon nearby, not sited as per planning permission.
- The proposed store's location on a hill could lead to slurry seeping into the water table or causing downhill damage if it bursts.
- Most LPAs require lined slurry stores, and new legislation mandates covering them.
- The application lacks details on construction supervision.
- It doesn't address routine operations for slurry discharge and collection, or road cleanliness.
- Potential increase in vermin, flies, and odours.
- Balancing farmers' needs with the impact on the AONB and local community is crucial.
- The existing lagoon caused offensive smells for at least a year.

Technical Consultations

Natural England

NO OBJECTION

Natural England is of the understanding that the proposal is funded by the Slurry Infrastructure Grant scheme (SIG).

Natural England has considered the proposal within the context of an analysis of scheme-level impacts it has undertaken with the Environment Agency, as well as SIG scheme criteria and local site-specific conditions. Provided the proposal is

undertaken in strict accordance with the SIG scheme criteria, including the installation and ongoing maintenance of a slurry store cover, Natural England advises there will be no likely significant effect on any Habitat Sites, or significant impacts to any Site of Scientific Special Interest (SSSI) and have no further comments to add to this application.

Natural England does not need to approve the Nutrient Management Plan or further documents supplied.

Blackdown Hills AONB Project Partnership

While we do not wish to submit detailed comments, we would note that consideration should be given to ensure that engineering works to create the slurry store would be the minimal necessary and not result in overly artificial appearance on the outer slopes, in order to help integrate the structure into the wider landscape. The colour and appearance of fencing and associated signage will also be a key factor in that respect.

Environmental Health

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

Environmental Health – Private Water Supplies

I have no specific concerns regarding any of the private water supplies [within 2km of the site] – the closest supply geographically is up gradient of the existing and proposed lagoon and therefore it is unlikely to pose a risk from run off.

I will caveat this by saying that our grid references relate to properties with private water supplies and not the water supplies themselves and that these are the private water supplies that we have on record – our records are not a complete picture.

EDDC Landscape Architect

The proposed plan needs to be overlaid on the topographic plan and amended as necessary together with the site sections to ensure that they accurately reflect the site topography and position of existing vegetation. This is needed to ensure that the proposals will not result in the loss or degradation of existing trees and hedges and also to be able to assess the likely impact of the earthworks from nearby visual receptors. Until such information is provided, I maintain my holding objection to the application.

Environment Agency

We have no objections to this planning application. The proposal will ensure the farm operates with sufficient storage for slurry, reducing the risk of slurry being spread to land at inappropriate times and helping to protect water quality. Nonetheless, the proposal must operate in accordance with the relevant regulations.

EDDC District Ecologist

The revised metric calculation (Rev 2) for 24/1185/FUL addresses my previous comments and is therefore considered acceptable.

The proposed habitat creation of 'arable field margin pollen and nectar' would not be considered 'significant onsite gain' given the small scale of the development and therefore, we would not request an HMMP for the onsite gain. However, it would be appropriate for this application to condition a soft landscaping plan with photographs submitted to the LPA 1 year after completion of development and then again at year 5 to ensure the habitat has been established and that biodiversity gains outlined in the biodiversity gain plan have been successfully implemented and maintained.

As the development proposals have not met the biodiversity gain objective of 10% increase in biodiversity entirely on site, the applicant will need to purchase biodiversity units from a habitat bank or other provider. This provider will already have a legal agreement in place with the local planning authority or responsible body and an agreed HMMP. If the habitat bank is outside East Devon, we have no further responsibility regarding the management of the offsite habitats.

PLANNING HISTORY

Reference	Description	Decision	Date
07/0004/MFUL	Construction of a lined dirty water lagoon	Approval with Conditions	15.08.2007

POLICIES

Membury Neighbourhood Plan (Made)

Policy NE1 - conserving and enhancing the natural beauty of our parish

Policy NE2 – Preserving Tranquillity and Our Dark Skies

Policy EE3 – Farming (New Development Proposals)

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5 (Environment) Adopted

Strategy 7 (Development in the Countryside) Adopted

Strategy 46 (Landscape Conservation and Enhancement and AONBs) Adopted

Strategy 47 (Nature Conservation and Geology) Adopted

D7 (Agricultural Buildings and Development) Adopted

EN14 (Control of Pollution) Adopted

TC7 (Adequacy of Road Network and Site Access) Adopted

EN18 (Maintenance of Water Quality and Quantity) Adopted

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft

Strategic Policy DS01 (Design and local distinctiveness) Draft

Strategic Policy OL01 (Landscape features) Draft

Strategic Policy OL02 (National Landscapes (Areas of Outstanding Natural Beauty)) Draft

Policy OL09 (Control of pollution) Draft

Strategic Policy PB01 (Protection of internationally and nationally important wildlife sites) Draft
Draft Strategic Policy PB05 (Biodiversity Net Gain)
Draft Policy PB08 (Tree, hedges and woodland on development sites)

Government Planning Documents

NPPF (National Planning Policy Framework 2024)
National Planning Practice Guidance

Site Location and Description

The site is located on the north side of James Lane in the parish of Membury. The A30 is 300m to the north, and the nearest village, Yarcombe, is about 2km to the west. The Devon-Somerset border is about 500m to the north east, just beyond Crawley Farm, which the development would serve.

The landscape around the site is within the Blackdown Hills National Landscape. There are open fields to the west and woodland to the east. The site slopes down to the north west and there is an existing slurry lagoon immediately to the north of the application site, within the same field. There are dwellings 250m to the south west and 125m to the south east.

ANALYSIS

Proposed Development

This application seeks planning permission for a slurry store to serve Crawley Farm.

Development for agricultural purposes is supported by Policy D7 of the adopted Local Plan, subject to there being a genuine agricultural need for the development and a number of criteria listed in the policy. There is no equivalent policy in the draft Local Plan but development in the countryside for agricultural purposes is considered to be acceptable in principle nevertheless.

The slurry store is required to satisfy regulations governing the use and storage of slurry in the interests of preventing environmental pollution. The need for the development is therefore accepted.

The other requirements of the policy are as follows:

1. It is well integrated with its surroundings and closely related to existing buildings, being of appropriate location, scale, design and materials so as not to harm the character, biodiversity and landscape of the rural area particularly within the AONB.

The site is in a field adjacent to a slurry store that was granted permission in 2007. The existing store, in spite of being in an elevated position in the landscape, is not a prominent feature since the earth banks have grassed over. Likewise, it is expected that the proposed lagoon would blend in well with the backdrop of fields and trees,

especially in views from the north and west. Whilst it is likely to be more visible from James Lane, this would be limited to a narrow viewpoint through the field gateway.

In response to comments from the landscape officer, a topographical survey with the development overlaid has now been submitted and from this it is clear that the lagoon can be accommodated in the space available without needing to remove trees or hedgerows. Details of tree and hedge protection can be secured by condition.

Subject to suitable landscaping and fencing details, the new lagoon would blend into the background in views across the valley. There is also potential to screen views from the gateway by planting in the space between the south side of the slope of the lagoon and the track. With this landscaping in place the proposal would conserve and enhance the landscape and scenic beauty of the Blackdown Hills National Landscape, thereby complying with Strategy 46 of the Local Plan and Policy NE1 of the Neighbourhood Plan.

2. It will not be detrimental to the amenity of nearby residents on grounds of smell, noise or fly nuisance.

The nearest dwelling is about 125 metres to the east and there are others to the east and south. The lagoon would have an impermeable cover to comply with the requirements of the Slurry Infrastructure Grant. This would be a floating flexible cover and further details can be secured by condition. No concerns about odour or fly nuisance have been raised by the Environmental Health Officer.

[There is no criterion 3 in the policy.]

4. It has been established that there are no other suitable buildings on the holding or in the vicinity which could meet the reasonable need.

The applicant has also applied to Somerset Council for planning permission for a slurry lagoon at Greenway Lane, Combe St Nicholas, Chard, about 4.3 miles north east of Crawley Farm. That application was submitted in 2022 and is yet to be determined (see application 22/00932/FUL in the former South Somerset area). Given the amount of time that has elapsed without a decision being made, and given the pressure to comply with slurry storage requirements, the applicant decided to make this application on land in East Devon as an alternative to the Somerset proposal.

Although approval of both schemes may lead to an overprovision in respect of the farm's needs, each application must be considered on its merits. For the purposes of this application, the applicant has demonstrated that there is a need for the proposal and in the absence of any adverse impacts that cannot be mitigated, there is no reason to object.

5. It will not lead to an unacceptable increase in traffic on the local highway network

There would be some vehicle movements associated with the development, both during construction and operation. However, they are not expected to be at a level that would be detrimental to highway safety or significantly affect the tranquillity of the area, thereby complying with Policy TC7 of the Local Plan and Policy NE2 of the Neighbourhood Plan.

6. All clean roof and surface waters will be drained separately from foul drainage and foul drainage will not discharge to any watercourse in order to prevent pollution of the water environment

The risk of pollution is a concern that has been raised by interested parties, especially as the applicant has previously been prosecuted by the Environment Agency in connection with causing pollution resulting from the construction of an illegal slurry store at a field off Greenway Lane, Clayhanger, Combe St Nicholas, near Chard. Notwithstanding that, there is no reason to think that the current proposal would give rise to the same outcome. Unlike the prosecuted development, which was a temporary slurry store constructed from farmyard manure, the current proposal is for a properly designed and constructed slurry lagoon that would meet all the regulatory requirements. It is therefore reasonable to conclude that pollution is an unlikely prospect.

Other Matters

River Axe SAC - It is understood that the proposal is to satisfy the storage requirements of the existing herd, as opposed to facilitating an expansion. Indeed, the agent has advised "It is the intention that if both lagoons were deemed approvable, only one would be constructed as it is not the applicant's intention to expand farming practices at all. The chosen lagoon would solely be constructed to compliantly store the volumes of slurry currently being produced." Consequently, an adverse impact on the SAC can be screened out.

BNG - The proposal is required to deliver a biodiversity net gain and the relevant details have been provided. To address the BNG requirements it is proposed to plant the banks with a 'pollen and nectar' mix but in addition to this, some off-site credits would be required. Delivery can be secured with an appropriate condition.

Geology and soils – According to British Geological Society mapping, the site stands on the Branscombe Mudstone Formation, as opposed to the Upper Greensand Formation which forms the underlying geology of the higher ground to the east. Furthermore, the subsoil is a deep claystone/mudstone layer with a heavy to medium texture. Pollution is undesirable in any circumstances but there is nothing about the geology and soil conditions to indicate that the site is inherently unsuitable for the development proposed. Moreover, the lack of any known issues with the existing lagoon in the same field suggests that the site is suitable for the development.

Trees – There are trees and hedges around the site and whilst none need to be removed to facilitate the development, there is potential for damage to occur during the construction process. Therefore it is reasonable to require tree protection measures to be put in place and this can be secured by condition to comply with policy D3 of the Local Plan.

Private water supplies – There are a number of properties on private water supplies near to the site but mainly on higher ground. The proposal has been reviewed by the Council's Private Water Supplies team and no concerns have been raised.

CONCLUSION

In conclusion, the proposed slurry store at Crawley Farm meets the requirements set out in Policy D7 for agricultural development. The need for the development is justified by the necessity to comply with regulations on slurry storage to prevent environmental pollution. The proposed location and design ensure that the slurry store will integrate well with its surroundings and will not harm the character, biodiversity, or landscape of the area.

There are no other suitable buildings on the holding or in the vicinity that could meet the need, and the application has demonstrated that there is no reason to object based on the merits of the proposal.

Other considerations, such as the impact on the River Axe SAC, biodiversity net gain, geology, and soil conditions, have been addressed satisfactorily. Tree protection measures will be implemented to prevent damage during construction.

Overall, the proposal complies with relevant local and neighbourhood plan policies, and with appropriate conditions in place, it is recommended that planning permission be granted.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Prior to the commencement of any works on site (including site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained and trees, hedges and shrubs, shall be submitted to and approved in writing by the Local 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 Local 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 Strategy 46 - Landscape Conservation and Enhancement and AONBs and Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the East Devon Local Plan 2013-2031.)

4. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees and hedges. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - A pre-commencement condition is required to ensure that the landscape impacts of the development are mitigated in a timely manner in the interests of amenity and to preserve and enhance the character and appearance of the area 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 2013-2031.)

5. Prior to the erection of the perimeter safety fence full details of the fencing and entrance gate/s and any signage shall be submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the appearance of the safety fence is sympathetic to the Blackdown Hills National Landscape in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs of the East Devon Local Plan 2013-2031.)

6. (i) The development shall not be brought into use until a soft landscaping scheme based on the approved BNG Planting Plan (drawing number JWW/RPD/0049/27/A/PPL) has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be carried out in

the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any 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.

(ii) At one year and also at five years following the substantial completion of the development, photographs of the landscaping shall be submitted to and approved in writing by the Local Planning Authority.

(Reason - To ensure the development delivers a biodiversity net gain on site 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.)

7. The slurry lagoon shall not be brought into use until it has been fitted with an impermeable cover in accordance with details first submitted to and approved in writing by the Local Planning Authority. Thereafter, the cover shall be kept in place (except during periods of maintenance).

(Reason - To prevent significant impacts on any Site of Special Scientific Interest or Habitat Site, to comply with Strategy 5 - Environment and Strategy 47 - Nature Conservation and Geology of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

RPD/KAW/0029/ 24/A/ED	Sections	30.01.25
RPD/KAW/0029/ A/ED	Sections	03.10.24
JWW/RPD/0049/ 24/A/CSP : earth banked lagoon	Sections	03.10.24
JWW/RPD/0049/ 24/A/RLP	Location Plan	03.10.24
JWW/RPD/0049/ 24/A/RLP	Proposed Site Plan	03.10.24

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.