

## Agenda for Planning Committee Tuesday, 13th May, 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  
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**Venue:** Council Chamber, Blackdown House, Honiton

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

Issued: Friday, 2 May 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, 6 May 2025 up until 12 noon on Friday, 9 May 2025 by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

### Speaking on non-planning application items

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

#### **1 Speakers' list for the planning applications**

Speakers' list removed.

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

Minutes of the Planning Committee meeting held on 22 April 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 - 22)**

Update from the Development Manager

#### **8 Planning Appeals Status Report (Pages 23 - 28)**

#### **9 22/2781/MOUT (Major) SEATON - Confirmation of Chair's casting vote (Pages 29 - 31)**

### **Applications for Determination**

#### **10 24/0096/MFUL (Major) AXMINSTER (Pages 32 - 118)**

#### **11 23/1247/MOUT (Major) TALE VALE (Pages 119 - 179)**

#### **12 24/1045/FUL (Minor) NEWBRIDGES (Pages 180 - 217)**

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

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

[Decision making and equalities](#)

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

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 22 April 2025**

#### **Attendance list at end of document**

The meeting started at 10.05 am and ended at 2.05 pm

#### **274 Minutes of the previous meeting**

The minutes of the Planning Committee held on 25 March 2025 were confirmed as a true record.

#### **275 Declarations of interest**

Minute 279. 25/0173/PIP (Minor) WEST HILL & AYLESBEARE.

Councillor Peter Faithfull, Directly relates Non-registerable Interest, Known to the owner of Elsdon House, Elsdon and would not take part in discussions or vote for this application.

Minute 279. 25/0173/PIP (Minor) WEST HILL & AYLESBEARE.

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

Minute 280. 24/2515/PIP (Minor) OTTERY ST MARY.

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

Minute 281. 22/2428/FUL (Minor) EXMOUTH HALSDON.

Councillors Brian Bailey and Steve Gazzard, Affects Non-registerable Interest, Exmouth Town Councillor.

Minute 282. 24/2199/FUL (Minor) EXMOUTH LITTLEHAM.

Councillors Brian Bailey and Steve Gazzard, Affects Non-registerable Interest, Exmouth Town Councillor.

Minute 282. 24/2199/FUL (Minor) EXMOUTH LITTLEHAM.

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

Minute 282. 24/2199/FUL (Minor) EXMOUTH LITTLEHAM.

The Chair, Councillor Olly Davey, on behalf of the Committee, advised that the land for this application was owned by East Devon District Council.

Councillor Eileen Wragg requested that a record be made in the minutes that she was not related to one of the applicants for planning application 24/2199/FUL.

#### **276 Matters of urgency**

There were no matters of urgency.

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

There were no confidential or exempt items.

278 **Planning appeal statistics**

The Committee noted the Development Manager's report which included an update on the Planning Inspectorates split decision for planning application 22/1813/LBC – Podburys Cottage, Higher Way Harpford and the appeal dismissed for planning application 24/0673/OUT – Cory Hill, Combe Raleigh.

279 **25/0173/PIP (Minor) WEST HILL & AYLESBEARE**

**Applicant:**

Mr G Moore.

**Location:**

Elsdon House, Elsdon, West Hill.

**Proposal:**

Permission in principle for the demolition of an existing greenhouse and the construction of two dwellings.

**RESOLVED:**

Approved in accordance with officer recommendation but subject to the adoption of the Appropriate Assessment.

280 **24/2515/PIP (Minor) OTTERY ST MARY**

**Applicant:**

Mr Simon Wagemakers (Ambergate Planning & Development).

**Location:**

Land at Slade Farm, Slade Road, Ottery St Mary.

**Proposal:**

Permission in principle for residential development of up to nine dwelling.

**RESOLVED:**

Refused contrary to officer recommendation for the following reasons:

1. Having regard to the location and site topography, the development of the site for housing will adversely impact on the visual amenity of the local landscape and the character of the area; this hard significantly and demonstrably outweighs the benefits of providing up to nine dwellings on the site. As such the development is contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 to 2031, Policy NP1 (Development in the Countryside) of the Ottery St Mary and West Hill Neighbourhood Plan 2017 to 2031 and the National Planning Policy Framework 2024 (as amended) in particular paragraph 187.
2. The proposed development will result in the loss of Best and Most Versatile Agricultural land, the extent of which is not justified by the delivery of up to 9 dwellings, contrary the Policy EN13 (Development on High Quality Agricultural Land) of the East Devon Local Plan, 2013 to 2031, and the National Planning Policy Framework, 2024 (as amended), in particular paragraph 187.

281 **22/2428/FUL (Minor) EXMOUTH HALSDON**

**Applicant:**

Mr Michael Caines.

**Location:**

Lympstone Manor Hotel, Courtlands Lane, Exmouth, EX8 3NZ.

**Proposal:**

Siting of six shepherds huts with external decking, three boiler houses/log stores, one with decking area and associated infrastructure (partially retrospective application).

**RESOLVED:**

Approved with conditions as per officer recommendation.

282 **24/2199/FUL (Minor) EXMOUTH LITTLEHAM**

**Applicant:**

Tompot Blenny Ltd.

**Location:**

Toilets, East End, Queens Drive, Exmouth.

**Proposal:**

Change of use of existing public toilets into hot food take away. Partial demolition and new build extensions to provide storage and disabled toilet.

**RESOLVED:**

Approved as per officer recommendation but subject to the amendment to Condition 3 and additional Construction Management Plan planning condition.

**Attendance List**

**Councillors present:**

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

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

J Bailey

R Collins  
N Hookway  
V Johns

**Officers in attendance:**

Wendy Ormsby, Development Manager  
Damian Hunter, Planning Solicitor  
Nigel Barrett, Senior Planning Officer  
Jill Himsworth, Planning Officer  
Lynne Shwenn, Senior Development Control Officer  
Tom Winters, Interim Economic Development Manager  
Wendy Harris, Democratic Services Officer  
Tracy Hendren, Chief Executive

**Councillor apologies:**

S Chamberlain  
M Chapman

Chairman .....

Date: .....

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

**Ref:** 24/2153/FUL      **Date Received** 07.04.2025  
**Appellant:** Mr Steven Congreve  
**Appeal Site:** Knoll Cottage Woodbury EX5 1NJ  
**Proposal:** Replacement of a boundary fence on South and East elevation (Part Retrospective)  
**Planning** APP/U1105/D/25/3363627  
**Inspectorate Ref:**

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**Ref:** 24/2680/FUL      **Date Received** 09.04.2025  
**Appellant:** Dr Hugh McCormick  
**Appeal Site:** 10 Marine Parade Budleigh Salterton Devon EX9 6NS  
**Proposal:** Single storey rear extensions and new 2nd floor extension with conservation rooflights and second storey side windows (with translucent glazing)  
**Planning** APP/U1105/W/25/3363776  
**Inspectorate Ref:**

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**Ref:** 24/1823/FUL      **Date Received** 09.04.2025  
**Appellant:** Hugh McCormick  
**Appeal Site:** 10 Marine Parade Budleigh Salterton EX9 6NS  
**Proposal:** Proposed self-build dwelling.  
**Planning** APP/U1105/W/25/3363777  
**Inspectorate Ref:**

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**Ref:** 25/0035/PDQ      **Date Received** 14.04.2025  
**Appellant:** Mr R May  
**Appeal Site:** Oakhay Barton Stoke Canon Exeter EX5 4ED  
**Proposal:** Prior approval (Class Q) for a change of use of a building as an agricultural unit to 5no. dwellinghouses (Use Class C3)  
**Planning** APP/U1105/W/25/3364022  
**Inspectorate Ref:**

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**Ref:** 24/2715/FUL      **Date Received** 24.04.2025  
**Appellant:** Mr Charles Hankin  
**Appeal Site:** 34 Queen Street Seaton EX12 2RB  
**Proposal:** Change of use for rear only of shop into a flat, and creation of 2no. flats from existing single flat. Enlarged dormers, changes in fenestration, and associated external works  
**Planning** APP/U1105/W/25/3364573  
**Inspectorate Ref:**

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

<b>Ref:</b>	24/0980/PDQ	<b>Appeal Ref:</b>	25/00002/REF
<b>Appellant:</b>	Kerron and Katherine Allen		
<b>Appeal Site:</b>	Barns West Of Gooselands Payhembury EX14 3HJ		
<b>Proposal:</b>	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		
<b>Decision:</b>	<b>Appeal Allowed (no conditions)</b>	<b>Date:</b>	15.04.2025
<b>Procedure:</b>	Written representations		
<b>Remarks:</b>	Delegated refusal. The Council considered that the extent of the proposed works went beyond those classed as permitted development under the above Order.  The Council received the prior approval application on 13 May 2024. The decision notice is dated 25 July 2024 which is in excess of 56 days from the date when the application was received. The Council contended that the application was not valid until additional information was submitted on 5 June 2024 and that the 56-day period should have started from that date.  The Inspector noted that under paragraph W.(9) of the GPDO, local planning authorities may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include (amongst other things) details of proposed building and other operations. However, requesting such information does not 'stop the clock' in respect of the 56-day period.  The Inspector considered that as a longer period than 56 days was not agreed in writing by the appellant, prior approval was deemed to be granted.  The Inspector concluded that the development can only lawfully proceed if carried out in accordance with the submitted plans and with the conditions and limitations imposed by the GPDO. Whether the proposed development is, in fact, permitted by the GPDO would be a matter for the Council and appellant to resolve.		
<b>BVPI 204:</b>	<b>No</b>		
<b>Planning</b>	APP/U1105/W/25/3359239		
<b>Inspectorate Ref:</b>			

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**Ref:** 24/0892/FUL **Appeal Ref:** 24/00064/REF  
**Appellant:** Mr Mathew Swabey  
**Appeal Site:** Beachcroft Burrow Road Seaton Devon EX12 2NF  
**Proposal:** Change of use from ancillary accommodation to holiday let (retrospective)  
**Decision:** **Appeal Dismissed** **Date:** 10.04.2025  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, flooding reasons upheld (EDLP Policy EN21).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/24/3353308  
**Inspectorate Ref:**

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**Ref:** 24/0043/PIP **Appeal Ref:** 24/00070/REF  
**Appellant:** Mr C Horner  
**Appeal Site:** Land at Ford Farm Woodbury  
**Proposal:** Permission in principle for the erection of 9 no. dwellings  
**Decision:** **Appeal Dismissed** **Date:** 16.04.2025  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, accessibility and countryside protection reasons upheld (EDLP Policies D1,TC2, Strategies 5B,7,27,46).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/24/3355106  
**Inspectorate Ref:**

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**Ref:** 24/0385/VAR **Appeal Ref:** 24/00080/REF  
**Appellant:** Mr R Giles  
**Appeal Site:** 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 three-bedroom dwelling  
**Decision:** **Appeal Dismissed** **Date:** 24.04.2025  
**Procedure:** Hearing  
**Remarks:** Delegated refusal, functional need reason upheld (EDLP Policy H5).  
**BVPI 204:** **Yes**  
**Planning** APP/U1105/W/24/3357889  
**Inspectorate Ref:**

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## 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

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**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

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**App.No:** 23/2725/FUL  
**Appeal Ref:** APP/U1105/W/24/3348938  
**Appellant:** Mr Mark & Lisa Clouter  
**Address:** Kings Arms Farm Nags Head Road Gittisham Honiton EX14 3AP  
**Proposal;** House of multiple occupation (HMO), that provides individual living-rooms for vulnerable people; the facility includes communal areas for socialising, cooking and dining set with private and secure gardens.  
**Start Date:** 10 September 2024  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 17 September 2024  
**Statement Due Date:** 15 October 2024

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**App.No:** 24/0802/FUL  
**Appeal Ref:** APP/U1105/D/25/3359940  
**Appellant:** Mr & Mrs Jones  
**Address:** Tadpoles Longmeadow Road Lymptone 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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**App.No:** 23/2121/FUL  
**Appeal Ref:** APP/U1105/W/25/3360422  
**Appellant:** Carolyn Chapman  
**Address:** Land adjacent Shute Farm Fluxton  
**Proposal;** Proposed barn and polytunnels  
**Start Date:** 24 February 2025  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 3 March 2025  
**Statement Due Date:** 31 March 2025

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**App.No:** 23/1269/MFUL  
**Appeal Ref:** APP/U1105/W/24/3356636  
**Appellant:** 3West Strawberry Hill Ltd  
**Address:** Land South of Meeting Lane Lymptone  
**Proposal;** Construction of 42 residential units, affordable housing, new vehicular accesses from Meeting Lane and Strawberry Lane, pedestrian access onto Meeting Lane, associated internal roadways, SUDS features and landscaping  
**Start Date:** 27 February 2025  
**Procedure:** Hearing  
**Questionnaire Due Date:** 6 March 2025  
**Statement Due Date:** 3 April 2025  
**Hearing Date:** 4 June 2025

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**App.No:** 24/1938/FUL  
**Appeal Ref:** APP/U1105/W/25/3361026  
**Appellant:** Mr Ben Smith  
**Address:** Halls Farm Metcombe Ottery St Mary Devon EX11 1SS  
**Proposal;** Conversion of an agricultural building to two dwellings and associated landscaping, and the demolition of agricultural buildings  
**Start Date:** 3 March 2025  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 10 March 2025  
**Statement Due Date:** 7 April 2025

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**App.No:** 21/F0311  
**Appeal Ref:** APP/U1105/C/25/3360742 & APP/U1105/F/25/3360464  
**Appellant:** Julia Gardiner  
**Address:** 55 High Street, Honiton EX14 1PW  
**Proposal;** Appeals against enforcement notices served in respect of the installation of windows in a listed building  
**Start Date:** 10 March 2025  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 24 March 2025  
**Statement Due Date:** 21 April 2025

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**App.No:** 23/1276/MOUT  
**Appeal Ref:** APP/U1105/W/25/3361389  
**Appellant:** Mr R Falle  
**Address:** Land Adjacent to Hillcrest Awliscombe  
**Proposal;** Outline planning application for construction of 20 no. dwellings, village hall and farm shop and provision of village green and car parking, seeking approval of access only (matters of appearance, landscaping, layout and scale reserved)  
**Start Date:** 12 March 2025  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 19 March 2025  
**Statement Due Date:** 16 April 2025

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**App.No:** 24/2042/FUL  
**Appeal Ref:** APP/U1105/D/25/3362268  
**Appellant:** Mr & Mrs Peter Leeming  
**Address:** Homedale Cowley Exeter EX5 5EL  
**Proposal;** Construction of single garage with alteration to fenestration on existing garage  
**Start Date:** 20 March 2025  
**Procedure:** Householder  
**Questionnaire Due Date:** 27 March 2025

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**App.No:** 23/F0111  
**Appeal Ref:** APP/U1105/C/25/3361991  
**Appellant:** Mr Robert Hobson  
**Address:** Land at Broad Down, north of Wiscombe Linhay Farm, Southleigh, Colyton EX24 6JF  
**Proposal;** Appeal against an enforcement notice served in respect of siting and storage of non-agricultural items on the land including a static caravan, shipping containers, a porta cabin, a storage/toilet block and a commercial vehicle.  
**Start Date:** 25 March 2025  
**Procedure:** Written reps.  
**Questionnaire Due Date:** 8 April 2025  
**Statement Due Date:** 6 May 2025

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**App.No:** 24/1832/FUL  
**Appeal Ref:** APP/U1105/W/25/3363078  
**Appellant:** Hugh McCormick  
**Address:** 10 Marine Parade Budleigh Salterton EX9 6NS  
**Proposal;** Replacement of existing single-family dwelling and creation of 4 no. apartments.  
**Start Date:** 2 April 2025  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 9 April 2025  
**Statement Due Date:** 7 May 2025

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**App.No:** 24/2661/FUL  
**Appeal Ref:** APP/U1105/W/25/3363293  
**Appellant:** Dr Hugh McCormick  
**Address:** 10 Marine Parade Budleigh Salterton EX9 6NS  
**Proposal;** Terraced landscaping to rear garden  
**Start Date:** 2 April 2025  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 9 April 2025  
**Statement Due Date:** 7 May 2025

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**App.No:** 24/2153/FUL  
**Appeal Ref:** APP/U1105/D/25/3363627  
**Appellant:** Mr Steven Congreve  
**Address:** Knoll Cottage Woodbury EX5 1NJ  
**Proposal;** Replacement of a boundary fence on South and East elevation (Part Retrospective)  
**Start Date:** 8 April 2025  
**Procedure:**  
**Householder**  
**Questionnaire Due Date:** 15 April 2025

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**App.No:** 24/0371/FUL  
**Appeal Ref:** APP/U1105/W/25/3363278  
**Appellant:** Mr Kevin Howe  
**Address:** Bridgend Harpford Devon EX10 0NG  
**Proposal;** Removal of residential caravan and conversion of building to dwelling.  
**Start Date:** 9 April 2025  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 16 April 2025  
**Statement Due Date:** 14 May 2025

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**App.No:** 24/2384/FUL  
**Appeal Ref:** APP/U1105/W/25/3363540  
**Appellant:** Sam and Alice Carlisle  
**Address:** Coly Dale Station Road Colyton EX24 6HA  
**Proposal;** Proposed extensions  
**Start Date:** 14 April 2025  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 21 April 2025  
**Statement Due Date:** 19 May 2025

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**App.No:** 24/2680/FUL  
**Appeal Ref:** APP/U1105/W/25/3363776  
**Appellant:** Dr Hugh McCormick  
**Address:** 10 Marine Parade Budleigh Salterton Devon EX9 6NS  
**Proposal;** Single storey rear extensions and new 2nd floor extension with conservation rooflights and second storey side windows (with translucent glazing)  
**Start Date:** 14 April 2025  
**Procedure:**  
**Written reps.**  
**Questionnaire Due Date:** 21 April 2025  
**Statement Due Date:** 19 May 2025

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**App.No:** 24/1823/FUL  
**Appeal Ref:** APP/U1105/W/25/3363777  
**Appellant:** Hugh McCormick  
**Address:** 10 Marine Parade Budleigh Salterton EX9 6NS  
**Proposal;** Proposed self-build dwelling.  
**Start Date:** 14 April 2025

**Procedure:**  
**Written reps.**

**Questionnaire Due Date:** 21 April 2025  
**Statement Due Date:** 19 May 2025

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**App.No:** 25/0035/PDQ  
**Appeal Ref:** APP/U1105/W/25/3364022  
**Appellant:** Mr R May  
**Address:** Oakhay Barton Stoke Canon Exeter EX5 4ED  
**Proposal;** Prior approval (Class Q) for a change of use of a building as an agricultural unit to 5no. dwellinghouses (Use Class C3)  
**Start Date:** 15 April 2025

**Procedure:**  
**Written reps.**

**Questionnaire Due Date:** 22 April 2025  
**Statement Due Date:** 20 May 2025

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**App.No:** 24/2715/FUL  
**Appeal Ref:** APP/U1105/W/25/3364573  
**Appellant:** Mr Charles Hankin  
**Address:** 34 Queen Street Seaton EX12 2RB  
**Proposal;** Change of use for rear only of shop into a flat, and creation of 2no. flats from existing single flat. Enlarged dormers, changes in fenestration, and associated external works  
**Start Date:** 24 April 2025

**Procedure:**  
**Written reps.**

**Questionnaire Due Date:** 1 May 2025  
**Statement Due Date:** 29 May 2025

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Report to: Planning Committee

Date of Meeting 13 May 2025

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## Planning Appeals Status Report

### Report summary:

The report is provided as an update on the current situation regarding planning appeal decisions and gives an overview of the results of planning appeals for the year from 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2025. It seeks to provide some analysis of the appeal decisions received over that period and picks up on any trends and learning points from those decisions that can help the Council to improve in terms of its decision making and record on defending its decisions at appeal.

### Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### Recommendation:

That Members note the report and the Council's planning appeals performance during the 2024 – 2025 monitoring period.

### Reason for recommendation:

To ensure that Members are appraised of the Council's current performance in respect of planning appeal decisions.

Officer: Ed Freeman – Assistant Director – Planning Strategy and Development Management – [efreeman@eastdevon.gov.uk](mailto:efreeman@eastdevon.gov.uk); Tel: 01395 517519

### Portfolio(s) (check which apply):

- ☐ Climate Action and Emergencies
- ☐ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☐ Culture, Tourism, Leisure and Sport
- ☐ Democracy and Transparency
- ☒ Economy and Assets
- ☐ Finance
- ☒ Strategic Planning
- ☐ Sustainable Homes and Communities

**Equalities impact** Low Impact

## Climate change Low Impact

**Risk:** Low Risk;

**Links to background information** [Planning Inspectorate statistical release 23 January 2025 - GOV.UK](#)

**Link to** [Council Plan 2024-28](#)

Priorities (check which apply)

- ☒ A supported and engaged community
  - ☒ Carbon neutrality and ecological recovery
  - ☒ Resilient economy that supports local business
  - ☒ Financially secure and improving quality services
- 

## Report in full

### 1.0 Background

- 1.1 This report is the latest in a series of annual reports on the Council's performance on planning appeals. It measures performance using the Planning Inspectorate's statistics and performance indicator. The performance indicator includes only those appeals against the Council's decision to refuse planning permission. It does not include planning appeals against conditions or non-determinations. The calculation also excludes all other types of appeal e.g. advertisement appeals, enforcement appeals, lawful development certificate appeals, appeals in respect of prior approval applications and works to protected trees. A partially allowed appeal or a split decision is counted as an appeal allowed.
- 1.2 The calculation includes those decisions where the date of decision falls within the year in question, regardless of when the appeal was lodged.
- 1.3 The Council has received 59 appeal decisions from 1 April 2024 to 31 March 2025 which are subject to the performance indicator. This is not the total number of appeal decisions received, which includes all other types of appeal as stated above.

## National appeal statistics

### Section 78 planning appeals

Year	Decided	Allowed	% Allowed
2022-2023	9162	2629	28.7
2023-2024	9674	2728	28.2
2024-2025*	7594	2172	28.6

*\* The above figures have been taken from Planning Inspectorate statistical release dated 23 January 2025. At the time of writing this report the figures for the last quarter January – March 2025 were not available.*



## East Devon appeal statistics

### Section 78 planning appeals

Year	Decided	Allowed	% Allowed
2021 - 2022	43	18	41.9
2022 - 2023	47	11	23.4
2023 - 2024	32	9	28.1
2024 - 2025	59	17	28.8

## 2.0 Analysis

- 2.1 The Planning Inspectorate no longer include the statistics relating to appeals decided by the householder appeals procedure and those decisions are not included in the National appeal statistics above.
- 2.2 For the purposes of this report and to give a true comparison with the National statistics, householder appeals which followed the expedited householder appeals procedure have been excluded from the Council's appeal decisions in the table above for the 2024-2025 time period. The householder appeals which did not follow this procedure have been included in the figures.
- 2.3 The householder appeal process is a streamlined process whereby the Inspector utilises the report previously produced by the local planning authority together with all of the related background information as part of its own decision process rather than requiring a further statement to be produced. No further comments can be submitted by the local planning authority or third parties at the appeal stage. Appeals in respect of householder applications do not always follow this procedure; for example, where there is a linked Listed Building Consent appeal.
- 2.4 The decisions in respect of appeals that were considered under the householder appeals procedure are included in the summary of other appeal decisions below.
- 2.5 The majority of the appeals were dealt with by means of written representations, with 55 having been determined on that basis. Hearings were held for 4 of the appeals and there were no appeals which were the subject of an Inquiry.
- 2.6 From the 59 decisions received, 17 of the appeals were allowed which equates to 71.2% of appeals against the Council's decision to refuse planning permission being dismissed.
- 2.7 The success rate is close to the current National average and above the Council's imposed performance indicator of 70% for dismissed appeals.
- 2.8 The figures need to be studied in more detail to establish whether there has been any significant change in the decision-making process or if there is any particular trend which can be attributed to those decisions of the Council which were overturned.
- 2.9 Of the 17 appeals which were allowed, 7 resulted from applications decided by the Planning Committee, 4 of which were refused contrary to officer recommendation. The other 10 appeals which were allowed resulted from delegated decisions. Of those delegated decisions, 1 recommendation to refuse was agreed at the Chair's delegation meeting.

- 2.10 Of the 42 appeals which were dismissed, 6 resulted from applications decided by the Planning Committee and 36 resulted from delegated decisions. Of those delegated decisions, 4 recommendations to refuse were agreed at the Chair's delegation meeting.
- 2.11 The following tables provide some further analysis of the appeal decisions by procedure and by application type:

<b>Appeal Procedure</b>	<b>Dismissed</b>	<b>Allowed</b>	<b>% Dismissed</b>
Written Representations	41	14	74.5
Hearing	1	3	25.0

<b>Application Type</b>	<b>Dismissed</b>	<b>Allowed</b>	<b>% Dismissed</b>
Minor dwellings	21	4	84.0
All other minor developments	14	7	66.6
All major developments	1	3	25.0
Householder	3	2	60.0
All other application types	3	1	75.0

- 2.12 The largest sample of 25 decisions in respect of minor dwellings, produced a high success rate of 84% of appeals dismissed.
- 2.13 The performance for appeals in respect of all other minor developments is slightly below the mean average with a success rate of 66.6% dismissed from 21 decisions.
- 2.14 The performance in respect of major applications is low with 3 out of 4 appeals allowed, although this is a relatively small sample. All four of the major applications were considered by the Planning Committee and two of the appeals allowed stemmed from decisions which were contrary to officer advice.
- 2.15 The Council has performed well against appeals in respect of minor dwellings which has offset some of the lower performance figures for other application types in achieving an overall success rate close to the National average.
- 2.16 There are no particular trends which can be established from the decisions based on the application type to account for those appeals which were allowed.
- 2.17 Appeals allowed -

*17 Decisions, including:-*

- 10 Delegated decisions
- 7 Committee decisions
- 4 Committee decisions contrary to officer recommendation
- 3 Major applications
- 3 Hearings

- 2.15 Appeals Dismissed -

*42 Decisions, including:-*

- 36 Delegated decisions
- 6 Committee decisions
- 4 Decided at Chair's delegation

- 21 Minor dwellings
- 1 Hearing

### **3.0 Costs Applications**

- 3.1 There can be financial implications in relation to cases where an application for costs is made.
- 3.2 Applications for an award of costs can be made by either party in respect of all appeals. An award of costs will only succeed in the event that the Inspector determining the appeal had considered that a party had acted unreasonably.
- 3.3 If a planning application is refused, the reasons given have to be both justified and defensible. It is most likely that an application for an award of costs against the Council would be successful, in cases where an appeal is lodged and the reasons for refusal cannot be substantiated.
- 3.4 The Inspector determining an appeal can award costs against either party, with or without an application for costs having been made, if it is considered that unreasonable behaviour has occurred.
- 3.5 There has been four applications for a full award of costs and one application for a partial award of costs against the Council between 1 April 2024 and 31 March 2025. Three of the applications for a full award of costs were dismissed and one allowed. The application for a partial award of costs was refused.
- 3.6 The application for a full award of costs which was allowed relates to an appeal against an enforcement notice served in respect of the material change of use of the land from agricultural use to a mixed use of agricultural and Use Class B2 (General Industrial) use by virtue of the use of a former agricultural barn as a steel fabrication workshop.
- 3.7 The Inspector considered that the enforcement notice did not specify with sufficient clarity the alleged breach of planning control, the steps required for compliance, or the land where the breach of planning control is alleged to have taken place.
- 3.8 The Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense had occurred and a full award of costs was therefore warranted in favour of the appellant. To date, these costs have not been submitted to the Council for payment.
- 3.9 The Council spent £14,399.17 on external legal advice (barrister fees) relating to appeals in 2024 - 2025, primarily in respect of the hearings that took place and including the enforcement case referred to above. There were no planning inquiries in this period.

### **4.0 Summary of other appeal decisions**

- 4.1 There has been 34 other appeal decisions which are not included in those appeals subject of the performance indicator.
- 4.2 Eighteen appeals considered under the householder appeals procedure, eleven dismissed and seven allowed.
- 4.3 One appeal in respect of an enforcement notice, enforcement notice quashed.
- 4.4 Five appeals against the refusal to grant listed building consent, three dismissed and two allowed.

- 4.5 One appeal against the refusal to grant prior approval allowed.
- 4.6 Five appeals against non-determination of planning applications within the statutory time limit, two dismissed and three allowed.
- 4.7 Two appeals against conditions imposed on the grant of planning permission, one dismissed and one allowed.
- 4.8 Two appeals against the Council's decision to refuse to grant a certificate of lawful use or development, one dismissed and one allowed.

## **5.0 Conclusions**

- 5.1 The Council success rate is around the current National average and higher than the Council's own target figure of 70% appeals dismissed. This represents a good indicator of consistency in the decision-making process.
- 5.2 When a decision is made to refuse an application, the reasons have to be well substantiated, robustly supported by adopted policies and in accordance with Government advice. It is evident that in cases where the above advice is not adhered to, an appeal is most likely to be allowed.
- 5.3 On analysis of the decisions, there does not appear to be any particular trend or reason to support those appeals which were allowed. In cases where the Council is minded to refuse an application, similar proposals which have been the subject of recent appeals are constantly being analysed to ensure consistency in the decision making process.
- 5.4 Appeal decisions are monitored to ensure that any changes in accordance with National Planning Policy are implemented and that decisions on planning applications are made in accordance with current Government Advice.
- 5.5 Measures are in place to monitor performance throughout the year with Planning Committee receiving a monthly update report including a summary of any appeals determined that month as well as those received. This enables the committee to quickly understand new decisions and learn from them, similarly all appeal decisions are circulated around officers. The appeals performance is also one of the key performance indicators that is reported to Members. Regular training is provided to Members of Planning Committee to ensure that their knowledge remains up to date, however it is acknowledged that further training would always be beneficial and should be provided when officers' capacity allows.

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### **Financial implications:**

The report highlights the need to have consistency in the decision-making process with well substantiated reasons when applications are refused. This will reduce the likelihood of appeal. Defending appeals are costly to the Council, especially those taken to hearing and if costs are awarded against us. (AB/02/05/2025)

### **Legal implications:**

The are no legal implications identified within the report which require comment (000026/02 May 2025/DH).

		<b>Committee Date: 13.05.2025</b>
<b>Seaton (Seaton )</b>	<b>22/2781/MOUT</b>	<b>Target Date: 24.04.2023</b>
<b>Applicant:</b>	<b>Baker Estates Ltd</b>	
<b>Location:</b>	<b>Land Adjacent To Harepath Road</b>	
<b>Proposal:</b>	<b>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.</b>	

**RECOMMENDATION:** The Chair is invited to confirm the exercise of his casting vote.

## 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 was sought for the three proposed vehicular access points with all other matters being reserved for later approval.

On 25 February 2025 the Committee considered this application. During consideration of the item, members voted on a proposal to carry out a site visit. 5 members voted in favour of the proposal, whilst 7 members voted against it and so the motion was unsuccessful. A further proposal was then made to approve the application, subject to a Section 106 Agreement and conditions, including 4 additional conditions, which were then commented upon by the Planning Manager. Members voted on the above proposal to approve the application, subject to a Section 106 Agreement and conditions, including the 4 additional conditions. 6 Members voted in favour of the proposals, whilst 6 members voted against it (including the Chair).

The Council's Planning Solicitor, advised the Chair that he had the casting vote at which stage

he stated that he was going to “recommend refusal” because of “the erosion of the green wedge, (loss of) best and most versatile land, it only provides 25% Affordable Housing, impact on ecology (the effect on bat population) and it’s not in accordance with the emerging local plan”.

The Planning Manager responded to the Chair by providing her views upon the reasons he had set out, which then lead him to say, “you’re telling me that I haven’t got a leg to stand on, aren’t you....” before going on to say “in that case, I think that I’d better withdraw that, which is going to come as a big disappointment to the audience, and accept the officer’s recommendation, since I don’t think I can support the arguments for refusal”.

The Planning Solicitor then asked “Are you (now) confirming that your casting vote is in favour of approval in line with the Cllr’s proposal”. The Chair replied by stating that given the points that had been made by the Planning Manager he thought that he was going to struggle to support any refusal”.

There was then discussion regarding the taking of a further vote, to which concerns were raised. The Planning Solicitor took those concerns on board and advised that the Chair “said that he was minded to use his casting vote to vote against the proposal that was put forward by Cllr Barlow, he’s now changed his mind, he’s using his casting vote then, so we won’t take the vote again, you’re correct that the vote was 6 in favour of the approval... and 6 against... and now he’s changed his casting vote and so it will now be 7 in favour and 5 against.

Since the meeting concerns have been raised regarding the legality of the decision-making both in terms of the advice given and the decision. One of the concerns raised was the officer advice and the extent to which planning officers can direct the Committee. It is established case law that it is the role of the planning officer to set out their professional opinion in such circumstances, provided that they do not misdirect members. In this case officers are satisfied that members were not misdirected and indeed officers could have gone further in explaining why they considered there were not sufficient grounds to refuse the application. There is clear case law which confirms that unless there is some distinct and material defect in the officer’s advice, the court will not interfere. Officers are satisfied that there was no distinct or material defect in the advice in this case.

Whilst the Council considers the proceedings to have been lawfully conducted, it acknowledges that there may have been confusion for some onlookers regarding the vote that was taken. Following the conducting of a review of this matter, the Council is taking the

unusual step to bring this matter back to the Committee for the Chair to clarify the exercise of his casting vote. The reason for taking this step is because the Council wishes to be open and transparent and to ensure that there is no uncertainty with the decision-making process.

As the Committee has already heard the representations in relation to this matter, there will be no further public speaking or representations in relation to this application and the purpose of this item will simply be to confirm the exercise of the Chair's casting vote in an open and transparent manner.

Recommendation: The Chair is invited to confirm the exercise of his casting vote.

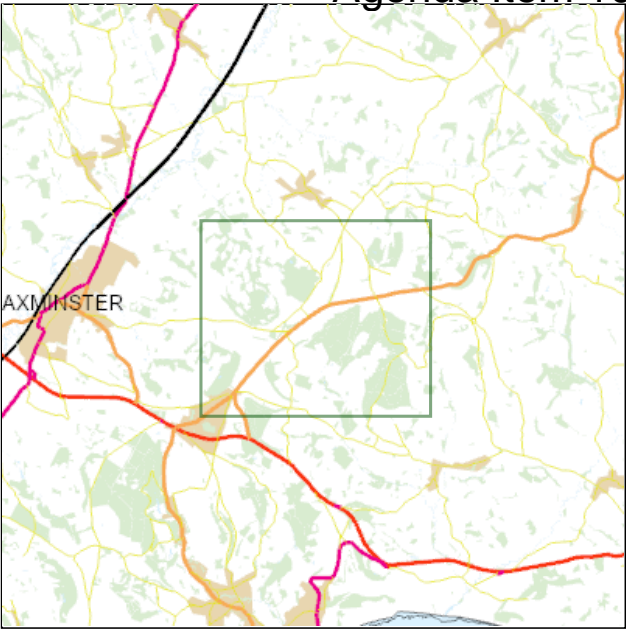
**Ward** Axminster

**Reference** 24/0096/MFUL

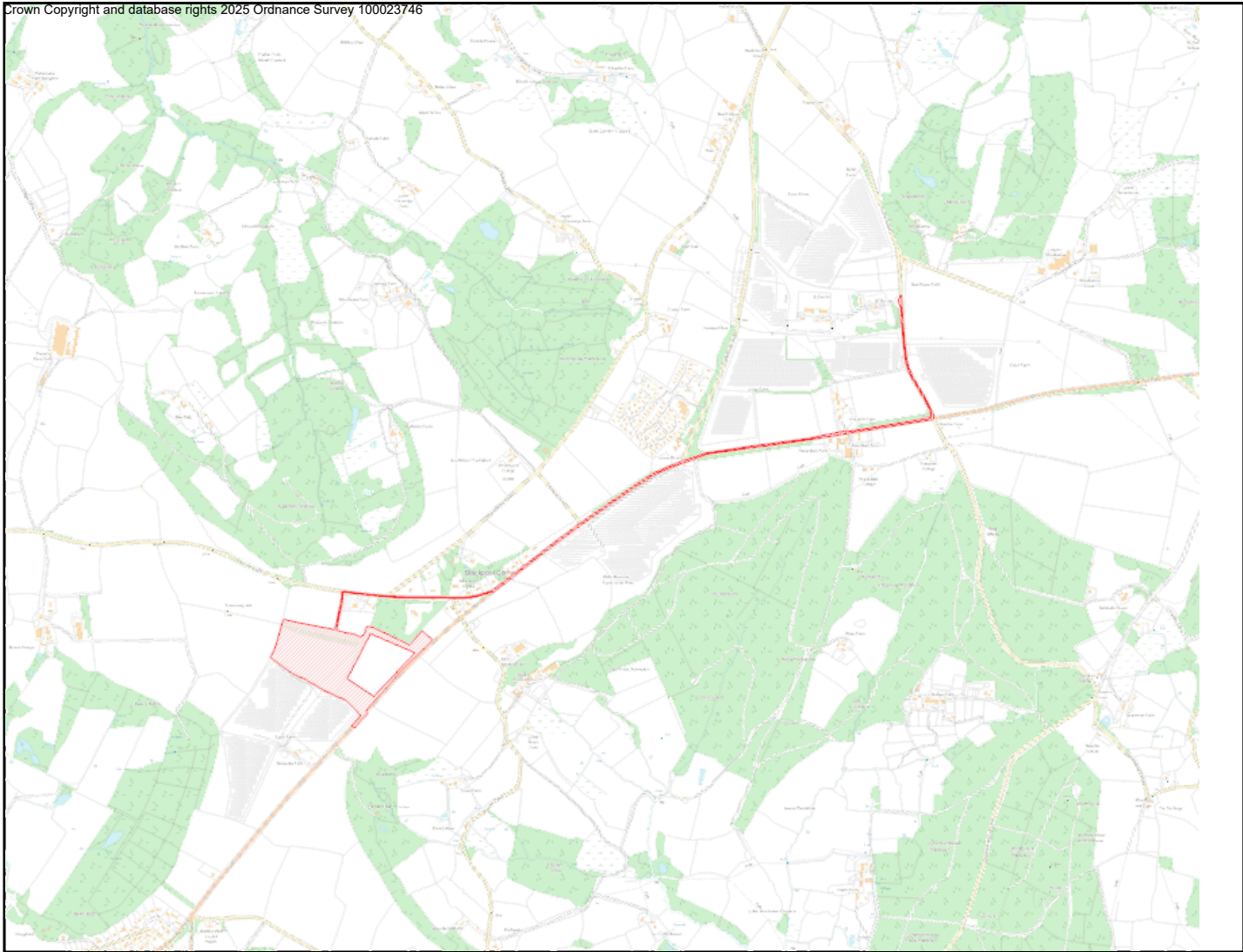
**Applicant** Clearstone Energy

**Location** Land Just South Of Hazelhurst Raymonds Hill Axminster

**Proposal** Proposed construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements.



**RECOMMENDATION: Approval with conditions**





		<b>Committee Date: 13.05.2025</b>
<b>Axminster (Axminster)</b>	<b>24/0096/MFUL</b>	<b>Target Date: 11.09.2024</b>
<b>Applicant:</b>	<b>Clearstone Energy</b>	
<b>Location:</b>	<b>Land Just South Of Hazelhurst Raymonds Hill</b>	
<b>Proposal:</b>	<b>Proposed construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements.</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

The application must be considered by the Planning Committee because the officer recommendation differs from one of the Ward Members concerned.

Section 38(6) of The Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is echoed in paragraph 11(c) of the NPPF.

Bearing in mind the nearby energy infrastructure and the proposal is a low carbon project the proposal would accord with Strategy 39 of the Local Plan in this particular regard.

The site is not very exposed to public views, being set back from the main access points and as such, while a change in the character of the site would result from the development, this would be localised and without significant detriment to the wider landscape. Landscaping is proposed to further mitigate the local visual effects. The proposal accords with Strategies 39 and 46, and policies D1 of the Local Plan in this respect.

The proposals meet the requirements of the NFCC guidance, or where it is not that departure from the guidance is justified with evidence that satisfies the DSFRS. The proposal therefore complies with Strategy 39 and policy EN14 of the Local Plan.

Sufficient evidence is provided to be certain that the development would not harm local biodiversity interests, subject to appropriate planning conditions, and

that the requisite BNG can be achieved, complying with policy EN5 of the Local Plan.

There are no highway objections to the scheme in conformity with policy TC2 of the Local Plan. Nor is the development going to lead to the loss of BMV agricultural land so there is no conflict with policy EN13 of the Local Plan.

The benefits of the scheme are set out in the preceding sections but are in the main around reduction in carbon dioxide emissions powering the grid and therefore helping lessen climate change, reducing energy prices for consumers and reducing reliance on less secure forms of energy generation. These are all significant benefits and carry significant weight in the planning balance. There would be some limited economic benefits from its construction also. It is therefore recommended that permission is granted.

## **CONSULTATIONS**

### **Local Consultations**

Axminster - Cllr Paul Hayward

4/3/25

I regret that I am still opposed to this application. Others have commented in far more eloquent terms than I but I share their concerns and worries about this development.

Axminster - Cllr Paul Hayward

7/8/24

### **OBJECTION LODGED.**

24/0096/MFUL | Proposed construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements. | Land Just South Of Hazelhurst Raymonds Hill Axminster

Cllr. Paul Hayward - Ward member consultee comments:

I am grateful to the applicant, and their agent, for the comprehensive portfolio of reports, documents, plans and supplementary papers provided with this application.

Furthermore, I am aware of the strategies and policies within the existing EDDC Local Plan which provide direction and guidance to our planning officers in relation to 'green' infrastructure projects proposed for the district of East Devon and the nationwide need for the UK to bring generating capacity 'on-line' to prevent power shortages and to stabilise the cost of electricity in the UK as a whole.

My observations are set out below:

## FIRE:

Several similar applications have been considered by the Planning Committee (and the Planning Inspectorate) in the adjacent parish of Hawkchurch in recent years. The last application considered '24/0276/FUL (Land west of Wareham Road) outlined the risks from a fire incident and 'on balance' felt that (even with the fire suppression and detection equipment to be installed) the risks from a 'thermal runaway' type fire outweighed the 'green-energy' benefits of the scheme. While I readily acknowledge the efforts the applicant for 24/0096/MFUL has made to reduce the risks from such an event, the risks still remain, and so the same concerns raised by me when Yarty ward member to similar schemes in Hawkchurch parish still remain valid and pertinent.

## WATER:

The applicant has provided a thorough analysis of the water reservoirs proposed for the site but there appears to be a difference of opinion (and I readily accept that my technical understanding of the specifics is not as sharp as that put forward by the paid experts) in whether a fire event would be tackled using water, or by some alternate method 'foam, powder, Halon, CO2 etc.

If the use of water to extinguish such a fire is being mooted, then I am concerned that the quantity of water proposed to be stored on site in case of such a fire is woefully inadequate, and that if the on-site supply is depleted, then huge volumes will need to be transported into the site at the point where the risk is highest 'ie during the actual thermal event. Almost all of our local firefighters are retained, and their equipment is generally designed to dealing with smaller vehicle, residential, agricultural fires 'not a conflagration akin to a large industrial blaze.

Furthermore, the application makes reference to a 'bund' which would capture any contaminated run-off before it had the opportunity to leach into the groundwater aquifers nearby. But, if the volume and design of that containment measure is predicated on the volume of water to be similarly stored on site, then an increase in one would therefore require an increase in the latter 'and that presumably is built at point of site commissioning and cannot readily be increased in size or capacity. Additionally, how would such a bund deal with large volumes of rain water 'which presumably would sit in stasis pending evaporation or manual release? And finally, how would such containment deal with water saturated in the potential contaminants created by such a fire which 'I believe' could well be acidic and extremely toxic? My apologies for these technical queries but I cannot readily see the 'layman's' answers within the application documents.

## ENVIRONMENT:

The proposals make provision for an acoustic fence surrounding the site which (and I'll cover this more fully in the next section) would minimise/mitigate noise nuisance for those living nearby. The application does make reference to a sub-station on the site which is some 7m in height. Given the known effects of low-level (but persistent) humming and clicking in a rural, quiet, tranquil setting, can I ask what measures are proposed to safeguard against such potential nuisance?

Furthermore, noting that the proposals for the site are for a 40 year lifespan of the BESS, can I be assured that the site is capable of being returned to its present condition after such time? The sheer volume of concrete, wiring, foundations, metal (and potential contaminated water) both on site and into Hawkchurch parish (and I understand that the cabling from the site into HP for the relay of the energy would be oil-cooled) means that what is promised might not actually be achievable or deliverable.

#### LANDSCAPE:

The application referred to above (24/0276/FUL) was refused on 23rd May 2024 and reason Three for that refusal read as follows:

The development will have a significant adverse landscape impact on the site and the local landscape character and quality, introducing in incongruous industrial infrastructure into an undeveloped field in the open countryside. The development would be clearly visible in near views particularly from Hawkchurch footpath 25 and in winter views from Hawkchurch footpath 21, adversely impacting on their amenity. Mitigation proposed would be insufficient to overcome these harms and overall, the scheme would not conserve or enhance landscape character of the area. The development is therefore contrary to Strategies 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects), Strategy 46 (Landscape Conservation and Enhancement and AONBs), policies D1 (Design and Local Distinctiveness) or TC4 (Footpaths, Bridleways and Cycleways) of the Local Plan.

It would be remiss of me to mention that precisely the same arguments apply to this application (and perhaps more so, as this is an MFUL application rather than simply a FUL) other than perhaps the prevalence of footpaths in the vicinity (although there is a bridleway nearby).

The site is immediately adjacent to Wootton Fitzpaine parish (in Dorset) and that parish is wholly covered by the designation of West Dorset National Landscape (formerly AONB) with Uplyme parish immediately to the west (almost entirely included within the East Devon national Landscape designation). Sadly, for reasons never made clear to me, both Axminster and Hawkchurch parishes were excluded from inclusion within the EDNL or the BDHNL despite having all of the attributes that one would think might enable designation.

#### AMENITY:

I can understand (to a point) why the site has been chosen. It is accessed off the B3165 which is a decent piece of highway traveling north from the A35 towards Crewkerne (aka The Crewkerne Road). This means that fire and emergency vehicles can access the site via the A35 with then just a 2km northbound journey to the proposed site. The creation of an acoustic shield will assist in suppressing potential noise nuisance and the site is remote (albeit that there are 3 properties on the Axminster parish side of the boundary, and 14 on the Hawkchurch side). I understand (although the relevant document did not appear to be included within the submission pack) that all of these properties have a water supply that could be

affected by groundwater contamination ' certainly, the properties on the Wootton Fitzpaine parish side of the B3165 do not have mains water to their properties.

I revert back to the underlying frustrations that I lodged previously for similar proposals in HP. The development will create no jobs per se (other than some construction work which will not necessarily go to local tradespeople), the site is a rural agricultural setting whereas such facilities would be better suited to brownfield, commercial, industrial zones. The BESS generates no 'green' energy in itself but simply acts as a mechanism to trade electricity as a commodity by 'buying low, selling high'. The environmental impact of the build is significant, the visual appearance (even painted green) incongruous, the potential for nuisance evident, and the consequences of a thermal fire (and the attempts to suppress and extinguish it) could be catastrophic for this quiet and green part of East Devon.

Regrettably, for the reasons stated above, but still willing to keep an open mind on the merits (and pitfalls) of the application, I feel compelled to submit a holding comment of 'objection' until such time as I can be assured that my concerns can be assuaged, and that the benefits of this proposal can be proved to outweigh the potential impediments to the parish of Axminster, the neighbouring properties (and residents) and the wider bio-diverse environment of the Axe Valley (including the local water supply, and the Axe Catchment).

Yarty - Cllr Duncan Mackinder  
22/7/24

I am fully in favour of reducing the climate impact of the UK electric supply network by switching to renewable power generation and elimination of fossil fuel generation whilst also reducing the cost of power to both domestic and industrial consumers. However I'm unconvinced this BESS installation would make the contribution the application claims to decarbonising the UK electricity supply.

There will be a carbon cost to both the installation and the manufacture of the BESS equipment. As the embedded carbon content of this development does not appear to be quantified it is not possible to assess the magnitude of the increase in the embedded carbon of the electricity it will store, though we can be certain this will not be zero. If storing renewably generated power, any increase due to storage in the BESS will be more significant. Part of the justification for BESS in general and this application in particular, is the ability to capture power when generation exceeds demand and release power when demand exceeds supply. For solar and wind generated renewables these points may be separated in time well beyond the length of time electricity may be usefully stored within a BESS (a small number of hours, typically 2). This reduces the utility of BESS in this regard. No machine is ever 100% efficient, so power output will always be below power input and it is likely that longer storage will widen the gap between output input and output decreasing the efficiency of such storage.

Since this installation must run at a profit, the power it sells will always be more expensive than the power it purchases to charge the batteries. This extra cost must be passed on to domestic and industrial electricity consumers. No doubt, release of such figures will be resisted as commercially confidential, but without them it is not

possible to assess whether the additional profit which must be extracted from electricity system will be significant to electricity consumers. I think it is important to understand that commercial projects are driven by the need to make a profit to return to investors and that (rather than the need to solve the national energy supply problems or address climate change) is what will dictate and shape project design and operation.

Whilst being located adjacent to two solar farms, this BESS installation will draw its input from the national grid and so will not be storing purely renewably generated power and it is therefore hard to see how it can be considered as a low carbon project which it needs to be in order to claim compliance with Strategy 39 of the East Devon Local Plan.

The PLUME IMPACT STUDY states it is based on worst case scenario of a single unit fire where the peak fire would last 2 hours and continue at lower intensity for 8 hours. The study makes no mention of modelling the production and release of Hydrofluoric Acid and Hydrochloric Acid both of which were detected in the Orsted BESS, Carnegie Road, Liverpool incident (to which the study refers) as can be seen the Merseyside Fire & Rescue Service Significant Incident Report. The Site Safety Overview Report para 1.12 does mention release of Hydrogen Fluoride in the Liverpool incident) These pollutants in gaseous or liquid forms (when dissolved in fire water) are significant and destructive chemicals which any planning must account for. If the specific battery design make production of these impossible, this should be stated and evidence for such statement provided.

The Liverpool BESS fire response required multiple appliances including a High Volume Pump due to local hydrant capacity being insufficient. The incident report states: 'Defensive firefighting continued on site for a total of 59 hours, involving predominantly a 2 pump attendance'. I would expect the Plume Impact Study to clearly explain why the event it models appears to be significantly smaller scale. In Liverpool, the FRS were on site extremely quickly (8 minutes), something which will not be possible due the distance of the site of this application from all local fire stations. Later arrival on site will mean the fire has significantly more time to expand before any effort to control it can be started.

The CONTROLLED WATERS ENVIRONMENTAL RISK ASSESSMENT para 5.28 and Site Safety Overview Report para 1.11 states BESS within UK have operated for equivalent of 548 years since 2006. The basis for this calculation is not explained. Using the most recent version (Apr 2024) rather July 2023 which para 5.28 uses, there are only 5 installations of Technology Type = Battery becoming operational between 2006 and 2012 (though many of the Battery installations have Operational date missing which makes the dataset hard to interpret). Thus the vast majority of UK BESS installations have become operational only with the last 11 years so little long term experience exists within the UK of BESS operations and the hazards from routine operations and maintenance/renewal of the battery units which will have a must shorter usable life than the 40 years envisaged for this development.

Given that BESS installations vary in size, with the proposed system being 50% larger than the largest in the above database, it would be far better to incorporate system capacity into the risk calculations (higher capacity is generally achieved by

more batteries thus more points of failure and more other batteries to spread the fire to). Furthermore, as the risk of fire caused by batteries overheating is higher during charging and discharging, the risk should also be calculated against charge/discharge cycles not simply hours since installation (like batteries within solar farms there are few charge/discharge cycles per day with the batteries being inactive between those cycles). To maximise profit from BESS systems drawing power for the national grid rather than directly from renewable generation excess capacity) there will be a requirement to complete as many charge/discharge cycles per day as possible thus increasing the duration of most risk. In my view omitting these factors from the risk assessment leads to an underestimation of the risk.

The Planning, Design and Access Statement, para 7.69 states rainwater from the main BESS site will drain into Blackpool Ditch and thence unto Hole Batch Brook. The storage capacity of the attenuation basin is not stated though the Controlled Waters Environmental Risk Assessment para 5.38 states it would have capacity to contain the water expected to be discharged by fire-fighting equipment over a 2 hour period, this being the total capacity of the two emergency water tanks. I assume this is only possible if the attenuation basin is effectively empty at the start of the incident. Since the design of the drainage system is such to control rate at which rainwater enters the local water courses it can't be argued that for any incident the attenuation basin will start empty of rainwater, Whilst it could be argued that both fire and significant bad weather events at the BESS site are rare, and thus still rarer to occur close together in time, this is only true if these are independent events. Should significant rain and high winds be in any way contributory to a fire event, these are no longer independent events and may be more likely to occur close together with the result that the full capacity of the attenuation basin will not be available for fire water. As the incident report on the Liverpool BESS fire attests, the volume of water required was significantly higher than that planned for this development. Should DSFRS incident commander in the event of a fire, determine that a high volume pump (as deployed in Liverpool) is required, there would be no on site storage for water such a pump discharged (assuming a suitable source could also be located) and the capacity of the attenuation basin would be overwhelmed. At that point, the assurances that fire water could not enter local watercourses and aquifer due to the impermeable nature of the ground on the site and impermeable membrane installed under the site, would be irrelevant. Once fire water has entered the surrounding water courses and from them quite possibly the aquifer, irreversible environmental damage would be expected from the pollutants in the fire water resulting from the fire and interaction of gases emitted during the fire with the fire water This development would therefore fail to meet policies Policy EN14 and EN18 of the East Devon Local Plan. These are some of the key reasons given for rejection at appeal to the planning inspectorate against refusal of an application to develop the Pound Road BESS on Land North East Of Axminster National Grid Substation

I am also in agreement with comments of others that this application also fails to meet Strategies 7 and 49 of the East Devon Local Plan so will not repeat those arguments here.

For the above reasons, I am unable to support this application and recommend that it be REJECTED.

Axminster/Town Council

15/10/24

At the meeting of the Town Council held on 14th October 2024, the Council resolved (by a majority decision) to maintain their support for this application, thanking the applicant for the additional information provided in the supplementary documents.

9/7/24

Axminster Town Council, having received representations both for and against this application, resolved at its meeting held 8th July 2024 to SUPPORT this application having given the application due consideration.

Clerk To Hawkchurch Parish Council

14/2/25

The following are Hawkchurch Parish Council's Response to Amendments presented by the Applicants on 9 October, 2024, to their proposal "24/0096/MFUL | Proposed construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements. | Land Just South of Hazelhurst Raymonds Hill Axminster"

Comment Date: February 11, 2025

The Hawkchurch Parish Council recognise that these Amendments have attempted to answer a significant number of issues raised originally by the PC, other Consultees and Contributors.

We note that a recent survey done as preparation for writing our Neighbourhood Plan indicates that a very large majority of the parish are against lithium-ion BESSs situated over our aquifer. Taking all of this into consideration, we are still unable to support this application as the Amendments do not offer sufficient guarantees of the safety of this proposed BESS and its susceptibility to a major accident that would destroy the aquifer that our farms, ecosystems and a substantial number of residents rely on, and thus respectfully ask that it be refused.

In the interests of brevity, we state here that we agree with the following contributor comments: "Planning Potential Addendum Letter on Behalf of Hawkchurch Action Group" and "Hawkchurch Action Group Combined Email and Briefing Note", and therefore we will not repeat those comments in detail.

We enlarge on some of the central issues.

1) The central argument of the Applicant's responses to the original objections is crucially undermined by their failure to understand how the potential catastrophic nature (High Impact) of any failure of this operational system makes this BESS a High-Risk operation, requiring extraordinary standards of safety which the Applicants' proposed system has not met.

The Applicants seems to think that by, potentially, lowering the probability of a High Impact event in this BESS, they have reduced this BESS from High Risk to Low



Risk. This is, by definition, false. No matter how unlikely such a High Impact event might be, it remains High Impact and renders the operational system High-Risk. The sentence, "This work delivers a proposed development that is a low probability, low impact safety risk" made by the Applicants is therefore untrue.

A catastrophic accident is catastrophic. It is irrelevant whether it happens once or many times. When an operational system is described as 'High Risk' in technical terms, this can mean that if any one failure of that system could result in an accident that has severe consequences, then the system is considered to be 'High Risk'. In order to reduce this system's High Risk Category to Low Risk, one would have to eliminate completely the probability of an High Impact accident (0 possibility), and it has yet to be demonstrated that that is possible. In fact, the low probability of such an accident in systems that are extremely complex, made with highly toxic and potentially toxic materials, and as yet in operation for only a few years, makes it impossible to predict how severe such an event will be, and when such an event will occur.

Note here that some risk management experts have said that over this type of BESS's 40 year operational lifetime there is a near certainty that it will experience at least one major failure including, in this case, destruction of our aquifer and the consequences of that, as well as long term loss of Quality Adjusted Life Years (QUALYs) through economic distress, lifelong disabilities, and immediate loss of life.

According to reputable risk management theories, any operational system that presents the possibility of a High Impact ('catastrophic') event must be safeguarded by safety measures that provide "scientific near-certainty" that the accident will not happen, no matter how large the benefit of the operation. In this case, the benefit is quantifiably small, and there is no possibility of a scientific near-certainty that a catastrophic accident can be prevented using the measures being proposed by the Applicants.

2) The Applicants claim that whoever will operate this BESS in a decade or so will, according to current best practice, renew the batteries. Apart from the problem of who will own the BESS, whether they will comply fully, etc there remains the problem that not all of the BESS's components apart from the batteries will be renewed, whether the manufacturers of these components can be relied on to uphold the highest standards of Quality Assurance, whether the raw materials will be available, or available at affordable prices, whether the installation and maintenance will be carried adequately, etc.

At the end-of-life of the BESS, who will be ultimately responsible for decommissioning the BESS and restoring the area back to its original state if the owners of the BESS are bankrupt? We are told by the EDDC LPA that the landowner is ultimately responsible. And if the land-owner cannot afford it? Who will pay? The LPA? Central government? If government has the budget to decommission and restore, that means, that as tax-payers, we, the public, will pay.

3) It is difficult to predict the upper limits of destruction of a High Impact, Low Probability accident happening as a result of this BESS's operations. But risk theory

tells us that the upper limit of the damage done could be much worse than expected in 'worst case scenarios'.

4) The above points alone undermine seriously the Applicants' argument. Further, the measures that they claim will lower (but not eliminate with scientific near-certainty) the probability of a catastrophic accident are deeply flawed. The Contributor papers "Planning Potential Addendum Letter on Behalf of Hawkchurch Action Group" and "Hawkchurch Action Group Combined Email and Briefing" have shown in detail how the Applicants' proposed safety measures fail to meet even a necessary minimum standard of efficacy.

We will confine ourselves to general points about these proposed measures.

- o Many of the amendments contain the false assumption that merely by specifying the BESS model to be used, and the manufacturer's commissioned tests for safety on that model, that this automatically proves that the BESS will be able to avoid the category of a High Risk operation. The report of the Grenfell Enquiry stated that one of the key factors contributing to the Grenfell accident was the developer's assumption that manufacturers' claims based on their own safety tests were enough to guarantee the safety of the construction. Note here that these types of tests do not account for a whole number of 'real world' variables that will increase over time.

- o The Applicants cite their own Battery Safety Consultant's advice as a guarantee that any fire will be limited to a non-hazardous level. This is clearly wishful thinking: the Applicants' own data show that the number of serious accidents in BESSs has been rising annually since 2020.

- o The Applicants' understanding of a variety of guidelines that as yet have no strong legal status, nor long-term experience to back them up, is flawed, rendering their use of these guidelines to guarantee the safety of the proposed installation inadequate.

- o Of particular concern are the proposed measures to use water to prevent a thermal run-away event, as well as other problems.

- o Groundwater within the aquifer and surface watercourses are Controlled Waters and therefore cannot receive discharges of hazardous substances.

- o Containing contaminated fire water on site is therefore an absolute necessity.

- o The Contributor comments from Planning Potential's Addendum Letter deal in some detail with the very serious problems presented by the Applicants' planned use of water to contain and control the fire to an adequate standard of safety to protect our aquifer. In particular the amounts of water needed and the containment and removal of contaminated water.

- o The Precedents set by the Pound Road Appeal Enquiry are, as demonstrated by Planning Potential, crucially and uncontrovertibly relevant, and must not be ignored.

The Hawkchurch Parish Council also notes the most recent NPPF National Planning Policy Framework, 198:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."

o The whole of this area is unaffected by major roads, so there is no continuous drone of industrial systems.

o Despite the good intentions of the Applicant, this BESS is equivalent to a miniature industrial estate in one of the most beautiful rural areas of the UK appreciated by tourists, ramblers, local residents, artists - local and visiting, etc.

o It is a 'dark sky' area - on many nights of the year, constellations and even the Milky Way are visible.

#### Clerk To Hawkchurch Parish Council

24/7/24

We fully support the need for the UK to move to renewable energy sources and the Parish of Hawkchurch has a very significant level of solar farms.

We acknowledge the efforts that the developer has made to address concerns raised by residents of Hawkchurch in relation to other similar projects. To this end the developer has acknowledged the safety issues, the need to consult with the fire service and to comply with the NFCC guidance. The site is situated further from habitation, is accessible from the main roads, and is relatively flat, all good starting points to make the site safe in the event of a thermal runaway incident. We also note that the developer has made a battery choice, which means that risks can be properly assessed, and the design of the site can address these risks.

There are however several things that remain uncertain:

1. In the event of a thermal runaway incident there are several scenarios that may develop. DNV modelled the 'worst case scenario' of an entire container being involved. This is still predicated on the detection and suppression systems working, and as acknowledged by the Inspectors report for the Pound Road Inquiry, this cannot be guaranteed. Indeed, a recent survey by Clean Energy Associates pointed to significant levels of failure in such control systems. This needs to be considered

alongside the location and response time of the fire service. There is a possibility that the scenario could be considerably worse and there could be propagation from one container to another - albeit unlikely if the control systems work as planned.

2. It is indicative from the documents, including the fire service comment, that the scenario response that has been planned for is one where the adjacent containers are cooled by the fire brigade and the impacted container is allowed to burn. However, the fire brigade state that they cannot be certain about this which means that the volumes of water planned for are potentially not adequate. There is some uncertainty over this anyway. The NFCC guidance states a minimum requirement for immediate use - this does not mean that more water would not be required but it could be brought in from elsewhere. Indeed, other fire services have stated that far larger volumes of water would be required.

3. The developers have acknowledged the sensitivity of water receptors to contaminated fire water (both private residential water supplies and the river catchments). They have planned to use impermeable membranes and a drainage system utilizing penstock valves that would be closed presumably prior to fire fighting. There are several issues that arise:

- a) This system can only safely deal with a certain amount of water, and we feel there are possible scenarios where the system would be overtopped.
- b) The timing of closing the penstock valves, the response time of the fire brigade and the possibility of heavy rain.
- c) Penstock valves can leak - they are sluice gates after all.
- d) The logistics and timing of removing firewater safely.
- e) Concerns about the impermeable membrane and its ability to stand up to the heat of a battery fire (which is exceptional) and to hydrofluoric acid (water in contact with the battery electrolyte generates this most corrosive acid).

4. We also believe there should be clarification of the suppression system. The documentation implies a sprinkler system and, if so, is that water, where would it be stored and what volume would be needed.

5. The developers have not specifically identified where private water supplies are in the area - these are automatically classed as SPZ1's but are not routinely recorded by either the EA or on Defra's magic map. We believe they should be identified in case they are in the vicinity or next to a watercourse that could be affected.

6. The extent and impact of the groundworks is not clear, but this is a significant drainage development, and we are concerned about the impact on the environment and the ability to return the site to agricultural use. We also note there is no CEMP at present.

7. The current drainage system needs to be unblocked - this is indicative of a longer-term issue about the management of the drainage systems. We have persistent problems with developers not accepting responsibility for managing the development according to the original landscaping conditions and would be very concerned if there was not clarity about how often the drainage system would be checked and cleared. We also note the concerns raised by the Flood and Coastal Risk SuDS Engineer.

8. The development has a 7m high substation. We note the comments of the environmental health officer about the lack of consideration of the low frequency noise and the need for this to be assessed - we believe the substation height should be considered alongside this as they do emit loud humming noises. Some of the landscape photos that show the position do not do justice to the differential height of the containers, the 4m fence and the 7m substation.

These uncertainties do not provide a solid base on which to discount the risk to human health and the environment. We urge proper engagement with the Environment Agency and Natural England to ensure that they understand the potential impacts.

The cable route is mapped but it is not clear how much power they will carry, whether there will be one or more cables, how they will be insulated, whether they need to be cooled and potential impacts on other utilities (including the impact of magnetic fields on broadband) especially for residents of Blackpool Corner where these run along the Crewkerne Road. The impact of cabling will also be significant as it is bound to close the Crewkerne Road and how traffic will be managed is important.

This proposal would be industrial in nature. This is not in keeping with the surrounding rural area and would impact on tourism, which is key for the local economy. This development would be a step change in altering the character of the landscape and despite assurances that it would be returned to agricultural use after 40 years, I don't think anyone really believes that that is possible or would be the case.

This BESS proposal, although sited next to two very large solar farms will not be harvesting electricity directly from them but will draw its power directly from the grid substation and will operate an energy arbitrage scheme, selling power back to the grid when prices are higher. This makes us skeptical about the true contribution such a development has to the renewable energy efforts.

For these reasons we are unable to support this application as it stands and ask that it is refused.

Hawkchurch Parish Council  
July 2024

### **Technical Consultations**

#### **Devon & Somerset Fire And Rescue Service**

Comment Date: **Mon 24 Mar 2025**

DSFRS Comments relating to AXP4.0 REV 3 and AXP1.0 REV 08 dated 28 February 2025

The proposed changes in access arrangements are noted. There appears to be 2 points of emergency service access, as per the NFCC guidance. The Service

recommends that as a minimum, fire service vehicle access should align with the guidance under B5 of Approved Document B of the Building Regulations.

Devon & Somerset Fire And Rescue Service

DSFRS Comments relating to AXP4.0 REV 3 and AXP1.0 REV 08 dated **28 February 2025**

The proposed changes in access arrangements are noted. There appears to be 2 points of emergency service access, as per the NFCC guidance. The Service recommends that as a minimum, fire service vehicle access should align with the guidance under B5 of Approved Document B of the Building Regulations.

Devon & Somerset Fire And Rescue Service

**Comment Date: Wed 06 Nov 2024**

Thank you for the additional information. This information, notably the swept path analysis and updated site plan have been reviewed.

It is noted that the emergency service access / egress to the site (drawing AXP4.0 REV B) is broadly similar to the site plan provided and commented on in June of this year (27th June 2024) .

Given this, Devon and Somerset Fire and Rescue Service continues to hold the views outlined in the previous correspondence referenced above.

Please do not hesitate to contact me if you consider the above would benefit from further discussion.

Devon & Somerset Fire And Rescue Service

**27.06.24**

Summary

Some of the documentation that has been reviewed for these comments is still in 'draft' format, however, based on the contents and what has been proposed, the Service does not have any concerns of note to raise.

Clearstone's commitment to produce a detailed site-specific Battery Safety Management Plan, as a condition of planning permission, and to continue dialogue regarding the formulation of an Emergency Response Plan is also viewed positively.

EDDC District Ecologist

4/4/25

**Conclusions and Recommendations**

The submitted information is of a high standard and there are some limited areas that require refining.

The development would result in the direct loss of habitat within a CSZ of a lesser horseshoe bat maternity roost. It is considered that measures could be implemented to mitigate potential impacts on the nearby roost, especially through appropriate

management of hedges, additional woodland creation/enhancement and sensitive construction control measures.

There are some further discrepancies with the submitted biodiversity net gain (BNG) proposals and landscaping that need addressing, which could have a bearing on the overall predicted BNG outcome, i.e., the site as present may not achieve a +10% gain for area habitats. Hedgerows should comfortably achieve +10% BNG.

This would need to be informed by a detailed soft landscaping scheme, refinement of the Habitat and Landscape Management and Monitoring Plan (HLMMP) and amended Statutory Biodiversity Metric (SBM) to address the points raised.

If a +10% BNG outcome for area habitats are not achievable based on the refined details, then off-site provision could be used to account for any deficit, e.g., within the wider ownership boundary.

Conditions suggested.

#### 4 Conditions

Should the development be approved the following conditions are recommended:

- The development shall not commence until a Habitat and Landscape Management and Monitoring Plan (the HLMMP), prepared in accordance with the approved Biodiversity Gain Plan and Soft Landscaping Plan and including:
  - a non-technical summary;
  - the roles and responsibilities of the people or organisation(s) delivering the HLMMP;
  - the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
  - the management measures to maintain created, enhanced, and retained habitats in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
  - the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,
  - has been submitted to, and approved in writing by, the local planning authority.
- Notice in writing, in the form of a landscape verification report completed by a competent ecologist or landscape architect, shall be given to the Council when the habitat creation and enhancement works as set out in the HLMMP have been established to define the completion of development and start of the 30-year BNG maintenance and monitoring period.
- The created, enhanced, and maintained habitats specified in the approved HLMMP shall be managed, monitored, and maintained in accordance with the approved HLMMP.
- 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.
  - Risk assessment of potentially damaging construction activities.

- Identification of "biodiversity protection zones".
- 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).
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication, including reporting compliance of actions to the LPA.
- The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements, i.e., for reptiles, dormice and bats.
- Use of protective fences, exclusion barriers and warning signs.

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

Reason:

To ensure that the development has no adverse effect on protected and notable species, provides ecological mitigation and enhancement measures, and to ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990, 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.

EDDC Landscape Architect

1 April 2025

## **1 INTRODUCTION**

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

The report provides a review of additional and amended 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 REVIEW OF ADDITIONAL/ AMENDED INFORMATION**

### **2.1 Layout**

The battery compound appears to have been adjusted to provide a minimum 4m width access around the perimeter between the proposed fencing and existing field hedges. It would be helpful if notes could be added to both the Site Plan and the Landscape Enhancement and Mitigation Plan to confirm this.

### **2.2 Access**



The revised location of the operational phase to utilise an existing access off Stammer Hill will reduce landscape impacts compared to the previous proposal. Proposals for the access off the B3156 have been amended to avoid the RPA of tree T18. The Landscape Enhancement and Mitigation Plan, Figure-AXP 15.0 February 2025, indicates that the proposals will entail the removal of 17m section of hedgerow for the access and the cutting back of adjoining hedgerow to 600mm over a distance of 34m to the northeast and 11m to the southwest with further trimming back of side growth beyond this to provide required visibility splays. The cut down hedgerow will be maintained at 600mm height during the construction phase and allowed to grow back up subsequently.

During the operational phase it is understood that the B3165 access will only be used for emergencies and continued maintenance of the visibility splay will not be required. However, the 17m width construction phase access is currently shown to remain for the operational phase. This is unnecessary and will have a localised urbanising effect on the boundary of the Dorset National Landscape. To minimise this, the width of the B3156 entrance should be reduced for the operational phase to the minimum necessary to accommodate emergency vehicles and the entrance designed to appear as an agricultural field access with no kerbing, rather than as a new roadway. Similar design considerations should apply to the Stammer Hill access junction.

Detail design drawings for the proposed site access junctions with the highway for both construction and operational phases should be provided either prior to determination or by condition.

### **2.3 Landscape mitigation**

As requested, additional planting is now proposed to reinforce the existing woodland to the east of the site and the surrounding hedgerows and compensate for potential losses of existing ash trees due to die-back.

### **2.4 Habitat and Landscape Management & Monitoring Plan – Rev. 2**

The Plan is generally comprehensive but is in draft form and some further information is required to complete it. The Plan also needs to be read in conjunction with a detailed planting plan and specification which have not yet been provided. An updated Plan should therefore be required by condition incorporating missing information and addressing various points.

## **3 CONCLUSIONS & RECOMMENDATIONS**

### **3.1 Acceptability of proposals**

The proposed scheme will result in adverse landscape impacts within the site due to loss of existing grassland and introduction of industrial infrastructure within a rural setting, with lesser effects on the host landscape and Dorset National Landscape. However, the site is situated adjacent to existing solar farms to the east and south which form part of the local landscape context and existing trees and hedgerow will

be retained with the exception of localised hedge breaks to form the access off the B3165.

There would also be locally significant visual impacts on visual receptors in the vicinity of the proposed construction phase access off the B3165. Construction phase effects would be temporary lasting for a few months. Subsequently the entrance should be reduced in width sufficient to accommodate emergency vehicles. Subject to this requirement, and acceptable detail junction design secured by condition, the visual and landscape effects of the proposed access would be temporary and could be effectively mitigated in the short -medium term on completion of site works.

Presently the site is well contained and not readily visible within the local or wider landscape apart from partial, glimpsed and heavily filtered views through existing perimeter field openings adjacent to public roads and along its northeastern boundary where an adjacent permissive bridleway has recently been agreed. For the above reasons the submitted scheme could be considered acceptable in terms of landscape and visual impact subject to amendment of the proposals for the operational phase emergency access off the B3165 either prior to determination or through condition.

Conditions suggested.

### EDDC Trees

#### **Comment Date: Fri 14 Mar 2025**

I have reviewed the revised arboricultural impact assessment (AIA) prepared by Barton Hyett, dated February 2025.

I note that the location of the proposed operational site access onto Sector Lane would now be further to the east, through G26, mixed broadleaved group. I understand the access will use an existing gateway into the field and this would have reduced impact on trees compared to the previous proposed access next to T1. This is seen as an improvement from an arboricultural perspective.

Further details have been provided regarding the impact on and management of the hedgerows and trees, H10 & H11, due to the proposed construction access onto the B3165 road. It now appears that the intensive hedgerow management to 600mm height will only be required during construction and in a limited area, and the hedgerows will be allowed to grow on to match the other hedgerows on the site post construction.

Full details of the proposed cable route and the method of installation have not been supplied and if the application is approved a condition should be applied that includes a requirement for detailed arboricultural method statements (AMSs) covering the installation of cable within or adjacent to the RPAs of retained trees.

Condition proposed for tree protection.

County Highway Authority

31/3/25

The CHA has been re-consulted on amended plans regarding this planning application and has no further comments to add.

NO OBJECTION

05/11/2024

No objection.

20/8/24

I have visited the site and reviewed the planning application documents.

These battery energy storage sites tend to produce limited trip generation once in operation with minimal maintenance.

No objection.

DCC Flood Risk SuDS

**Mon 24 Mar 2025**

Recommendation:

We have no in-principle objections to the above planning application, from a surface water drainage perspective.

Observations:

The applicant have amended the main access road to the development site as shown in Axminster Energy Hub Site layout Plan (Drawing No. CST005-AXP4.0, Rev. E, dated 14th February 2025) and Indicative Landscape and Ecological Mitigation and Enhancement Strategy (Drawing No. Figure-AXP 15.0, Rev. -, dated February 2025).

It was previously proposed that the access roads will be formed of MOT Type 3 or equivalent material (with at least 30% void ratio and low fines content). The applicant will need to confirm this during detailed design and propose the attenuation required to manage the surface water runoff.

Condition proposed.

Environmental Health

18/10/24

I have reviewed the submitted documentation and do not anticipate any environmental health concerns.

Natural England

1/7/24

No objection.

Dorset Council

12/7/24

Dorset Council has no comments to make on the application.

Devon County Archaeologist

27/7/24

I refer to the above application. The Historic Environment Team has now received a copy of the report setting out the results of the archaeological field evaluation. These investigations have demonstrated that the site has a low potential for containing significant heritage assets with archaeological interest, and no further archaeological mitigation is required.

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

Conservation

19/7/24

On the basis of the information provided through this application, the works as proposed for the 'construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements.' Would, on account of the location of the development site, result in no harm to the conservation of the historic built environment within the surrounding area. In this respect conservation do not wish to offer any further comment. Case Officer to assess on planning merit.

Environment Agency

No response received.

Devon County Council Waste Planning

It is recommended that a condition is attached to any consent to require the submission of a Waste Audit Statement prior to the commencement of the development as stated below:

Prior to the commencement of development, a waste audit statement shall be submitted to, and approved in writing by, the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The following points shall be addressed in the statement:

- o Demonstrate the provisions made for the management of any waste generated to be in accordance with the waste hierarchy.
- o The amount of construction, demolition, excavation and decommissioning waste in tonnes, set out by the type of material.
- o Identify targets for the re-use, recycling and recovery for each waste type from during construction, demolition, excavation and decommissioning, along with the methodology for auditing this waste including a monitoring scheme and corrective measures if failure to meet targets occurs.
- o The predicted annual amount of waste, in tonnes, that will be generated once the development is occupied.
- o Identify the main types of waste generated when development is occupied.
- o The details of the waste disposal methods likely to be used, including the name and location of the waste disposal site.
- o Identify measures taken to avoid all waste occurring.

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

Reason: To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. This information is required pre-commencement to ensure that all waste material is dealt with in a sustainable way from the outset of the development including any groundworks, demolition, construction and operation.

Please let us know should you have any queries.

County Highway Authority  
Addendum 05/11/2024

The CHA has received the updated swept path plans of HGV, articulated and emergency vehicles utilising the proposed access and has no objection to raise, as such our stance remains the same.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, 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

### Dorset National Landscape Partnership

Thank you for consulting Dorset National Landscape Team. Having reviewed the application, it is our overall opinion that the landscape and visual impacts of the proposal that relate to Dorset National Landscape, are relatively localised and comprise impacts from the point of access from the B3165, as well as potential filtered views toward the compound from this road.

The proposals include a new point of access from the B3165, with this being located within Dorset National Landscape and necessitating the removal of a section of hedgerow. The BESS compound is located to the northwest, at a distance of approx 100m from the point of access, within the next field, which is demarked by a hedge line (a hedge bank including a number of relatively mature trees, including ash trees). The compound, as well as the majority of the new access track from the B3165 to compound, are located outside of the designated landscape.

The applicant has submitted a Landscape Appraisal, including photographs. VP5 represents a near viewpoint from the B3165, while VPs 6, 7 & 8 are more distant views toward to the site from within Dorset National Landscape. Overall, we do not fundamentally contest the judgements of the Appraisal in relation to effects on this designated landscape. The relatively level and contained nature of the selected site is such that what might be considered significant impacts on the character and appearance of the Dorset National Landscape area are not expected to arise. Nonetheless, some localised adverse impacts can be foreseen, particularly in relation to the B3165. Here there may be scope for further mitigation and/or use of conditions, for example:

- o The detailed design of the access from the B3165 should be resolved. It is suggested that the final specification for this gateway includes a timber field gate, with this being preferably to the installation of a steel gate. Details of hedgerow removal and replanting should also be confirmed.
- o The main BESS compound is located to the northwest of low hedge bank with a relatively mature hedge that includes a number of trees. The screening of the compound relies quite heavily on this hedge, as well as that which runs alongside the B3165. Whilst the indicative landscaping proposals suggest retaining and enhancing these hedgerows, it is considered that design has the potential to accommodate an additional belt of new planting, containing the compound along its southeastern edge. It is noted that the existing hedgerow that is closest to the compound contains a number of ash trees that are susceptible to loss, due to the widespread distribution of disease. Augmenting the existing field boundaries with more substantive new planting would serve to reduce effects of the development on users of the B3165, who otherwise may be able to achieve filtered views into the site

area for a limited length of the road, particularly when passing the site during winter months.

o It is understood that lighting is not proposed during the operational phase. Nonetheless, it is considered that a condition be used to avoid the potential installation of lighting at a future date, for example for enhanced security.

I hope that these comments support the Council's review of this application.

Richard Brown CMLI  
Landscape Planning Officer, Dorset National Landscape

### Other Representations

44 letters of objection

Summary of the key objections:

1. **Proximity and Visual Impact:** Concerns about its closeness to residential areas, livestock, and public paths, as well as its visual intrusion in a rural setting.
2. **Environmental Risks:** Potential contamination of aquifers, pollution risks to the River Axe catchment, and negative effects on biodiversity and local wildlife.
3. **Fire and Safety Risks:** Fears about thermal runaway events, inadequate fire suppression measures, and risks of explosion.
4. **Noise and Light Pollution:** Worries about continuous noise from equipment and potential light disturbance.
5. **Local Plan Contravention:** The project is seen as conflicting with local and county strategies on pollution control, water quality, and countryside protection.
6. **Economic and Social Impact:** Concerns about harming local tourism, agriculture, and the rural character.
7. **Legal and Regulatory Issues:** Claims that the project lacks necessary safety standards and may face legal challenges for not obtaining Hazardous Substance Consent (HSC).

5 letters of support:

1. **Renewable Energy Support:** The BESS is seen as vital for supporting the transition to clean energy and reducing carbon emissions.
2. **Infrastructure Improvement:** The project is considered an important step in enhancing energy storage capacity, which is essential for stabilizing renewable energy supply.
3. **Design Considerations:** Supporters noted that efforts had been made to design the facility in a way that minimizes visual impact and integrates sympathetically with the surrounding environment.

4. **Minimal Agricultural Impact:** Some supporters highlighted that the land in question is only Grade 3 agricultural land, suggesting the development would have limited impact on productive farmland.
5. **Improved Access:** The proposal includes plans for improved road access, which could enhance local infrastructure.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
24/0001/EIA	Screening opinion for Axminster energy hub.	EIA not required.	30.05.2024

## **POLICIES**

### East Devon Local Plan 2013-2031

Strategy 3 (Sustainable Development) Adopted

Strategy 7 (Development in the Countryside) Adopted

Strategy 39 (Renewable and Low Carbon Energy Projects) Adopted

Strategy 46 (Landscape Conservation and Enhancement and AONBs) Adopted

D1 (Design and Local Distinctiveness) Adopted

D3 (Trees and Development Sites) Adopted

EN5 (Wildlife Habitats and Features) Adopted

EN8 (Significance of Heritage Assets and their setting) Adopted

EN9 (Development Affecting a Designated Heritage Asset) Adopted

EN13 (Development on High Quality Agricultural Land) Adopted

EN14 (Control of Pollution) Adopted

E18 (Loss of Holiday Accommodation) Adopted

EN21 (River and Coastal Flooding) Adopted

EN22 (Surface Run-Off Implications of New Development) Adopted

E4 (Rural Diversification)

E5 (Small Scale Economic Development in Rural Areas) Adopted



TC2 (Accessibility of New Development) Adopted

TC9 (Parking Provision in New Development) Adopted

East Devon Emerging Local Plan 2020-2042

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft

Strategic Policy CC01 (Climate emergency) Draft

Strategic Policy CC02 (Moving toward Net-zero carbon development) Draft

Strategic Policy CC04 (Energy storage) Draft

Strategic Policy CC06 (Embodied carbon) Draft

Strategic Policy DS01 (Design and local distinctiveness) Draft

Policy DS04 (Green and blue Infrastructure) Draft

Strategic Policy OL01 (Landscape features) Draft

Strategic Policy OL02 (National Landscapes (Areas of Outstanding Natural Beauty))  
Draft

Policy OL04 (Areas of strategic visual importance) Draft

Policy OL09 (Control of pollution) Draft

Policy OL10 (Development on high quality agricultural land) Draft

Policy PB03 (Protection of irreplaceable habitats and important features) Draft

Strategic Policy PB05 (Biodiversity Net Gain) Draft

Policy PB08 (Tree, hedges and woodland on development sites) Draft

Policy PB09 (Monitoring requirements for new planting scheme) Draft

Strategic Policy HE01 (Historic environment) Draft

Policy HE02 (Listed buildings) Draft

Policy HE04 (Archaeology and Scheduled Monuments) Draft

Strategic Policy AR01 (Flooding) Draft

## Site Location and Description

The site is situated on a landscape plateau to the northwest of Blackpool Corner. Surrounding land use to the north and east is predominantly agricultural with some large areas of woodland. Extensive solar farms are situated immediately to the west and southwest of the site and further largescale solar farms and the National Grid Axminster sub-station are situated some 1-2.2 km to the northeast.

The site is reasonably level and has two access points to adjoining roads to the north and east. Connection to the grid is proposed via underground cabling extending along the line of the proposed emergency access route and then via the highway network for the 2.7km route to the National Grid distribution station.

The land for the BESS system is pasture and is reported (by the survey accompanying the application) to be Grade 3b agricultural land. There is no public access within the site and the nearest publicly accessible locations are Stammerly Hill and the B3165 in the vicinity of the proposed site entrances, and a new permissive bridleway which is to be provided as part of the s106 agreement for the Beavor Grange solar farm adjacent to the northwestern site boundary. Hawkchurch bridleway 33 emerges on to Stammerly Hill almost opposite the proposed emergency site access. The nearest residential properties are situated at Blackpool Corner between 150 to 700m to the northeast.

The site lies both the administrative areas of Axminster Town Council and Hawkchurch Parish Council. The proposed entrance off the B3165 falls within the Dorset National Landscape (part of which crosses into East Devon according to mapping data).

## The development

The development of the Battery Energy Storage System would be able to store 150MW (300MWh) of electricity to the grid. This would equate to the power required for 750,000 homes for 10 hours when fully charged.

The main components of the proposal comprise:

A battery storage compound surfaced with non-compacted gravel containing:

- Banks of battery units (52 no.) measuring 2.1m wide x 3.2m long x 2.7m high (including the 15cm high concrete pad they sit on) and arranged in rows of three to six units. The operation of the BESS is driven by market requirements but generally the batteries would charge at off-peak times, and then supply energy to the national transmission network at times of peak energy demand and/or when renewable energy sources are generating lower levels of electricity;
- ACC/DCC panels positioned at the end of each row of three battery units and measuring 0.7m wide x 3.2m long x 2.7m high (including the 15cm high concrete pad they sit on). The ACC/DCC panel is an outdoor rated enclosure which is used to connect to the Medium Voltage (MV) Skid and includes an external panel for emergency response, auxiliary power and communications;

- MV Twin Skid units (19 no.) measuring 2.3m wide x 6m long x 2.4m high (including the 15cm high concrete pad they sit on). This arrangement allows for compact integration of two inverter units together with a medium voltage transformer to step up from low voltage to medium voltage;
- Inverter units (38 no.) each measuring 2.5m wide x 3.9m long x 2.9m high (including the 15cm high concrete pad they sit on). These are power conversion units which enable the two-way conversion of electrical energy. They convert DC power from the batteries into AC power which can be transmitted to the grid, as well as the reverse, converting AC power from the grid into DC power which can be used to charge the batteries;
- Spare equipment containers measuring 2.5m wide x 12.2m long x 2.8m high (including the 15cm concrete pad they sit on); and  
Two emergency water tanks (with pumps), each measuring 2m high and 10m in diameter across and each with a capacity of 114,000 litres.

Associated infrastructure including:

- A single substation and switchgear compound (gravel and concrete footings). The tallest piece of equipment within the compound would be 7.5m. The Switchroom would be 4.9m wide x 12.7m long x 3.3m high. This equipment would be secured by a 2.4m high moss green steel palisade fence with double gates;
- Internal access roads made from rolled crushed stone and 4m in width;
- Two access roads, one from the B3165 for construction traffic and operational traffic and one off Stammerly Hill for emergency access only;
- A steel palisade fence and double gates (no higher than 2.4m) around the battery storage compound to be coloured moss green;
- CCTV and infrared cameras mounted on steel poles (no higher than 3m) and located to provide 24/7 security of the plant; and
- A 4m high acoustic attenuation fence enclosing three sides of the battery compound and positioned inside the security palisade fence; and
- Underground cabling to connect the battery banks, inverters/ transformers to the proposed on-site substation.

## ANALYSIS

The main issues are:

- Principle - whether the proposal represents a renewable energy or low carbon scheme for the purpose of the development plan;
- Landscape and Visual Impacts;
- Noise and Amenity
- Fire Safety and Pollution
- Use of best and most versatile agricultural land (BMV);
- Effects on biodiversity.
- Drainage
- Highway safety
- Benefits of the development

## **The principle of development**

There is no made Neighbourhood Plan for Axminster or Hawkchurch. The relevant development plan for determining the application therefore is the EDDC Local Plan.

Strategy 7 does not permit development outside of Built-Up Area Boundaries unless permitted by some other policy in the LP. One such policy is Strategy 39 and this permits such developments in the open countryside subject to criteria.

Strategy 39 of the Local Plan states that:

*Renewable or low-carbon energy projects in either domestic or commercial development will in principle be supported and encouraged subject to them following current best practice guidance and the adverse impacts on features of environmental and heritage sensitivity, including any cumulative landscape and visual impacts, being satisfactorily addressed. Applicants will need to demonstrate that they have;*

- 1. taken appropriate steps in considering the options in relation to location, scale and design, for firstly avoiding harm;*
- 2. and then reducing and mitigating any unavoidable harm, to ensure an acceptable balance between harm and benefit.*

*Where schemes are in open countryside there will be a requirement to remove all equipment from the site and restore land to its former, or better, condition if the project ceases in the future. Wind turbines will only be permitted where they are in accordance with a Neighbourhood Plan or Development Plan Document.*

The Council has previously accepted (application 17/2318/FUL for a BESS at Hill Barton Business Park was approved at the Planning Committee of 4 January 2018) that such installations are 'low carbon energy' projects as this is defined in the Local Plan as including technologies 'that can help reduce emissions (compared to conventional use of fossil fuels)'. In simple terms, such energy storage facilities can be used to store energy from the grid when renewable generation (not necessarily from the solar farm at the site) is in excess of demand. Prices during this time will be lower (supply exceeding demand) and can be used later when prices are higher, which typically is when renewable generation is low. The power fed back to the grid will reduce the amount of non-renewable generation required during such times and in this way is considered to reduce emissions that otherwise would have been generated. The comments of the objectors regarding emissions generated to make the BESS equipment is noted but are not specified as a consideration in Strategy 39. Of course, anything which is manufactured will likely generate emissions but this will be offset in due course by the savings in emissions a BESS (or for that matter solar panels or wind turbines) facilitates. As the electricity grid becomes greener (as it has over the last two decades) this payback period becomes even shorter. The same can never be said of fossil fuel derived energy.

The Planning Inspector noted in the decision letter relating the appeal into refused planning application 22/2216/MFUL (also for a BESS scheme nearby) that:

*42. Whilst the proposal would not generate renewable energy, it would nonetheless store power. This is significant as typically wind turbines and solar panels have variable generation and this supply needs to be managed. Demand too will vary according to season and time of day. Given these variables, battery storage is essential to help manage the use of renewables so that they can be relied upon, which supports their continued development and a low carbon future. Whilst the proposal will manage all electricity use, including that generated by fossil fuel, it will still manage some renewables. Moreover, the proposal is for a 40 year use and the vast majority of energy stored would be from renewable sources: the Overarching National Policy Statement for Energy (NPS) foresees that by 2035 all our electricity will need to come from low carbon sources, subject to security in supply.*

And also:

*44. Indeed, the Renewable and low carbon energy Planning Practice Guidance, (the PPG) encompasses battery storage and acknowledges its de-carbonising role. The NPS goes further stating storage has a key role in achieving net zero. Similarly, the Glossary to the Framework defines low carbon technologies as those that can help reduce emissions. Consequently, I find these confirm that the proposal represents a low carbon project for the purpose of the development plan and the proposal would not be contrary to Strategy 39.*

The principle of development is therefore considered to be acceptable insofar as it is a 'low carbon energy' project as defined in the Local Plan.

The recently revised NPPF also now lends support in principle to the proposed development. Paragraph 165 makes clear the aim to 'help increase the use and supply of renewable and low carbon energy and heat' through appropriate plans.

Paragraph 168 of the NPPF requires that –

*“When determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should:*

*a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.”*

The principle of the development is therefore supported by local and national planning policy.

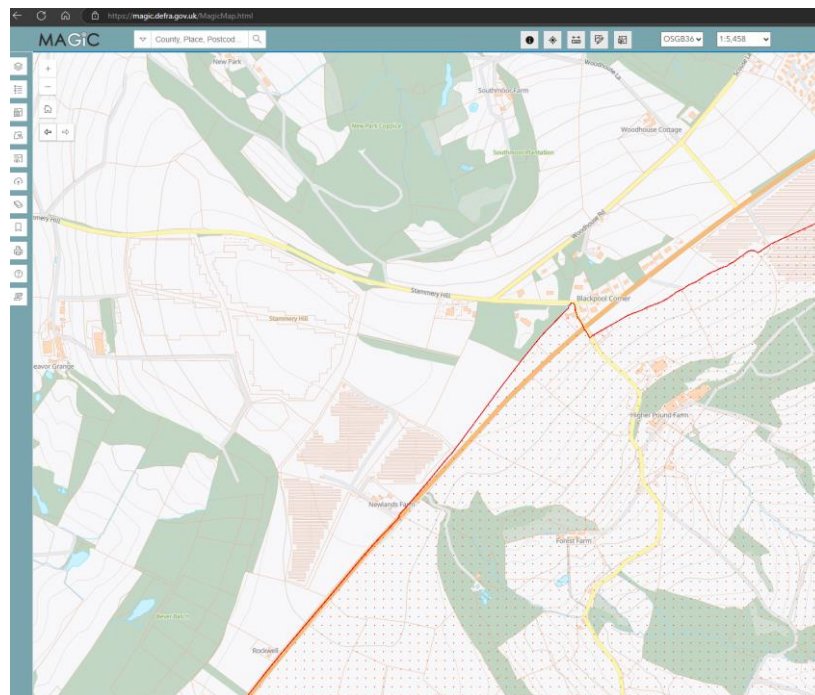
### Landscape and visual impacts

The site does not lie within a designated landscape, save for the very southern corner which contains one of the construction and emergency access points. For reasons that are unclear the Dorset National Landscape appears to leapfrog the

road into East Devon by a few meters as shown below (the red dotted area showing the designation).

The site is situated on a landscape plateau to the northwest of Blackpool Corner. Surrounding land-use to the north and east is predominantly agricultural with some large areas of woodland. Extensive solar farms are situated immediately to the west and southwest of the site and further largescale solar farms and the National Grid Axminster sub-station are situated some 1-2.2 km to the northeast.

The site comprises a level, rectangular field within which the battery storage compound is proposed to be sited. The main field where the battery compound is to be constructed and the field to the south are pasture, while the field to the east is presently under arable. The fields are bounded by historic hedgebanks with numerous outgrown trees with a narrow strip of mature woodland separating the main field from the field to the north. The tallest feature of the development would be a 4m high acoustic attenuation fence enclosing three sides of the battery compound and positioned inside the security palisade fence.



With regards to paragraph 190 of the NPPF which states that permission for major development should be refused in National Landscapes, it is at the discretion of the LPA as to whether the development is classified as major for the purposes of this paragraph. Although the type of planning application is major as defined in the Development Management Procedure Order, it is not considered major in the context of paragraph 190 as only small element of the total site lies in the National Landscape and within that area only a modest proportion of the total built development (being one of the access points). Therefore, there is no compulsion to refuse permission on this ground.

While the site would see a significant and adverse change in its character and appearance, these effects would not be experienced beyond the site itself. Any effects that are apparent will diminish over time as landscaping becomes established to compliment the already existing mature boundary screening. Proposed landscaping includes enhancement, gapping up and re-enforcement of existing hedges along roadsides and also within the site, and the extension of an existing woodland belt as detailed on the Indicative Landscape and Ecological Mitigation and Enhancement Strategy drawing AXP 15.0. It is unlikely that there would be impacts on the Dorset National Landscape. Dorset Council appears unconcerned with the application and the Dorset National Landscape Partnership recognise the impacts would be localised.

The landscape officer's comments regarding suggested changes to the proposed landscaping scheme have been discussed with the applicant's agent and some of the changes have been made, most notably the change in location for the secondary northern access, to make use of an existing field access rather than form a new one. The offsetting of the access road would alleviate views into the main part of the site where the BESS units would be located. The landscape officer concludes that the development would be acceptable in landscape terms subject to conditions suggested and these have been included in the recommendation

The development complies with Strategy 46 of the Local Plan.

#### Noise and amenity

The main sources of noise from the installation would be cooling processes taking place during charge/discharge cycles. Discharge cycles would be during times of peak demand, which typically is for limited periods daily. There are a limited number of receptors near to the site which include Hill Crest (dwelling which is in the same ownership as the site) and Hazeljurst (dwelling approximately 280m north-east of the compound). Blackpool Cottage lies a bit further to the east and on the opposite side of the Stammerly Road from Hazelhurst lie a few other dwellings; Beech Corner, Nore View, Hillside, Silver Birches and others beyond.

The Council's Environmental Health Officer is satisfied with the latest information submitted which included information to address concerns previously raised in respect of low frequency noise. This information simply confirmed that the transformers proposed as part of the BESS scheme are fully enclosed unlike most other transformers. In addition to this, the 4m high acoustic fence would ensure that the nearest noise sensitive receptors will not be adversely affected, and this has been confirmed as suitable mitigation by Environmental Health. This acoustic fencing will need to be secured via planning condition.

A Construction and Environmental Management Plan condition should be imposed on the development to minimise disruption during construction.

Subject to suitable conditions the development accords with policy EN14 (Control of Pollution) of the LP in respect of noise and amenity.

## Fire Safety and Pollution

While it has been a long-standing principle that planning should be able to rely on other safety and pollution regimes to operate effectively, the issue of Fire Safety and Pollution is of particular sensitivity in the area in which the application is proposed because it lies on an aquifer important to local water supplies. In considering the application it is therefore necessary to have regard to policies concerning potential pollution (that being contaminated water created during any fire-fighting event) that may arise, even during a 'departure' from normal operation.

The NPPG includes a section on BESS schemes. This advises that for scheme of 1MW or over applicants are encouraged to engage with the local fire and rescue service before submitting a planning application.

Applicants are also 'encouraged' to consider the guidance produced by the National Fire Chiefs Council (NFCC) when preparing an application. Likewise, LPAs are 'encouraged' to consider this guidance in determining an application. It is acknowledged that the NFCC guidance is specifically based on proposals for lithium-ion batteries. It is important to note as not all BESS schemes necessarily will use such cells and the application of this guidance may not always be appropriate as a result. The NPPG notes that matters such as design, firefighting access and facilities at BESS sites are of interest to fire and rescue services. The application states that it is proposed to use Lithium Iron Phosphate (LFP) cells.

The matter of fire safety and pollution was dealt with at a recent public inquiry (APP/U1105/W/23/3319803) into the refusal of a BESS scheme in the vicinity of this site. That appeal decision took into account the NFCC guidance and updated NPPG. One of the main issues considered by the Inspector was '*Whether there is sufficient information on the health and safety measures and the extent to which there would be significant risk to local residents and the environment*'.

To that end the following matters were considered in the appeal decision:

- BESS installations are not long enough established to prove that safety risk is not significant (para 56);
- NFCC guidance recommends a minimum of 6m separation between BESS containers (para 61);
- Less than 6m separation may be feasible but predicated on modelling and engineering measures to prove safety (para 61);
- While final technological battery details not specified (in the appeal) there was also no evidence that any particular battery specification could be safe with the 2m separation that was proposed (para 64);
- NFCC guidance recommends at least 2 separate access points to account for opposite wind conditions/direction (para 65);
- Sufficient storage capacity needed at site to deal with firefighting wastewater (as the site lies on an aquifer needed for local drinking supplies). Relying on wastewater tankers to carry waste away from site unlikely to be sufficient as they could be delayed and the fire service was unlikely to want non-fire service staff in the area while dealing with the fire due to the risk to their safety (paras 69 – 72);



- No fire hydrants were shown to be in the area
- Planning conditions requiring water storage tanks cannot be assumed to be achievable as it could take up room required for access and landscaping.

The application is supported by:

- Battery Safety Standards Report (BSSR) (AECOM May 2024);
- Controlled Waters Environmental Risk Assessment (RMA Environmental May 2024);
- Plume Assessment Study (DNV May 2024); and
- A follow up document 'Providing Clarity and Reassurance on Fire Safety Risks 9 October 2024)

The BSSR references the NFCC guidance. This table assesses the scheme against the NFCC recommendations.

	<b>NFCC Recommendation</b>	<b>Site Status</b>	<b>Comments</b>
1	Access- minimum of two separate access points to the site	Compliant	DSFRS confirm access, road widths, passing points and turning facilities are appropriate.
2	Roads/ hard standing capable of accommodating fire service vehicles in all weather conditions. As such, there should be no extremes of grade.	Compliant	DSFRS confirm access, road widths, passing points and turning facilities are appropriate.
3	A perimeter road or roads with passing places suitable for fire service vehicles.	Compliant	DSFRS confirm access, road widths, passing points and turning facilities are appropriate.
4	Road networks on site must enable unobstructed access to all areas of the facility.	Compliant	DSFRS confirm access, road widths, passing points and turning facilities are appropriate.
5	Turning circles, passing places etc size to be advised by FRS depending on fleet.	Compliant	DSFRS confirm access, road widths, passing points and turning facilities are appropriate.
6	Distance from BESS units to occupied buildings and site boundaries. Initial minimum distance of 25m.	Compliant	No dwellings within this distance. Hill Crest site boundary with the site is 90-100m from the nearest BESS unit.
7	Access between BESS unit - minimum of six	Compliant	Less than 6m separation proposed (3.2m). The DSFRS

	metres suggested. If reducing distances, a clear, evidence based, case for the reduction should be shown.		response states that the 6m separation distance was lowered in a revision to the NFCC guidance in July 2023. It also is satisfied with the evidence provided to justify the separation of 3.2m proposed.
8	Site conditions-areas within 10m of Bess units should be cleared of combustible vegetation.	Compliant	This requirement is noted in the BSSR and will managed as part of the site operation.
9	Water supplies.	Compliant	It is calculated (using burn testing) that 192,000 litres would be sufficient to fight a fire but it is proposed to store 228,000 litres on site. DSFRS is content with the proposed water supply.
10	Signage.	Compliant	<p>The BSSR confirms that signage as per NFCC guidelines will be provided which includes:</p> <ul style="list-style-type: none"> <li>• Relevant hazards posed i.e., the presence of High Voltage DC Electrical Systems is a risk, and their location should be identified.</li> <li>• The type of technology associated with the BESS.</li> <li>• Any suppression system fitted.</li> <li>• 24/7 Emergency Contact Information.</li> <li>• Signs on the exterior of a building or enclosure will be sized such that at least one sign is legible at night at a distance of 30 m or from the site boundary, whichever is closer.</li> </ul> <p>DSFRS raise no objection on this point.</p>
11	Emergency plans.	Compliant	The BSSR confirms that an Emergency Response Plan (ERP) will be developed in consultation with the DSFRS,

			which can be secured with a planning condition.
12	Environmental impacts.	Compliant	DSFRS confirm the proposed drainage system, with a minimum storage capacity of 228,000 litres is adequate to contain anticipated firefighting water runoff.
13	System design, construction, testing and decommissioning.	Compliant	<p>DSFRS does not object to any matter here and notes that BESS system will be certified to the UL9540 standard and tested to UL9540A test method. A lower level of testing would require evidence to support this approach. A suitable condition could be used to ensure this.</p> <p>DSFRS confirm overall design will comply with NFCC guidance.</p> <p>DSFRS state LFP cells are regarded as posing fewer safety concerns such as overheating and explosion; they are not as susceptible to thermal runaway.</p> <p>DSFRS confirm that the worst-case plume modelling is based on realistic assumptions and scenarios, and results demonstrate no immediate thermal or plume impacts will occur on the nearest receptors.</p>
14	Deflagration prevention and venting.	Compliant	<p>The BSSR confirms the suppression system will operate in conjunction with a gas exhaust/ventilation system to minimise deflagration risks.</p> <p>The BESS ventilation system will comply with NFPA 855 (2023) / NFPA 69 guidelines which require the prevention of a dangerous build-up of explosive gases (25% LEL). The gas exhaust / ventilation system must have redundancy and can be</p>

			<p>separate to any HVAC system providing climate control.</p> <p>DSFRS confirms no objections on this matter.</p>
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The National Fire Chiefs Council (NFCC) 'grid scale battery energy storage system planning guidance' states:

*"Suitable environmental protection measures should be provided. This should include systems for containing and managing water runoff. System capability/capacity should be based on anticipated water application rates, including the impact of water based fixed suppression systems".*

Measures to be provided include providing penstocks on the outlets from the attenuation basin and the granular attenuation blanket to contain any fire-water within the site. In the event of a fire the penstocks would be closed until contaminate water is removed and disposed of appropriately. The swale that flows into the basin will also include an impermeable membrane. The membrane shall be capable of resisting the chemical concentrations and temperatures advised by the fire consultant at the detailed design stage.

In conclusion in relation to Fire Safety and Pollution therefore, the design of the proposed installation has suitable design features to minimise risk of uncontrolled fires and adequately reduces risks of contaminated fire-fighting wastewater leaching into local water supply. Consequently, the proposal complies Strategy 39, Policies EN14 and EN18 of the Local Plan and paragraph 8 of the NPPF and the guidance in the NPPG and NFCC guidance.

#### Best Most Versatile (BMV) agricultural land

The Agricultural Land Classification report says it is grade 3b (not BMV) land. There is no information to contradict this and therefore there is no objection in relation to this matter. There is no conflict with policy EN13 of the Local Plan in this regard.

#### Biodiversity

The application is supported by an Ecological Impact Assessment (EclA), Biodiversity Net Gain Calculation, Biodiversity Gain Plan (BGP) (draft), and Draft Habitat and Landscape Management and Monitoring Plan (HLMMP).

Initial concerns about the effect on dormice (protected species) have been addressed via the submission of revised plans which lessen the access widths necessary post-construction and include further planting to maintain suitable habitat.

A late representation has been submitted from the Vincent Bat Trust about a nearby maternity roost. This has been considered in depth. The development would result in the direct loss of habitat within a Core Sustenance Zone of a lesser horseshoe bat

maternity roost. Mitigation of this could be achieved however and the required amendments to the habitat creation on the site can be secured via the conditions suggested by the Council's Ecologist.

There remain some discrepancies with the submitted biodiversity net gain (BNG) proposals. There could be some deficit (i.e. less than 10% gain) in habitat creation but again the Council's Ecologist has advised that this can be secured via suitable planning conditions and there remains the option for the developer to purchase off-site provision should on-site provision not be achievable. Broadly speaking the on-site enhancements proposed include the improvement to hedges and tree planting already mentioned but also wildflower meadow planting and aquatic habitat with locally appropriate aquatic emergent and marginal species.

The development complies with policy EN5 of the Local Plan.

### Drainage

Site testing has shown the site is not suitable for infiltration based SuDS features. The drainage therefore will be via the existing arrangement which is via Blackpool Ditch and associated manhole. The clogged manhole will be cleared as part of the development. Further details of this can be agreed via the condition suggested by DCC.

The Lead Local Flood Authority (DCC) is satisfied with the additional information it requested and has no objection to the scheme from a surface water drainage perspective, subject to the conditions it suggests for further details be agreed. The proposal complies with policy EN22 of the Local Plan.

### Highways

The main highways effects of the development would be during construction. Construction access to the site will be via a proposed new junction on the B3165. An existing access, north of the new access, will be closed with vegetation and hedgerow returned. The operational access will be via the existing field access on Stammer Hill.

Once the site is operational, the construction vehicle access will be reduced in size and retained as an emergency vehicle access. During the operational period . maintenance vehicles (likely transit van scale) will visit the site approximately once every two weeks.

No objections have been received from the highway authority. It is recommended that a construction management plan be secured via planning condition to minimise disruption as far as possible during the development period and to ensure to two access points are reduced in size to the minimum needed for emergency and service access post-construction. The development complies with policy TC2 of the Local Plan.

### Benefits of the proposal

The proposal presents some benefits that must be considered.

The development would assist in the deployment and operation of renewables across the national grid as it would be able to store energy at times when renewable energy is outstripping demand. The additional benefit of this would be to lower energy prices generally as it would prevent Contract for Difference payments (subsidies) having to be paid to renewable generators if they are required to curtail generation during these times. Further, it would reduce the reliance on more costly and sometimes less secure means generation during times of peak demand such as gas and nuclear. Perhaps most importantly, in operating in this way it would reduce the Carbon Dioxide emissions in the grid helping to lessen climate change. These are all objectives of UK National planning and energy policy. Very significant weight is afforded to these benefits.

There would also be some temporary benefits in terms of the economic activity generated during construction.

### **Planning Balance**

Section 38(6) of The Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is echoed in paragraph 11(c) of the Framework.

The proposal is a low carbon project as defined in the Local Plan and it therefore accords with Strategy 39 in this particular regard.

The site is not very exposed to public views, being set back from the main access points and as such, while a change in the character of the site would result from the development, this would be localised and without detriment to the wider landscape. Landscaping is proposed to further mitigate the local visual effects. The proposal accords with Strategies 39 and 46, and policies D1 of the Local Plan in this respect.

The proposals meet the requirements of the NFCC guidance, or where it is not, that departure from the guidance is justified with evidence that satisfies the DSFRS. The proposal therefore complies with Strategy 39, Policy EN14 of the Local Plan and guidance within the NPPF.

Sufficient evidence is provided to be certain that the development would not harm local biodiversity interests, subject to appropriate planning conditions, and that the requisite BNG can be achieved, complying with policy EN5 of the Local Plan.

There are no highway objections to the scheme in conformity with policy TC2 of the Local Plan. Nor is the development going to lead to the loss of BMV agricultural land so there is no conflict with policy EN13 of the Local Plan.

The benefits of the scheme are set out in the preceding sections but are in the main around reduction in carbon dioxide emissions powering the grid and therefore helping lessen climate change, reducing energy prices for consumers and reducing

reliance on less secure forms of energy generation. These are all significant benefits and carry significant weight in the planning balance. There would be lesser economic benefits from its construction also.

On balance the benefits of the development significantly and demonstrably outweigh the limited landscape harm that would arise. It is therefore recommended that permission is 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 development a Construction and Environment Management Plan must be submitted to and approved by the Local Planning Authority, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. 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 East Devon Local Plan 2013 to 2031.)

4. Development of the battery storage compound shall not be first commissioned/powerd until an emergency Response Plan (ERP) has been submitted to, and approved in writing by, the Local Planning Authority. The ERP shall be prepared in consultation with the Devon Fire and Rescue Service and shall follow UL National Fire Chiefs Council (NFCC) and NFPA 855 guidelines and include as a minimum:
  - How the fire service will be alerted and incident communications & monitoring capabilities.
  - Facility description, including infrastructure details, operations, number of personnel, and operating hours.

- Site plan depicting key infrastructure.
- Site access points, internal roads, agreed access routes, observation points, turning areas, etc.
- Firefighting facilities (water tanks, pumps, booster systems, fire hydrants, fire hose reels etc).
- Water supply locations & capacity.
- Drainage and water capture design & locations.
- Details of emergency resources, including fire detection and suppression systems and equipment; gas detection; emergency eyewash and shower facilities; spill containment systems and equipment; emergency warning systems; communication systems; personal protective equipment; first aid.
- Up-to-date contact details for facility personnel, and any relevant off-site personnel that could provide technical support during an emergency.
- A list of dangerous goods stored on site.
- Site evacuation procedures.
- Site operation Emergency Management protocols - 4 phases: discovery, initial response / notification, incident actions, resolution & post incident actions / responses.
- Emergency procedures for all credible hazards and risks, including building, infrastructure and vehicle fire, wildfires, impacts on local respondents, impacts on transport infrastructure.
- The operator will develop a post-incident recovery plan that addresses the potential for reignition of the BESS and de-energizing the system, as well as removal and disposal of damaged equipment.

(Reason - To minimise risks of accidents which could be harmful to the public and the environment in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) and policy EN14 (Control of Pollution) of the East Devon Local Plan 2-13 - 2033).

5. Within 40 years and six months following completion of construction of the development hereby permitted, within 12 months of the cessation of operational use, or within six months following a permanent cessation of construction works prior to the battery facility coming into operational use, whichever is the sooner, the batteries, transformer units, inverters, all associated structures and fencing approved shall be dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than twenty-eight working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme and timescale, the details of which shall be first submitted to and approved in writing by the Local Planning Authority no later than twelve months following the commencement of the first operation of the development. (Note: for the purposes of this condition, a permanent cessation shall be taken as a period of at least 24 months where no development has been carried out to any substantial extent anywhere on the site).

(Reason - To ensure the achievement of satisfactory site restoration in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) of the East Devon Local Plan 2013 to 2031.)



6. Notwithstanding the submitted plans and details:

- 1) No development work shall commence on site until the following information has been submitted to and approved by the Local Planning Authority:
  - a) Soft landscape specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.
  - b) Tree pit and tree staking/ guying details.
  - c) Details of proposed colour finishes to fencing and housings for inverters, storage units and batteries, including relevant BS/ RAL reference.
  - d) Details of proposed under and over ground cable and water supply routes together with method statements for taking underground cables through any hedgebanks and tree RPAs.
  - e) Construction details for proposed hardstandings, trackways and associated kerbing and edgings.
  - 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 phasing plan for construction. This should identify the early construction and planting of Devon hedgebanks to ensure that turves from site excavations are available for construction of the banks themselves and to enable associated planting to establish as soon as possible.
- 2) No site works shall begin until a site-specific Landscape Management and Maintenance Plan has been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the construction, establishment, management and ongoing maintenance of landscape elements. The Plan shall set out the landscape aims and objectives for the site along with the specific management objectives for each landscape component, and the associated maintenance works required on an annual and occasional basis. Details of inspection, monitoring and reporting arrangements shall also be provided.

The plan shall include an as-existing condition survey for each length of hedge, identifying its position on the Hedgelink hedge management cycle, any initial works required to bring to good condition, such as gapping up, removal of invasive species etc. and requirements for cutting including intended height range, cutting height and frequency.

The Plan shall cover a period of not less than 30 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

Management, maintenance inspection and monitoring shall be carried out in accordance with the approved plan for the duration of the operational phase of the development.

3) The works shall be carried out in accordance with the approved details. 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 - A pre-commencement condition is required to ensure that the details are agreed before the start of works to ensure the effects of the development works have the least impact possible, giving the best chance of the site being successfully landscaped. 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) of the East Devon Local Plan.

7. 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 Axminster Energy Hub Flood Risk Assessment and Outline Drainage Strategy (Report Ref. R008, Rev. 6, dated 22nd May 2024).

(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.

The site shall not be first powered/commissioned 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), policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan 2013-2033 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.)

8. No development work shall commence on site until the following information has been submitted to and approved by the LPA:

a) Soft landscape planting plan together with a plant schedule and specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.

b) Tree pit and tree staking/ guying details.

c) Details of proposed colour finishes to fencing and housings for inverters, storage units batteries and CCTV masts, including relevant BS/ RAL reference.

d) Details of proposed under and over ground cable and water supply routes together with method statements for taking underground cables through any hedgebanks and tree RPAs.

e) Construction details for proposed hardstandings, trackways, highway junctions and associated kerbing and edgings.

f) Detail plan and sections for the proposed swale and attenuation basin and associated soil make up. The design should include for creation of an area of permanent standing water.

g) Locations of proposed CCTV cameras.

h) 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.

i) 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.

j) A phasing plan for construction.

(Reason: This condition is a pre-commencement condition because it concerns the treatment of the site at the start of development. To ensure the visual and landscape effects of the development are adequately mitigated in accordance with Strategies 39 (Renewable and Low Carbon Energy Projects) and 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031).

9. Notwithstanding the submitted details a Landscape and Ecology Management Plan (LEMP) for a minimum 30 year period following completion of the development (or relevant phase thereof) 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 Impact Assessment and draft Habitat and Landscape Management and Monitoring Plan and required detailed planting plans and specifications, incorporating amendments noted under section 2.4 above and shall include the following:

a) Details of the body or organisation 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.

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) A 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 (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 Hedgeline guidance.

- New trees, woodland areas, hedges and amenity planting areas.

- Grassland, wildflower and any other habitat areas proposed.

g) 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.

h) Details regarding the proposed reptile translocation, including receptor site details in accordance with .GOV guidance

i) Boundary structures, drainage swales, water bodies.

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: This condition is a pre-commencement condition because it concerns the treatment of the site at the start of development. To ensure the visual and landscape effects of the development are adequately mitigated in accordance with Strategies 39 (Renewable and Low Carbon Energy Projects) and 46

(Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031).

10. The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of BESS units with the exception of planting which shall be completed no later than the first planting season following first use.

(Reason: To ensure the visual and landscape effects of the development are adequately mitigated in accordance with Strategies 39 (Renewable and Low Carbon Energy Projects) and 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031).

11. No trees, shrubs, hedges or grassland habitat within the site which are shown as being planted or retained/ enhanced 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, hedges or grassland habitat 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 plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason: To ensure the visual and landscape effects of the development are adequately mitigated in accordance with Strategies 39 (Renewable and Low Carbon Energy Projects) and 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031).

12. The development shall not commence until a Habitat and Landscape Management and Monitoring Plan (the HLMMP), prepared in accordance with the approved Biodiversity Gain Plan and Soft Landscaping Plan and including:

- o a non-technical summary;
- o the roles and responsibilities of the people or organisation(s) delivering the HLMMP;
- o the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- o the management measures to maintain created, enhanced, and retained habitats in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- o the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,

has been submitted to, and approved in writing by, the local planning authority.

Notice in writing, in the form of a landscape verification report completed by a competent ecologist or landscape architect, shall be given to the Council when the habitat creation and enhancement works as set out in the HMMP have been established to define the completion of development and start of the 30-year BNG maintenance and monitoring period.

The created, enhanced, and maintained habitats specified in the approved HLMMP shall be managed, monitored, and maintained in accordance with the approved HLMMP.

(Reason: A pre-commencement condition is required to ensure that the details are agreed before the start of works to ensure the effects of the development works have the least impact possible, giving the best chance of the site being successfully developed with least effect on protected species and other biodiversity. To ensure that the development has no adverse effect on protected and notable species, provides ecological mitigation and enhancement measures, and to ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990, 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.)

13. 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.

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

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

(Reason: A pre-commencement condition is required to ensure that the details are agreed before the start of works to ensure the effects of the development works have the least impact possible, giving the best chance of the site being successfully developed with least effect on protected species and other biodiversity. To ensure that the development has no adverse effect on protected and notable species, provides ecological mitigation and enhancement measures, and to ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990, 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.)

14. Upon completion of the construction phase and prior to energisation of the development, a design to reduce the width of the accesses off the B3165 and Stammerly Hill must be submitted to and agreed in writing by the Local Planning Authority. The areas subject to the reduction in width must be replanted and maintained in accordance with a detailed Landscape and Ecological, Mitigation and Enhancement Strategy (LEMES) submitted to and agreed in writing by the Local Planning Authority. The replanting must take place within the first planting season following completion of the construction phase.

(Reason: To reduce the visual impact of these access points once the development has been completed in accordance with Strategies 39 (Renewable and Low Carbon Energy Projects) and 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031).

15. Prior to the installation of any BESS unit a site-specific Battery Safety Management Plan (BSMP) shall have been submitted to, and approved in writing by, the Local Planning Authority. The development shall proceed in accordance with the agreed BSMP. Should any changes to the approved BESS units be necessary during the lifetime of the development, no such changes shall be made without a revised BSMP having first been resubmitted to, and written approval received from, the Local Planning Authority.

(Reason - The Battery Safety Standards document 12 September 2023 is in outline form and further details will be required for approval once the technology selected for use on the site is known, in the interests of the minimising risks of a hazardous event which could lead to pollution of the local environment in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) and policy EN14 (Control of Pollution) of the East Devon Local Plan 2-13 - 2033).

16. Prior to the installation of any BESS units on the site, the mitigation measures and items outlined in sections 5.34 to 5.41 of the Controlled Waters Environmental Risk Assessment May 2024 (Document Reference R012D) shall be full installed and evidence that they are working as designed shall be submitted to the Local Planning Authority. No BESS units shall be installed on the site until written agreement of the submitted information is issued by the Local Planning Authority.

(Reason - In the interests of the minimising risks of pollution of the local environment from fire-fighting waste-water should a hazardous event occur in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) and policy EN14 (Control of Pollution) of the East Devon Local Plan 2013 - 2031).

- 17 The acoustic fence shown on the plans hereby approved shall be installed prior the first operation of the BESS units and shall be maintained and retained in effective condition for the lifetime of the development. Details of the materials and finish of the fence shall have been submitted to, and agreed in writing by, the Local Planning Authority, prior to its installation.

(Reason - To ensure the nearest residential properties are not adversely affected by noise from the operation of the installation and to ensure the

appearance of the fence is appropriate in accordance with policy EN14 (Control of Pollution) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031).

- 18 Prior to the commencement of development or other operations being 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 construction machinery) a detailed Arboricultural Method Statement (AMS) containing a Tree Protection Scheme and Tree Work Specification based on the submitted Tree Retention, Removal and Protection Plan reference BHA 5761 02 Rev D, 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 agreed AMS. The AMS shall include full details of the following:

- a) Implementation, supervision and monitoring of the approved Tree Protection Scheme.
- b) Implementation, supervision and monitoring of the approved Tree Work Specification by a suitably qualified and experienced arboriculturist.
- c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.
- d) Trenching, cable installation, including the use of trenchless techniques within the RPAs of retained trees
- e) Timing and phasing of Arboricultural works in relation to the approved development.
- f) Provision 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. A copy of the completed site monitoring log shall be sent to the Local Planning Authority following each site visit. Site visits should normally be monthly unless they are required more frequently to provide supervision.

On completion of the development, the final completed site monitoring log shall be signed off by the supervising arboriculturist and submitted to the Local Planning Authority for approval and final discharge of the condition.

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

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

- 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.

- 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 in the opinion of the Local Planning Authority 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.

- Full details of the method of construction of hard surfaces in the tree protection areas (identified in the Tree Protection Scheme) of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any development in the relevant phase. The method shall adhere to the principles embodied in BS 5837:2012 and AAIS Arboricultural Practice Note 1 (1996). The development shall be carried out strictly in accordance with the agreed details.

Prior to the commencement of development or other operations being 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 construction machinery) a detailed Arboricultural Method Statement (AMS) containing a Tree Protection Scheme and Tree Work Specification based on the submitted Tree Retention, Removal and Protection Plan reference BHA 5761 02 Rev D, shall be submitted to and approved in writing by the Local Planning Authority.

(Reason - This condition is a pre-commencement condition because it concerns the protection of trees during development. To ensure the trees on site are protected to ensure visual and landscape effects of the development are adequately mitigated in accordance with policy D3 (Trees and Development Sites) of the East Devon Local Plan 2013-2031.

19. The two service/emergency access points shown on the plans hereby approved shall be maintained and retained as approved for the duration of the presence of the BESS units on site.

(Reason – To ensure the site can be accessed by emergency vehicles from two separate directions for the lifetime of the development in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) and policy EN14 (Control of Pollution) of the East Devon Local Plan 2-13 - 2033).

## NOTE FOR APPLICANT

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

### Plans relating to this application:

SITE SAFETY REPORT	Other Plans	14.06.24
	Noise Impact Assessment	14.06.24
	Ecological Assessment	14.06.24
BATTERY SAFETY STANDARDS REPORT	Other Plans	14.06.24
SK04-A	Other Plans	14.06.24
FS01 REV A	Other Plans	14.06.24
AXP9.0 REV 2	Other Plans	14.06.24
AXP8.0 REV 2	Other Plans	14.06.24
AXP7.0 REV 3	Other Plans	14.06.24
AXP6.0 REV 3	Other Plans	14.06.24
AXP5.0 REV 04	Other Plans	14.06.24
AXP14.0 REV 1	Other Plans	14.06.24
AXP13.0 REV 2	Other Plans	14.06.24
AXP12.0 REV 2	Other Plans	14.06.24
AXP11.0 REV 2	Other Plans	14.06.24
AXP10.0 REV 2	Other Plans	14.06.24
AXP16.0 REV 07	Other Plans	19.06.24

Feb 2025	Construction & Environment Management PI	28.02.25
+ CTMP	Transport Statement	28.02.25
FIGURE-AXP 15.0 : landscape+ecological mitigation enhancement strategy	Landscaping	28.02.25
AXP1.0 REV 08	Location Plan	28.02.25
AXP4.0 REV E : site layout	Proposed Site Plan	28.02.25
Habitat and Landscape Management and Monitoring Plan (rev 2)	General Correspondence	04.03.25
BHA_5553_01 rev A	Tree Survey	09.10.24
AXP 15.0 (Oct 2024): Indicative landscape & ecological mitigation and enhancement strategy	Other Plans	09.10.24
SK01 rev D: Swept path analysis (16.5M articulated HGV)	Other Plans	09.10.24
SK02 rev A: Swept path analysis (fire appliance)	Other Plans	09.10.24
SK03 rev E: Swept path analysis (articulated	Other Plans	09.10.24

heavy load  
mover)

#### List of Background Papers

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

### **Statement on Human Rights and Equality Issues**

#### Human Rights Act:

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

#### Equality Act:

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

## Appendix – Full consultation responses (where not provided above).

### Devon and Somerset Fire and Rescue Service

#### **Planning Application: 24/0096/MFUL**

**Site Address: Land just South of Hazelhurst Raymonds Hill, Axminster**  
**Proposal: Proposed construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements**

Devon and Somerset Fire and Rescue Service were directly consulted on the proposed plans by the applicant before submission to the Planning Authority. During our pre-consultation, Clearstone Energy submitted the following documents for our comment.

- Axminster Energy Hub Site Safety Report (Draft)
- Clearstone Energy Battery Safety Standards
- Technical Memo – Clearstone BESS Plume Study, Axminster BESS Site
- Controlled Waters Environmental Risk Assessment
- Axminster Energy Hub – Compliance with NFCC Design Guidance Fire
- Strategy Plan
- Wärtsilä GridSolv Quantum Specification Sheet

Our comments have been included in Appendix 2 of the Site Safety Report that has been submitted as part of this application.

Providing there has not been significant revisions to the documentation we were consulted on previously, the comments included in the Site Safety Report are still relevant.

For ease of reference our comments are repeated verbatim below.

The Service supports the National Fire Chiefs Council's (NFCC) guidance entitled Grid Scale Battery Energy Storage System Planning – Guidance for FRS and has considered those recommendations whilst commenting on this application.

#### System design, construction, testing and decommissioning

The documentation confirms that the applicant will adopt the recommendations of NFPA 855 in the design, spacing and layout of the site and with the employment of mitigation strategies to reduce fire risk. It has also been confirmed that the battery cells to be used in the development will be certified to UL9540 standards and will have been tested to UL9540A unit or installation level.

To meet these commitments the applicant has selected Wärtsilä to be the supplier of the BESS equipment for this project.

Having reviewed the documentation pertaining to Wärtsilä's GridSolv Quantum energy storage system, it would appear that compliance with the above standards will be met, and in general the overall design will comply with the NFCC guidance.

Referring to the Axminster Energy Hub Site Safety Report, Wärtsilä's Compliance Chart confirms that the design of the system will satisfy NFPA 855, and the cabinets will have explosion protection meeting NFPA 68. The battery cells themselves have been confirmed to have been evaluated for Thermal Runaway Fire Propagation to UL9540A at cell, module and unit level testing.

The documentation confirms that the Wärtsilä system will utilise Lithium Iron Phosphate (LFP) battery chemistry which is regarded as posing fewer safety concerns such as overheating and explosion. Having a greater stability at higher temperatures than some comparable battery chemistries, LFP battery chemistries are not as susceptible to thermal runaway.

The documentation also confirms that the GridSolv Quantum system is provided with a battery management system (BMS) and ventilation and liquid cooling to manage the temperature range of the cells within the cabinets. The documentation implies that the BMS has been developed specifically by Wärtsilä for its intended application and will be capable of autonomous isolation and shutdown of the battery systems should faults or anomalies be identified. The documents confirm that this safety feature is supported by 24/7 monitoring by dedicated control staff.

Regarding the spacing between strings of cabinets, Wärtsilä recommends a minimum distance of 3m, whilst the applicant has proposed a distance of 3.2m. These proposed distances comply with the NFPA 855 standard but do not meet those recommended in the NFCC guidance.

It should be noted that the NFCC recommendation of a minimum of 6m is based on an out-of-date version of FM Global's Property Loss Prevention Data Sheet 5-33 (2017). The latest revision of this document (July 2023) has had its recommended separation distances revised lower.

Furthermore, the NFCC guidance does support reductions in the separation distance between units where a "clear, evidence-based, case for the reduction should be shown".

To support the proposed separation distance of 3.2m, the applicant has provided reports by Fire & Risk Alliance, a 3rd party who specialise in Fire Protection Design and Hazard and Risk Assessment. The reports, which are based on results using data obtained from Computational Fire Dynamics (CFD) modelling and large-scale physical tests, demonstrate that it is unlikely that the design of the cabinets, and the fire loading within them, will lead to heat fluxes of a sufficient level that promotes fire propagation to adjacent units within the same string of cabinets, or from one string of cabinets to a neighbouring string where a separation distance of 3m is used.

The Service has reviewed the information referred to above and is satisfied that an adequate evidence-based approach has been adopted and that suitable design

features, including a 1hr fire resistant rating of each cabinet's walls, has been proposed in support of the 3.2m separation distance.

To demonstrate a low risk of safety impacts on neighbouring receptors, the applicant has instructed DNV to model the likely worst-case plume and toxicity scenarios that could occur during a fire event. The modelling, using CFD software, is based on the fire test data that Wärtsilä has obtained, and the assumptions and scenarios selected appear to be realistic, with the results demonstrating that no immediate thermal or plume impacts will occur on the nearest receptors.

Lastly, the documentation provided by the applicant confirms that maintenance will be carried out in accordance with Wärtsilä's recommended major and minor maintenance schedules which should reduce the possibility of a fault occurring on the proposed development.

#### Detection, monitoring and suppression systems

The documentation confirms that fire, gas and smoke detection systems will be installed to the recommendations of NFPA 855. It is also confirmed that these systems will inform the BMS and remote control facilities of any anomalies that require a safety intervention such as isolation or shut-down.

#### Site access and water supplies

The Service recommends that as a minimum, fire service vehicle access should align with the guidance under B5 of Approved Document B of the Building Regulations.

The documentation provided, including the Fire Strategy Plan, confirms that the above access requirements, including road widths, passing points and turning facilities, will be met. Additionally, the proposed site access complies with the recommendations of the NFCC guidance with the provision of an alternative emergency vehicular access route.

The documentation also confirms that sufficient firefighting water, stored in static tanks, will be provided to the recommendations made in the NFCC guidance. The Service is satisfied with the proposed siting of these static tanks.

#### Emergency plans and information

The documentation confirms that once planning approval is granted, a detailed site-specific Battery Safety Management Plan (BSMP) will be prepared as a condition of the planning permission. The indicative information suggested in the documents being commented on appears to include all the relevant risk information to inform the development of emergency plans.

It has also been noted positively that the applicant will consult with the Service further on the development of such plans and support our risk information gathering should the proposed development be permitted.

## Environmental impacts

The inclusion of the Controlled Waters Environmental Risk Assessment along with the commentary in the Site Safety Report demonstrates that the environmental impacts of firefighting water run-off have been considered.

The proposed drainage system, with a minimum storage capacity of 228,000 litres of water, would appear to be adequate to contain the anticipated volume of firefighting water run-off likely to be produced during a fire incident where defensive boundary cooling tactics are employed.

Whilst it is difficult to predict the tactics that will be used during a fire incident, and the amount of water that will be required to support them, defensive boundary cooling where water is used to cool cabinets neighbouring the one effected by fire is the most likely.

The calculations and assumptions made in the Site Safety Report appear to be reasonable. Furthermore, it is assumed that the monitoring equipment provided in each battery cabinet will provide real-time temperature information that can be used to inform operational crews whether water application is required or not. If information to this level is available during an incident, this could lead to relatively efficient application of water to achieve boundary cooling objectives.

## Summary

Some of the documentation that has been reviewed for these comments is still in 'draft' format, however, based on the contents and what has been proposed, the Service does not have any concerns of note to raise.

Clearstone's commitment to produce a detailed site-specific Battery Safety Management Plan, as a condition of planning permission, and to continue dialogue regarding the formulation of an Emergency Response Plan is also viewed positively.



Dormice

The updated EcIA and HLMMP addresses comments regarding consideration of dormice and the severance the of the south-east boundary hedgerow to provide development access onto the B3165. The HLMMP outlines suitable mitigation measures, such as a fingertip search and supervised habitat removal.

I would support the landscape officer's comments that the access points created in the boundary hedges for the construction phase should be reduced for the operational phase to the minimum necessary to accommodate emergence vertices. The details should be clearly identified on the plans either prior to determination or secured via condition.

Foraging and commuting bats

*Vincent Wildlife Trust*

The Vincent Wildlife Trust (VWT) has raised concerns that the location of a nearby important bat roost was not identified within the EcIA data search or that impacts on bats associated with the roost have not been fully considered. They state:

*The Vincent Wildlife Trust manages a bat reserve in close proximity to the proposed development, located approximately 700m to the northwest. The building is a maternity and hibernation roost for lesser horseshoe bats and is also used by greater horseshoe bats for hibernation and during the summer, with numbers in previous years suggesting potential for maternity use. Both species are listed on Annex II and IV of the Habitats Directive. In particular, this is a significant bat roost for lesser horseshoe bats due to its location at the easterly edge of their range.*

*The report states that the proposed development site was assessed as being of moderate suitability for bats following the Bat Survey Guidelines. No further surveys were undertaken at the site to assess impacts on the site for bat flight paths, foraging, or social behaviour. The Bat Survey Guidelines recommend that for moderate suitability habitat a minimum of one survey visit per season should be undertaken (spring, summer, autumn), in addition to static bat detector survey data collection for five consecutive nights per month (April to October). The submitted report gives no reason that further surveys were not undertaken, or justification for deviating from the guidelines. We are concerned that insufficient data is available to assess the potential impacts of development on the foraging and commuting habitat on the proposed site in relation to disturbance during construction and loss of habitat, particularly in relation to the nearby roost.*

*Core Sustenance Zones (CSZ) for bats have not been considered within the report. CSZs refer to the area surrounding a bat roost within which habitat availability and quality will have a significant influence on the resilience and conservation status of the colony using the roost. The CSZ radius for lesser horseshoe bats is 2km, for greater horseshoe bats it is 3km. The proposed development impacts habitat well*

*within the CSZ for both species using the nearby roost. In addition, the site includes grazed grassland with woodland edges, treelines and hedgerow, which have potential to provide good quality foraging habitat for both species.*

*In conclusion, we have concerns that the potential impacts on the roost under our management have not been fully considered.*

VWT has subsequently provided roost count data between 2004-2024 from with lesser horseshoe bat numbers varying between 18-130 with an average of 78 bats present in the summer, i.e., a well-used maternity roost. Winter counts vary between 2-100, with an average of 47. Greater horseshoe bats were recorded from 2020 in low numbers in the summer and winter. In 2023 18 greater horseshoe bats were recorded. Based on the data, the roost would be considered of District to Regional importance<sup>i</sup>.

### *SLR Technical Memorandum*

The applicant has provided a Technical Memorandum (SLR, 2025) as a response to the VWT concerns. In summary, the applicant's ecologist has stated that the roost was not included within the data search. They state that the habitats are considered of moderate suitability to foraging and commuting bats and acknowledge that the assessment of the value of the site for bats would be considered of county or above in terms of value for foraging and commuting bats. They also acknowledge the site is likely to be used by bats associated with the nearby roost.

The Memorandum also sets out how the site design, including % loss of habitat, proposed created habitats would provide a betterment for bats and other design features, i.e., no use of night working or permanent lighting, provides a cogent reasoning for why they consider that no bat activity survey would be required.

### *EDDC view*

As no bat activity survey was undertaken, it must be assumed that the site will be used by foraging and commuting bats. Several trees on the site were also identified to have suitability to support bat roosts and the site is within the core sustenance zone (CSZ) for both the maternity (2-3 km) and hibernation periods (1.2-2 km) for both horseshoe bat species. There is also a pipistrelle and Natterer's bat maternity roosts within 550 m of the site (and other day roosts nearby).

Some key considerations regarding horseshoe bats are provided below:

- Horseshoe bats are a light adverse species.
- Creation, expansion, and maintenance of broadleaf woodland and well-connected woodland blocks within 2 km using strong linear features are critical for lesser horseshoe bats, especially within CSZs<sup>ii</sup>.
- Foraging habitat, including woodland edge and tall (3m+) well connected hedgerows are critical for horseshoe bats within CSZs<sup>iii</sup>.
- East Devon District Council provide guidance on the use of High Strategic Significance with regard to habitats within the CSZ of horseshoe bats. There

would include habitats which provide foraging opportunities within a Sustenance Zone around a greater or lesser horseshoe bats (refer to BNG section below).

- The Bat Conservation Trust (BCT) provide guidance for designing Biodiversity Net Gain (BNG) habitats based on CSZiv. – baseline and created habitats:
- Primary habitats for lesser horseshoe bats are identified as: *“broadleaved woodland and in wooded riparian corridors, as well as along mature treelines and hedgerows. Sympathetically grazed pasture (preferably cattle) supporting dung fauna also important”*
- For greater horseshoe bats: *“The greater horseshoe bat forages in edge habitats with broadleaved woodland important. The species is highly dependent on pasture sympathetically grazed by livestock, particularly cattle to support dung fauna”*

#### *Lighting and retained habitats*

The EclA states there will be no permanent lighting and no nighttime working during construction, so there would be no impacts on foraging and commuting bats (or other nocturnal wildlife, e.g., dormice). The outline CEMP includes a section (5.29-5.31) on artificial lighting and ecology (7.3) but does not mention lighting regarding ecology and potential impacts and mitigation regarding bats.

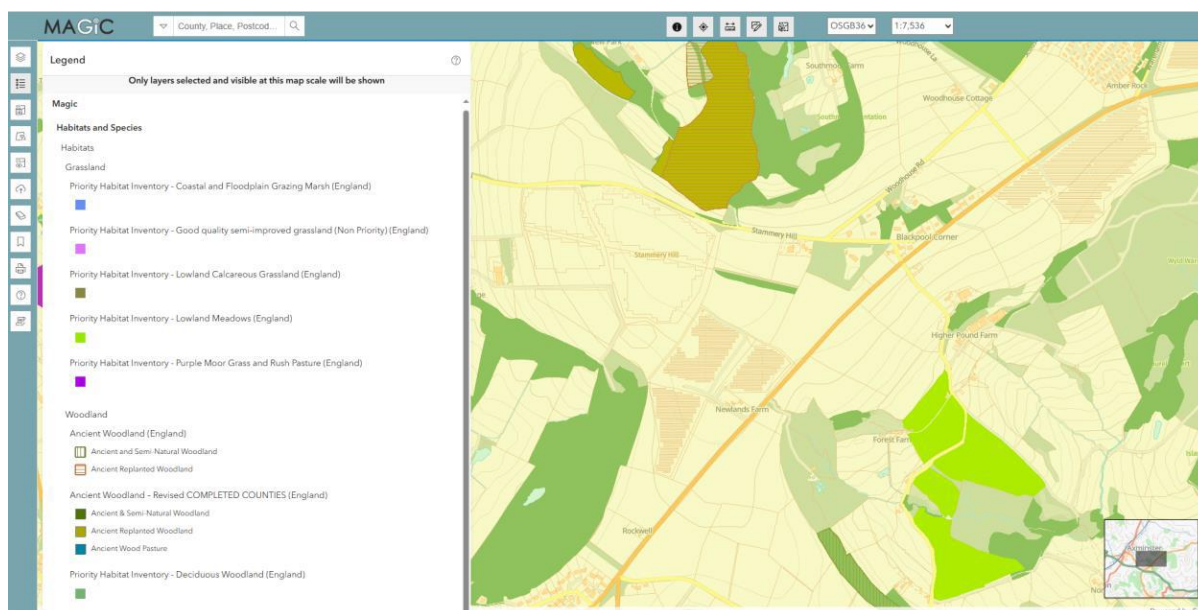
A detailed CEMP should explicitly reference measures to protect retained bat foraging and commuting habitat, such as the use of protective fencing and if security flood lighting is required, measures to mitigate potential impacts such as the use of short duration passive infrared sensors in accordance with BCT/ILP Guidance Note 08/2023v.

Outline measures regarding retained habitat protection are included in Section 3.4 of the HLMMP. These details should be expanded upon within the final CEMP including drawing of Construction Exclusion Zone (CEZ) and appropriate monitoring during construction of these retained CEZs.

#### *Foraging and commuting habitat*

The development would result in the permanent loss of approximately 1.9 ha of improved grazed pasture and 17 m of hedgerow. While the grassland habitat is unlikely to be considered optimal horseshoe bat foraging habitat, the hedges and woodland on the site are likely to be important to the nearby roost for foraging and commuting over site.

The west boundary hedgerow forms a prominent landscape feature connecting a large area of ancient semi-natural woodland to the north and large area of broadleaf woodland to the south. The hedgerow network on the site also provides habitat connectivity to the south and east to other large areas of woodland and priority grassland habitats (refer to Figure 1).



*Figure 1 - Priority grassland and woodland habitats within proximity to the site*

It is recognised that there is wider landscape permeability for bats from the nearby roost and in the absence of survey information that a precautionary approach should be considered in terms of an impact assessment and proposed mitigation measures.

The proposed site habitat management, creation, and maintenance is broadly acceptable in its concept with the proposed creation and enhancement of woodland, hedgerow, and grassland habitats. However, some of these recommendations are generic can be improved to ensure that potential impacts on horseshoe bats associated with the nearby roost can be minimised.

Key concepts that should be captured include:

- Hedgerows specifically managed for horseshoe bat species on a rotational basis.
- Realistic species-rich grassland creation.
- Woodland management.
- Provision of standard trees within hedges and the grassland.
- Increased woodland/scrub creation through natural regeneration.
- Enhanced western boundary hedge which is heavily managed.
- Provision of permanent water and aquatic/marginal vegetation and varying topography within the attenuation basin.

Given the importance of night roosts for horseshoe batsvi in proximity to maternity roosts, a simple night roost would also be considered as a benefit for the site. VWT have provided some example structures that could be considered. They have also provided some example of specific habitat provision and references in terms of planting for horseshoe bats.

Both SLR and VWT have indicated they would welcome discussion regarding the project. It is recommended that the detailed landscape and habitat management plan be informed by discussion between the parties.

## Biodiversity Net Gain

The submitted EcIA, and HLMMP, and Statutory Biodiversity Metric (SBM) consider the development would deliver +10.76% or +2.93 BU of habitat units, and +14.80% or +0.77 BU of hedgerow units.

In terms of the submitted baseline assessment of the site, this appears to be accurate in terms of the habitat identification. It should be noted that all modified grassland parcels fail on criteria A, i.e., 6-8 plants per m<sup>2</sup>. No quadrat information is provided, and the species list indicate that the grassland is dominated perennial ryegrass, Yorkshire and a Poa species. Other plant species present (which would also contribute towards the 6-8 species per m<sup>2</sup>) included common dandelion, white clover, ribwort plantain, buttercup sp., dock sp. and sedge sp. The grassland surveys were undertaken in February and April, and it is possible that the condition of the grassland may be higher than 'Poor' condition.

There are some key considerations regarding the predicted BNG outcome and proposed habitat enhancement and creation measures, and some of these *could* influence the site design, based on the presence of horseshoe bats and use of the SBM.

- The site is within a CSZ of maternity roost of lesser horseshoe bats. Habitats which provide foraging opportunities within a Sustainance Zone around a lesser horseshoe bat maternity roost should have a High Strategic Significance applied. •
- Consideration of habitat requirements for protected species compensation, and how these can contribute towards BNG. At least 10% of the developer's biodiversity units must come from additional activities other than mitigation and compensation required for protected species. The proposed habitat creation and enhancement provides habitats for protected species including dormice, foraging and commuting bats, nesting birds, and other species. •
- Consideration of the use of proposed habitat enhancements used in the SBM and predicted condition assessments, especially the predicted 'Good' condition other neutral grassland and proposed enhancement of woodland to 'Good' condition.
  - The HLMMP indicates the P8-10 would have three age classes present. However, these would be newly planted woodland habitat so three age classes over a 30-year period are not possible.
  - There are no parcel references in the submitted metric, so it is hard to identify the proposed interventions in the HLMMP and SBM. For example, the HLMMP makes several references to P2, which is indicated as the entire eastern field. However, the indicative landscape plan and site plan excludes a large area of this field.

### *Proposed species rich grassland*

It is recognised that the submitted HLMMP is a draft. In consideration of the proposed creation of species-rich grassland, this will need to be informed by evidence and expanded upon. The site is described as farmed grazing land and consists of modified grassland in poor condition, dominated by species indicative of high nutrient levels including perennial ryegrass and buttercup.

Soil analysis should be undertaken to inform realistic proposed habitat conditions and interventions. Buckinghamshire Council provide a useful framework<sup>viii</sup> for assessing the creation of species rich grassland and should be followed to evidence the creation and maintenance of grassland. Grazing, the use of uncut margins, and the use of green hay should also be considered within the management of habitats for horseshoe bat species.

Habitat creation should omit under sowing woodland creation and existing woodland with seed mix. Provision of additional planting on grassland in shady area, e.g., between southern boundary and the acoustic fencing may be suitable. However, as described above, given the existing soil nutrient levels this may not be establish without additional establishment measures.

Consideration also needs to be given to the likelihood of a small margin around the eastern field is capable of being enhanced, e.g., consideration of width, access, adjoining land use etc.

Ground flora in the existing and newly created woodland should be enhanced through management, such as coppicing and providing a mosaic of habitats, e.g., open rides, dense scrub etc.

### *Hedgerows*

Hedgerows on the site will be vital habitat for horseshoe bats (and other protected and notable species). Hedges should be managed as a *minimum* 3 m high for horseshoe bats<sup>ix</sup> with standard trees at least every 10 m retained and allowed to grow. There is further scope to enhance the hedges on the through management which should be in accordance with the Hedgeline Management Cycle.

### *Other*

Comments made by the landscape officer should also be captured, such as omitting the use of herbicides. A detailed soft landscaping plan will be required and used to inform the predicted BNG outcome.

## **3 Conclusions and Recommendations**

The submitted information is of a high standard and there are some limited areas that require refining.

The development would result in the direct loss of habitat within a CSZ of a lesser horseshoe bat maternity roost. It is considered that measures could be implemented to mitigate potential impacts on the nearby roost, especially through appropriate management of hedges, additional woodland creation/enhancement and sensitive construction control measures.

There are some further discrepancies with the submitted biodiversity net gain (BNG) proposals and landscaping that need addressing, which could have a bearing on the overall predicted BNG outcome, i.e., the site as present may not achieve a +10% gain for area habitats. Hedgerows should comfortably achieve +10% BNG.

This would need to be informed by a detailed soft landscaping scheme, refinement of the Habitat and Landscape Management and Monitoring Plan (HLMMP) and amended Statutory Biodiversity Metric (SBM) to address the points raised.

If a +10% BNG outcome for area habitats are not achievable based on the refined details, then off-site provision could be used to account for any deficit, e.g., within the wider ownership boundary.

#### 4 Conditions

Should the development be approved the following conditions are recommended:

- The development shall not commence until a Habitat and Landscape Management and Monitoring Plan (the HLMMP), prepared in accordance with the approved Biodiversity Gain Plan and Soft Landscaping Plan and including:
  - a non-technical summary;
  - the roles and responsibilities of the people or organisation(s) delivering the HLMMP;
  - the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
  - the management measures to maintain created, enhanced, and retained habitats in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
  - the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,
  - has been submitted to, and approved in writing by, the local planning authority.
- Notice in writing, in the form of a landscape verification report completed by a competent ecologist or landscape architect, shall be given to the Council when the habitat creation and enhancement works as set out in the HLMMP have been established to define the completion of development and start of the 30-year BNG maintenance and monitoring period.
- The created, enhanced, and maintained habitats specified in the approved HLMMP shall be managed, monitored, and maintained in accordance with the approved HLMMP.
- 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:
  - Risk assessment of potentially damaging construction activities.
  - Identification of "biodiversity protection zones".
  - 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).

- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication, including reporting compliance of actions to the LPA.
- The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements, i.e., for reptiles, dormice and bats.
- Use of protective fences, exclusion barriers and warning signs.

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

**Reason:**

To ensure that the development has no adverse effect on protected and notable species, provides ecological mitigation and enhancement measures, and to ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990, 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.

25.11.24

I have reviewed the updated documents and the response to my previous consultation. Please see below for comments:

**Dormice**

I would agree that the severance of 30 m of hedgerow is unlikely to cause an issue with landscape scale dispersal. As such, and as indicated in my original response, there are records of hazel dormice c.100m of the site, so they are likely to be present on the site also. I have no issue with the recommended habitat removal methodology, although I would state that the habitat removal should be overseen by an experience ecologist who holds a Natural England dormouse survey licence (not stated in the EclA or response).

I note in the follow-up response there is no mention in the dormouse section regarding the 430 m visibility splay and the potential impact on dormice, including disturbance and loss of habitat. For example, the Peoples Trust For Endangered Species (PTES) indicate that visibility spays can have a huge impact on dormouse habitat.

Dormice are strictly protected under the Habitats Regulations, and offences include the damage and destruction of their resting sites. Their consultants have taken a view that works can proceed without a mitigation licence, and state they would apply for a licence if evidence were found during the site clearance. I may take a different view on this However, I think the long-term management of the onsite habitats,



especially the woodland and consideration of ash trees, would be the most important consideration.

It would be useful to have the comment regarding the visibility splay addressed, especially given the likelihood of dormice being present on the site.

#### BNG

The metric has been amended addressing some of my comments, e.g., strategic significance. It is stated in the response letter only one medium size tree is being removed (T40). The tree report indicates that trees T38 and T39 (both medium sized trees) are being removed. It is not clear from the updated tree survey plan either way.

If we consider that one medium size tree is being removed, this equated to an area using the statutory biodiversity metric tree helper to 0.0163 ha. In row 8 of the submitted metric, it indicated an Individual Rural Tree with an area of 0.01 ha retained (column SS). The user comments (column ZZ) states two trees on the site. Therefore, there is an error here.

If we accept that one medium size tree is being removed (T40), then the area (column HH) should be recorded as 0.0163. If it two trees are being removed as indicated in the arb report (T38 and T39), then the area would need to be 0.0326 (using the tree helper). In either way, the area retained column (SS) should remain blank to indicate they would be lost.

The loss of a one or two medium size trees, when considered using the metric, would deliver above 10% BNG but it would also result in a trading rule error. As such, the following the Statutory Biodiversity Net Gain User Guide, the proposal would be in breach of the Rule 1 (trading rules) and the BNG cannot be claimed. This is unlikely to be a significant issue to address given the amount of space on the site for habitat, but it will need addressing.

In terms of the ash dieback position, I would recommend that it is accepted that ash dieback is present on the site. Therefore, any habitat management and monitoring plan (HMMP) used to support the BNG should have a suitable adaptive management regime, e.g., if ash dieback results in a loss of trees during the 30-year BNG maintenance period.

29/7/24

#### Recommendations

The submitted information is generally of a high quality and it considers there are no predicated significant impacts on designated sites, habitats, or protected species. There are some points of clarification required in terms of ecology relating to dormice and biodiversity net gain (BNG).

o Further clarity is required regarding hazel dormice. In particular, the ecology report appears to underestimate the predicted woody habitat loss and damage which includes the large visibility splay required and amount of direct habitat removal. Given that dormice are known to be present in the nearby New Park Coppice clarity

is required from the project ecologist that the proposed scheme can proceed without undertaking a dormouse nest tube survey and European protected species licence. Further details should be provided on whether any additional planting etc. is required for hazel dormice.

- o There are some inconsistencies with the BNG metric and different reports submitted, e.g., some of the condition assessments appear incorrect, incorrect application of strategic significance and lack of rural tree data. The metric should be updated to reflect the Devon County Council Biodiversity Net Gain (BNG) Guidance (April 2024) and Natural England guidance. It is recommended that detailed notes be provided in the revised metric, so any changes are apparent and explained.

- o Further clarity should be provided regarding ash dieback on the site and how this will affect BNG, e.g., if any trees are likely to be die/be removed this could have a significant impact on predicted condition assessments and proposed mitigation. Natural England guidance indicates that should medium trees be proposed for removal due to disease then they should be treated as a loss. This could have a significant impact on the proposed BNG predications and landscaping of the site.

Until the above comments have been addressed satisfactory, I would add a holding objection as the changes to the predicted BNG outcomes could be significant and further clarity is required in terms of complying with the Habitat Regulations and the potential presence of protected species on the site, i.e., dormice.

Dorset National Landscape Partnership  
23/7/24

Having reviewed the application, it is our overall opinion that the landscape and visual impacts of the proposal that relate to Dorset National Landscape, are relatively localised and comprise impacts from the point of access from the B3165, as well as potential filtered views toward the compound from this road.

Devon County Council Waste Planning  
26/6/24

It is recommended that a condition is attached to any consent to require the submission of a Waste Audit Statement prior to the commencement of the development as stated below:

Prior to the commencement of development, a waste audit statement shall be submitted to, and approved in writing by, the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The following points shall be addressed in the statement:

- o Demonstrate the provisions made for the management of any waste generated to be in accordance with the waste hierarchy.
- o The amount of construction, demolition, excavation and decommissioning waste in tonnes, set out by the type of material.

- o Identify targets for the re-use, recycling and recovery for each waste type from during construction, demolition, excavation and decommissioning, along with the methodology for auditing this waste including a monitoring scheme and corrective measures if failure to meet targets occurs.
- o The predicted annual amount of waste, in tonnes, that will be generated once the development is occupied.
- o Identify the main types of waste generated when development is occupied.
- o The details of the waste disposal methods likely to be used, including the name and location of the waste disposal site.
- o Identify measures taken to avoid all waste occurring.

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

Reason: To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. This information is required pre-commencement to ensure that all waste material is dealt with in a sustainable way from the outset of the development including any groundworks, demolition, construction and operation.

#### Environmental Health

**Comment Date: Thu 04 Jul 2024**

Please see our comments regarding the submitted Noise Impact Assessment:

Further clarification is required on two points in regard to the applicants' noise assessment. This information is required before any recommendation can be made.

1. In considering the subjective prominence of the character of the specific sounds, it is felt that a greater prominence should be given to low frequency noise (LFN), as LFN is known to be generated by this type of fixed plant & development. I agree that the LFN content is neither tonal, impulsive, or intermittent however, a low frequency 'humming' should be considered to be readily distinctive against the residual acoustic environment and likely to attract additional attention. This is in part due to the site's rural location with low background daytime and night-time sound levels and the close proximity of NSR1.

The acoustic assessment should be reconsidered and where necessary an additional character correction of 3 dB applied. If this character correction is not to be applied a further justification should be provided.

In addition, there does not appear to be a CEMP submitted.

**Comment Date: Tue 02 Jul 2024**

28/06/2024

Thank you I have reviewed the drawing number FS-01 revA COMPLIANCE WITH NFCC DESIGN GUIDANCE and the Controlled Waters Risk assessment which details the surface water drainage strategy. We are satisfied with the measures to minimise environmental pollution risk from any incidents connected with the proposed development.

From reading the acoustic report, I understand that a Construction Environmental Management Plan has been requested. I do not believe that this has yet been submitted.

I will review the Noise Impact Assessment shortly and will provide a response regarding this.

**Comment Date: Tue 25 Jun 2024**

I can't find a copy of the sites surface water drainage strategy showing the penstocks and the area covered by impermeable membrane to ensure that fire-water can be contained on Site without infiltrating into the ground or entering any surface water flows. This information is required before I can make any recommendation.

## **1 INTRODUCTION**

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

The report provides a review of additional and amended 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 REVIEW OF ADDITIONAL/ AMENDED INFORMATION**

### **2.1 Layout**

The battery compound appears to have been adjusted to provide a minimum 4m width access around the perimeter between the proposed fencing and existing field hedges. It would be helpful if notes could be added to both the Site Plan and the Landscape Enhancement and Mitigation Plan to confirm this.

### **2.2 Access**

The revised location of the operational phase to utilise an existing access off Stammer Hill will reduce landscape impacts compared to the previous proposal. Proposals for the access off the B3156 have been amended to avoid the RPA of tree T18. The Landscape Enhancement and Mitigation Plan, Figure-AXP 15.0 February 2025, indicates that the proposals will entail the removal of 17m section of hedgerow for the access and the cutting back of adjoining hedgerow to 600mm over a distance of 34m to the northeast and 11m to the southwest with further trimming back of side growth beyond this to provide required visibility splays. The cut down hedgerow will be maintained at 600mm height during the construction phase and allowed to grow back up subsequently.

During the operational phase it is understood that the B3165 access will only be used for emergencies and continued maintenance of the visibility splay will not be required. However, the 17m width construction phase access is currently shown to remain for the operational phase. This is unnecessary and will have a localised urbanising effect on the boundary of the Dorset National Landscape. To minimise this, the width of the B3156 entrance should be reduced for the operational phase to the minimum necessary to accommodate emergency vehicles and the entrance designed to appear as an agricultural field access with no kerbing, rather than as a new roadway. Similar design considerations should apply to the Stammer Hill access junction.

Detail design drawings for the proposed site access junctions with the highway for both construction and operational phases should be provided either prior to determination or by condition.

### **2.3 Landscape mitigation**

As requested, additional planting is now proposed to reinforce the existing woodland to the east of the site and the surrounding hedgerows and compensate for potential losses of existing ash trees due to die-back.

## **2.4 Habitat and Landscape Management & Monitoring Plan – Rev. 2**

The Plan is generally comprehensive but is in draft form and some further information is required to complete it. The Plan also needs to be read in conjunction with a detailed planting plan and specification which have not yet been provided. An updated Plan should therefore be required by condition incorporating missing information and addressing various points.

Section 1.3.3 - Roles and responsibilities – currently shown as t.b.c. Need to be confirmed in final version.

### **Table 1-5 Actions**

#### *Existing woodland, trees and hedgerows to be retained*

Add new row at top for: Construction phase only - Access visibility splay management - cut back of vegetation from roadsides/sightlines at the Site entrance.

First row – amend Annual safety inspection to include checks for major deadwood and damaged branches and include **cut back of vegetation clear of site entrances** from roadsides/sightlines at the Site entrance.

Third row, add to end: or through natural regeneration with appropriate protection from browsing damage.

#### *Proposed native hedgerow trees*

3rd row: Amend to Weeding around new trees **1m diameter around stem. Amend frequency to monthly through the growing season (March-October inclusive) years 1-3 and Once every three months commencing March years 4-5.**

4th row – delete ‘or suitable herbicides’

5th row – delete (slow release fertilizer). Additional fertilizer inputs should not be required in this rural context.

Add new row: Remove stakes and ties once trees are established – years 3-5.

#### *Proposed native tree/ shrub understorey and ground flora*

2nd row – Prescription for wildflower seeding. Is this appropriate? The cutting regime for this grassland is given as 1 cut every 3 years cutting 1/3 of area at any one time. This means that each area would be cut only once every nine years. Should it not be ‘cut 1/3 of area on an annual basis’?

3rd row: Tubes and stakes should be inspected at least 2x/ year

4th row: delete fertilizer application

8th row: Hedge cutting should be in accordance with [Hedgelink Management Cycle](#), allowing hedge to increase slightly in height and width at each cut.

10th row: Omit reference to herbicide application

Proposed species rich grassland – the specifications for this need to be informed by results of soil fertility testing.

#### *Proposed swales/ attenuation basin*

Detail proposals for seeding/ planting the swale/ attenuation basin are required.

2nd row – define basis for clearance/ cutting - eg maintain approx.. 1/3 of area as wet grass land, 1/3 as perennial aquatic marginals and 1/3 as open water.

Table 3-3

Should there be a target for hedgerow condition?

Table 4-2

Action 1 prescriptions amend as follows:

Planting would typically be a mix of sizes/ ages ranging from **1.8-2.4m high** feathers and whips to bare rooted 1+1 transplants that are 40 – 60 cm or 60 – 80 cm tall. Holly would comprise container grown stock in 3 litre pots.

Action 2 prescription. Not sure what the justification for under sowing woodland creation areas and existing woodland with grass seed mix is. It is better to maintain weed free area around base of new plants and encourage existing ground flora within existing woodland by appropriate canopy cover management.

Action 3 prescription. Tree pit specification is not in accordance with best practice. In accordance with BS8545 tree pits should only be excavated to a depth sufficient to comfortably accommodate the rootball/ structure. Back fill should comprise site excavated soils replaced in layers to match surrounding soil horizons and lightly consolidated.

#### Section 6 Monitoring strategy

Provide details of qualifications required for site monitoring personnel.

Provide details of reporting arrangements and sign-off of making good defects.

Provide details of arrangements for plan review.

### **3 CONCLUSIONS & RECOMMENDATIONS**

#### **3.1 Acceptability of proposals**

The proposed scheme will result in adverse landscape impacts within the site due to loss of existing grassland and introduction of industrial infrastructure within a rural setting, with lesser effects on the host landscape and Dorset National Landscape. However, the site is situated adjacent to existing solar farms to the east and south which form part of the local landscape context and existing trees and hedgerow will be retained with the exception of localised hedge breaks to form the access off the B3165.

There would also be locally significant visual impacts on visual receptors in the vicinity of the proposed construction phase access off the B3165. Construction phase effects would be temporary lasting for a few months. Subsequently the entrance should be reduced in width sufficient to accommodate emergency vehicles. Subject to this requirement, and acceptable detail junction design secured by condition, the visual and landscape effects of the proposed access would be temporary and could be effectively mitigated in the short -medium term on completion of site works.

Presently the site is well contained and not readily visible within the local or wider landscape apart from partial, glimpsed and heavily filtered views through existing perimeter field openings adjacent to public roads and along its northeastern boundary where an adjacent permissive bridleway has recently been agreed. For the above reasons the submitted scheme could be considered acceptable in terms of landscape and visual impact subject to amendment of the proposals for the operational phase emergency access off the B3165 either prior to determination or through condition.

#### **4.2 Conditions**

Notwithstanding the above advice and the submitted details, should the application be approved the following conditions should be imposed:

1) No development work shall commence on site until the following information has been submitted to and approved by the LPA:

- a) Soft landscape planting plan together with a plant schedule and specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.
- b) Tree pit and tree staking/ guying details.
- c) Details of proposed colour finishes to fencing and housings for inverters, storage units batteries and CCTV masts, including relevant BS/ RAL reference.
- d) Details of proposed under and over ground cable and water supply routes together with method statements for taking underground cables through any hedgerows and tree RPAs.



- e) Construction details for proposed hardstandings, trackways, highway junctions and associated kerbing and edgings.
- f) Detail plan and sections for the proposed swale and attenuation basin and associated soil make up. The design should include for creation of an area of permanent standing water.
- g) Locations of proposed CCTV cameras.
- h) 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.
- i) 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.
- j) A phasing plan for construction.

2) Notwithstanding the submitted details a Landscape and Ecology Management Plan (LEMP) for a minimum 30 year period following completion of the development (or relevant phase thereof) 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 Impact Assessment and draft Habitat and Landscape Management and Monitoring Plan and required detailed planting plans and specifications, incorporating amendments noted under section 2.4 above and shall include the following:

- a) Details of the body or organisation 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.
- 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) A 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 (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 Hedgeline guidance.
- New trees, woodland areas, hedges and amenity planting areas.
- Grassland, wildflower and any other habitat areas proposed.
- g) 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.
- h) Details regarding the proposed reptile translocation, including receptor site details in accordance with .GOV guidance
- i) Boundary structures, drainage swales, water bodies.
- 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.

3) No site works shall begin until a detailed decommissioning plan has been submitted for reinstatement of the site at the termination of the consent period or in the event that the proposed development ceases to operate prior to that. The plan should cover the removal of all site infrastructure and identify any areas of new habitat creation/ planting to be retained. The plan should show how the site will be returned to agricultural use and shall include a demolition and restoration programme.

4) 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.

5) No trees, shrubs, hedges or grassland habitat within the site which are shown as being planted or retained/ enhanced 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, hedges or grassland habitat 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 plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

**The applicant has commented (Clearstone Energy letter 9.10.2024) on the previous landscape response. These are set out below with further landscape officer response in red.**

It is noted that the landscape consultee has questioned the methodology regarding the photographs used in the LVA, stating that they do not follow best practice. The Applicant states that the viewpoint photography was presented to include a 90 degree horizontal angle on an A1 page width. It is possible to provide a single frame extraction from the panoramas, however this would not alter the assessment judgements contained within the body of the submitted LVA. **In the interests of accuracy, transparency and accessibility, single frame A3 images should be provided as most people viewing the application will not have access to A1 printing facilities required to view the submitted images at correct scale and curvature.**

The consultee makes reference to National Landscapes being scoped out of the assessment and the potential impact on such landscapes due to tree loss. The Applicant confirms that the Blackdown Hills AONB/National Landscape was scoped out due to the intervening distance between the designation and the application site, the local vegetation coverage, the topography of the land between the designation and the Site and due to its location outside of the defined 'study area'. Please note that the Dorset AONB/National Landscape was included in the LVA which concludes that the visual impact on the designation would diminish with distance and further reduce as the proposed landscaping proposals mature. The LVA confirms that the existing solar farms in the locality form part of the baseline conditions. **It is accepted that the Blackdown Hills NL can be scoped out of the study for the reasons noted. It is also accepted that effects on the Dorset NL diminish with distance. However, the Dorset NL boundary in the vicinity of the site roughly follows the line of the B3165 but includes a strip along the southeastern boundary of the adjacent field which will be affected by proposed access and visibility splay requirements which the LVA does not adequately address, and which are likely to be locally significant. Further detail is required on the extent of hedge removal and cutting back as well as junction design to better assess this. If the construction and emergency access is to be created at the proposed location, then there should be separate designs for construction and operational phase with the construction phase configuration reduced to the minimum dimensions to permit emergency access vehicles and the strip of access land connecting to the main site field should be planted as woodland to better screen the trackway and site infrastructure from the road entrance.**

The landscape consultee makes reference to 'ash die-back' (this has also been

highlighted by the District Ecologist). The Applicant considers many of the ash trees to be in good to fair condition and have a minimum of 40 years of life remaining. Given that the Proposed Development is 'temporary' with the Site being decommissioned and returned to agricultural use after 40 years, the ash trees are considered to be appropriate for retention for the lifetime of the project. The Applicant proposes that the management of ash trees that may be prone to die-back before the cessation of the project, is specified via a detailed Landscape Plan secured by a suitably worded condition. It is agreed that a tree, and woodland management plan, including rejuvenation planting to enhance existing structure and compensate for tree losses likely to occur during the development lifespan, could be secured by appropriate condition.

The consultee has queried the proximity of the compound to the main field, the Applicant can confirm that there is sufficient set-back from the boundary hedges for safe maintenance. Further clarification is required. In the northwest corner of the host field in particular it appears that there would be significant encroachment into existing boundary vegetation. A minimum 4m margin should be provided between the perimeter of the compound and the face of existing boundary hedges. This should be clearly annotated on the proposed site plan.

The consultee comments on the potential to move the emergency access due to potential harm to vegetation. The Applicant states that the harm is considered to be negligible and involves the removal of minimal vegetation, furthermore, the Proposed Development would generate a significant BNG, well in excess of the mandated 10%. Additionally, alternative access point options are severely limited by the Applicants land agreements, making moving the emergency access unfeasible. The Applicant notes the consultee's comments questioning the need for the acoustic fence. The acoustic fence is a requirement and further details are provided under separate cover within the Inacoustic letter (ref. 23-015) which addresses noise concerns in general. The photograph below shows the proposed access viewed from Stammer Hill. The present opening is narrow and there is a notable level difference between the field and road which will entail grading works. No levels information or detail has been provided for the design of this junction and without this it is not possible to understand the extent of grading required and the likely impact on the adjacent hedgebank and mature trees. Such information is required prior to determination of the application. Notwithstanding this, the new access road and creation of a new road junction will be clearly visible in the vicinity of the entrance from both the adjacent road and the bridleway opposite and is likely to introduce kerbing and the need for cutting back the hedgeline to provide required visibility splays. These changes will have an adverse impact on the undeveloped character of this section of Stammer Hill, all of which could be avoided by utilising the existing field access to the south as indicated in my previous response. If the landowner is keen for the proposals to proceed, it is very likely that adjustments to the agreement can be made with him/ her to vary the operational access route accordingly. Comments regarding the need for acoustic fencing are noted but I am unable to find a copy of the InAcoustic letter referred to and would be grateful if a copy could be forwarded.





*Figure 1- View of proposed operational access location off Stammer Hill*

#### **Additional Landscape Comments**

No response has been made to other comments in my previous response in respect of mitigation planting and permanent standing water within the proposed attenuation basin and these should be addressed.

I maintain a holding objection to the proposals pending amendments and additional information as noted.

#### **Conditions**

Notwithstanding the above advice and the submitted details should the application be approved the following conditions should be imposed:

- 1) No development work shall commence on site until the following information has been submitted to and approved by the LPA:
  - a) 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.
- b) Soft landscape specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.
- c) Tree pit and tree staking/ guying details.
- d) Details of proposed colour finishes to fencing and housings for inverters, storage units and batteries, including relevant BS/ RAL reference.
- e) Details of proposed under and over ground cable and water supply routes together with method statements for taking underground cables through any hedgebanks and tree RPAs.
- f) Construction details for proposed hardstandings, trackways and associated kerbing and edgings.
- g) 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.
- h) A phasing plan for construction. This should identify the early construction and planting of Devon hedgebanks to ensure that turves from site excavations are available for construction of the banks themselves and to enable associated planting to establish as soon as possible.

2) No site works shall begin until a site-specific Landscape and Ecology Management and Maintenance Plan has been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the construction, establishment, management and ongoing maintenance of landscape elements and bio-diversity measures. The Plan shall set out the landscape and ecological aims and objectives for the site along with the specific management objectives for each landscape/ ecological component, and the associated maintenance works required on an Annual and Occasional basis. Details of inspection, monitoring and reporting arrangements shall also be provided.

The plan shall include an as-existing condition survey for each length of hedge, identifying its position on the [Hedgeline hedge management cycle](#), any initial works required to bring to good condition, such as gapping up, removal of invasive species etc. and requirements for cutting including intended height range, cutting height and frequency.

The Plan shall cover a period of not less than 30 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

Management, maintenance inspection and monitoring shall be carried out in accordance with the approved plan for the duration of the operational phase of the development.

3) No site works shall begin until a detailed decommissioning plan has been submitted for reinstatement of the site at the termination of the consent period or in the event that the proposed development ceases to operate prior to that. The plan should cover the removal of all site infrastructure and identify any areas of new habitat creation/ planting to be retained. The plan should show how the site will be returned to agricultural use and shall include a demolition and restoration programme.

4) The works shall be carried out in accordance with the approved details. 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 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) of the East Devon Local Plan.

Chris Hariades CMLI

EDDC Landscape Architect & Green Infrastructure Officer

EDDC Landscape Architect

25.7.24

## **1 INTRODUCTION**

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

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

## **2 LOCATION, SUMMARY PROPOSALS, SITE DESCRIPTION AND CONTEXT**

The site is situated on a landscape plateau to the northwest of Blackpool Corner. Surrounding land-use to the north and east is predominantly agricultural with some large areas of woodland. Extensive solar farms are situated immediately to the west and southwest of the site and further largescale solar farms and the National Grid Axminster sub-station are situated some 1-2.2 km to the northeast.

The site comprises a level, rectangular field within which the battery storage compound is proposed to be sited, linked to the county highway network by two proposed access routes over adjacent fields to the north and east. The eastern access off the B3165 is intended as the principal access for both construction and operational phases, while the northern access off Stammerly Hill is intended primarily for emergency services access. The site will be connected to the electricity grid via underground cabling extending along the line of the proposed emergency access route and then via Stammerly Hill, the B3165 and Pound Road to the Axminster sub-station entrance, a distance of 2.7km.

The main field where the battery compound is to be constructed and the field to the south are pasture, while the field to the east is presently under arable. The fields are bounded by historic hedgebanks with numerous outgrown trees with a narrow strip of mature woodland separating the main field from the field to the north. Both the woodland and hedgebanks contain a high proportion of mature ash trees most of which are showing advanced symptoms of Chalara ash die back.

There is no public access within the site and the nearest publicly accessible locations are Stammerly Hill and the B3165 in the vicinity of the proposed site entrances, and a new permissive bridleway which is to be provided as part of the s106 agreement for the Beavor Grange solar farm adjacent to the northwestern site boundary. Hawkchurch bridleway 33 emerges on to Stammerly Hill almost opposite the proposed emergency site access. The nearest residential properties are situated at Blackpool Corner between 150 to 700m to the northeast but are unlikely to have views of the main site. Views from and into the site are presently heavily constrained by existing boundary vegetation and largely limited to a few access gates.



There are no landscape designations covering the majority of the site, but the Dorset AONB boundary encroaches over the eastern site extent.

### **3 REVIEW OF SUBMITTED INFORMATION**

#### **3.1 LVA**

##### Methodology

The methodology is in line with industry standard guidance.

The study area and selection of viewpoints are generally appropriate but a view and assessment of the visual impact at the proposed main entrance to the site off the B3165 should also have been included.

Viewpoint photographs are presented as wide-angle panoramas with 90 degree horizontal field of view. This is not in accordance with best practice guidance<sup>1</sup> which recommends where possible the use of single frame photographs with approximately 40degree horizontal field of view presented at A3 size to best represent the actual viewing experience. The effect of wide-angle panoramic views is to under-represent the actual scale and prominence of the site in the view particularly as most viewers will be viewing the images on screens much smaller than A1 size.

The Blackdown Hills and Dorset AONBs have been scoped out following preliminary assessment. While it is agreed that there are unlikely to be adverse landscape or visual impacts on the Blackdown Hills AONB, the creation of the principal access off the B3165 will entail notable tree and hedgerow loss which will have localised landscape and visual impact on the Dorset AONB which should have been considered further.

##### Landscape baseline

The landscape baseline is generally comprehensive. Noticeably missing is an assessment of the condition of landscape features within and along the boundaries of the site, particularly trees. There is a high proportion of mature ash amongst the site trees, many of which are displaying signs of advanced Chalara die-back with likely limited life expectancy. This oversight is probably due to site visits being carried out in winter when the effects of the disease are less obvious. The extent of infection is clearly seen in the recent summer picture (fig. 1) below and is similarly apparent amongst the trees along all the boundaries of the main field.

##### Likely landscape and visual effects of the proposals

The nature of the proposals is generally clearly described. However, the loss of landscape elements listed under LVA section 4.4 should have included 26m hedgerow clearance to hedge H4 to accommodate abnormal load turning off the B3265 as indicated on Swept path analysis - Heavy load mover, dwg. no. SK03-D and the further clearance and cutting back of this hedge to either side of the entrance to create the required 2.4 x 215m visibility splay (430m total length) as indicated on Swept path analysis, dwg. no. SK01-C.

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<sup>1</sup> Visual Representation of Development Proposals - Technical Guidance Note 06/19 Landscape Institute 2019



*Figure 1 - View from northwest corner of main field towards southeastern boundary showing extent of dead/ dying ash*

#### Assessment of effects on landscape character, elements and designations

The LVA assessment of sensitivity of the host landscape as Medium-High is accepted. The assessment of level of landscape effects is generally accepted apart from the impact on landscape fabric on the site and in particular at the proposed access points where effects are considered to be locally significant adverse due to the extent of tree and hedgerow loss and roadway construction works involved.

#### Appraisal of effects on visual amenity and visual receptors

The LVA visual appraisal findings of minor to negligible visual effects are broadly accepted with the exception of the following:

The sensitivity of walkers, cyclists and horse riders on local roads and rights of way should be considered **high** rather than **moderate-high**.

In respect of view point 2, visual effects should be considered **moderate adverse** at year 15 rather than **minor**.

The visual assessment should have considered the visual impact on users of the B3165 of the proposed principal site access. The extensive loss and cutting-back of existing hedgerow and some trees together with the construction of the new junction access and site roadway is likely to have **moderate adverse** visual impact at year 15.

The visual assessment should also have considered users of the proposed permissive bridleway adjacent to the northwest site boundary although, given the visibility of the adjacent Beavor Grange solar farm, which is not screened from this path, receptor sensitivity would be reduced to medium



while the limited visibility of the site over the existing boundary hedge is likely to give rise to a low level of effect.

#### **Other landscape related information**

##### Site layout dwg. no. AXP4.0 rev A

The battery storage compound appears on the site plans to be very close to the northwestern and southeastern boundaries of the main field. Clarification should be provided that there is a minimum 4m width corridor between the perimeter security fence and the field boundary hedges or the layout should be adjusted to ensure this is the case, in order to provide adequate maintenance access.

##### Access

The proposed access arrangements are likely to give rise to significant, localised adverse landscape and visual impacts which could be avoided by alternative provision, as illustrated in the overmarked aerial image in figure 3 below. This would avoid any tree losses with the exception of a new opening required in the southeast corner of the main field where the clearance of a single ash with significant die-back symptoms would be required.



*Figure 2 -View of existing 5m access in northeast corner of northern field which is adequate to provide operational phase access through the northern field without further widening or loss of adjacent trees*

##### Landscape and ecological mitigation and enhancement strategy Fig. AXP 15.0

The proposals require amendment in respect of site access provision to reflect comments above.

Further mitigation measures are required to address the prevalence of ash die-back in the existing tree stock and to provide further landscape enhancement in the medium-long term.

The proposed aquatic habitat should include for a body or permanent standing water to maximise biodiversity benefit.

The proposed copse in the northeast corner of the site should include large canopy tree species in the mix such as oak and hornbeam.

##### Acoustic barrier

A 4m high solid timber acoustic barrier is proposed to the northeast, southeast and southwest sides of the BESS compound. It is not clear what evidence this is based on as the submitted noise assessment makes no reference to an acoustic barrier being required. Clarification should be provided on this point.

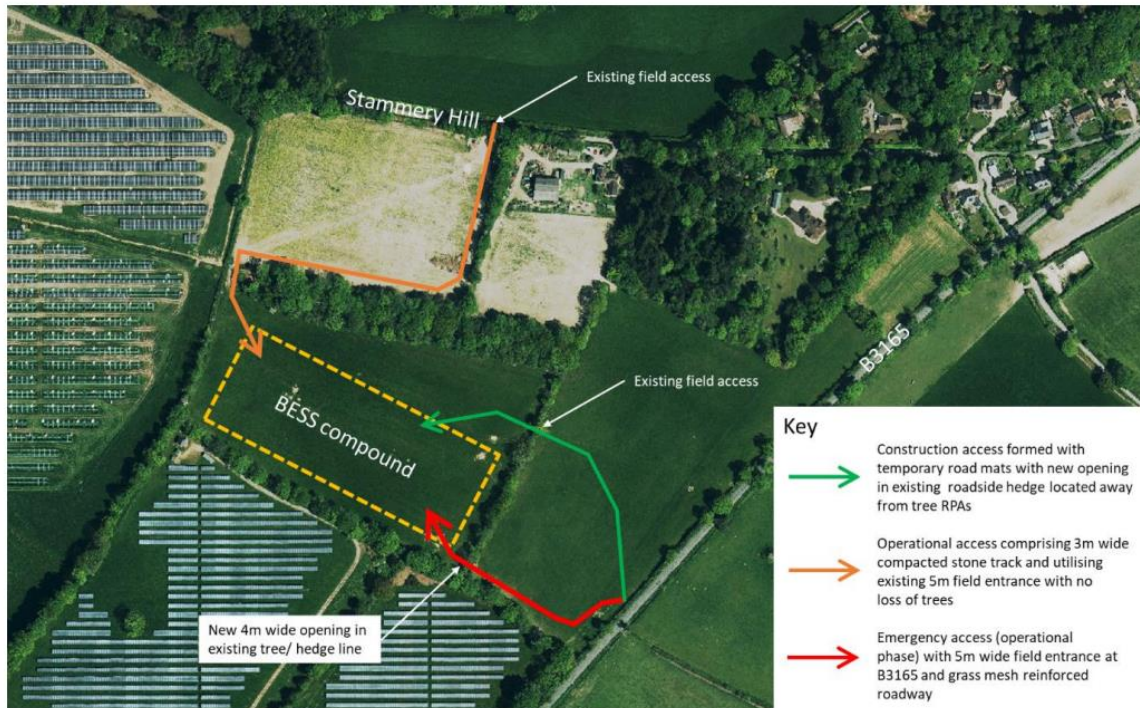


Figure 3- Aerial image of site showing alternative access arrangements to minimise tree and hedgerow loss



## **4 CONCLUSIONS & RECOMMENDATIONS**

### **4.1 Acceptability of proposals**

The proposed scheme will result in locally significant adverse landscape impacts on the host site due to loss of existing grassland, proposed tree and hedge clearance and introduction of industrial infrastructure within a rural setting, with lesser effects on the host landscape and East Devon AONB. There would also be locally significant visual impacts on visual receptors in the vicinities of the proposed site access points.

Presently the site is well contained and not readily visible within the local or wider landscape apart from glimpse and heavily filtered views through existing perimeter field openings adjacent to public roads and along its northeastern boundary where an adjacent permissive bridleway has recently been agreed.

Mitigation measures proposed to improve screening of the site in the medium to long term fail to take account of advanced ash die back evident in a high proportion of trees around the site. The likely loss of these would reduce the effectiveness of existing and proposed vegetation to screen the proposed development or to provide enhancement of the overall site and further replacement tree planting and management measures are required to address this issue.

For the above reasons the submitted scheme is considered unacceptable in terms of landscape and visual impact and fails to provide adequate enhancement. However subject to receiving satisfactory amendments addressing the issues raised in section 3 above in particular in respect of access and mitigation measures these objections could be overcome.

### **4.2 Conditions**

Notwithstanding the above advice and the submitted details should the application be approved the following conditions should be imposed:

- 1) No development work shall commence on site until the following information has been submitted to and approved by the LPA:
  - a) Soft landscape specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.
  - b) Tree pit and tree staking/ guying details.
  - c) Details of proposed colour finishes to fencing and housings for inverters, storage units and batteries, including relevant BS/ RAL reference.
  - d) Details of proposed under and over ground cable and water supply routes together with method statements for taking underground cables through any hedgebanks and tree RPAs.
  - e) Construction details for proposed hardstandings, trackways and associated kerbing and edgings.
  - 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:
    - 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.

g) A phasing plan for construction. This should identify the early construction and planting of Devon hedgebanks to ensure that turves from site excavations are available for construction of the banks themselves and to enable associated planting to establish as soon as possible.

2) No site works shall begin until a site-specific Landscape and Ecology Management and Maintenance Plan has been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the construction, establishment, management and ongoing maintenance of landscape elements and bio-diversity measures. The Plan shall set out the landscape and ecological aims and objectives for the site along with the specific management objectives for each landscape/ ecological component, and the associated maintenance works required on an Annual and Occasional basis. Details of inspection, monitoring and reporting arrangements shall also be provided.

The plan shall include an as-existing condition survey for each length of hedge, identifying its position on the [Hedgeline hedge management cycle](#), any initial works required to bring to good condition, such as gapping up, removal of invasive species etc. and requirements for cutting including intended height range, cutting height and frequency.

The Plan shall cover a period of not less than 30 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

Management, maintenance inspection and monitoring shall be carried out in accordance with the approved plan for the duration of the operational phase of the development.

3) No site works shall begin until a detailed decommissioning plan has been submitted for reinstatement of the site at the termination of the consent period or in the event that the proposed development ceases to operate prior to that. The plan should cover the removal of all site infrastructure and identify any areas of new habitat creation/ planting to be retained. The plan should show how the site will be returned to agricultural use and shall include a demolition and restoration programme.

4) The works shall be carried out in accordance with the approved details. 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 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) of the East Devon Local Plan.

Chris Hariades CMLI  
EDDC Landscape Architect & Green Infrastructure Officer

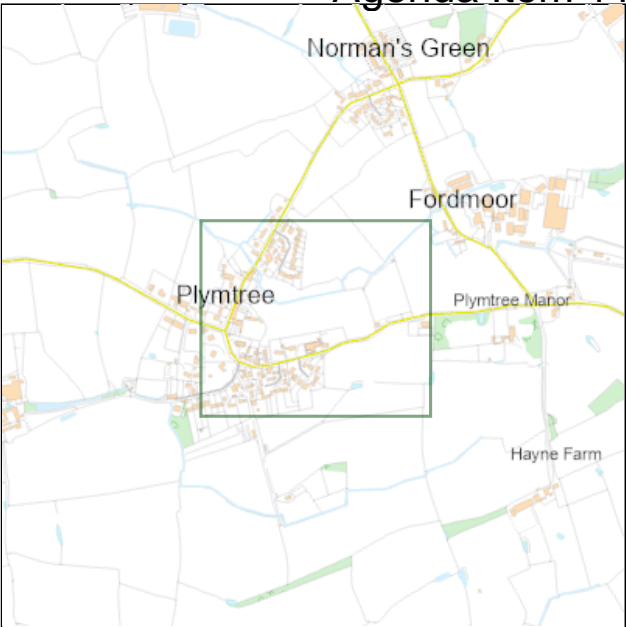
**Ward** Tale Vale

**Reference** 23/1247/MOUT

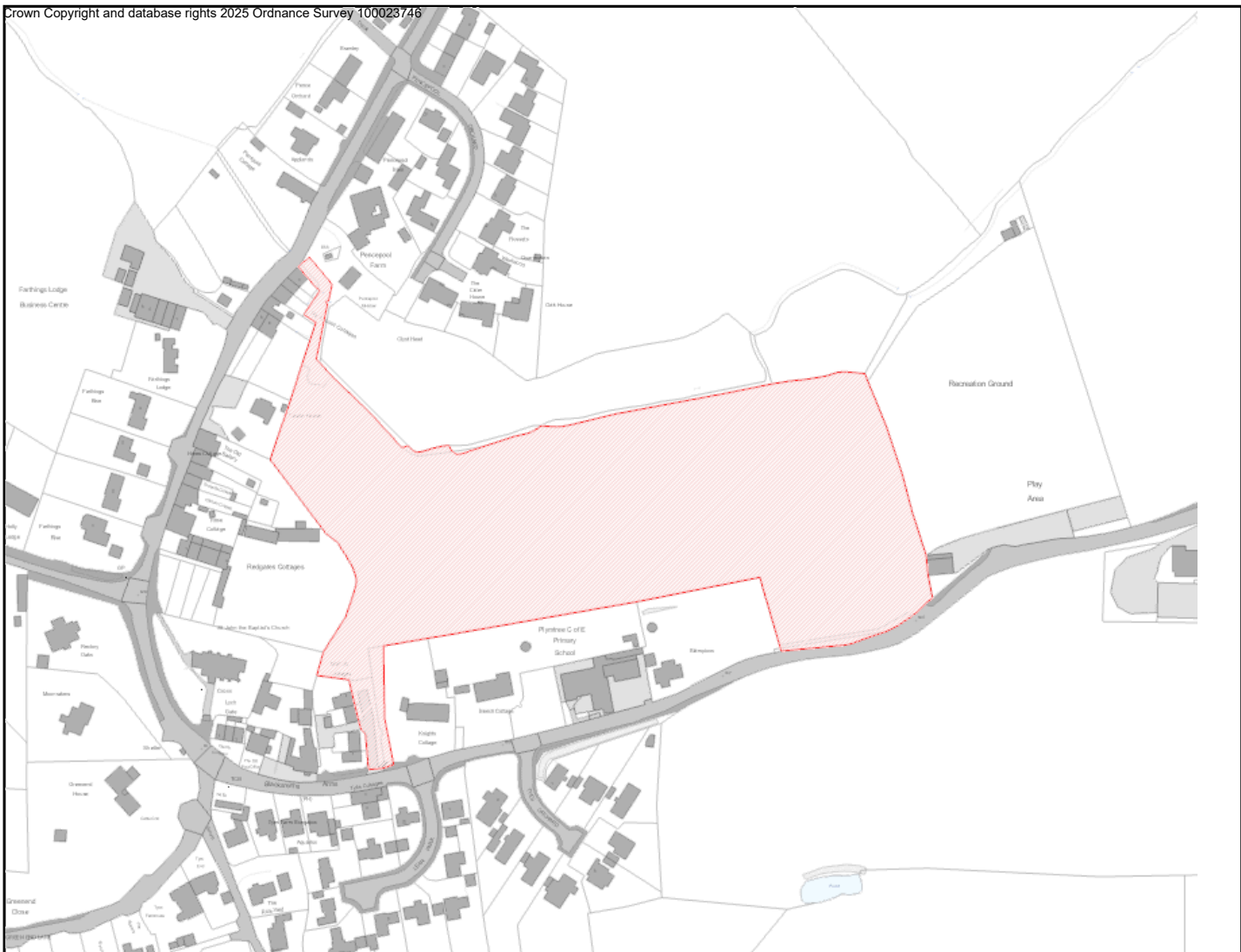
**Applicant** Mr J Persey

**Location** Land North Of Plymtree Primary School  
Plymtree Cullompton

**Proposal** Outline planning permission for the construction of up to 30 dwellings (including affordable housing), open space, car parking, building for community use and associated infrastructure. All matters reserved except access.



**RECOMMENDATION: APPROVE** the application subject to a S106 legal agreement and conditions.



		<b>Committee Date: 13.05.2025</b>
<b>Tale Vale (Plymtree)</b>	<b>23/1247/MOUT</b>	<b>Target Date: 22.09.2023</b>
<b>Applicant:</b>	<b>Mr J Persey</b>	
<b>Location:</b>	<b>Land North Of Plymtree Primary School Plymtree</b>	
<b>Proposal:</b>	<b>Outline planning permission for the construction of up to 30 dwellings (including affordable housing), open space, car parking, building for community use and associated infrastructure. All matters reserved except access.</b>	

#### **RECOMMENDATION:**

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

#### **EXECUTIVE SUMMARY**

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

The proposal is not in accordance with the Local Plan, with Strategy 7 stating that new development in the countryside, and outside Built-Up Area Boundaries should be strictly controlled. As planning applications must be determined in accordance with the development plan this would suggest that planning permission ought to be refused, unless material considerations indicate otherwise.

The application has been submitted in outline form for the construction of 30 residential dwellings with public open space, SuDs systems, landscaping and associated infrastructure. The proposal includes the provision of affordable housing at 50% (35% on-site and 15% off-site contribution). Access is to be considered at this stage, with a new access road being created from the lane in the south eastern part of the site. The proposed access has been found to be acceptable from a highway safety perspective. The reserved matter of access, which is sought under this application is therefore considered to be acceptable.

The site lies adjacent to existing residential development to the south and west, and the village recreation ground to the east. It does not have any designated landscape or other protective designation, although there are a number of heritage assets, including the Grade I St Johns the Baptist Church, Grade II\* Pencepool Farm, and Grade II Knights Cottage and Beech Cottage listed buildings



adjacent to the boundaries of the site. Any harm identified by the Conservation Officer is considered to be at the lower end of less than substantial harm and concerns their setting rather than any direct effect to those buildings. In this respect it is necessary to consider the public benefits of granting permission over any harm. The benefits identified above, particularly in terms of the delivery of additional dwellings and the provision of affordable housing, are considered, on balance, to outweigh any such harm.

The character and appearance of the site would change quite significantly from its current rural setting to a more urban built form, although it is proposed to retain the majority of trees, and to create large areas of landscaping within the site. The landscape and visual effects are generally localised, with limited views in and from the site. The submitted layout is illustrative, however it is considered to demonstrate that the suggested level of development can be accommodated on the site whilst having regard to the topography of the site and surrounding development.

The provision of a village shop/parking and a parking area for the school will be of benefit to local residents although they are not required as part of the wider development under any policy and therefore cannot be secured in any legal agreement with the council.

In applying the planning balance there is a need to weigh any harm caused by development outside of any defined development boundary, and consequently contrary to Strategy 1 (Spatial Strategy for Development in East Devon), 7 (Development in the Countryside) and 27 (Development at the Small Towns and Larger Villages), against the need for housing within the district. In this case the development is sustainably located adjacent to the centre of the village and consequently supported by Strategy 3 (Sustainable Development) and the provisions of the NPPF<sup>24</sup>. It is also a preferred residential site allocation for 30 dwellings in the Regulation 19 Draft Local Plan having been considered and adopted by the Strategic Planning Committee.

It is recognised that the application has attracted a number of objections from the Parish Council, Ward Member and neighbouring residents. However, on balance, having regard to all planning issues and material considerations, the need for new and affordable dwellings to boost the future housing supply of the district is considered to justify a departure from the Local Plan.

It is recommended therefore that outline planning permission (with access approved) is granted subject to the completion of a S106 agreement and the conditions set out below.

## **CONSULTATIONS**

### **Local Consultations**

#### **Tale Vale - Cllr Richard Jefferies – 15.08.23**

This application is too large for the village.

I have concerns about the sustainability of the location, increased traffic on narrow lanes, flooding, sewerage and with the effect of a development of this scale on the character of the village.

#### **Parish/Town Council – 27.06.24**

The revised application does not materially respond to the concerns voiced in the Parish Council's response to the original application. We note that the current consultation proposes that building on that site is rejected.

#### **Parish/Town Council – 27.07.23**

Please be aware that Plymtree Parish Council held a consultation meeting about 23/1247/MOUT on Monday 17 July to elicit views from local residents and will hold a formal council meeting on 25 July, after which the council will provide a submission to the planning portal. It will not be possible to provide observations on such a major local development plan within the 23 days requested in the notification.

William Lines

Clerk to Plymtree Parish Council

The Parish Council objects to the development because of both the scale and the site.

1. The scale of the development is too large, with concerns about the volume of additional sewage as the existing sewerage system is observed locally to be insufficient for the current population, and an increase in volume of traffic, especially the safety concerns for traffic passing the school.

2. The site of the development, based on safety concerns for the proposed access point.

### **Summary of Technical Consultations (Full Responses in Appendix 1)**

#### **Housing Strategy/Enabling Officer - 17.06.24**

##### **SUPPORT**

I note the percentage of affordable housing has been changed to 35%. Under current policy Strategy 34, a requirement of 50% affordable housing is required. However, given the lack of a 5 year land supply and under delivery of homes, I feel this is a reasonable offer.

Tenure - Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership. For the proposed 10 affordable units, this would amount to 7 rented units and 3 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon. Housing Mix - will be determined at Reserved Matters stage. All affordable units should also meet M4 (2) standards.

East Devon District Council recognises the challenges faced by many residents due to the high costs of both buying and renting. This application will provide 10 affordable homes, so will help us meet this challenge.

#### County Highway Authority – 23.07.2024

##### Observations:

I have visited the site in question and reviewed the planning documents of this planning application.

The application is outline only, therefore I will reserve commenting upon the internal site layout.

The application includes a speed survey which allows the visibility splay to be provided for the access to be tailored to the actual speed of the road, therefore we accept a visibility splay of 33m in both directions with an 'x' depth of 2.4m, in accordance to Manual for Streets 1 and 2, where the speed of the road has been established at 25 miles an hour, this will also need a vertical clearance of 0.6m and above.

I am satisfied that this access can be established in the south-east corner of the development which as the primary access will be better placed than the proposed emergency/ footway access, of where there is increased interaction of traffic. Therefore from a technical highway consultee perspective, I have no objection to this. The ATC traffic count carried out, showed that during peak hours one vehicle per minute passes the vicinity of this development, therefore, I am happy to accept that this planning application is unlikely to exacerbate the trip generation upon the local highway network to an unacceptable level. That being said, should this application come forward for a full application, I would advise that a comprehensive, Construction and Environment Management Plan (CEMP) is submitted to help mitigate against any construction impact upon the road network including wheel-washing, contractor car-sharing, 'just-in-time' deliveries and before and after road surveys. Together with secure cycle storage for each dwelling to encourage sustainable travel, especially to the local facilities, of the shop, church and school.

The proposed internal car park for the primary school is still being retained together with parking for knights cottage, both of these features will help alleviate on-street parking, which is a betterment on highway safety grounds.

Therefore, overall at this outline application stage, the County Highway Authority (CHA) has no objection to this planning application.

##### Addendum 23/07/2024

The CHA has reviewed the re-consulted plans and we satisfied that our stance remains the same.

##### Recommendation:

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

#### Conservation

##### AMENDMENTS

01.08.2024

The conservation assessment of the amendments should be read in conjunction with earlier comments provided on 19.09.2023 and those offered by Historic England dated 09.08.2023 and more recently 27.06.2024.

As discussed, the revised site layout plan goes towards addressing concerns regarding the 'erosion of a principal outward view from the identified listed buildings within the village as a result of the sites location.' Through reducing the number of dwellings within the plot to the north of the church and those to the east, which in turn allows for a larger green space.

Notwithstanding the revised layout, which is welcomed, there will inevitably be harm to views and experience from the identified assets, that fails to preserve the setting of the assets and to a lesser extent their significance, harm which needs to be weighed against public benefit through the planning assessment.

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 heritage assets.

Paragraph 205 of the National Planning Policy Framework [NPPF] explains that great weight should be given to the conservation of designated heritage assets. Paragraph 208 states that any less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal.

In this respect the revised layout continues to fail to preserve the setting of the identified heritage assets and to a lesser extent results in less than substantial harm to their significance, harm which needs to be weighed against public benefit through the planning assessment.

#### Historic England – 27.06.24

Historic England previously provided advice in respect of the proposed application (dated 9 August 2023). This letter should be read in conjunction with our earlier correspondence. Historic England's interest relates to the grade I listed St John the Baptist and grade II\* Pencepool Farmhouse.

The revised scheme has sought to create a clearer green open space that cuts across the site at its eastern end. Some development still remains to the north of the church with the development to the west has been set back from the previous building line.

Overall the scheme has reduced the extent by which the urbanising character would erode the setting of the identified heritage assets. However, some harm will still remain through the erosion of the green rural landscape by the proposed development. The council will need to consider any resulting harm within the planning balance, ensuring that sufficient public benefit have been provided to outweigh the proposed harm (NPPF, Para 208). They should also seek to ensure that all opportunities have been taken to enhance and better reveal the significance of the heritage asset (NPPF, Para 212).

#### Recommendation

Historic England has concerns regarding the application on heritage grounds.

#### 02.10.2024 South West Water

##### Foul Water Flows

It is noted the applicant proposes to discharge to the mains sewer. There should not be any need for reinforcement on the waste network for this site.

The storm overflow at the treatment works will be investigated and receive investment. The foul flows from this site will be taken into consideration as part of that assessment.

It is noted the applicant will be seeking adoption of the network from SWWL. If this is the case, the applicant is reminded that SWWL requires the sewers to be design and constructed in accordance with the latest version of Design and Construction Guidance. SWWL offer a pre- design discussion/assessment service.

##### Surface Water Flows

SWWL comments relate to domestic run off from the site (run off from roofs and driveways (land appurtenant to buildings)), subject to the sewers being designed and constructed in accordance with the Design and Construction Guidance (DCG).

It is noted the applicant proposes to discharge to a sustainable drainage system using an attenuation basin and tanks system, followed by discharge to a watercourse.

##### Potable Water Supply

The existing water distribution network has sufficient capacity to supply this development.

#### DCC Flood Risk Management Team – 08.07.24

No objection subject to conditions

#### Police Architectural Liaison Officer . 14.06.24

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

#### NHS Local (Eastern Locality) 04.08.23

see report under "document" tab

#### EDDC Trees

21/06/24 - Previous comments still apply.

#### EDDC Trees – 14.08.23

In principle I have no objection to the proposal, however the following 2 concerns are raised:

1) The location of parking area and hard landscaping within the RPA of T10 (Oak, categorised as B but considered potential A category). The no dig surface is unlikely to be feasible due to changes in ground levels. Parking and hard landscaping should be located wholly outside of the RPA.

2) The impact of the new access encroaching into the RPA of T8 (Silver Birch, C category but considered more appropriate as a B category tree). It appears that there space to route the new access road between the RPA's of T7 and T8.

#### Environmental Health – 04.07.23

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing.

#### Contaminated Land Officer – 04.07.23

I have considered the application and do not anticipate any concerns in relation to contaminated land.

#### EDDC Landscape Architect – 28.09.23

The lack of highway details is of concern given that the application covers access. Detailed plans showing the proposed access arrangements and associated vegetation clearance and grading works are required prior to determination.

Notwithstanding the lack for highway information the proposal is likely to give rise to significant landscape and visual effects within the immediate vicinity of the site which should be weighed in the planning balance.

#### Other Representations

Sixty four representations have been received, 49 raising objections, 6 in support, and 9 making representation: these are summarised below

#### **Objections**

- The site is outside of any built up area boundary
- Unsustainable rural location
- Within an area identified as vulnerable to flooding
- Scale of development inappropriate to village location
- Existing road system unable to cope with scale of the development
- Lack of public transport to the village
- Access at dangerous point in the road
- Impact on setting of Grade I and Grade II\* Listed Buildings
- Concerns regarding surface water runoff and the adequacy of foul drainage systems
- Ecological surveys are inadequate
- No Biodiversity Net Gain (BNG)

- Attenuation pond is health and safety risk
- Relocation of shop unsuitable, not visible and off the beaten track
- Unresolved pedestrian access into village
- Density out of character with village setting
- Impact on the character and appearance of the area
- Lack of infrastructure within the village
- Lack of clarity over management of attenuation pond
- Noise and disturbance from construction activities
- Potential light pollution
- Additional ongoing noise and disturbance from future residents
- No definition of affordable housing

### **Support**

- The village needs new housing to encourage younger people
- Clear need for affordable housing
- Will provide safer footpath access from main residential areas to village hall and playground
- Will provide additional recreational space within the village
- Provision of off street parking for the school
- New development is needed to maintain existing facilities
- New development will support and sustain existing businesses

### **Neutral**

- New community ship would be valuable to Plymtree Village Shop Association (PVSA), but needs to be visible to passing traffic and accessible
- Village has good range of facilities but shortage of people to manage and maintain them
- Connection from site to parish hall and recreation ground will require access over land leased to local charity and funding will be required for legal agreement and maintenance
- Support for new building but need more self-build dwellings
- Country lanes and restricted highway access is part of living in a rural community

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
86/P1955	Residential Development To Include Open Space And Playing Field	Refuse	09.12.1986

## **POLICIES**

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

Strategy 1 (Spatial Strategy for Development in East Devon)  
Strategy 3 (Sustainable Development)  
Strategy 5B (Sustainable Transport)  
Strategy 7 (Development in the Countryside)  
Strategy 27 (Development at the Small Towns and Larger Villages)  
Strategy 34 (District Wide Affordable Housing Provision Targets)  
Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)  
Strategy 38 (Sustainable Design and Construction)  
Strategy 43 (Open Space Standards)  
Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
Strategy 47 (Nature Conservation and Geology)  
Strategy 48 (Local Distinctiveness in the Built Environment)  
Strategy 49 (The Historic Environment)  
Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)  
D2 (Landscape Requirements)  
D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)  
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)  
EN8 (Significance of Heritage Assets and their setting)  
EN9 (Development Affecting a Designated Heritage Asset)  
EN13 (Development on High Quality Agricultural Land)  
EN14 (Control of Pollution)  
EN16 (Contaminated Land)  
EN21 (River and Coastal Flooding)  
EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)  
TC4 (Footpaths, Bridleways and Cycleways)  
TC7 (Adequacy of Road Network and Site Access)  
TC9 (Parking Provision in New Development)

#### Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP01 - Spatial strategy Draft  
Strategic Policy SP02 - Levels of Future Housing Development Draft  
Strategic Policy SP06 - Development Beyond Settlement Boundaries Strategic Policy  
Strategic Policy SP07 - Delivery of Infrastructure Draft

Strategic Policy SD25 - Development Allocation at Plymtree Draft

Strategic Policy AR01 - Flooding Draft

Strategic Policy HN01 - Housing to Address Needs Draft  
Strategic Policy HN02 - Affordable Housing Draft  
Policy HN04 Accessible and Adaptable Housing Draft



Strategic Policy DS01 - Design and Local Distinctiveness Draft  
Policy DS02 - Housing Density and Efficient Use of Land Draft

Strategic Policy TR01 - Prioritising Walking, Wheeling, Cycling and Public Transport Draft  
Policy TR04 - Parking Standards Draft

Strategic Policy OL01 - Landscape Features Draft  
Policy OL09 (Control of pollution) Draft

Strategic Policy PB01 - Protection of Internationally and Nationally Important Wildlife Sites Draft  
Strategic Policy PB04 - Habitats Regulations Assessment Draft  
Strategic Policy PB05 - Biodiversity Net Gain Draft  
Policy PB07 - Ecological Enhancement and Biodiversity in the Built Environment Draft  
Policy PB08 - Trees, Hedges and Woodland on Development Sites Draft

Strategic Policy OS01 - Access to Open Space and Recreation Facilities Draft  
Policy OS02 - Sport, recreation and open space provision in association with development Draft

Strategic Policy HE01 - Historic Environment  
Policy HE02 - Listed Buildings

#### Government Planning Documents

NPPF (National Planning Policy Framework 2024)  
National Planning Practice Guidance

#### **Site Location and Description**

The application site comprises a large irregularly shaped field to the north and east of the main body of the village of Plymtree. Plymtree is not identified as a sustainable settlement in the adopted Local Plan and has no built up area boundary .

The site extends to an area of around 2.94ha and is currently within an agricultural use, being laid to grass. It is located outside of any identified built-up area boundary although there are existing residential properties and the primary school adjoining the site to the south and west, and the village recreation ground adjoins the eastern boundary of the site. The south-eastern part of the site adjoins the public highway (Class C road) that leads from Tyes Cross into the village centre.

Three listed buildings are also adjacent to the site, with the Grade I St John the Baptist church and church yard abutting the south-western corner, and Knights Cottage and Beech Cottage adjacent to the southern boundary.

Plymtree village lies around 5km south of the nearest sizable town of Cullompton. The village has a limited number of services and facilities, including a community shop, church, primary school, public house, village hall and recreation ground.

## **Proposed Development**

This application seeks outline planning permission, with all matters reserved except access, for the development of up to 30 dwellings, including 9 affordable units. The indicative layout shows a central spine road with housing on both sides within the central and eastern side of the site, leading to a village green and open space area, with a potential village shop adjacent to this and a further 2 houses and attenuation feature in the western side of the site.

In addition, it is proposed to create a car park to serve the village school which lies to the south of the site and parking to serve Knights Cottages

Vehicular access is taken from the southeastern side of the site, from the C class road which leads out of the village towards the recreation ground and village hall. A pedestrian access is indicated in the northwestern corner of the site providing a link to the northern side of the village, with a further pedestrian access in the southwest section of the site.

## **ANALYSIS**

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

- Policy Position and The Principle of Development (including consideration of housing supply within the district)
- Affordable Housing
- Transport and Access
- Design and Layout
- Heritage Impact
- Landscape and Visual Impact
- Residential Amenity
- Arboricultural Impact
- Drainage and Flood Risk
- Ecology/Biodiversity
- Open Space
- Loss of Agricultural Land
- Planning Obligations
- Planning Balance and Conclusions

## **Policy Position and Principle of Development**

### **East Devon Local Plan 2013-2031 (EDLP)**

The application site lies outside of any built-up area boundary, as defined in the EDLP, and as such, and in accordance with Strategy 7 of the plan, it falls to be considered as open countryside.

Within the open countryside Strategy 7 only permits development where such development is explicitly permitted by another policy of the Local Plan or, where relevant, Neighbourhood Plan.

There are no other policies of the EDLP that provide the specific policy support required by Strategy 7, and there is no neighbourhood plan for Plymtree, as such the proposal represents a departure from the development plan.

### **Emerging East Devon Local Plan (Consultation draft)**

A new East Devon Local Plan is under preparation and a Draft Local Plan has been produced and has been consulted upon; following on from this site allocations have been determined and agreed upon by the Council. The Emerging Plan has reached Regulation 19 stage, with the consultation period on the draft plan having closed on 31 March 2025.

At this stage proposed Strategic Policy 1 (Spatial Strategy) sets out the proposed strategic approach for delivery of new development which includes limited development at the Service Villages, which includes Plymtree.

Strategic Policy SD25: Development Allocation at Plymtree identifies and allocates the site (Land north of the School (Plym\_03) for 30 new homes and a community facility.

Site selection work carried out to aid preparation of the emerging plan considered the site to be *“particularly sensitive in heritage terms and detailed assessment will be needed to ensure that an acceptable design solution is reached that respects the special character of the area and the setting of the heritage assets around the site. Footpath links to local facilities will be required as part of the development. The development will need to maximise opportunities for localised improvements/ contributions to enhance sustainable travel modes.*

This site has been considered by the Strategic Planning Committee and the originally proposed allocation of the site for 43 dwellings was agreed to be reduced to 30 dwellings. This is reflected in the Regulation 19 consultation documents.

The inclusion of the site as a future housing allocation demonstrates the Council's view of the suitability of the site in principle, however only very limited weight can be afforded to this draft plan at present.

### **National Planning Policy Framework (NPPF)**

The amended NPPF (para. 78) requires authorities to be able to demonstrate a minimum five year supply of *‘specific, deliverable sites’* against their housing requirements (including a requirement to demonstrate a further buffer where there has been significant under delivery). Where such supply can't be demonstrated the presumption in favour of sustainable development, as set out at para.11 of the NPPF applies, this states that,

*For **decision-taking** this means:*

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

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

*i the application of policies in this Framework that protect areas or assets of particular importance provides a 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 combination.*

The most recent information indicates that the Council's 5 year housing land supply (YHLS) stands at 2.97 years and as such the presumption in favour of sustainable development applies unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed.

The policies of the adopted East Devon Local plan which are directly related to the supply of housing have evidently not maintained a suitable supply of housing within the district. These policies include, amongst others, establishing settlement boundaries to control sporadic development and a hierarchy of settlements and must now be considered to be out of date, carrying limited weight.

In this case, the site lies adjacent to existing development in Plymtree which is proposed as a site allocation in the New Local Plan, indicating that the Council now consider Plymtree to be a sustainable location for development. There is a clear need for more housing, both market and affordable, within the district and the current shortfall in supply is a significant factor in determining planning applications. Accordingly, in applying the tilted balance unless there are adverse impacts that would 'significantly and demonstrably' outweigh the benefits of the development (when assessed against the policies in the 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 combination) permission should be granted.

### **Affordable Housing**

Lack of affordable housing is a critical issue in East Devon and in order to retain younger people in our neighbourhoods and communities, as well as housing others in need, we need more affordable homes.

Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted EDLP (2016) states that affordable housing will be required on residential developments in East Devon. Areas to which higher (50%) affordable housing targets apply: Outside of the areas listed above (i.e. all other parts of East Devon including all settlements not

listed, coastal and rural areas and Budleigh Salterton and Sidmouth) 50% of the dwellings shall be affordable subject to viability considerations. The 50% figure applies to all areas that do not come under the 25% classification and which are permitted under Strategy 35 'Exceptions' policy. Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership.

The absence of a five year housing land supply however means that policies important for decision making in regard to housing delivery are considered to be out of date. As such less weight can be given to built up area boundaries.

Strategic Policy HN02: Affordable Housing of the Reg. 19 Plan requires affordable housing on all developments with a capacity of 10 or more in non-designated rural areas. On allocated sites within the new plan, such as the application site, the requirement is for 30% affordable housing, with the tenure mix of 65% Social Rent and 35% Intermediate or other forms of affordable housing. However, this draft policy has yet to be scrutinised and at the present time carries very limited weight, and as such the Councils position remains that 50% affordable housing is required to satisfy Strategy 34 (District Wide Affordable Housing Provision Targets).

As submitted the application proposed 35% affordable housing, however this figure has been amended to reflect the adopted policy requirement, with the provision of 35% on site affordable housing, and a 15% off site contribution, understood to be £115,832.

Whilst not strictly policy compliant officers consider the offer to be reasonable when considering the policy context set out above.

### **Transport and Access**

The site is within easy distance to a number of facilities including the village school and church which are adjacent to the site. The community village shop is accessible via a new pedestrian access on the western side of the site, and the recreation ground and parish hall are located to the east of the site, with a proposed crossing to the lane facilitating pedestrian access to the parish hall. The village pub lies to the south west of the site, within easy walking distance.

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

Policy TC2 (Accessibility of New Development) of the EDLP (2016) states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.

Policy TC4 (Footpaths, Bridleways and Cycleways) of the EDLP (2016) states that development proposals will be required to include measures to provide, improve and

extend facilities for pedestrians and cyclists commensurate with the scale of the proposal. Policy TC7 (Adequacy of Road Network and Site Access) of the EDLP (2016) states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9 (Parking Provision in New Development) of the EDLP (2016) states that spaces will need to be provided for parking of cars and bicycles in new developments. All small scale and large scale major developments should include charging points for electric cars.

The application is submitted in outline with the only detailed matter for consideration relating to access to the site. Vehicular access is proposed from the existing highway at the southeastern part of the site with a new junction being created to the southwest of an existing field access. A 5.5m wide carriageway is proposed at the entrance, narrowing to 4.8m through the main body of the site with a 2m wide footway on the southern side of road. Pedestrian links are proposed through the southwestern part of the site adjacent to Keepers Cottages and a further pedestrian link to the northwest of the site. A further possible pedestrian route through the adjacent recreation ground to the village hall is also indicated within the supporting transport assessment.

Visibility splays would be achieved by the removal/relocation of part of the boundary hedging and one tree to provide 2.4m x 33m visibility in both directions.

The proposed access arrangements have been considered and found to be acceptable by the Highway Authority, finding the visibility splays appropriate to the speed of traffic using this road. It is further accepted, from the submitted traffic survey, that the additional volume of traffic is unlikely to result in an unacceptable level of trip generation arising from the development.

Off-street parking is proposed on the illustrative site plan, with the suggested provision in accordance with local planning policy. The provision of a school car park and parking for Knights Cottages will help to alleviate on-street parking, as will the additional parking for the school. By reducing on street parking pressures, particularly at school dropping off and picking up times this would result in a positive impact on highway safety which is considered to weigh positively in the planning balance. This is considered to be a betterment in highway safety terms and would comply with the provisions of Policy TC7 (Adequacy of Road Network and Site Access) of the Local Plan

It is recognised that the village of Plymtree is located in a relatively remote location, and served by limited public transport, and that for some essential services, such as secondary education, and doctors surgeries travel beyond the village which would entail the use of private transport. However, this is true of many such villages, and that whilst not all of the sustainability criteria can be met, there are sufficient facilities and services within the village and the local highway network is capable of accommodating the development without detriment to highway safety. such that the development is generally considered to comply with Strategy 5B (Sustainable Transport), TC7 (Adequacy of Road Network and Site Access) and TC4 (Footpaths, Bridleways and Cycleways) of the local plan.

## **Design and Layout**

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)

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

Policy D1 (Design and Local Distinctiveness) of the 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.

The application has been submitted in outline, with matters of design, appearance, layout and scale forming reserved matters to be considered in detail should an outline consent be forthcoming. Nevertheless, an illustrative masterplan layout has been submitted which identifies, and seeks to address, the constraints of the site, both in physical terms and heritage impact.

The Design and Access Statement submitted makes reference to the topography of the site, surrounding development and adjacent listed buildings and offers a number of mitigating proposals including the creation of new public green space, additional planting, retention of field boundaries and suggested development avoiding the most prominent parts of the site.

During the course of the application the indicative layout has been amended in response to heritage concerns with the revised layout remaining rather basic, having limited reference to the form and layout of the existing village, although greater regard has been had to the setting of the heritage assets. However these plans are illustrative only and help to demonstrated the capacity of the site, rather than being prescriptive. Any reserved matters application would need to address specific concerns raised regarding layout and form as well as design and appearance of the built form.

Overall, it is considered that the level of development proposed could be accommodated on the site, by retaining existing landscape features and providing

additional areas of landscaping such that it would not result in a cramped form of development at odds with the grain of development within the village or surrounding built form. It is considered that the proposals would therefore comply with the provisions of Policies D1 (Design and Local Distinctiveness) of the Local Plan, and the advice contained within the NPPF23.

### **Heritage Impact**

The statutory duty contained in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving listed buildings or their setting, or any features of special architectural or historic interest which they possess. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Section 72 requires the decision maker pay special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

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.

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance should be wholly exceptional.

Where 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.

Policy EN9 reflects the guidance set out in paras 207 to 210 of the NPPF, 2024.



Paragraph 208 of the NPPF requires that Local Planning Authorities identify and assess the particular significance of any heritage asset. Paragraph 212 requires that great weight is given to the conservation of designated heritage assets and this position is further supported by EDLP Strategy 49 (The Historic Environment) and Policies EN8 (Significance Of Heritage Assets and Their Setting) and EN9 (Development Affecting A Designated Heritage Asset).

It is considered that whilst there is currently no public access to the site, and restricted visibility into it from its immediate surroundings, it may be visible from further afield, and that from the southern part of the site, views of the open countryside beyond the village can be afforded.

There are a number of identified Heritage Assets to the south and west/northwest of the site. The most important of these is St John the Baptist Church (Grade I) and its associated churchyard. The significance of this is very high, particularly in views from the west and from the main road through the village. From the site the area closest to the churchyard is the most sensitive, with views across the churchyard and of the church tower.

Pencepool Farm (Grade II\*) and other associated buildings (Grade II) lie to the north west of the site, largely screened by existing vegetation and although the site was previously associated with both the church and the farmhouse, it is not considered that the site contributes to the setting or significance of these buildings, although it is noted that some open space along the north western boundary would be appropriate.

Other listed buildings, Rose Cottage (Grade II), Knights Cottage (Grade II) and Beech Cottage (Grade II) lie adjacent to the south, and are visible from within it, to varying degrees, although it is considered that with the maintenance of open space to the respective boundaries, any impact of the proposal would result in a only a low level of less than substantial harm, which needs to be balanced against the public benefits offered by the scheme.

It is acknowledged that the proposal would result in less than substantial harm to the setting of adjacent listed buildings through the introduction of new residential development, and the relationship between the heritage assets and change in the way the heritage assets are experienced. However, the final layout including landscaping and position of buildings would be a reserved matters application and it is expected that buffers are provided between heritage assets and built development to reduce the harm. Planting is proposed within and around the site which will help integrate and screen the development into the landscape but this will only go so far.

Where harm is identified, clear and convincing justification needs to be provided for any harm to, or loss of, the significance of a designated heritage asset including development within its setting (NPPF, Para 213).

In cases where the scheme will affect an element within the setting of affected assets, it should be considered as harmful. In the consideration of the application, any harm needs to be shown to be demonstrably outweighed by the public benefits offered by the scheme (NPPF, 215).

## **Landscape and Visual Impact**

Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the Local Plan requires 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 (now known as National Landscapes (NLs)).

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development proposals should not adversely affect important landscape characteristics or prominent topographical features.

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

The site comprises an agricultural field, enclosed by mature hedging to the north and eastern boundary and by built development to the south and east. It is identified as Grade 4 agricultural land and 3E Lowland Plains Landscape Character. The land rises from around 62m at the northwestern boundary to 72.5m at its highest point adjacent to the southeastern corner at 72.5m.

The landscape impacts of the development have been assessed by the Council's landscape officer and his comments are appended to this report.

The development of the site as proposed would result in the loss of an open field to built-form but its sensitivity is considered to be reduced by the presence of existing residential development to the south and west. The location of the proposed access would result in the loss of hedgerow however it is considered that additional planting would be proposed to mitigate the loss.

Further mitigation measures to reduce any harm to the wider landscape include enhancing the existing hedgerows and boundaries, internal tree planting and improving pedestrian access. These measures are considered to be appropriate and would be reviewed as part of any reserved matters application.

The landscape and visual impacts of the proposals are likely to be limited to the site and local area and while the change in character along the lane at the access point would result in changes to the landscape, the site is well contained, and it is considered that the development could be accommodated without a significant adverse impact to the wider landscape character. Nevertheless, there will be some adverse landscape impact which needs to be weighed in the planning balance.

## **Residential Amenity**

Section 12 (Achieving Well-Designed Places) of the NPPF (202) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for existing users.

Policy D1 (Design and Local Distinctiveness) of the 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

The primary school and a number of residential properties border the southern and east/northeastern side of the site. The indicative layout suggests that most of the proposed dwellings would be located towards the eastern side of the site and sited away from the boundaries with neighbouring dwellings.

Some concern has been raised that the proposed siting and proximity of dwellings to the boundary of the site will have an unacceptable impact on residential and other amenity, however the proposals are in outline and do not include detailed plans for the housing proposed. The exact location and design of residential dwellings would be determined at the reserved matters stage. However based on the illustrative masterplan submitted, it is considered that the number of dwellings and other development being proposed could be accommodated on the site without having an unacceptable impact on the residential amenities of those living adjacent to the site in terms of overlooking, loss of privacy or nuisance.

In terms of Environmental Health, the District Council's Environmental Health Officer reviewed the application and recommended a Construction and Environment Management Plan (CEMP) condition to any approval.

The proposed dwellings would be expected to comply with the Nationally Described Space Standards (NDSS). Whilst these are not adopted planning policy within the Local Plan, they are nevertheless a useful guide and Policy D1 seeks to ensure that development does not adversely affect the living conditions of occupants of proposed future residential properties and that development includes features that maintain good levels of daylight and sunlight into buildings. These requirements also accord with the P.135 (f) of the NPPF's requirement for a high standard of amenity for existing and future occupiers.

The proposed development at outline stage is therefore considered to be acceptable and would comply with Policy D1 and Policy EN14.

## **Arboricultural Impact**

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development should not adversely affect trees worthy of retention.

Policy D3 (Trees and Development Sites) 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.

Para 136 of the NPPF24 states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change; opportunities should be taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures should be in place to secure the long-term maintenance of newly-planted trees, and that existing trees should be retained wherever possible.

None of the trees on the site are protected the only removal would be of an elm and sycamore tree to create the proposed vehicular access. Whilst the loss of any trees is regrettable, it is considered that additional planting, subject to conditions, can mitigate any loss and that overall the development would comply with Policy D3 (Trees and Development Sites) of the Local Plan.

## **Drainage and Flood Risk**

Policy EN21 (River and Coastal Flooding) of the EDLP (2016) states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use will be permitted in areas subject to river and coastal flooding. Wherever possible, developments should be sited in Flood Zone 1. The policy sets out a sequential approach whereby if there is no reasonably available site in Flood Zone 1, only then will locating the development in Flood Zone 2 and Flood Zone 3 be considered.

Policy EN22 (Surface Run-Off Implications of New Development) of the adopted Local Plan (2016) states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.
3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.

5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

The NPPF (2023) states at Paragraph 168 that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The majority of the site is within Flood Zone 1 where there is a very low risk of flooding however, the land adjacent to the northern boundary lies within an area identified as being at risk of fluvial flooding being within Flood Zones 2 and 3. The illustrative masterplan indicates that the built development will completely avoid these areas, with all new development being sited within Flood Zone 1.

In relation to surface water run-off, a Flood Risk Assessment (FRA) has been submitted as part of the application including a surface water drainage strategy developed in accordance with DCC's 'SuDS Guidance for Devon' with an additional allowance of 45% additional capacity made for climate change.

The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who raise no objections to the amended proposed drainage strategy, subject to appropriate conditions relating to a detailed drainage design, management of the surface water drainage system as well as information on the existing surface water drainage systems. The proposal is considered to be acceptable at this stage in relation to surface water subject to conditions.

In relation to Foul Sewage, South West Water were consulted on the application and do not object to the principle of the proposed outline application subject to conditions. They requested conditions in relation to Surface Water Management and a Water Conservation Strategy. The strategy shall include a water efficiency specification for each dwelling type, demonstrating that all the 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.

Having regard to the above the proposal is considered to comply with NPPF23 and Policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the Local Plan.

### **Ecology and 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 187 to 188 of the NPPF, 2024.

Policy EN5 (Wildlife Habitats and Features) of the adopted Local Plan (2016) states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process. Where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

Policy PB07 (Ecological enhancement and biodiversity in the built environment) of the Emerging East Devon Local Plan 2020 to 2024 (Regulation 19 Plan February 2025) states that in addition to features required as part of biodiversity net gain, mitigation or compensation, all proposals are required to incorporate features of biodiversity value tailored to the specific proposals, relevant local receptors and in accordance with best practice to maximise potential benefits.. This emerging policy carries limited weight at the time of determination.

The application is supported by an Ecological Impact Assessment, including an Extended UK Habitat Classification Survey and bat activity, dormouse and Great Crested Newt surveys were undertaken. The site comprises modified grassland, bound by native hedgerows and a watercourse. It was found to have evidence of or potential for a range of protected and notable species, including breeding birds, common reptile, common amphibians, dormouse, hedgehog and community/foraging bats. There are no statutory, or non-statutory designated sites of nature conservation interest within or adjacent to the site.

Policy EN5 requires that where development is permitted on sites that are host to important wildlife habitats or features, mitigation will be required. In terms of protected species, mitigation is proposed for possible impacts on birds, bats, dormice and badgers to include:

Birds – Hedgerow habitat has been retained where possible, however approximately 14m of the southern hedgerow is proposed to be removed to provide road access. This should be removed outside the bird breeding season and additional planting, and integrated bird boxes provided.

Bats – To ensure bats can continue to use the hedgerow and watercourse boundary features for foraging and commuting during construction, no site lighting will be permitted. Dark buffers of a minimum of 3-5m along the eastern and western boundaries, and approximately 10m at the northern boundary to the watercourse will be maintained. The creation of new hedgerows, as well as additional tree planting, species-rich grassland within the buffers and SuDs will provide enhanced foraging habitat.

Dormice – A Natural England EPS licence will be required prior to the removal of hedgerow. A detailed mitigation plan will be developed as part of the EPS licence with mitigation implemented to maintain the conservation status of dormice on site.

In these circumstances the Local Planning Authority has a statutory duty under Regulation 3(4) to have regards to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species maybe affected.

The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations: The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application and that failing to do so will be in breach of the Habitats Regulations. The three tests are:

**1. the activity must be for imperative reasons of overriding public interest or for public health and safety;**

In this case it is considered that the imperative reasons of overriding public interest are as follows:

- The delivery of housing on a sustainable site without any landscape harm.
- The development would make a positive contribution towards the Council's 5 year housing land supply
- The development would secure 35% on site affordable housing and an off site contribution of £115,832

**2. there must be no satisfactory alternative;**

There is an identified need for additional housing, and there is no alternative suitable site within the vicinity of the area. The access cannot be created at point with lesser impact.

**3. favourable conservation status of the species must be maintained.**

To mitigate for the loss of 14m of hedgerow enhancement of the remaining hedgerow, including a detailed mitigation plan as part of the EPS licence. This could include ecological supervision for the removal of hedgerows, timing of hedgerow removal to avoid sensitive periods for dormice, ensuring hedgerow breaches are no wider than necessary for road access, compensating hedgerow loss with native species-rich hedgerow planting and making new owners/occupiers aware of the potential harm caused by domestic cats, with an emphasis on encouraging cats to be kept indoors at night. Monitoring of dormice will be required as part of the mitigation licence actions to ensure the species favourable conservation status in the long term.

Having regard for the above assessment, it is considered that the three tests can be met and that Natural England are likely to grant an EPS licence.

Badgers – The mammal holes will be monitored to determine whether they are used by badgers. If a badger sett is discovered on site a licence from Natural England will be applied for before construction begins if any impact to the sett is likely.

As the majority of the hedgerow is being maintained, no significant impacts on invertebrates are envisaged. Habitat creation including trees, species-rich grassland and species-rich hedgerow planting is likely to be of benefit to invertebrate species.

There is limited potential for reptiles to be present on the site along the hedgerows and within the watercourse. There is the possibility that hedgerow removal to allow the road access will cause injury/kill individual reptiles, therefore suitable hand searching hedgerow bases be undertaken prior to any removal.

The development as proposed (at outline) will result in the loss of approximately 2.76ha modified grassland and 14m species-rich hedgerow.

The mitigation proposed as part of this application as well as a CEMP and LEMP will need to be secured and this can reasonably be achieved through a suitably worded condition in the form of the requirement for the approval of an Ecological Mitigation Strategy based on the proposed mitigation in the Environmental Report.

### Biodiversity Net Gain (BNG)

As this application was submitted in June 2023, the legal requirements under the Environment Act 2021 do not apply to this application however the application is proposing a net gain which can be secured via a condition.

The site baseline comprises 6.02 habitat units and 7.67 hedgerow units

As part of this planning application, a Biodiversity Net Gain Assessment was submitted. The proposed development (at outline - to be confirmed at detailed design) will comprise 7.36 habitat units and 9.33 hedgerow units, resulting in a net gain of 1.34 habitat units (22.21%) and an increase in hedgerow units of 1.65 (21.56%)

In addition, the following enhancements for protected species are recommended

- integrated bat and bird boxes at an average of one per dwelling
- one invertebrate brick per unit
- habitat piles in hedgerow buffers

Whilst the final landscaping scheme would be secured as part of a reserved matters application and the BNG needs to be secured via a condition and then be evidenced in the subsequent reserved matters, it is considered that the application site would result in a quantifiable BNG.



## **Open Space**

Strategy 43 (Open Space Standards) of the adopted EDLP (2016) states that developments proposing net new dwellings will be expected to provide for open space on-site where there is a demonstrable need for such open space in the vicinity. Developments will be assessed against existing provision in the parish in which they are proposed. Where existing provision of specific typologies exceeds quantity standards, on-site provision will only be required where the existing open space typology is of poor quality or is in some other manner deficient such as not matching up to the accessibility standard. Developments will be expected to provide open space on-site through a Section 106 Agreement in line with the following thresholds:

- 9 dwellings or less will not be required to provide any specific open space typologies onsite, however developers may choose to make such provision.
- 10 - 49 dwellings will be required to provide amenity open space on-site.
- 50 - 199 dwellings will be required to provide amenity open space, and children's and youth play space on-site.
- 200+ dwellings will be required to provide for all open space typologies on-site.

The application would include up to 30 residential dwellings meaning that amenity open space is required on site by Strategy 43. Strategy 43 sets out that in rural locations developments should include 3.0m<sup>2</sup> per person of amenity open space. As detailed layouts are not known it is considered that the application could include up to 75 residents. The requirement for up to 75 residents would be for 225m<sup>2</sup> of amenity open space.

The detailed site layout would be reviewed as part of the reserved matters application however based on the submitted illustrative site plan, which includes a village green with open space to the north and west, it is considered that there is sufficient room to include the provision of amenity open space required, such that the proposal would accord with the requirements of Strategy 43.

## **Agricultural Land**

Paragraph 180 (b) of The NPPF (2023) requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In addition, the planning system should contribute to and enhance the natural and local environment, including protecting and enhancing soils.

Policy EN13 of the adopted Local Plan aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The application site measures around 2.94ha and is currently used for agricultural purposes. Where the loss of agricultural land is proposed an assessment must be made as to whether it is the best and most versatile agricultural land (Grades 1, 2 and 3a). Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest

that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available, or the benefits of development justify the loss of the high-quality land.

The vast majority of the site is Grade 4 (poor) agricultural land, with a small area to the south western corner identified as being Grade 3 land. It is understood to have been grazed, but due to the neighbouring residential development to the south and west, recreation ground to the east and watercourse to the north it is of very limited agricultural value.

The proposed development would result in the permanent loss of this agricultural land starting at the construction stage, and whilst the loss of nearly 3 ha of any agricultural land is regrettable, it is not considered that the loss would significantly harm wider agricultural interests.

### **Health Care**

The Royal Devon University Healthcare NHS Foundation Trust has commented on the planning application. It seeks a £18,801 contribution towards health services. However the request is not considered to be robustly justified to warrant such a contribution, at this time.

### **Planning Obligations**

Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) states that the Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. The failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

As set out throughout this report, the following obligations are required for this development via a S106 legal agreement:

1. Delivery of 35% on site affordable housing
2. 15% off-site affordable housing contribution of £115,832
3. Pedestrian/Cycle connections to the east of the site to the Parish Hall, to the south adjacent to Knights Cottages, and to the north adjacent to Pencepool Cottages.
4. Provision and maintenance/management arrangements for on-site school parking.
5. Provision and maintenance/management arrangements for on-site communal open space
6. Monitoring fees

If this application were to be approved a S106 would be required which captured the above. However, if this application is refused the lack of a legal mechanism to secure

these contributions should also form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets), and Geology) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing Supplementary Planning Document (November 2020).

### **Other Matters**

The potential village shop/parking would be of benefit to the community, and of wider public benefit. However there is no evidenced demand for these works and there is no policy requirement to lend support to these proposals.

### **Planning Balance and Conclusions**

It is a requirement of planning law that planning decisions are determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The site is not allocated for development and is located in open countryside meaning that the proposal would be contrary to Strategy 1, 7 and 27 of the adopted Local Plan which sets the spatial strategy for development and seeks to restrict development in the countryside unless explicitly supported by other local or neighbourhood plan policies.

Whilst the site lies outside any Built-up Area Boundary (BUAB), it adjoins the village of Plymtree and would be within walking and cycling distance of the services, albeit limited, within the village. The proposal would therefore have some support from Strategy 3 of the adopted Local Plan and the NPPF which supports sustainable development, and the development would appear to accord with the overarching principles of delivering sustainable development.

A material consideration in the decision of this application is the need to bolster housing supply especially affordable housing and the proposal would result in additional housing adjacent to Plymtree which should be given significant weight in the decision. Strategic Planning Committee have advised that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position. The application site has been identified in the emerging East Devon Local Plan, currently at Regulation 19 stage as being suitable to accommodate up to 30 dwellings. This allocation, ratified by the Councils Strategic Planning Committee, and included in the Regulation 19 consultation draft weighs in favour of the proposal given the council's current housing land supply shortfall, although the draft local plan designation carries very limited weight at present.

The proposal would include 50% affordable housing (35% on site and 15% via an off-site contribution) which meets the requirements of Strategy 34 and should be given significant weight in the determination of this application.

The identified harm to heritage assets needs to be weighed against any public benefits. The proposal would result in additional dwellings adjacent to the centre of

Plymtree which would help support employment and services in the local area and 35% of the on-site dwellings would be affordable. The proposal would result in public open space and play space as well as pedestrian connections, the provision of parking for the school and potential community building. There are also employment opportunities associated with the construction of the development.

It is considered that whilst the proposed development would result in some visual harm to the setting of heritage assets, this harm is considered to be less than substantial and the positive benefits of the development, in terms of providing new housing and much needed affordable housing, and creating public access to the site and new vistas of the heritage assets are considered to weigh heavily in favour of the development such that overall it comply with the requirements of policy EN9 (Development Affecting a Designated Heritage Asset) of the Local Plan and paragraph 215 of the NPPF24.

The proposed layout has reduced the extent by which the urbanising character would erode the setting of the identified heritage assets, however some harm will remain through the erosion of the green rural landscape by the proposed development, and results in less than substantial harm to their significance. This weighs negatively in the planning balance and must be outweighed by public benefit.

This application has been submitted in outline form for up to 30 residential units seeking approval for access only. Matters of layout, appearance, scale and landscaping have been reserved for future consideration, however the submitted indicative layout, as amended is considered to be appropriate to demonstrate that it would be possible to accommodate up to 30 residential units whilst respecting the constraints of the site.

The application has a number of associated benefits including housing delivery and the provision of affordable homes, highway works and public open space which are given weight in the decision. The sustainable location and access to services and infrastructure is also a benefit. The proposal would include economic benefits from construction to operation and benefits to local businesses and services as well as CIL payments of which a proportion would go to the parish council. These are all considered to be benefits of the development which align with the NPPF's three overarching objectives (economic, social and environmental). Some less than substantial harm to the landscape and heritage assets is acknowledged which weighs negatively in the planning balance.

The proposal has been assessed in relation to design, highways, trees, ecology, contamination, sustainability and amenity and officers have concluded that the proposal would not result in significant harm. The proposal would also result in a Biodiversity Net Gain and the provision of public and play space exceeds the local plan requirement.

When taking all of the above into account the conflict with residential development in the countryside, and visual impact on the character of the immediate area and less than substantial harm to heritage assets, this not considered to significantly and demonstrable outweigh the benefits (noted above), when assessed against the policies of the framework as a whole.

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

This proposal is considered to benefit from the presumption in favour of sustainable development which, as a material consideration, outweighs the limited conflict with the development plan. As such a recommendation of approval is made, subject to completion of a Section 106 Agreement and appropriate conditions.

### **RECOMMENDATION**

APPROVE the application subject to the completion of a S106 Agreement and conditions

#### **1. Time Period for Submission**

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).

#### **2. Reserved Matters**

Approval of the details of the layout scale and appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(Reason - The application is in outline with one or more matters reserved.)

#### **3. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.

(Reason – For the avoidance of doubt).

#### **4. Construction and Environmental Management Plan (CEMP)**

Prior to commencement of development a Construction and Environment Management Plan must be submitted to and approved by the Local Planning Authority and shall be implemented and remain in place throughout the development.

The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. The plan shall also consider construction vehicle routing and delivery arrangements.

Construction working hours and all site deliveries shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays.

There shall be no burning on site.

There shall be no high frequency audible reversing alarms used on the site.

(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution from the outset (required to be pre-commencement) in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan.)

The conditions should be pre-commencement since it is essential that the proposed details are provided before any construction impacts on the environment commence.

## 5. Construction Management Plan (CMP)

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

(Reason - To promote sustainable travel in accordance with the East Devon Local Plan 2013-2031.

The conditions should be pre-commencement since it is essential that the proposed details are provided before any construction impacts on the environment commence

## 6. Tree Protection Measures

a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full tree survey based on BS5837:2012, including a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement for the protection of retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

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 trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

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

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

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

g) The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason – A pre-commencement condition is required to ensure retention and protection of trees on the site 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).

## 7. Water Conservation Strategy

Each Reserved Matters applications for a phase of development pursuant to this outline permission which include a residential component shall be accompanied by a Water Conservation Strategy to be submitted for the 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 Optional 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). This aligns with the joint statement produced by SWWL and the EA).

## 8. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:



- (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy (Report Ref.E06146-CLK-XX-XX-RP-FH-0001 , Rev.P4 , dated 6th June 2023).
- (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (c) 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) Evidence there is agreement in principle from the landowner/DCC highways/SWW.
- (f) 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.

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 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. Lighting Scheme

A Lighting Design including lux contours, based on the detailed site design, most recent guidelines (currently GN08/23 and DCC 2022), and the proposed lighting strategy has been submitted and approved in writing by the Local Planning Authority as part of any reserved matters application. The design should clearly demonstrate where dark corridors (<0.5 lux) are provided without the attenuation of habitat features which long-terms management cannot be guaranteed. All lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

(Reason - To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

## 10. Landscaping

No development work shall commence on site until the following information has been submitted to and approved by the LPA:

a) A full set of hard landscape details for proposed walls, fencing, retaining structures, hedgebanks, pavings and edgings, site furniture, play equipment and signage.

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 3 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.

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:

- 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.

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.

(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.)

#### 11. Landscape and Ecological Management Plan (LEMP)

No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 30 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 plan showing areas to be adopted, maintained by management company or other defined body and areas to be privately owned/ maintained.
- 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.
- 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.
- Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:
  - o 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.
  - 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.
- 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.

Management, maintenance and monitoring shall be carried out in accordance with the approved plan.

(Reason - In the interests of enhancing and preserving the amenity of the area in accordance with Policy D2 (Landscape Requirements) of the East Devon Local Plan.)

## 12. Landscaping Replacement

The landscaping works approved as part of the reserved matters application(s) or as part of an advance planting scheme shall be undertaken in accordance with the approved scheme within 12 months of completion of development or during the next planting season following completion whichever is the sooner unless an alternative timetable for delivery has been agreed by the local planning authority.

If within a period of 10 years from the date planted any tree, plant, grass area or shrub dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with other(s) of similar size and species by the developer.

If within a period of 10 years of the commencement of development, any part of any retained/translocated hedgerow dies or becomes diseased, it shall be replaced by the developer before the end of the next available planting season in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

(Reason - In the interests of enhancing and preserving the amenity of the area in accordance with Policy D2 (Landscape Requirements) of the East Devon Local Plan.)

## 13. All reserved matters applications for layout shall be accompanied by Waste Audit Statement to ensure that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance.

Development must be undertaken in accordance with the agreed details.

(Reason: To ensure waste generated by the construction and operational phases is in accordance with Policy W4 of the Devon Waste Plan which requires major development proposals to be accompanied by a Waste Audit Statement.)

## 14. Pedestrian Footpath

The reserved matters application for layout shall include details of:

- (i) Pedestrian route to the east of the site connecting the village to the Parish Hall via the site and recreation ground;
- (ii) Pedestrian link to the south into the village adjacent to Knights Cottages; and
- (iii) pedestrian link from the north of the site adjacent to Pencepool Cottages.

The details shall include the design of the link, lighting, and surface materials. The footpath(s) shall be provided in accordance with the approved details prior

to occupation of the 10<sup>th</sup> dwelling and shall be retained and maintained as publically accessible routes for the lifetime of the development.

(Reason - To promote active modes of travel and to ensure the development is permeable to ensure assimilation into the village as a whole. To reduce car dependency for travel within and outside of the development in accordance with Policy TC4 (Footpaths, Bridleways and Cycleways) and Policy TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan

#### Plans relating to this application:

PL10 REV B	Location Plan	13.06.23
	Transport Statement	13.06.23
APPENDIX E	Transport Statement	13.06.23

#### List of Background Papers

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

### **Statement on Human Rights and Equality Issues**

#### Human Rights Act:

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

#### Equality Act:

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

## **APPENDIX 1**

Housing Strategy/Enabling Officer - Cassandra Pressling – 17.06.24

23/1247/MOUT | Outline planning permission for the construction of up to 30 dwellings (including affordable housing), open space, car parking, building for community use and associated infrastructure. All matters reserved except access. | Land North Of Plymtree Primary School Plymtree Cullompton

### **SUPPORT**

Further to my comments of 26th September 2023 on this application, I note the percentage of affordable housing has been changed to 35%. Under current policy Strategy 34, a requirement of 50% affordable housing is required. However, given the lack of a 5 year land supply and under delivery of homes, I feel this is a reasonable offer.

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 6000 households registered.

Tenure - Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership. For the proposed 10 affordable units, this would amount to 7 rented units and 3 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - will be determined at Reserved Matters stage. However, I expect the applicant to engage with the housing team early on to ensure a mix that meets housing needs. All affordable units should also meet M4 (2) standards.

Council Plan 2024 - 2028 - East Devon District Council recognises the challenges faced by many residents due to the high costs of both buying and renting. Housing is a key driver of wider inequalities in the district and we are committed to helping more residents into affordable, sustainable homes. This application will provide 10 affordable homes, so will help us meet this challenge.

Cassandra Pressling  
Housing Enabling Officer

Housing Strategy/Enabling Officer - Cassandra Pressling – 26.09.23

### **Objection**

Percentage of Affordable Housing - Strategy 34 in the adopted East Devon Local Plan 2013 - 2031 requires 50% affordable housing. This application is only offering 25% affordable which is not policy compliant. They have not submitted a viability appraisal to state why they are only offering 25% affordable housing so I object to this application.

Regards,  
Cassandra Harrison  
Housing Enabling Officer - East Devon District Council

## County Highway Authority – 23.07.2024

### Observations:

I have visited the site in question and reviewed the planning documents of this planning application.

The application is outline only, therefore I will reserve commenting upon the internal site layout.

The application includes a speed survey which allows the visibility splay to be provided for the access to be tailored to the actual speed of the road, therefore we accept a visibility splay of 33m in both directions with an 'x' depth of 2.4m, in accordance to Manual for Streets 1 and 2, where the speed of the road has been established at 25 miles an hour, this will also need a vertical clearance of 0.6m and above.

I am satisfied that this access can be established in the south-east corner of the development which as the primary access will be better placed than the proposed emergency/ footway

access, of where there is increased interaction of traffic. Therefore from a technical highway consultee perspective, I have no objection to this.

The ATC traffic count carried out, showed that during peak hours one vehicle per minute passes the vicinity of this development, therefore, I am happy to accept that this planning application is unlikely to exacerbate the trip generation upon the local highway network to an unacceptable level. That being said, should this application come forward for a full application, I would advise that a comprehensive, Construction and Environment Management Plan (CEMP) is submitted to help mitigate against any construction impact upon the road network including wheel-washing, contractor car-sharing, 'just-in-time' deliveries and

before and after road surveys. Together with secure cycle storage for each dwelling to encourage sustainable travel, especially to the local facilities, of the shop, church and school.

The proposed internal car park for the primary school is still being retained together with parking for knights cottage, both of these features will help alleviate on-street parking, which

is a betterment on highway safety grounds.

Therefore, overall at this outline application stage, the County Highway Authority (CHA) has no objection to this planning application.

### Addendum 23/07/2024

The CHA has reviewed the re-consulted plans and we satisfied that our stance remains the same.

### Recommendation:

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

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking

place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel in accordance with the East Devon Local Plan 2013-2031.

#### County Highway Authority – 13.10.2023

##### Observations:

I have visited the site in question and reviewed the planning documents of this planning application. The application is outline only, therefore I will reserve commenting upon the internal site layout.

The application includes a speed survey which allows the visibility splay to be provided for the access to be tailored to the actual speed of the road, therefore we accept a visibility splay of 33m in both directions with an 'x' depth of 2.4m, in accordance to Manual for Streets 1 and 2, where the speed of the road has been established at 25 miles an hour, this will also need a vertical clearance of 0.6m and above.

I am satisfied that this access can be established in the south-east corner of the development which as the primary access will be better placed than the proposed emergency/ footway access, of where there is increased interaction of traffic. Therefore from a technical highway consultee perspective, I have no objection to this.

The ATC traffic count carried out, showed that during peak hours one vehicle per minute passes the vicinity of this development, therefore, I am happy to accept that this planning application is unlikely to exacerbate the trip generation upon the local highway network to an unacceptable level. That being said, should this application come forward for a full



application, I would advise that a comprehensive, Construction and Environment Management Plan (CEMP) is submitted to help mitigate against any construction impact upon the road network including wheel-washing, contractor car-sharing, 'just-in-time' deliveries and before and after road surveys. Together with secure cycle storage for each dwelling to encourage sustainable travel, especially to the local facilities, of the shop, church and school.

The proposed internal car park for the primary school is still being retained together with parking for knights cottage, both of these features will help alleviate on-street parking, which is a betterment on highway safety grounds.

Therefore, overall at this outline application stage, the County Highway Authority (CHA) has no objection to this planning application.

Recommendation:

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

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel in accordance with the East Devon Local Plan 2013-2031.

## Conservation AMENDMENTS

01.08.2024

The conservation assessment of the amendments should be read in conjunction with earlier comments provided on 19.09.2023 and those offered by Historic England dated 09.08.2023 and more recently 27.06.2024.

As discussed, the revised site layout plan goes towards addressing concerns regarding the 'erosion of a principal outward view from the identified listed buildings within the village as a result of the sites location.' Through reducing the number of dwellings within the plot to the north of the church and those to the east, which in turn allows for a larger green space.

Notwithstanding the revised layout, which is welcomed, there will inevitably be harm to views and experience from the identified assets, that fails to preserve the setting of the assets and to a lesser extent their significance, harm which needs to be weighed against public benefit through the planning assessment.

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 heritage assets.

Paragraph 205 of the National Planning Policy Framework [NPPF] explains that great weight should be given to the conservation of designated heritage assets. Paragraph 208 states that any less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal.

In this respect the revised layout continues to fail to preserve the setting of the identified heritage assets and to a lesser extent results in less than substantial harm to their significance, harm which needs to be weighed against public benefit through the planning assessment.

## Conservation – 19.09.23

CONSERVATION CONSULTATION FOR AN OUTLINE PLANNING APPLICATION AFFECTING THE SETTING OF SEVERAL HERITAGE ASSETS.

23/1247/MOUT

Land North of Plymtree Primary School, Plymtree, Cullompton

Outline planning permission for the construction of up to 30 dwellings (including affordable housing), open space, car parking, and building for community use and associated infrastructure. All matters reserved except access.

## Significance

The development site is proposed within an open rural site, stretching east of the village core, and in close proximity to several listed buildings that form part of the village, namely;

- o Pencepool Barn - Grade II - north of the site
- o Pencepool Farm - Grade II\* - north of the site
- o Rose Cottage - Grade II - west of the site
- o St John The Baptist Church - Grade I - southwest of the site
- o Knights Cottage - Grade II - south of the site
- o Beech Cottage - Grade II - south of the site.

In character the village is built to a mediaeval plan, reminiscent of a historic 'grid-iron' layout of a main street intersected by other streets, the linear form of which is still evident today, which contributes to the setting of the identified heritage assets and the Grade I listed 15th century parish church, St John the Baptist Church, sited within the core of the village, and southwest of the development site.

In context of the built form within the village this is mostly set back along the main route(s) into and out of the village, with small scale later development in the form of cul-du-sacs to the north-east and south of the village. The location of these allows for the central core of the village sited around the Grade I parish church and the listed buildings to remain open, allowing for immediate and wider key views towards the east and neighbouring village or hamlet of Fordmoor. The culmination of which provides the context in which the village and setting of the listed buildings are experienced.

The value of this undeveloped view beyond the village is further appreciated when considered against partially obstructed and or glimpsed wider views of the open countryside from within the built environment of the village, an experience which provides relief from the built form of the village.

Additionally, views on approaching the village from the north and south-east includes development abutting the road, however as a result of its low density and mainly vegetated verges, the village presents an evolved semi-rural character.

In this respect the open character of the proposed development site allows for a mostly unobstructed view from the public and private domain, towards the east and south of the site, with partially obscured views from the north. Identified views that have evolved, and add to the experience of a small community in a rural landscape, which makes a positive contribution to the character and appearance of the village itself that forms the setting of several listed buildings.

## Proposed works

The works as proposed are for an outline planning application for the construction of up to 30 dwellings (including affordable housing), open space, car parking, building for community use and associated infrastructure. All matters reserved except access.

The potential harm to the heritage asset (conservation area) and identified setting as a result of the proposed development works, has been balanced against paras. 202 and 206 of the NPPF21 and the New East Devon Local Plan (2013-2031), as discussed in the assessment of harm which forms part of this report.

## Assessment of harm

In character and as discussed through the assessment of significance, Plymtree as a village represents a small community in a rural area, with open countryside surrounding the boundaries of the built form providing the rural context in which the identified heritage assets are experienced.

Whilst some development, in the form of cul-du-sacs branching off the principle route through the village to the north and south has previously been considered acceptable through planning. The current application is for a more significant amount of development, which would result in the erosion of a principal outward view from the identified listed buildings within the village as a result of the sites location.

The increase in built density of the urban grain which contributes to the experience of the village would in an adverse impact on the setting and the contribution this makes to the significance of the heritage assets resulting in less than substantial harm (NPPF para 202).

Furthermore, where development falls within the setting of a listed building, opportunities should be sought to enhance or better reveal their significance of the affected heritage assets (NPPF, Para 206).

In this respect and to reiterate Historic England's position as to questions over whether there are opportunities by which the potential impact could be minimised further through the reduction of the urbanising elements that affect the setting of the church and the farmhouse. In so doing, would ensure the tranquillity of both sites is better revealed through the proposed development (NPPF, Para 195 and 206).

In summary, the principal of introducing 30 new homes to the east of the village core within open landscape as proposed, would result in a moderate level of less than substantial harm to the significance of the identified heritage assets and how these are experienced through setting. Therefore failing to preserve, enhance or better reveal the significance of the heritage assets resulting in less than substantial harm through paras. 202 and 206 of the NPPF21 and Policies EN9 & EN8 of the New East Devon Local Plan (2013-2031), as discussed in the assessment of harm which forms part of this report.

Recommend refusal

#### Historic England – 27.06.24

Thank you for your letter of 13 June 2024 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

#### Historic England Advice

Historic England previously provided advice in respect of the proposed application (dated 9 August 2023). This letter should be read in conjunction with our earlier correspondence. Historic England's interest relates to the grade I listed St John the Baptist and grade II\* Pencepool Farmhouse.

The revised scheme has sought to create a clearer green open space that cuts across the site at its eastern end. Some development still remains to the north of the church with the development to the west has been set back from the previous building line.

Overall the scheme has reduced the extent by which the urbanising character would erode the setting of the identified heritage assets. However, some harm will still remain through the erosion of the green rural landscape by the proposed development. The council will need to consider any resulting harm within the planning balance, ensuring that sufficient public benefit have been provided to outweigh the proposed harm (NPPF, Para 208). They should also seek to ensure that all opportunities have been

taken to enhance and better reveal the significance of the heritage asset (NPPF, Para 212).

## Recommendation

Historic England has concerns regarding the application on heritage grounds.

Although steps have been taken to minimise the harm, some harm still remains. The council should be satisfied that all opportunities have been taken to enhance and better reveal the significance of the heritage asset. They should ensure in their deliberations that any harm is outweighed by the public benefit offered by the scheme

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs [insert para. numbers] of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

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

### Historic England – 09.08.23

Thank you for your letter of 19 July 2023 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

## Historic England Advice

### Significance of the affected heritage assets

The application site sits on a green swathe of land that reaches at its western end into the core of the village of Plymtree. In close proximity to the boundary of the site to the south-west is the grade I listed St John the Baptist, a well preserved example of a rural Devon church with 15th century origins. While to the north is the grade II\* Pencepool Farmhouse, a vernacular cob building with a cross passage arrangement.

In respect of both the assets, they have experience some development within their setting. However, they still retain a connection to the green tranquil surrounding through the application site, which contributes to their experience of place and therefore, their significance.

### Impact of the proposed works

The proposal is to develop the site for 30 residential units. To the west and falling within the setting of the church and farmhouse, a modest area of village green has been introduced along with an attenuation pond; however, some residential

development within the proximity of the assets, introducing a more urbanising character into the green and tranquil setting.

### Policy Context

Within Para 195, NPPF, it highlights that opportunities should be sought to avoid and minimise any development that causes conflict with the conservation of the heritage asset.

Furthermore, where development falls within the setting of a listed building, opportunities should be sought to enhance or better reveal their significance of the affected heritage assets (NPPF, Para 206).

### Historic England's Position

The introduction of housing into the rural setting of St John the Baptist and Pencepool Farmhouse, would introduce an urbanising character into what has previously been open and green fields.

We appreciate that some degree of a green buffer has been retained. However, there are questions over whether there are opportunities by which the potential impact could be minimised further through the reduction of the urbanising elements that affect the setting of the church and the farmhouse. In so doing, would ensure the tranquillity of both sites is better revealed through the proposed development (NPPF, Para 195 and 206).

### Recommendation

Historic England has concerns regarding the application on heritage grounds.

These concerns relate to the introduction of urbanising features into the green and rural setting of the Church of St John the Baptist and Pencepool Farmhouse. The council with input from their conservation officer, should identify whether there are opportunities by which the impact could be avoided and minimised in order to better reveal the significance derived from the affected asset's setting.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 195 and 206 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

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

## 02.10.2023 South West Water

SWWL notes that according to your website, we were not consulted previously over this application.

### Foul Water Flows

It is noted the applicant proposes to discharge to the mains sewer. There should not be any need for reinforcement on the waste network for this site.

The storm overflow at the treatment works will be investigated and receive investment. The foul flows from this site will be taken into consideration as part of that assessment.

It is noted the applicant will be seeking adoption of the network from SWWL. If this is the case, the applicant is reminded that SWWL requires the sewers to be design and constructed in accordance with the latest version of Design and Construction Guidance. SWWL offer a pre- design discussion/assessment service. Further details on sewer adoption can be found at <https://www.southwestwater.co.uk/building-and-development/services/sewer-services-connections/Adoption-of-new-sewers>

### Surface Water Flows

SWWL comments relate to domestic run off from the site (run off from roofs and driveways (land appurtenant to buildings)), subject to the sewers being designed and constructed in accordance with the Design and Construction Guidance (DCG). The applicant should make separate arrangements to deal with:-

a. Land Drainage - SWW is not a land drainage authority. As such, no connection of land drainage will be permitted into the public sewerage networks.

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

It is noted the applicant proposes to discharge to a sustainable drainage system using an attenuation basin and tanks system, followed by discharge to a watercourse.

### Potable Water Supply

The existing water distribution network has sufficient capacity to supply this development.

The applicant is strongly advised to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by adopted Planning Policy Strategy 3 and 38. The current average water use in the UK is approx. 142 litres/person/day [l/p/d] (Water UK, 2020), with the South West experiencing a higher-than-average consumption rate than the rest of England. With climate change progressing with trends set

to add further stress upon available water resources, SWWL would support the LPA imposing a condition requiring the optional Building Regulations requirement (G2) of 110 l/p/d for the proposed residential development.

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

Each Reserved Matters applications for a phase of development pursuant to this outline permission which include a residential component shall be accompanied by a Water Conservation Strategy to be submitted for the 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 Optional 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). This aligns with the joint statement produced by SWWL and the EA.

DCC Flood Risk Management Team – 08.07.24

Recommendation:

Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy (Report Ref.E06146-CLK-XX-XX-RP-FH-0001 , Rev.P4 , dated 6th June 2023).

(b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(c) 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) Evidence there is agreement in principle from the landowner/DCC highways/SWW.

(f) 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.

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 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:

Any temporary or permanent works that need to take place within the ordinary watercourse to facilitate the proposed development (such as an access culvert or bridge), 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/>.

Urban creep should be added to the storage calculations.

Ruilin Jiao  
Flood and Coastal Risk Intern

DCC Flood Risk Management Team – 19.07.23

Recommendation:

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

Observations:

The applicant has submitted Flood Risk Assessment & Drainage Strategy (Report No. E06146-CLK-XX-XX-RP-FH-0001, Rev. 0, dated 6th June 2023) to clarify the surface management of the site.

The applicant proposed to discharge the surface water into an above ground attenuation basin located in the north west of the site before discharging into the watercourse located in the north of the site.

The applicant shall confirm the side slope of the proposed attenuation basin.

Ruilin Jiao

Police Architectural Liaison Officer - Kris Calderhead

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

I appreciate that the layout of the site is only illustrative at this stage however, I would like to make the following comments and recommendations for consideration. They relate to the principles of Crime Prevention Through Environmental Design (CPTED)

and should be embedded into the detailed design of the scheme to reduce the opportunity for crime and anti-social behaviour (ASB).

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

- o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets with accessible space to the rear of plots avoided. I note some plots abut fields but the mature boundaries will be retained with a 'generous buffer' which is supported. There must not be easy access to the rear boundaries of plots.

- o I note the school car parking area. This essentially appears to be a rear parking court which generally are not recommended for the reasons discussed below. If they are unavoidable, they should be afforded some surveillance opportunities, be well lit and abut as few rear plot boundaries as possible.

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

- o Boundary treatments to the front of dwellings 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.

Kris Calderhead  
Designing Out Crime Officer  
Exeter Police Station  
Sidmouth Road  
EX2 7RY  
West Team  
Planning Office  
East Devon Council

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Defensible space should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.

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

- o Presumably the site will be adopted and lit as per normal guidelines (BS 5489). Appropriate lighting for pathways, gates and parking areas must be considered. This will promote the safe use of such areas, reduce the fear of crime and increase surveillance opportunities.
  - o Vehicle parking will clearly be through a mixture of solutions although from a crime prevention point of view, parking in locked garages or on a hard standing within the dwelling boundary is preferable. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms. Rear parking courts are discouraged as they provide legitimate access to the rear of plots and are often left unlit with little surveillance.
  - o Play areas / village green should be well overlooked and located so as not to cause disturbance or conflict with nearby dwellings. They should also be afforded an appropriate boundary treatment to prevent vehicle access.
- Should the application progress, please don't hesitate to contact me again to review any updated plans and designs.

Kris Calderhead  
Designing Out Crime Officer

Police Architectural Liaison Officer - Kris Calderhead

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

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

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

- o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets with accessible space to the rear of plots avoided. I note some plots abut fields but the mature boundaries will be retained with a 'generous buffer' which is supported. There must not be easy access to the rear boundaries of plots.

- o I note the school car parking area. This essentially appears to be a rear parking court which generally are not recommended for the reasons discussed below. If they are unavoidable, they should be afforded some surveillance opportunities, be well lit and abut as few rear plot boundaries as possible.

- o Any existing or new hedgerow that is likely to comprise new rear garden boundaries must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If

additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

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

- o Treatments for the side and rear boundaries of plots should be adequately secure (min 1.8m height) with access to the rear of properties restricted via lockable gates.

Defensible space should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.

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

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

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

Rear parking courts are discouraged as they provide legitimate access to the rear of plots and are often left unlit with little surveillance.

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

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

#### NHS Local (Eastern Locality)

see report under "document" tab

#### EDDC Trees – 14.08.23

In principle I have no objection to the proposal, however the following 2 concerns are raised:

- 1) The location of parking area and hard landscaping within the RPA of T10 (Oak, categorised as B but considered potential A category). The no dig surface is unlikely to be feasible due to changes in ground levels. Parking and hard landscaping should be located wholly outside of the RPA.

2) The impact of the new access encroaching into the RPA of T8 (Silver Birch, C category but considered more appropriate as a B category tree). It appears that there space to route the new access road between the RPA's of T7 and T8.

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

(a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full tree survey based on BS5837:2012, including a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement for the protection of retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(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.

h) The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason - 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).

#### Environmental Health – 04.07.23

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site. Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

#### Contaminated Land Officer – 04.07.23

I have considered the application and do not anticipate any concerns in relation to contaminated land.

#### EDDC Landscape Architect – 28.09.23

##### 1 INTRODUCTION

This report forms the EDDC's landscape response to the hybrid application for the above site.

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

##### 2 SITE CONTEXT

The main village of Plymtree lies to the west, northwest and southwest of the site and sits discretely within the landform with a well-established green edge of trees and hedgerow that largely screens it from views particularly from the east.

The site location makes it an obvious candidate for infill development with ready access to the school, church, village hall and playing field and offering potential to provide enhanced pedestrian and cycle links to these facilities from other parts of the village.

The site is presently pasture with irregular boundaries comprising thick hedgebanks to the northern and eastern sides, the former well treed with a water course to the site side. There are numerous trees along other boundaries. Most of the site is gently sloping, rising more steeply to a high point where it meets the northeast corner of the adjacent property Blampions where gradients are in the region of 1:8. Historic mapping dating to 1860 shows the site as two fields with the western field planted to orchard and numerous other orchards around the perimeter of the settlement.

The site sits within a gently rolling well treed landscape and visual effects of development are likely to be contained for the most part to the immediate site environs, although there are some long distance views from the site to the Blackdown Hills AONB and Hembury Fort (scheduled monument) in particular.

Plymtree is remotely situated some miles from the nearest A or B road within an attractive, deeply rural landscape with a high degree of tranquillity and time depth. Although there is a significant amount of late 20th century development within the village itself, the proposed development would represent a further significant expansion.

Development of the site is likely to give rise to adverse effects on local landscape fabric and character and some loss of tranquillity due to increased activity within and around the site, introduction of built form and associated infrastructure and increased light spill within an area noted for dark night skies. Effects are likely to be greatest in the vicinity of the site entrance and the highest portion of the site to the west of this (plots 22-23 on illustrative masterplan) where proposed housing will be prominent for some distance on the road approach from the east. The proposal is also likely to result in secondary impacts due to increased traffic on the narrow winding lanes which serve it and resultant damage to adjacent hedgebanks where vehicles attempt to pass each other.

### 3 REVIEW OF SUBMITTED DETAILS

An application of this scale should have been accompanied by a landscape and visual appraisal prepared by a suitably qualified professional in accordance with Guidelines for Landscape and Visual Impact Assessment 3rd Edition.

The application is outline only with all matters reserved except access.

However, there are no drawings detailing the proposed access or associated visibility splays. Given the location of the site entrance on a bend onto a narrow lane with high-sided hedgebanks, the access requirements could entail the loss of a substantial section of hedgebank. In order to ascertain the impact of this, detailed plans are required prior to determination of the application showing the extent of hedgebank removal, junction details and visibility splay and proposed mitigation for any hedgebank loss.

While the submitted site plan is for illustrative purposes only, the following comments are made:

- The proposed housing density appears appropriate for the site.
- The layout seems rather suburban in character, largely comprising fairly regimented lines of semi-detached units with parking bays and set back garages between them, to either side of a uniform width road and footway. The previous layout iteration shown on page 11 of the DAS provides a more informal and softer arrangement more appropriate to this rural edge setting.
- Consideration should be given to providing a shared access roadway extending from the site entrance with varying road width reflecting the character of the existing village. The use of standard BS road kerbs should be avoided.
- A minimum 5m width buffer should be provided between private gardens and the southern edge of the ditch to the northern boundary and also to the face of the hedgebank to the eastern boundary.
- There is opportunity to include off-site tree planting along the eastern boundary of the playing field to help screen the proposed development in views from the east which should be considered.
- The proposed pedestrian/ cycle connections indicated on page 19 of the DAS should be delivered as part of the scheme to enhance connectivity and reduce reliance on cars.
- Can consideration be given to adoption of public open space within the site by the parish council with appropriate commuted sum payment?

#### 4 CONCLUSION & RECOMMENDATIONS

The lack of highway details is of concern given that the application covers access. Detailed plans showing the proposed access arrangements and associated vegetation clearance and grading works are required prior to determination.

Notwithstanding the lack for highway information the proposal is likely to give rise to significant landscape and visual effects within the immediate vicinity of the site which should be weighed in the planning balance.

Proposals for pedestrian / cycle connections indicated on page 19 of the DAS should be secured through appropriate legal agreement.

Should the application be approved the following conditions should be imposed:

- 1) No development work shall commence on site until the following information has been submitted to and approved by the LPA:
  - 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.

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 3 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.

d) 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:

- 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.

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.

3) No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 30 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 plan showing areas to be adopted, maintained by management company or other defined body and areas to be privately owned/ maintained.

- 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.

- 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.

- Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:

- o 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.

- 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.
  - 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.
- Management, maintenance and monitoring shall be carried out in accordance with the approved plan.

4) 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.

5) 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.)

28 September 2023

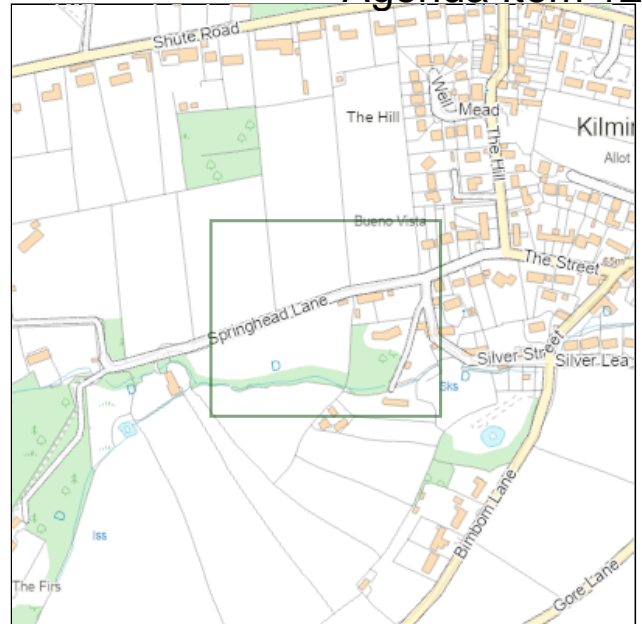
**Ward** Newbridges

**Reference** 24/1045/FUL

**Applicant** Mr & Mrs Seward

**Location** Land Adjacent To Woodthorpe Kilmington

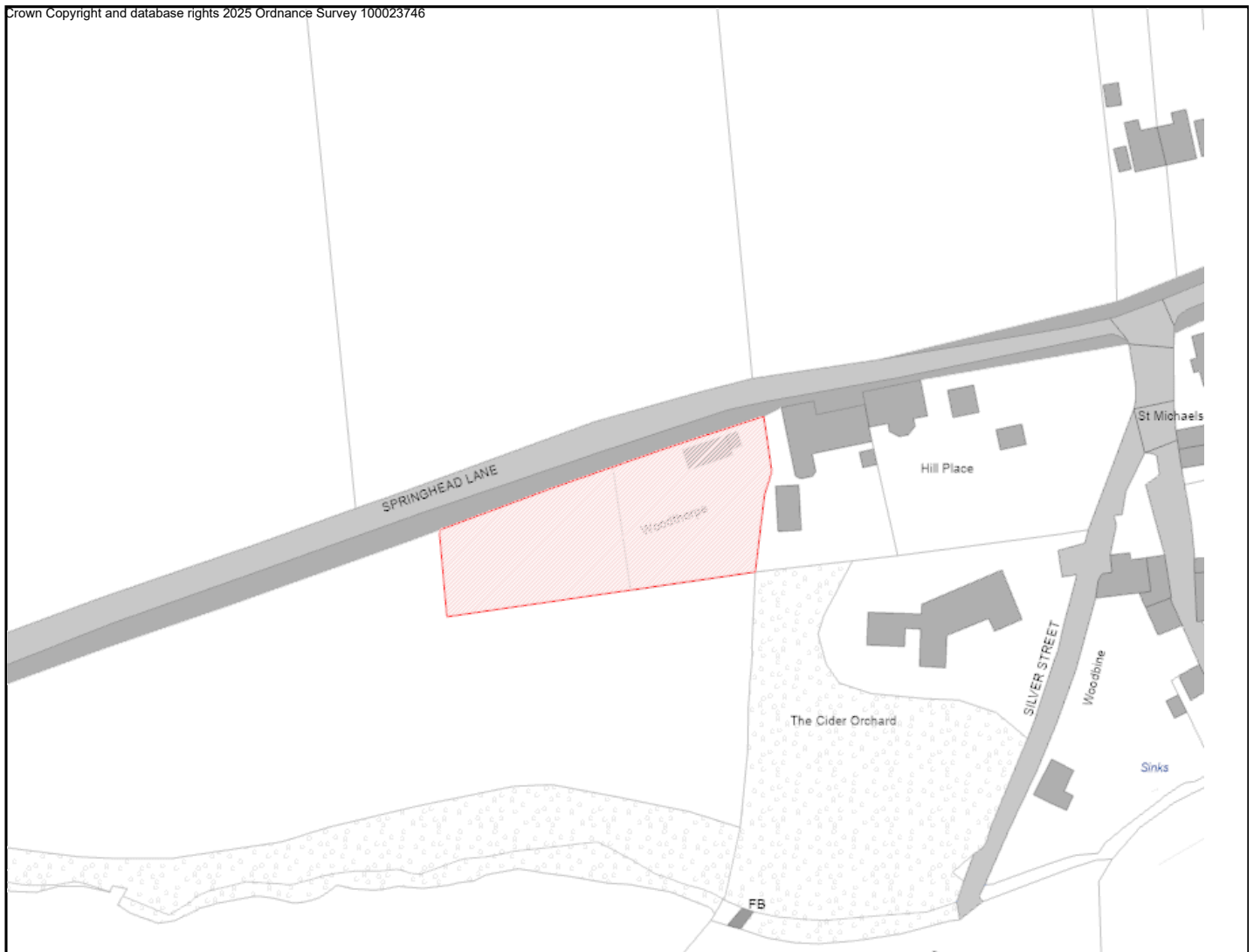
**Proposal** Erection of a single storey 3-bed detached bungalow and associated drainage works



**RECOMMENDATION:**

1. **ADOPT** the Beer Quarry and Caves SAC Appropriate Assessment and the River Axe SAC Habitats Regulations Assessment; and
2. **APPROVE WITH CONDITIONS** subject to a S106 agreement to secure a local connection

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		<b>Committee Date: 13.05.2025</b>
<b>Newbridges (Kilmington)</b>	<b>24/1045/FUL</b>	<b>Target Date: 31.07.2024</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs Seward</b>	
<b>Location:</b>	<b>Land Adjacent To Woodthorpe Kilmington</b>	
<b>Proposal:</b>	<b>Erection of a single storey 3-bed detached self-build bungalow and associated drainage works</b>	

**RECOMMENDATION: 1. ADOPT the Beer Quarry and Caves SAC Appropriate Assessment and the River Axe SAC Habitats Regulations Assessment; and 2. APPROVE WITH CONDITIONS subject to a S106 agreement to secure a local connection**

### **EXECUTIVE SUMMARY**

**This application is before the Planning Committee because it is a departure from the development plan. The proposal is recommended for approval and is supported by the Ward Member and the Parish Council.**

**Permission is sought for a self-build detached bungalow on agricultural land on the edge of Kilmington that lies outside the village Built-up Area Boundary (BuAB). The main issues are the suitability of the location and nutrient neutrality.**

**Regarding the suitability of the location, Policy HD5 of the Kilmington Neighbourhood Plan (KNP) supports self-build housing but requires compliance with several criteria, including that the site must be within or adjoining the BuAB. This site is about 80m outside the BuAB, failing criterion 2i). Turning to the other requirements, the proposal includes a suitable design and planting of a hedge and trees to mitigate landscape impact. The applicant meets the criteria for self-build housing, including local connection, occupancy, and description as self-build. The site has access to water and electricity and suitable access for construction vehicles. The proposal is therefore compatible with the remainder of the policy and the only conflict arises from its location 80m from the BuAB.**

**In terms of nutrient neutrality, the site is within the River Axe SAC catchment, where developments must avoid adding phosphates to the river. Connecting to a main sewer is impractical, so a package treatment plant discharging to a drainage field is proposed. Supporting information shows the development meets thresholds for small-scale proposals, avoiding significant phosphate pollution. An Appropriate Assessment is not needed, and the Habitat Regulations Assessment concludes no significant effect on the River Axe SAC.**

Whilst there is a conflict with the development plan, planning permission can be granted if other material considerations outweigh the conflict. In this case there are several factors to weigh in the balance. These include: the draft Local Plan proposing to extend the BuAB to adjoin the site such that it would fully comply with Policy HD5; the contribution this proposal would make to the Council's duty to provide self-build plots, and the Neighbourhood Plan ambition to provide up to 10 such plots within the lifetime of the plan; the contribution to the Council's housing land supply; and the location giving access to local amenities via sustainable modes of travel.

In this instance, the 'tilted balance' from the NPPF applies due to the Council's housing land supply position. The proposal does not conflict with policies protecting important areas and therefore permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The benefits of the proposal, including self-build housing and housing supply contribution, outweigh the minor conflict with Policy HD5. Therefore, the proposal is recommended for approval.

## **CONSULTATIONS**

### **Local Consultations**

#### Newbridges - Cllr Iain Chubb

I was at the recent Kilminster PC meeting where this application was discussed. The PC were in favour of this application although it is situated just outside the new BUAB.

I consider under the circumstances the site in question is sustainably located, although it is just outside the settlement boundary it would be suitable for development. The site would allow Mr & Mrs Seward to retire and relocate and the farm to be kept in the family.

The proposed dwelling is a good low key design and in keeping with the surrounding buildings, I therefore support this application.

#### Parish/Town Council

Kilminster Parish Council resolved at a meeting on the 24th June 2024 not to object to the planning application. However, Councillors requested the following conditions:

1. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants. (Reason - The dwelling is justified only by agricultural need at the site and to comply with Policy H4 (Dwellings for Persons Employed in Agriculture or Forestry) of the adopted East Devon Local Plan, and guidance contained within the National Planning Policy Framework.)

2. The dwelling should be subject to a planning condition that 'tied' the dwelling to Fernwood Farm, so that it could not be sold off as separate unit of accommodation.
3. To prevent the further extension of housing, 'creeping' further along the narrow Springhead Lane, no further dwellings should be granted permission to be built in this field.

### Other Representations

Seven representations in support of the proposal have been received which are summarised as follows:

- The Seward family, long-standing residents of Kilmington, seek to develop their own farmland for personal use, enabling them to continue living in the village.
- Neighbours fully support the application, recognizing the Seward family's strong contributions to the community over the years.
- The proposed bungalow will be built next to Woodthorpe, Springhead Lane, Kilmington, and is intended for Mr. & Mrs. Seward's retirement, allowing their son and family to return to the village and manage the family farm.
- The Seward family is well-respected in the community, and their farm at Fernwood has been occupied by the same family for many years.
- The application received no objections during the local Council Meeting in Kilmington.
- The proposal involves repurposing a redundant barn that has not been used for significant agricultural purposes for 40 years, making it a good use of the building.
- The development is modest in scale and, although just outside the village's development limit, an exception should be made to pass this application.
- The Seward family's farm runs in line with new environmental schemes, including regular tree planting, making it an important part of the village landscape.
- The proposal aligns with the Kilmington neighbourhood plan and supports the logical succession of the family business.
- The Seward family has been involved in various community initiatives, including fundraising for the village hall and St Giles Church.
- Neighbours appreciate Stafford Seward's contributions to village life, including his involvement in the Parish Council and the Royal British Legion.
- The proposed development is seen as low impact and beneficial for the community, with no objections from close neighbours.
- Supporters believe the site is suitable for the proposed building and welcome having Mr. & Mrs. Seward as neighbours.
- It is suggested that a hard standing be created during the construction phase to prevent lorries from blocking the single-track lane.

### Technical Consultations

#### EDDC Trees

I have reviewed the revised tree report and tree protection plan (TPP) prepared by Hi Line. It is not clear from the submitted information if the proposed no-dig system for

the driveway within the RPA is feasible and if the non-dig would be compatible existing ground levels on the site.

It would be preferable for the proposed driveway and dwelling to be located wholly outside the RPA of the tree, to avoid any adverse impacts on the tree. It appears there would be space within the site to achieve this.

#### Natural England

Insufficient information provided.

#### European/International Site

The HRA provided with this consultation was incomplete, the HRA correctly considers Beer Quarry & Caves SAC, but does not reference River Axe SAC in regards to Nutrient Neutrality. Please could you update your HRA to include this information.

#### EDDC District Ecologist

The district ecologist raised several concerns regarding the planning application, which is within the River Axe Special Area of Conservation (SAC) catchment. Natural England emphasised that any development introducing phosphate into this sensitive area is likely to have a significant impact. Consequently, the proposal must undergo a Habitats Regulations Assessment (HRA) to evaluate its effects on the SAC.

The application was initially deficient in crucial documentation, specifically a nutrient budget calculator and a Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS). These are essential to demonstrate how the development will achieve nutrient neutrality. Without this information, the ecologist could not rule out a Likely Significant Effect (LSE) on the River Axe SAC, leading to an objection to the proposal.

Additionally, the shadow HRA submitted with the application only addresses potential impacts on Beer Quarry and Caves SAC, neglecting the River Axe SAC. However, a plume spread analysis report indicates that other discharges within 200 meters of the site are unlikely to interact, suggesting that the drainage proposals meet the thresholds for insignificant phosphorus levels. This could potentially rule out an LSE on the River Axe SAC.

To ensure satisfactory drainage and prevent environmental pollution, the ecologist recommends specific conditions for Package Treatment Plants (PTPs) and adherence to relevant regulations. They also suggest revising the HRA to include the foul drainage strategy and plume spread analysis, ensuring nutrient impacts are screened out at Stage 1.

#### Conservation

The proposal is to convert an outbuilding at Springhead Lane to residential accommodation. There is no impact on the setting of Newton House, Spout Hill and the New Inn, designated heritage assets due to the existing intervening-built form between the outbuilding and the listed buildings.

There is no objection to the proposal.



## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
22/0387/FUL	Erection of a two storey 3-bed detached dwelling, with single storey link extension to existing farm building and conversion of existing farm building to habitable use	Withdrawn	25.04.2022

## **POLICIES**

### Kilmington Neighbourhood Plan (Made)

Policy HD1: Community Engagement

Policy HD2: Housing Development

Policy HD5: Self-build (and custom build) Housing

Policy TT1: Impact on the Local Highway, Cycleway and Footpath Network

Policy DE1: High Quality Design

Policy DE2: Flood Risk

Policy CGS4: Protecting the Stream Corridor

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

Strategy 3 (Sustainable Development) Adopted

Strategy 5B (Sustainable Transport) Adopted

Strategy 7 (Development in the Countryside) Adopted

Strategy 46 (Landscape Conservation and Enhancement and AONBs) Adopted

Strategy 47 (Nature Conservation and Geology) Adopted

D1 (Design and Local Distinctiveness) Adopted

D2 (Landscape Requirements) Adopted

D3 (Trees and Development Sites) Adopted

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

EN22 (Surface Run-Off Implications of New Development) Adopted

TC2 (Accessibility of New Development) Adopted

TC7 (Adequacy of Road Network and Site Access) Adopted

TC9 (Parking Provision in New Development) Adopted

### Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft

Strategic Policy CC02 (Moving toward Net-zero carbon development) Draft

Strategic Policy AR02 (Water efficiency) Draft

Policy HN04 (Accessible and adaptable Housing) Draft

Policy HN05 (Self-build and custom build housing) Draft

Strategic Policy DS01 (Design and local distinctiveness) Draft

Strategic Policy TR01 (Prioritising walking, wheeling, cycling, and public transport) Draft

Policy TR04 (Parking standards) Draft

Strategic Policy OL02 (National Landscapes (Areas of Outstanding Natural Beauty)) Draft  
Strategic Policy PB01 (Protection of internationally and nationally important wildlife sites) Draft  
Strategic Policy PB04 (Habitats Regulations Assessment) Draft  
Strategic Policy PB05 (Biodiversity Net Gain) Draft

#### Government Planning Documents

National Planning Policy Framework 2024 (as amended)  
National Planning Practice Guidance

#### Site Location and Description

The site is located in the corner of a field on the western edge of Kilminster and is in the East Devon National Landscape. It is accessed from Springhead Lane, which serves around four other properties. Immediately adjoining the eastern boundary of the site is Woodthorpe, a detached bungalow. Hedges and trees define the eastern and northern boundaries, the latter including a field gate providing access to the site from Springhead Lane. There is a second access to the field further to the west. A post and wire fence currently marks the western and southern boundaries of the site and there is a small open-fronted stone building in the north east corner.

#### ANALYSIS

This application seeks planning permission for a self-build detached bungalow on agricultural land on the edge of Kilminster. Although there are occasional references to a conversion in some of the supporting documents and in public comments, the proposal is for a new-build and the only existing building on the site, the small stone shed, would not be converted as part of this proposal.

The site is outside the village Built-up Area Boundary and in such locations, Strategy 7 of the adopted East Devon Local Plan says that planning permission will only be granted if there is a specific local or neighbourhood plan policy that supports the proposal. Whilst support cannot be drawn from any of the adopted Local Plan policies (nor from the draft Local Plan policies), Policy HD5 of the Kilminster Neighbourhood Plan (KNP) supports self- and custom-build housing.

The main issues for consideration in this application therefore are: whether the location is suitable having regard to the provisions of the development plan; and nutrient neutrality.

#### Suitability of the location

The support for self-build housing in Policy HD5 of the KNP is subject to a number of criteria being satisfied. The first of the four criteria is that it would be 'nutrient neutral'. This matter is dealt with below as a separate main issue.

Criterion 2 has eight sub-criteria and these are addressed in turn below:

**i) the proposed development is located within or immediately adjacent to the Kilmington Built-Up Area Boundary;**

This criterion is not satisfied. The site is about 80m outside the BuAB.

**ii) they do not have an adverse impact on the special character of the area's natural and built environments;**

The site is part of an agricultural field on the edge of the settlement which is clearly rural in character. The proposed development would result in the loss of countryside and urbanise the site. The domestic paraphernalia that occupation would generate, along with the required access, parking and garden area would add to this urbanising effect. Furthermore, the proposed development would be clearly visible and would be seen as an urban form of development that would extend beyond the well-defined nature of the existing development. As such, the proposed development would appear as an incongruous, urban form of development, harmful to the rural character of the area.

Notwithstanding that assessment, the policy clearly allows for development outside the settlement boundary and such development would, in most cases, have a similarly urbanising effect. The justification for the policy explains that "Recognising the balance between the need to protect the rural character of our village whilst enabling local people to continue living here, it is critical that self-build housing is limited in number..." By limiting the number of dwellings permitted under this policy, it seeks to limit the adverse environmental effects.

In this instance, the proposal would extend development on the same side of the road, rather than breach a road or other linear edge to the settlement. In that sense it would form a natural extension and be well-related to the existing built-form. The bungalow and its curtilage would also be modest in scale and designed using features and materials to respect the characteristics of housing nearby.

To mitigate the landscape impact of the development and provide a defined edge to the site, it is proposed to plant a new hedge on the southern and western boundaries. Whilst this would be a welcome measure, it should be a substantial species-rich hedge, and tree planting should also be incorporated to better reflect the character of the area. A suitable scheme could be secured by condition.

Having regard to the provisions of the policy as a whole, as well as the support of the parish council, it is concluded that, subject to a landscaping condition, the proposal is compatible with criterion ii) and also with Strategy 46 of the Local Plan which seeks to ensure that development helps to conserve and enhance the National Landscape.

**iii) the dwelling is self-built, or custom built by someone who either lives in the parish of Kilmington or who has a local connection to it as defined in Strategy 35 of the Local Plan and the number of dwellings granted permission as a result of this policy does not exceed 10 during the neighbourhood plan period;**

The applicant intends to build (or commission) the dwelling and lives in the parish and therefore satisfies the first part of this criterion. However, as permission would

not be personal to the applicant, a means to ensure that any potential self-builder complies with this criterion is needed. The best way to achieve this is using a S106 agreement which would be registered as a land charge. In this way, any potential purchaser of the site would be made aware of the local connection requirement.

In the two and a half years since the KNP was made, no self- or custom-build dwellings have come forward under this policy. Therefore, this proposal would not exceed the limit of 10 dwellings during the plan period.

This criterion is satisfied.

**iv) the dwelling is to be occupied by the person who builds it or commissions it (i.e., the first occupant has the primary input into the design of the home) as their main residence for a minimum period of 3 years after completion unless exceptional circumstances prevent this as agreed in writing by the local planning authority;**

The applicant intends to live in the dwelling for at least the required 3-year period and therefore this criterion is satisfied. This can be controlled via a planning condition.

**v) the application be described as a self-build or custom build and will be conditioned as such;**

The proposal is described as such and a condition can be imposed to ensure that it is built as such. This criterion is satisfied.

[There is no criterion vi.]

**vii) each plot has at least water and electricity supply available at the plot boundary;**

The agent has said that "the site is easily served with electricity and water". Based on proximity to existing dwellings and information supplied about water and sewerage services, this criterion is satisfied.

**viii) the plot has suitable access, with minimal disruption to local communities, for construction vehicles necessary for the completion of the dwelling; and,**

The site is accessed along single track roads but any disruption would be temporary and no different to that which might be experienced on a day-to-day basis when existing householders have deliveries or building works undertaken.

Once the dwelling is complete and occupied, the additional traffic movements would be low and easily accommodated on the local road network without causing danger to other road users.

This criterion is satisfied.

**ix) they satisfy the requirements of the other relevant policies in this plan.**

Of relevance to this proposal are the elements of other policies that seek to protect trees and hedgerows and ensure that there is adequate parking available with charging points. Policy DE1 also requires neighbour amenity to be considered and the development to be energy efficient. These matters are addressed in more detail below under 'Other Matters' but in broad terms this criterion is satisfied.

The third criterion relates to replacement dwellings and is not relevant to this proposal.

The fourth criterion says that "where appropriate, the above criteria will be enforced through legal obligations." In this instance, a planning condition is sufficient to ensure that the dwelling is delivered as a self-build.

In summary, the proposal does not satisfy the requirements of Policy HD5 because of the conflict with criterion 2i) arising from its location and therefore the site is not suitably located having regard to the provisions of the development plan.

#### Nutrient Neutrality

The site lies within the catchment of the River Axe SAC where proposals need to avoid adding to phosphate levels in the river to comply with environmental regulations. New dwellings can be a source of such pollution by contributing to sewage effluent, whether it is managed on site or processed at a sewage treatment works.

In this application it has been demonstrated that a connection to a main sewer is not practically possible. The site lacks nearby adopted foul sewers, with the closest being a 150mm combined sewer 90m east on Silver Street. A private system also exists to the east, but its condition is unclear. Connecting to the sewer would require significant off-site work or legal agreements with landowners, both of which are impractical. Therefore, discharging to the ground is the only feasible option and the requirements of Policy EN19 of the Local Plan are satisfied.

In the absence of a main sewer, the dwelling would be connected to a new package treatment plant installed outside the curtilage in the field to the west of the dwelling. This would discharge to a drainage field.

Although housing development can contribute to phosphate pollution, certain proposals that satisfy the thresholds for small scale developments can be permitted. These thresholds take account of such matters as scale and location of the development, as well as local ground conditions. Supporting information has been submitted in this case to demonstrate that the thresholds would not be exceeded. Moreover, this has meant that it is not necessary to carry out an Appropriate Assessment or seek the advice of Natural England. The recommendation includes a recommendation to adopt the Habitat Regulations Assessment which screens out the development and concludes that it would not have a significant effect on the River Axe SAC.

#### Other matters

**Trees** - A tree survey has been provided which identifies two significant trees, both oaks. The proposed dwelling would be partly in the root protection area of the tree in the north east corner of the site, encroaching by about 1.1 square metres. The impacts of this are considered to be minimal in the short and long term, subject to suitable mitigation comprising a no-dig construction for the driveway within the RPA and careful root pruning where the foundations for the dwelling would encroach. Given that there appears to be a conflict between the ground levels shown on the east and west elevation drawing and the no-dig construction area shown on the tree protection plan, it is necessary to secure further details of levels by condition.

It has been suggested by the Council's tree officer that the dwelling could be moved to avoid these impacts altogether. However, although the site outlined in red appears to be large enough to allow for the dwelling to be moved to the west, it is only drawn that way to ensure that the drainage works are encompassed within the application site. The intended curtilage for the dwelling is much smaller and the proposed dwelling could not be moved westwards without extending the curtilage. The present compact arrangement helps to minimise the encroachment into the countryside and conserve the National Landscape. Given that the works as proposed can be undertaken without detriment to the trees, further encroachment is not necessary or justified.

**Wildlife** - A survey of the site has been undertaken, including the small building that would be retained unaltered. No evidence of use by bats was found but the installation of bat boxes was recommended as a conservation enhancement. These can be secured by condition in accordance with Local Plan Strategy 47.

Policy CGS4 of the KNP protects the stream corridor which lies below the application site on the southern edge of the field. The site does not adjoin the stream but slopes in its direction. Adequate protections would be in place to prevent pollution and disturbance of this corridor by means of foul and surface water management, the siting of the dwelling, and the requirement for new hedges defining the boundary of the curtilage.

**Beer Quarry and Caves SAC** - The site is within the area frequented by bat species associated with the Beer Quarry and Caves SAC. The main potential impact of the development is disturbance of bats as a result of light pollution. To address this, a lighting scheme has been provided which minimises the external lighting and provides a lighting specification for internal and external lighting that would ensure that bats commuting and foraging in the area and along the hedgerows would not be disturbed. Whilst the measures also suggested installing automated blinds, guidance from the Bat Conservation Trust and the Institution of Lighting Professionals advises against this because it relies on regular maintenance and routine operation. Instead, the agent agreed to remove the high level glazing in the southern gable, which will also help to preserve dark skies. With these measures secured by planning condition, it has been concluded that the proposal would not have a significant effect on the SAC. Moreover, this conclusion has been agreed by Natural England following review of the Appropriate Assessment. The recommendation therefore includes a recommendation to adopt the Appropriate Assessment.

**Biodiversity Net Gain** - The proposal is exempt from statutory BNG because it is for a self-build dwelling. However, it would still deliver new hedgerows and tree planting that meet the objective in Strategy 47 of the Local Plan to incorporate beneficial biodiversity conservation features.

**Surface water drainage** - Policy EN22 of the Local Plan and Policy DE2 of the NP require new development to use sustainable drainage. This can be secured by condition.

**Parking** - Policy DE1 of the KNP says that development should exceed adopted off road parking standards. In the absence of a car parking standard in the KNP, the adopted Local Plan says that two car parking spaces should be provided. The draft Local Plan also says that two car parking spaces should be provided. To exceed the car parking standards and comply with Policy DE1, it would be necessary to provide at least three car parking spaces on site.

With regard to bicycle parking, the adopted Local Plan says there should be one bicycle space and the draft Local Plan says that there should be three (one per bedroom). Although the KNP does not say how many spaces should be provided, it says that secure storage facilities should be provided for new dwellings. To satisfy the adopted bicycle parking standards and the requirements of the KNP, it would be necessary to provide one secure storage space.

The application from specifies that two car parking spaces would be provided, along with two bicycle parking spaces. The site plan does not have any car parking spaces marked out but the parking area at the side of the dwelling would be capable of accommodating three cars. A condition can be imposed to ensure that this is delivered, along with a secure storage facility for at least one bicycle. The additional requirement of Policy DE1 that development should have charging points for electric vehicles would be secured by compliance with the Building Regulations.

**Energy efficiency** - It is proposed that photovoltaic cells will be placed on the southern and western facing roof elevations in order to generate electricity for the dwelling. In addition, an air source heat pump would be provided. These components, the south-facing layout, and the construction fabric and methods will ensure that the dwelling will be as self-sufficient as possible in its energy generation requirements and so provide good sustainability credentials as required by Policy DE1 of the KNP.

**Parish Council comments** – The Parish Council support the proposal subject to an agricultural tie; a further tie to Fernwood Farm (where the applicant currently lives); and a prohibition on more dwellings being permitted beyond the site.

The proposal is not for an agricultural worker's dwelling and has not been justified on that basis. An agricultural tie would therefore be inappropriate and would not overcome the conflict with the development plan. Similarly, there are no grounds to link the occupation of the dwelling to Fernwood Farm and doing so would not bring the proposal into compliance with any Local or Neighbourhood Plan policy.

Regarding the possibility of more dwellings being permitted along Springhead Lane, any such proposal would be considered on its merits in accordance with the policies in force at the time. If these include Policy HD5 then such proposals would need to adjoin the Built-up Area Boundary or there would have to be other policy support or other material considerations justifying a departure. There are therefore adequate protections in place to overcome the Parish Council's concern about development extending further into the countryside.

### Other material considerations

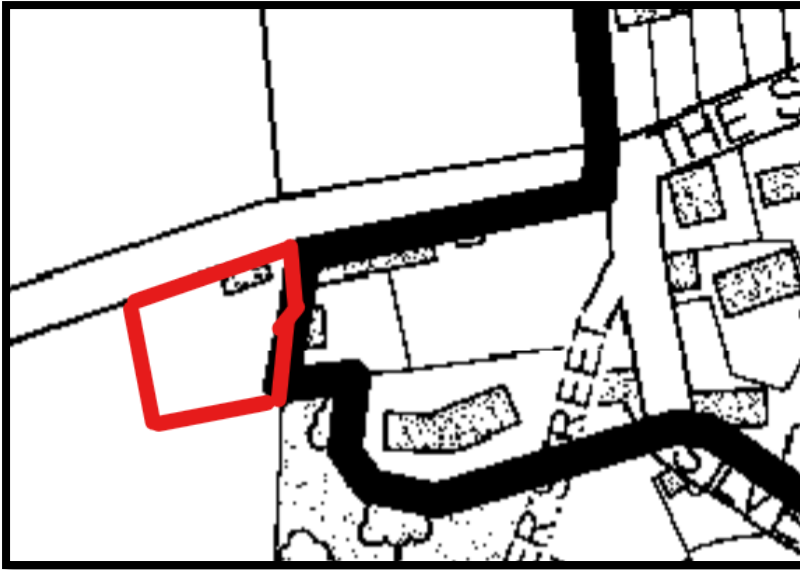
The proposed development is a departure from the development plan because it is not supported by any Local or Neighbourhood Plan policy, including KNP Policy HD5. Whilst there is no support for the proposal, the only conflict is with criterion 2i) of Policy HD5, which requires the development to be located within or immediately adjacent to the Kilminster Built-Up Area Boundary. Notwithstanding this conflict, there are a number of material considerations that need to be weighed in the balance:

1. The draft Local Plan proposes to extend the Built-up Area Boundary for Kilminster such that the proposed site would adjoin the boundary and comply with Criterion 2i). The proposed change is indicated below on the extracts from the adopted and proposed diagrams.



The adopted Built-up Area Boundary





The draft Built-up Area Boundary

Whilst the draft boundary has not been adopted, the criteria for drawing the boundary has been subject to public consultation and the methodology is set out in Key Supporting Document 'KSD-010 East Devon Local Plan - Settlement Boundaries Topic Paper Regulation 19 consultation version 01'. The proposed expansion adjacent to the application site is in accordance with criteria B1 and B2 of the methodology which support the inclusion of developed sites that are physically and functionally related to the settlement. In a previous public consultation (before the recent Regulation 19 consultation) no comments were received about the proposed Kilmington boundary and there were no changes proposed at the November 2024 Strategic Planning Committee. Although the proposed boundary can only be given limited weight prior to adoption, it nevertheless weighs in favour of the proposal.

2. In accordance with the Self-build and Custom Housebuilding Act 2015 the Council has a duty to give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in the district. In addition, paragraph 73 of the NPPF says that local planning authorities should seek opportunities to support small sites to come forward for self-build housing. In this regard it is noted that in spite of the KNP containing a policy supporting the delivery of self-build housing, none have come forward in the plan area since the plan was made in October 2022. Addressing this fact, the proposal would deliver a self-build dwelling which would count towards the number of plots the Council is required to deliver, as well as the ambitions of the KNP.

The last self- and custom-build monitoring report says that the supply of plots in the 2023 to 2024 monitoring period is the lowest since the introduction of the duty to meet Custom and Self-Build (CSB) demand and continues the downward trend noted in last year's report. It goes on to say that "This, coupled with the very supportive national policy for CSB, suggest that we need to do more to deliver CSB opportunities." This was carried forward to a resolution "That the demand for self-build plots indicated on the register be noted and taken into account in our planning, housing, regeneration and estate functions."

Whilst only contributing a single dwelling, in light of the strong national and local support for CSB housing, the self-build nature of the proposal weighs in its favour.

3. The Council's housing land supply has fallen to 2.97 years, which is below the required 5 year supply (plus a 5% buffer). Although the proposal would only make a small contribution to housing supply, this nevertheless weighs in its favour.

4. The proposal would deliver a dwelling in a location that would provide the occupants with access to local amenities by walking or cycling, including access to public transport. This would support the overarching objective of national and local policies that seek to ensure that development takes place in locations that make the most of opportunities for active and sustainable travel.

### **PLANNING BALANCE AND CONCLUSION**

Owing to the Council's housing land supply position, the 'tilted balance' set out in paragraph 11 of the NPPF must be applied to the proposal. This says that permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a strong reason for refusal; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF 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 combination.

As set out in this report, there is no conflict with the policies that protect important areas, such as the two SACs and the East Devon National Landscape. Therefore, permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.

The only adverse impact that has been identified is the conflict with one criterion of Policy HD5 of the KNP. The location of the site 80m from the Built-up Area Boundary puts it into conflict with the development plan. However, the proposal would bring forward a self-build dwelling in an accessible location in a village that supports such development. It would also contribute towards the district-wide need for self-build housing and the overall housing supply. These factors weigh in favour of the proposal. Furthermore, any adverse environmental impacts can be mitigated and therefore carry neutral weight in the balance.

Given the relatively minor nature of the conflict with Policy HD5 in this case, the benefits of the proposal clearly outweigh the conflict with the development plan, particularly bearing in mind the draft Built-up Area Boundary that, if adopted, would bring the proposal into compliance with the KNP policy.

For the reasons set out above the proposal is recommended for approval.

### **RECOMMENDATION**

ADOPT the Appropriate Assessment for the Beer Quarry and Caves SAC and the Habitat Regulations Assessment for the River Axe SAC

and

APPROVE subject to a S106 agreement to secure a local connection and the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. No development shall take place until the following information has been submitted to and approved in writing by the local planning authority: a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings; full details of the proposed finished floor levels of all buildings and hard landscaped surfaces. The development shall be carried out in accordance with the approved details.  
(Reason - A pre-commencement condition is required to ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
4. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.  
(Reason - The details are required prior to commencement to ensure that they fit efficiently within the site layout, protect water quality and minimise flood risk in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the Adopted East Devon Local Plan 2013-2031 and the guidance contained within the National Planning Policy Framework.)
5. No development above foundation level 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 and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the

Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

6. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roof 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 Adopted East Devon Local Plan 2013-2031.)

7. The dwelling hereby permitted shall not be occupied until the parking spaces for three cars have been provided in accordance details to be submitted to and approved in writing by the Local Planning Authority. The spaces shall thereafter be retained and kept available for parking at all times.

(Reason - To ensure that adequate provision is made for the occupiers of the dwelling in accordance with the requirements of Policy DE1 - High Quality Design of the Kilminster Neighbourhood Plan 2020-2031.)

8. The dwelling hereby permitted shall not be occupied until secure bicycle storage facilities have been provided for at least one bicycle in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The storage facility shall thereafter be retained for bicycle parking in perpetuity.

(Reason - To ensure that adequate cycle storage is available in accordance with Policy TC9 - Parking Provision in New Development of the Adopted East Devon Local Plan 2013-2031 and Policy DE1 - High Quality Design of the Kilminster Neighbourhood Plan 2020-2031.)

9. Development shall proceed strictly in accordance with the Preliminary Roost Assessment (Abbas Ecology, 18/11/2021), in particular the Net Gain Measures for bats. A written record of the measures installed/provided shall be submitted to and approved in writing by the local planning authority, to include photographs of the installed ecological enhancement measures, prior to first occupation of the dwelling.

(Reason - To ensure that ecological enhancement is provided in accordance with Strategy 47 - Nature Conservation and Geology of the Adopted East Devon Local Plan 2013-2031.)

10. The dwelling hereby permitted shall be constructed as a self-build dwelling within the definition of self-build and custom housebuilding in the Self-build and Custom Housebuilding Act 2015 (as amended).

The first occupation of the dwelling hereby permitted shall be by a person or persons who had a primary input into the design and layout of the dwelling and who intends to occupy the dwelling as their principal residence for at least 3 years from completion.

The Local Planning Authority shall be notified of the persons who intend to take up first occupation of the dwelling hereby permitted at least two months prior to first occupation.

(Reason - To ensure the development satisfies the requirements of Policy HD5 - Self-build (and custom build) Housing of the Kilmington Neighbourhood Plan 2020-2031.)

11. The development shall be carried out strictly in accordance with the Arboricultural Report prepared by Hi-Line dated 18 July 2024 and the tree protection plan (drawing number RSKHL\_8460.24\_TPP V2.0).

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 - To ensure retention and protection of trees on the site during and after construction 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.)

12. The dwelling hereby permitted shall not be occupied until:
- (i) the Package Treatment Plant and associated drainage field have been installed in strict accordance with Foul Drainage Strategy shown in drawing 01-CNS-1001 Rev A prepared by Awcock Ward Partnership and contained in Appendix E of the Foul Drainage Strategy;
  - (ii) written confirmation of the installation has been made to the Local Planning Authority; and
  - (iii) a scheme for maintenance and monitoring of the installation has been submitted to and approved in writing by the Local Planning Authority.

Thereafter, the Package Treatment Plant shall be maintained and monitored in perpetuity in accordance with the approved scheme.

(Reason - To ensure that the development does not add to phosphate levels in the River Axe SAC in accordance with Strategy 47 - Nature Conservation and Geology of the Adopted East Devon Local Plan 2013-2031.)

13. Should the Package Treatment Plant hereby approved reach the end of its operational life during the lifetime of the development hereby permitted, it shall be replaced with an alternative Package Treatment Plant of equivalent or greater efficiency at removing phosphate.  
(Reason - To ensure that the proposed development is phosphate neutral in perpetuity in accordance with Strategy 47 - Nature Conservation and Geology of the Adopted East Devon Local Plan 2013-2031.)
14. Internal and external lighting shall satisfy the following specifications at all times in perpetuity:  
Warm white spectrum lighting (<2700 Kelvin) to reduce the blue light component.  
Luminaires with peak wavelengths higher than 550 nm.  
Use LED luminaires.  
External lighting to be based on a Passive Infrared Sensor (PIR) system (being motion-sensitive only to large objects) and on a short timer (no longer than 1 minute).  
External lighting directed below a 70-degree plane.  
External lighting installed no higher than 3 metres above adjacent ground level.  
Recessed internal lighting.  
(Reason - To limit the illumination of commuting routes and foraging habitats used by bats associated with the Beer Quarry and Caves SAC in accordance with Strategy 47 - Nature Conservation and Geology of the East Devon Local Plan 2013-2031.)
15. Notwithstanding the approved location plan (drawing number C2407.01), this permission does not authorise the change of use to garden of any land outside the area immediately around the dwelling that is enclosed by a black line and hedgerow on the approved block plan (drawing number C2407.02).  
(Reason - To define the permission and to preserve the character and appearance of the area in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs of the Adopted East Devon Local Plan 2013-2031.)
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows, doors, rooflights or other openings other than those shown on the plans hereby permitted shall be formed in any elevations of the dwelling hereby permitted.  
(Reason - To limit the illumination of commuting routes and foraging habitats used by bats associated with the Beer Quarry and Caves SAC in accordance with Strategy 47 - Nature Conservation and Geology of the East Devon Local Plan 2013-2031.)

## NOTE FOR APPLICANT

### Informative:

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

### Biodiversity Net Gain

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

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

The BG conditions states that development may not begin unless:

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

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

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

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

In this case exemption 4.5 from the list below is considered to apply:

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

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

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

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

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

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

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

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

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

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

4.5 Self and Custom Build Development, meaning development which:

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



## Irreplaceable habitat

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

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

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

### Plans relating to this application:

RSKHL_8460.24 _TPP v2.0	Tree Protection Plan	06.08.24
RSKHL_8460.24 v2	Arboriculturist Report	06.08.24
C2407.04A: N/S	Proposed Elevation	25.04.25
C2407.02	Block Plan	21.05.24
C2407.03 Floor & Roof	Proposed Combined Plans	21.05.24
C2407.5: W/E	Proposed Elevation	21.05.24
C2407.01	Location Plan	21.05.24
Preliminary Roost Assessment	Protected Species Report	21.05.24
Foul Drainage Strategy	Foul Drainage Assessment	09.10.24
Foul Drainage Strategy Appendices	Foul Drainage Assessment	09.10.24

### 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.

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:	Full planning application for the erection of a single storey 3-bed detached bungalow and associated drainage works	
2. Application reference no:	24/1045/FUL	
3. Site address: Grid reference:	Land Adjacent To Woodthorpe , Kilmington, Devon, EX13 7SS. NGR: SY 26573 98068	
4. Brief description of proposal:	<ul style="list-style-type: none"> <li>• <b>Type of development</b></li> </ul> <p>Construction of a detached dwelling and associated landscaping</p> <ul style="list-style-type: none"> <li>• <b>Distance to the European site</b></li> </ul> <p>9.7km north east of the BQ&amp;CSAC</p> <ul style="list-style-type: none"> <li>• <b>Is the proposal site within a consultation zone (landscape connectivity, core sustenance, pinch point, hibernation sustenance zone)</b></li> </ul> <p>Yes – refer to section 9.</p> <ul style="list-style-type: none"> <li>• <b>Size</b></li> </ul> <p>0.15ha</p> <ul style="list-style-type: none"> <li>• <b>Current land use (habitat type and immediately adjacent habitat types)</b></li> </ul> <p>The site is currently used for agricultural purposes and is located on the edge of Kilmington. The site is immediately bordered by Springhead Lane to the north, residential dwellings to the east and agricultural land to the west. The surrounding landscape comprises smallholdings, villages, agricultural land and woodland. An area of woodland is located 150m west of the site.</p> <ul style="list-style-type: none"> <li>• <b>Timescale</b></li> </ul> <p>Commencement soon after granting of consent and within 3 years of granting of consent.</p> <ul style="list-style-type: none"> <li>• <b>Working methods</b></li> </ul> <p>Construction using typical housebuilding construction methods.</p>	
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	<b>Annex II species that are a primary reason for selection of this site</b> <ul style="list-style-type: none"> <li>• 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.)</li> </ul>	

<p>features (including those associated with the site, and information on general trends, issues or sensitivities associated with the features if available).</p>	<p><b>Annex II species present as a qualifying feature, but not a primary reason for site selection</b></p> <ul style="list-style-type: none"> <li>• 1303 – Lesser horseshoe bat (<i>Rhinolophus hipposideros</i>)</li> <li>• 1304 – Greater horseshoe bat (<i>Rhinolophus Ferrumequinum</i>)</li> </ul> <p><b>Conservation Objectives</b> (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></p> <p><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></p> <ul style="list-style-type: none"> <li>• <i>The extent and distribution of qualifying natural habitats and habitats of qualifying species</i></li> <li>• <i>The structure and function (including typical species) of qualifying natural habitats</i></li> <li>• <i>The structure and function of the habitats of qualifying species</i></li> <li>• <i>The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely</i></li> <li>• <i>The populations of qualifying species, and,</i></li> <li>• <i>The distribution of qualifying species within the site.</i></li> </ul> <p><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></p> <p>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.</p>
<p><b>7. Ecological survey</b> Summary of effort and findings</p>	<p><b>Name of documents containing ecological survey information:</b></p> <p>Preliminary Roost Assessment, Abbas Ecology (2021)</p> <p><b>Summary of survey effort (no. transects, static detector deployments and bat emergence surveys, if applicable):</b></p> <p>The building was found by Abbas Ecology to have negligible potential for roosting bats, therefore no further survey was required.</p> <p><b>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):</b></p> <p>N/A</p> <p><b>Relevant figure excerpts from document (maps, tables, if relevant/concise):</b></p> <p>N/A</p>

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")?  <i>Refer to the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document and online mapping</i>	10 km GHB Landscape connectivity zone	
	4 km GHB Sustenance zone	
	2 km GHB Hibernation sustenance zone	
	11.2 km LHB Landscape connectivity zone	X
	2.5 km LHB Sustenance zone	
	1.2 km LHB Hibernation sustenance zone	
	10.25 km Bechstein's Landscape connectivity zone	X
	2.5 km Bechstein's sustenance zone	X
	Pinch point	
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>	<i>A – Landscape (large) scale connectivity impacts</i>	None predicted – The development area and zone of potential impact is small. The proposals are therefore not considered to result in large landscape scale impacts.
	<i>B - Direct impacts on the SAC roost or other key roost(s)</i>	None
	<i>C - Change in habitat quality and composition (loss or change in quality of foraging habitat)</i>	The development will result in the removal of 0.01 ha agricultural land, which provides limited foraging habitat for bats.
	<i>D - Severance or disturbance of linear features used for navigating or commuting</i>	None
	<i>E - Disturbance from new illumination causing bats to change their use of an area/habitat</i>	The proposed development consists of a new dwelling, and associated landscaping. The new dwelling will include a minimal extent of internal and external lighting. This external lighting would comprise only that necessary to facilitate safe access to the dwelling and consequently would only be installed adjacent to entrance doorways and to light external pathways and steps. Without mitigation the addition of lighting may impact the nocturnal behaviour of bats.
	<i>F - Disturbance to or loss of land or features secured as mitigation for BQ&amp;CSAC bats from previous planning applications or projects</i>	None.
<b>If the proposal is located in a Landscape Connectivity Zone (LCZ) ONLY</b> , 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>G – Loss, damage, restriction or disturbance of a pinch point</i>	None.
	<i>E - Other impacts – e.g. physical injury by wind turbines or vehicles</i>	None.
<b>11.</b> 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 application is very small and low-impact in nature and there are no other planning applications in the immediate vicinity that would result in impacts in combined impacts to bats.	
<b>12.</b> Natural England consultation comments (if available)	N/A	
<b>Part C: Conclusion of Screening</b>		
<b>13.</b> Is the proposal likely to have a significant effect ‘alone’ or ‘in combination’ on a European site?  <i>Refer to the flow chart in the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i>	East Devon District Council concludes that, in the absence of mitigation measures, a Significant Effect on the Beer Quarry and Caves SAC <b>is likely</b> , either ‘alone’ or ‘in-combination’ with other plans and projects.  An <b>Appropriate Assessment</b> of the proposal <b>will therefore be necessary</b> .	
Local Authority Officer Date	Andrew Digby, Senior Planning Officer 18/10/2024	

# 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:**

Lighting and landscaping plan C2407.02

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>	Competent Authority conclusion regarding effectiveness of mitigation and residual LSE <i>Consider how measures would be implemented, how certain EDDC is 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	N/A		
14.B - Direct impacts on the SAC roost or other key roost(s)	N/A		
14.C - Change in	N/A		

<i>habitat quality and composition (loss or change in quality of foraging habitat)</i>			
<b>14.D - Severance or disturbance of linear features used for navigating or commuting</b>	N/A		
<b>14.E – Disturbance from new illumination causing bats to change their use of an area/habitat</b>	<p>The proposed development consists of a new dwelling, and associated landscaping. The new dwelling will include a minimal extent of internal and external lighting. This external lighting would comprise only that necessary to facilitate safe access to the dwelling and consequently would only be installed adjacent to entrance doorways and to light external pathways and steps.</p> <p>The lighting design will follow the below specification to ensure impacts on the existing and new hedgerows are minimal (&lt;0.5 lux).</p> <ul style="list-style-type: none"> <li>• Warm white spectrum lighting (&lt;2700 Kelvin) to reduce the blue light component.</li> <li>• Luminaires with peak wavelengths higher than 550 nm.</li> <li>• Use of LED luminaires.</li> <li>• External lighting to be based on a Passive Infrared Sensor (PIR) system (being motion-sensitive only to large objects) and on a short timer (no longer than 1 minute).</li> <li>• Directed below a 70-degree plane.</li> <li>• Installed at the minimum height permissible.</li> </ul>	<p>With implementation of the mitigation and compensation measures it is anticipated that bats will continue to use the existing and new hedgerows and there will be no significant likely effect upon the BQ&amp;C SAC.</p>	<p>Planning conditions will be used to secure the mitigation measures identified in this document and supporting documents.</p> <p>A condition preventing the installation of any other external</p>



	<ul style="list-style-type: none"> <li>Recessed internal lighting and incorporation of automated blinds.</li> </ul> <p>As part of the new development a new native hedgerow will be planted along the southern and western boundaries of the site. This hedgerow will short cut the connection between the existing northern and eastern hedgerows and will act as a buffer between the development site and the remaining agricultural land. This will provide an alternative route for dispersal for bats.</p>		lighting will be used.
<b>14.F -</b> <i>Disturbance to or loss of land or features secured as mitigation for</i> <i>Beer Quarry and Caves SAC bats from</i> <i>previous planning applications or projects</i>	N/A		
<b>14.G –</b> <i>Loss, damage, restriction or disturbance of a pinch point</i>	N/A		
<b>14.H -</b> <i>Other impacts – e.g. physical injury by wind</i>	N/A		

turbines or vehicles			
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Part E. In-combination impacts	
15. List of plans or projects with potential cumulative in-combination impacts	None.
16. How impacts of current proposal combine with other plans or projects individually or in combination	With mitigation the current proposal is not considered to represent a LSE, and therefore is not considered to represent an individual or in combination effect.
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>	<p>The proposals are in accordance with relevant EDDC local plan (2013 to 2031) Policy EN5 and Strategies 5 and 47.</p> <p>The proposal complies with these policies/strategies through:</p> <ul style="list-style-type: none"> <li>• Minimising the loss, and avoiding fragmentation, of habitats;</li> <li>• Creation of natural habitats (native planting); and,</li> <li>• No impact (direct or indirect) on internationally and nationally designated sites.</li> </ul>
18. Does the proposal take into account measures agreed at outline or pre-app stages (if applicable)	N/A
19. Does the proposal take into account Natural England consultation responses, and include suitable measures as identified in the Natural England consultation? (if applicable)	N/A
Part G. Conclusion of Appropriate Assessment - The Integrity Test	
20. List of avoidance/mitigation/compensation measures and safeguards to be covered by condition or planning obligations (Unilateral Undertaking or S106)	<p>List of avoidance, mitigation and compensation measures, as per section 14:</p> <ul style="list-style-type: none"> <li>• Installation of sensitive lighting only; and,</li> <li>• Planting of a new native hedgerow short-cutting and buffering the site.</li> </ul> <p>The above will be secured through planning conditions, along with a condition to remove permitted development rights for new external lighting.</p>
21. Conclusion of integrity test.	EDDC concludes that <b>Adverse Effects on the Integrity</b> of Beer Quarry and Caves SAC qualifying features <b>can be ruled out</b> , providing that the avoidance, mitigation and compensation measures detailed in section 20 are carried out in full and secured by the proposed appropriate conditions/obligations.

	These mitigation measures are considered to remove potential Likely Significant Effects and provide certainty beyond reasonable scientific doubt that the proposals would have no impact on the Integrity of the SAC.
<b>22.</b> Completed by: Date:	Andrew Digby, Senior Planning Officer 18/10/2024
<b>23.</b> Natural England comments on this Appropriate Assessment:	
<b>24.</b> Natural England Officer: Date:	

**Appendix 1: Mitigation proposals**

<b>The Conservation of Habitats and Species Regulations 2017 – Regulation 63 – Habitats Regulations Assessment</b>	<b>East Devon District Council</b>
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**Stage 1: Habitats Regulations Assessment - Screening of likely significant effect on a European site**

**Part A: The proposal**

1. Type of permission/activity	Construction of a dwelling on farm land.
2. Application reference no	24/1045/FUL
3. Site address	Land Adjacent To Woodthorpe , Kilminster, Devon, EX13 7SS.
4. Brief description of proposal	Erection of a single storey 3-bed detached bungalow and associated drainage works

**Part B: The European site(s)**

5. European site name(s), and 6. Qualifying Features	<p><b>River Axe Special Area of Conservation (SAC).</b></p> <p>The Qualifying Features for the River Axe SAC are:</p> <ul style="list-style-type: none"> <li>• H3260 Water courses of plain to montane levels with <i>R. fluitantis</i></li> <li>• S1095 Sea lamprey, <i>Petromyzon marinus</i></li> <li>• S1096 Brook lamprey, <i>Lampetra planeri</i></li> <li>• S1163 Bullhead, <i>Cottus gobio</i></li> </ul> <p>The Conservation objectives of the River Axe SAC are:</p> <p>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;</p> <ul style="list-style-type: none"> <li>• The extent and distribution of qualifying natural habitats and habitats of qualifying species</li> <li>• The structure and function (including typical species) of qualifying natural habitats</li> <li>• The structure and function of the habitats of qualifying species</li> <li>• The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely</li> <li>• The populations of qualifying species, and,</li> <li>• The distribution of qualifying species within the site.</li> </ul> <p>The Conservation Objectives for the River Axe SAC state that ‘the natural nutrient regime of the river should be protected, with any anthropogenic enrichment above natural/background concentrations should be limited to levels at which adverse effects on characteristic biodiversity are unlikely’.</p>
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7. Ecological survey results for the application site	A preliminary roost assessment of an open shed on the site that would be retained as part of the development was undertaken by Abbas Ecology, dated 18/11/2021. This found “negligible potential that bats are using the structure surveyed and therefore no further survey work is required before the proposed building works proceed”.
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### Part C: Screening assessment for likely significant effect

8. Is this application necessary to the management of the site for nature conservation?	No.
9. The identified ways in which the Qualifying Features of the European site could be affected by the proposal	<p><b>Degradation or changes to water quality resulting from increased nutrients entering watercourses which are hydrologically linked to the SAC</b></p> <p>The occurrence of excessive nutrients in the waterbody can impact on the competitive interactions between high plant species and between higher plant species and algae, which can result in a dominance in attached forms of algae, and a loss of characteristic plant species. Changes in plant growth and community composition can have implications for the wider food web, and the species present. Increased nutrients and the occurrence of eutrophication can also impact on the dissolved oxygen levels in the waterbody, also impacting on biota within the river.</p> <p>Recent water quality measurements for the River Axe within the SAC show phosphorus concentrations to be exceeding the targets for all units. Any nutrients entering the catchment upstream of the locations which are exceeding their nutrient targets, will make their way downstream and have the potential to further add to the current exceedance. Hence the catchment map for the River Axe includes the entire catchment upstream.</p> <p>The key sources of phosphorous, commonly assessed in the form of phosphates, derive from diffuse water pollution (such as agricultural leaching) and point discharges (such as from sewage effluent) within the catchment.</p>

<p>10. Assessment of risks without avoidance or reduction measures</p>	<p>The site lacks nearby adopted foul sewers, with the closest being a 150mm combined sewer 90m east on Silver Street. A private system also exists to the east, but its condition is unclear. Connecting to the sewer would require significant off-site work or legal agreements with landowners, both of which are impractical. Therefore, discharging to the ground is the only feasible option.</p> <p>The proposal is to install a package treatment plant discharging to a drainage field and <b>it has been demonstrated that the drainage scheme would not exceed the thresholds for small discharges to the ground within the Council's 'Interim guidelines on small scale thresholds and nutrient neutrality principles for the hydrological catchment of the River Axe Special Area of Conservation'</b>. This is based on the following considerations:</p> <p>The daily discharge volume would be less than 2m<sup>3</sup>.</p> <p>a) The drainage field is more than 50m from the designated site boundary (or sensitive interest feature).</p> <p>b) The drainage field is more than 40m from any surface water feature e.g. ditch, drain, watercourse.</p> <p>c) The drainage field is in an area with a slope no greater than 15%.</p> <p>d) The drainage field is in an area where the high-water table groundwater depth is at least 2m below the surface at all times.</p> <p>e) The drainage field will not be subject to significant flooding; it is not in flood zone 2 or 3.</p> <p>f) There are no other known factors which would expedite the transport of phosphorus. In this regard, the <b>'AWP Assessment of River Axe SAC Thresholds and supporting evidence'</b> (attached) concluded:</p> <p style="padding-left: 40px;">"The site is underlain by bedrock of Branscombe Mudstone Foundation (<a href="https://webapps.bgs.ac.uk/lexicon/lexicon.cfm?pub=BCMU">https://webapps.bgs.ac.uk/lexicon/lexicon.cfm?pub=BCMU</a>). This is not indicated as likely to be fissured. The superficial deposits derived from these formations are clayey formations of low permeability which would not expedite the transport of phosphorus, in line with the relatively high Vp values obtained within the percolation testing. These assumptions are based off advice from Ruddlesden Geotechnical.</p> <p style="padding-left: 40px;">There are no open ditch networks within the site that will expedite the transport of phosphorus.</p> <p style="padding-left: 40px;">There are no records of sewer flooding within the vicinity of the site."</p> <p>g) There would be no significant in-combination effect from other discharges to ground within or more than 200m from the site of the proposed discharge. A plume spread analysis for the proposal and the nearest existing discharges has been undertaken which shows that the dispersal zones would not intersect and also that there is a negligible likelihood of in-combination pollution of groundwater. See attached <b>'Plume Spread Analysis' by Enviren</b>.</p> <p>h) Percolation tests have been performed of the proposed location of the drainage field and the resulting value is within the required range under the Building Regulations 2010, which specify an average Vp value of between 12 and 100. In this case percolation tests gave Vp results of between 67.5 – 82.7 for the area in which the Drainage field would be situated.</p>
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<p>11. Conclusion of Screening stage (Is the proposal likely to have a significant effect 'alone' or 'in combination' on a European site?)</p>	<p><b>Degradation or changes to water quality:</b></p> <p>The application site is located within the hydrological catchment of the River Axe SAC.</p> <p>The submitted nutrient neutrality assessment demonstrates that the proposal would not exceed the thresholds for small discharges to the ground within the Council's 'Interim guidelines on small scale thresholds and nutrient neutrality principles for the hydrological catchment of the River Axe Special Area of Conservation'.</p> <p>East Devon District Council concludes that a Significant Effect on the River Axe SAC either 'alone' or 'in-combination' with other plans and projects can be ruled out.</p> <p>An <b>Appropriate Assessment</b> of the proposal <b>will NOT therefore be necessary</b>.</p>
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Local Authority Officer:	Andrew Digby Senior Planning Officer	Date: 11/04/2025
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