

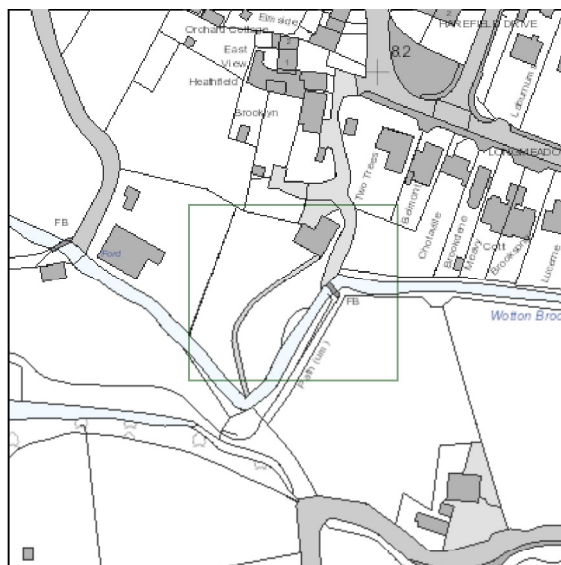
**Ward** Woodbury And Lymestone

**Reference** 20/1855/FUL

**Applicant** John Lomax

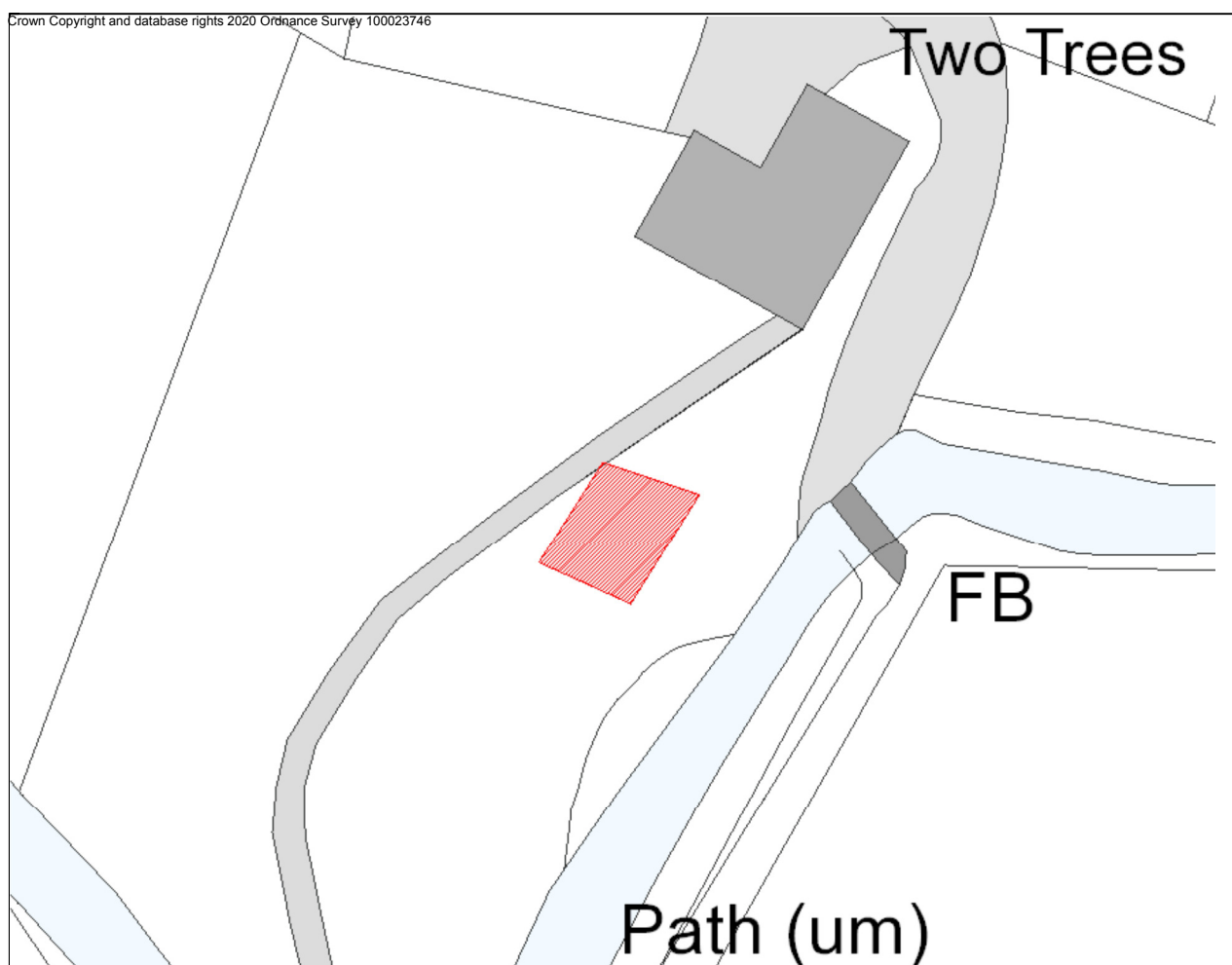
**Location** Land Adjoining The Workshop  
Longmeadow Road Lymestone  
Exmouth EX8 5LF

**Proposal** Installation of a sewage treatment  
package (retrospective application).



**RECOMMENDATION: Approval retrospective (no conds)**

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		<b>Committee Date: 2<sup>nd</sup> December 2020</b>
<b>Woodbury And Lympstone (Lympstone)</b>	<b>20/1855/FUL</b>	<b>Target Date: 03.11.2020</b>
<b>Applicant:</b>	<b>John Lomax</b>	
<b>Location:</b>	<b>Land Adjoining The Workshop Longmeadow Road</b>	
<b>Proposal:</b>	<b>Installation of a sewage treatment package (retrospective application).</b>	

**RECOMMENDATION: Approval retrospective (no conds)**

#### **EXECUTIVE SUMMARY**

This application has been referred to Committee following a Chair Delegation meeting due to the level of objection to the application and the pollution concerns raised.

This application relates to an area of flat land to the south of a property known as The Workshop, in Lympstone. The site is accessed via the curtilage of the aforementioned dwelling which, in turn, is accessed off Longmeadow Road. Neighbouring dwellings are situated to the north of the site, and public footpath to the east. The site is located in the open countryside, and is also within land designated as a Green Wedge in the East Devon Local Plan. It is also within a flood zone identified by the Environment Agency, which relates to the near-by Wotton Brook.

Retrospective planning permission is sought for the retention of a sewage treatment package. This is located entirely underground, and discharges into the aforementioned watercourse.

The key considerations in the determination of this application relate to the principle of the proposal and the environmental impact of the development. Many objections to the proposal raising pollution concerns have been received, with some drawing the Council's attention to Policy EN19 of the East Devon local Plan. Also relevant is Policy EN18. However, despite these policies being aimed more at new development, the principles of them can be applied to the proposal. With this in mind, a key consultee in this instance is the Environment Agency (EA), which has no objections to the proposal.

The EA also refers to the view that plant such as that proposed should only be used where it is not reasonable to connect to the public sewer. The application is

supported by a statement from the applicant, and confirmed as being reasonable by Building Control, which are considered to represent a constraint on the practicality of connecting to the main sewer. In such circumstances, the Local Plan is clear, in paragraph 22.28 that the use of a private sewer may be acceptable.

In terms of principle, the site is located in the open countryside and is not within the domestic curtilage of The Workshop. The Local Plan details a number of circumstances where development is not permitted in the countryside. However, the nature of the development is such that it is considered it would not be contrary to any of these

The Council is aware that the Wotton Brook leads into the Exe Estuary, which is an area subject to a number of significant environmental designations, and that the site is also within a flood zone. However, given the lack of objection from the EA (who has inspected the plant and confirmed that there is no pollution), it is unreasonable for the Council to argue that the proposal would harm these designations.

Given the above comments, and taking into account the lack of objection to the scheme by the EA, it is considered that it would not be reasonable for the Council to object to either the principle or the environmental impact of the development.

There are no policies in the Lympstone Neighbourhood Plan which are would preclude the development.

The proposal is not considered to give rise to any concerns in addition to those mentioned above.

Given the above comments, it is recommended that this application is approved.

## **CONSULTATIONS**

Parish/Town Council

Recommendation: OBJECT

Lympstone Parish Council strongly object to the application for the following reasons:

Foul sewage should always be discharged into the main sewer where it can be, as far as practical, guaranteed to be properly treated. The statement made by the resident about what needs to be done to connect to a sewer is untrue as there is a suitable accessible sewer pipe within easy reach of the site.

The previously approved planning condition to the building of a dwelling stated, "that of pumped sewage to the main". Government planning legislation clearly states "if within 30 metres of the main" must connect especially in a flood plain area. The applicant's original planning application showed that he was going to connect to the main sewer, not install a Klargester. Klargester states that a tank should NOT be installed on a flood plain. Had the applicant made this clear from the outset then the public would have been able to have made a more informed decision rather than be misinformed.

EDDC cannot justify their reliance on a resident to treat their sewage and waste water themselves when the discharge is into a brook where children play. It appears that no test has been made of the brook water below the discharged water from this site. Consideration or permission of Riparian owner's rights lower down the area has neither been sought or granted. Great concern over health matters is of paramount importance and should be challenged.

Furthermore, any guarantees given by the resident are worthless should there be any expensive breakdown in their treatment process or in the event the property is sold.

Members believe and have noted that the applicants submitted application form has anomalies and urges EDDC admin and planning team to check and challenge these.

Woodbury And Lympstone - Cllr Geoff Jung  
20/1855/FUL Workshop Longmeadow Road Lympstone.

I have viewed the documents submitted for the planning application for 20/1855/FUL for the Installation of a sewage treatment package (retrospective application) on land adjoining the Workshop Longmeadow Road Lympstone. I note there are a substantial number of objections to the retrospective application.

I note that the East Devon Local Plan states:

'Private systems may ' be used for new development in areas affected by drainage restrictions preventing connection to the main sewer. However, the installation of a private sewage treatment system will only be possible on plots of adequate size and if detailed assessment of the site and local environment shows adverse effects will not arise'. (East Devon Local Plan 2013-2031 Policy EN19, explanatory note para 22.28)  
The Documents provided by the applicant states that there a several drainage restrictions which are sufficient to prevent connection to the mains sewer. However, in view of the many local concerns I would ask for an independent analysis to ensure this is correct.

Therefore, at this present time I cannot support the application, but I reserve my final views on the application until I am in full possession of all the relevant arguments for and against.

Further comments 12.11.20:

I am writing in reference to planning application 20.1855.FUL

I would like to thank the officer for their comprehensive report and the comments from Building Control and the Environment Agency.

On the one hand the Environment Agency is saying that:

“Ammonia is an indicator of sewage pollution. Ammonia tests have been carried out at various places on site and all readings were zero. The watercourse has been checked for signs of pollution and no evidence of any such pollution was found.”

However, 50 residents are concerned that this outflow is impacting on the Wotton Brook, the Exe Estuary and wildlife.

I can totally understand residents' concerns of a sewage system discharge entering a small watercourse, but expert consultees both claim they do not foresee a problem.

I can see from the previous list of planning applications and appeals that this specific site has been very contentious and a concern to residents for many years, and this retrospective application only adds further concerns of residents.

I asked for independent analysis to consider that there is sufficient justification that the sewage could not be connected to the main sewage system. The report concludes there are sufficient reasons.

Therefore, in planning terms there are no legitimate reasons to refuse, as there is no detrimental effect to the amenity, or occupiers to other dwellings, no impact to trees, the highway or rights of way or the conservation area.

I therefore, bearing in mind the local residents justifiable concerns have to reluctantly adhere to the advice of the 2 consultees and the planning officer and withdraw my earlier comment of not supporting the application.

#### Environment Agency

##### Environment Agency position

We have no objections to the proposed planning application. However, the applicant will need to satisfy themselves that they have the necessary permits in place to operate the package treatment plant. Further advice on this is provided below.

##### Advice - Environmental Permitting: Flood risk activity permit

We note that the treatment plant will be installed below ground and that the unit is designed to work in floodplain locations. However, the installation links to an outfall pipe discharging into the Main River Wotton Brook. Therefore, the applicant will need to demonstrate that suitable environmental permitting approvals are in place from the Environment Agency for the installation of the outfall. It is envisaged that this could be shown through compliance with the following exemption criteria:

<https://www.gov.uk/government/publications/environmental-permitting-regulations-exempt-flood-risk-activities/exempt-flood-risk-activities-environmental-permits#outfall-pipes-less-than-300mm-diameter-through-a-headwall-fra12>

##### Advice - Environmental Permitting: Foul drainage discharge

The foul drainage system will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010, unless it satisfies the General Binding Rules for small sewage discharges in England. The General Binding Rules can be found online at:

<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

It is the responsibility of the operator to ascertain whether the treatment plant meets these rules. The General Binding Rules require the operator to obtain any necessary planning and building control approvals which we understand are being sought via this retrospective planning application.

If the proposed foul discharge will not satisfy the General Binding Rules, an Environmental Permit will be required. If this is the case the applicant is advised to

contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted, particularly if the discharge is located within an area served by a mains sewer. Additional 'Environmental Permitting Guidance' can be accessed online at: <https://www.gov.uk/permits-you-need-for-septic-tanks>.

Further comments:

Further to our response dated 28 September 2020, we have been contacted by a member of the public regarding this application.

We would like to take this opportunity to highlight that the first presumption must be to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered.

As you will be aware, we were only a statutory consultee for this application because it involved work adjacent to the main river. We are not a statutory consultee for non-major applications involving non-mains drainage. It will be for your authority to decide whether this is appropriate in this location.

We have provided guidance to Local Planning Authorities on non-mains drainage from non-major development to help them determine planning applications in the absence of consultation with the Environment Agency. The guidance is available online at [https://www.planningportal.co.uk/info/200204/local\\_authorities/154/advice\\_for\\_local\\_authorities\\_on\\_non-mains\\_drainage\\_from\\_non-major\\_development](https://www.planningportal.co.uk/info/200204/local_authorities/154/advice_for_local_authorities_on_non-mains_drainage_from_non-major_development).

Please consider this advice before determining this application.

### Building Control

From the description it appears the request is reasonable. Using a pumped system to get the waste to the sewer main is another option but given the distance involved this seems like a reasonable alternative and both would be potentially acceptable under B. Regs subject to EA approval. The obvious concern is that the site is subject to risk of flooding so we would need to be satisfied that the system can cope without causing pollution under such conditions but if the EA are happy with the treatment plant then we are unlikely to have any objections under B. Regs. They should also submit a Regularisation application if they haven't already.

I would however recommend consulting with the EA for confirmation.

### Other Representations

A total of fifty third party representations relating to this application have been received. Of those, 49 are objections, in which the following concerns are raised:

- Impact on the Wotton Brook, the Exe Estuary and wildlife.
- The applicant has not justified the proposal.

- The dwelling should not have been permitted.

There has also been one comment supporting the application. This is on the basis that the current sewer in Longmeadow Road is at capacity, and that an uphill connection to that could present problems.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
09/2021/FUL	Replacement garage and workshop	Approved	09.11.2009
11/1556/FUL	Construction of replacement garage and workshop including change of use of agricultural land (revised scheme to planning permission 09/2021/FUL)	Approval with conditions	06.10.2011
13/1262/VAR	Variation of Condition 3 of planning application 11/1566/FUL to remove requirement for replacement garage and workshop to be used only in conjunction with and ancillary to, the use of Heathfield as a single dwelling.	Approval with conditions	29.08.2013
15/1010/FUL	Construction of detached dwelling	Withdrawn	27.07.2015
16/2740/FUL	Change of use from workshop and garage to single dwelling	Refused	22.03.2017
17/1168/FUL	Change of Use from workshop and garage to single dwelling (resubmission of application 16/2740/FUL)	Refused	10.08.2017
18/2743/FUL	Construction of single storey extension	Approval with conditions	13.02.2019

19/1557/CPL	Certificate of lawfulness for the provision of a porous hard surface to be used for any purpose incidental to the enjoyment of The Workshop, Longmeadow Road, Lympstone EX8 5LF a dwellinghouse at any point outlined in red on the attached plan.	CPL Refuse Part 1	11.09.2019
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## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

EN18 (Maintenance of Water Quality and Quantity)

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

EN21 (River and Coastal Flooding)

### Government Planning Documents NPPF (National Planning Policy Framework 2019)

### Lympstone Neighbourhood Plan Policy 14

## **Site Location and Description**

This application relates to an area of flat land to the south of a property known as The Workshop, in Lympstone. The site is accessed via the curtilage of the aforementioned dwelling which, in turn, is accessed off Longmeadow Road. Neighbouring dwellings are situated to the north of the site, and public footpath to the east. The site is located in the open countryside, and is also within land designated as a Green Wedge in the East Devon Local Plan. It is also within a flood zone identified by the Environment Agency, which relates to the near-by Wotton Brook.

## **Proposed Development**

Retrospective planning permission is sought for the retention of a sewage treatment package. This is located entirely underground, and discharges into the aforementioned watercourse.

## **ANALYSIS**



The key considerations in the determination of this application relate to the principle of the proposal and the environmental impact of the development. The latter, in particular, is in terms of water pollution, as the treatment plant discharges into the Wotton Brook. Many objections to the proposal raising that concern have been received, with some drawing the Council's attention to Policy EN19 of the East Devon local Plan. Entitled 'Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems', this Policy states the following:

*"New development will not be permitted unless a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the development. Development where private sewage treatment systems are proposed will not be permitted unless ground conditions are satisfactory and the plot is of sufficient size to provide an adequate subsoil drainage system or an alternative treatment system."*

Also relevant is Policy EN18, entitled 'Maintenance of Water Quality and Quantity' of the Local plan, which states:

*"The Council will require developers to take appropriate measures to ensure that development does not adversely affect the quality or quantity of either surface or groundwater. Development that would result in adverse impacts or potential for pollution will be restricted within Source Protection Zones."*

It is notable, however, that these policies, and the text leading to them in the Local Plan, are directed mainly at new development, such as the erection of new dwellings. In this instance, the application is only for the retention of the treatment system and not the related dwelling. Despite this, it is considered that the general principles of the above-mentioned policies can be applied to the proposal. With this in mind, a key consultee in this instance is the Environment Agency (EA). The EA has assessed the proposal and has confirmed to the Council that it has no objections to the proposal by stating that they have "no objections to the proposed planning application". Although the EA then draws attention to the fact that the applicant will need to ensure that various permits are in place; such permits are not part of the planning process, however.

The EA also refers to the view that plant such as that proposed should only be used where it is not reasonable to connect to the public sewer. The application is supported by a statement from the applicant, in which he lists a number of constraints on connecting to mains sewer; in particular:

- The distance between the property served by the system and the mains sewer being around 60 metres;
- The height difference between the property and the mains sewer meaning gravity would not be sufficient for waste to reach the mains sewer;
- Multiple pumps would be required and these would be on land outside of the control of the applicant in multiple ownerships making the connection, and future maintenance through inspection chambers difficult to get agreement for in terms of both construction and on-going maintenance;

- The presence of the culverted Wotton Brook tributary running between the dwelling and the main sewer connection point – it would be impossible to connect below the culvert or to construct something over the culvert.

These factors are considered to represent a constraint on the practicality of connecting to the main sewer. In such circumstances, the Local Plan is clear, in paragraph 22.28 that in such circumstances the use of a private sewer may be acceptable.

The reasons put forward by the applicant for not being able to reasonably connect to the mains sewer have been put to Building Control for an independent assessment and Building Control have confirmed that the request for a treatment plant is reasonable in this instance.

In terms of the location of the plant, the site is located in the open countryside, and is not within the domestic curtilage of The Workshop. Strategy 7 (Development in the Countryside) and Policy D1 (Design and Local Distinctiveness) of the Local Plan detail a number of circumstances where development is not permitted in the countryside, or not permitted in general. These relate mainly to the visual impact of a development, or its impact on the occupiers of other properties or the surrounding environment. Given the lack of objection from the EA, it is considered that it would not be reasonable to argue that the development causes an environmental harm. Furthermore, the nature of the development is such that it is mainly underground, which means it is not reasonable to argue that there is visual harm.

It is noted that the Wotton Brook leads into the Exe Estuary, which is an area subject to a number of significant environmental designations. Clearly this is an important factor. However, as mentioned above, the EA has not raised any pollution concerns regarding the development having inspected it and confirmed no pollution leaks. Consequently, it is unreasonable for the Council to argue that any such harm would arise.

The site is located in a flood zone. However, the EA has not objected to the proposal on those grounds and the nature of the development is such that it would not result in the loss of flood plain area. Therefore, the impact on flood risk is considered to be minimal.

Given the above comments, and taking into account the lack of objection to the scheme by the EA, it is considered that it would not be reasonable for the Council to object to either the principle or the environmental impact of the development.

In terms of other matters, it is considered that:

- The location and nature of the development is such that it would not be detrimental to the amenity of the occupiers of other dwellings.
- The proposal would not have a detrimental impact on any trees.
- The development has no impact on any highway or right of way.
- No listed buildings or conservation area are impacted by the development.

There is a 'made' Neighbourhood Plan for the Lympstone Parish, and the site falls within the area covered by that. However, the plan does not contain any policies which

directly relate to the proposal. Although it is noted that Policy 14 states that development must not result in an increased flood risk; it is considered that the proposal would not result in an increased flood risk, as detailed above.

## **RECOMMENDATION**

### **APPROVE**

1. 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.)

### **NOTE FOR APPLICANT**

#### **Informative:**

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

#### **Plans relating to this application:**

	Flood Risk Assessment	28.08.20
foul sewage assessment	General Correspondence	28.08.20
1753/01H + block	Location Plan	28.08.20
DS1147P-04	Other Plans	08.09.20

#### **List of Background Papers**

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