

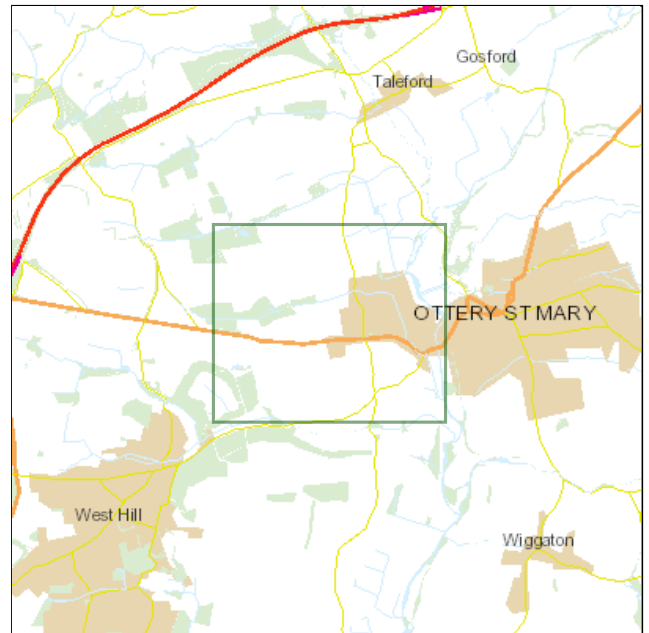
**Ward** Ottery St Mary

**Reference** 20/1504/MOUT

**Applicant** Mr David Black

**Location** Land Opposite Barrack Farm Exeter Road  
Ottery St Mary

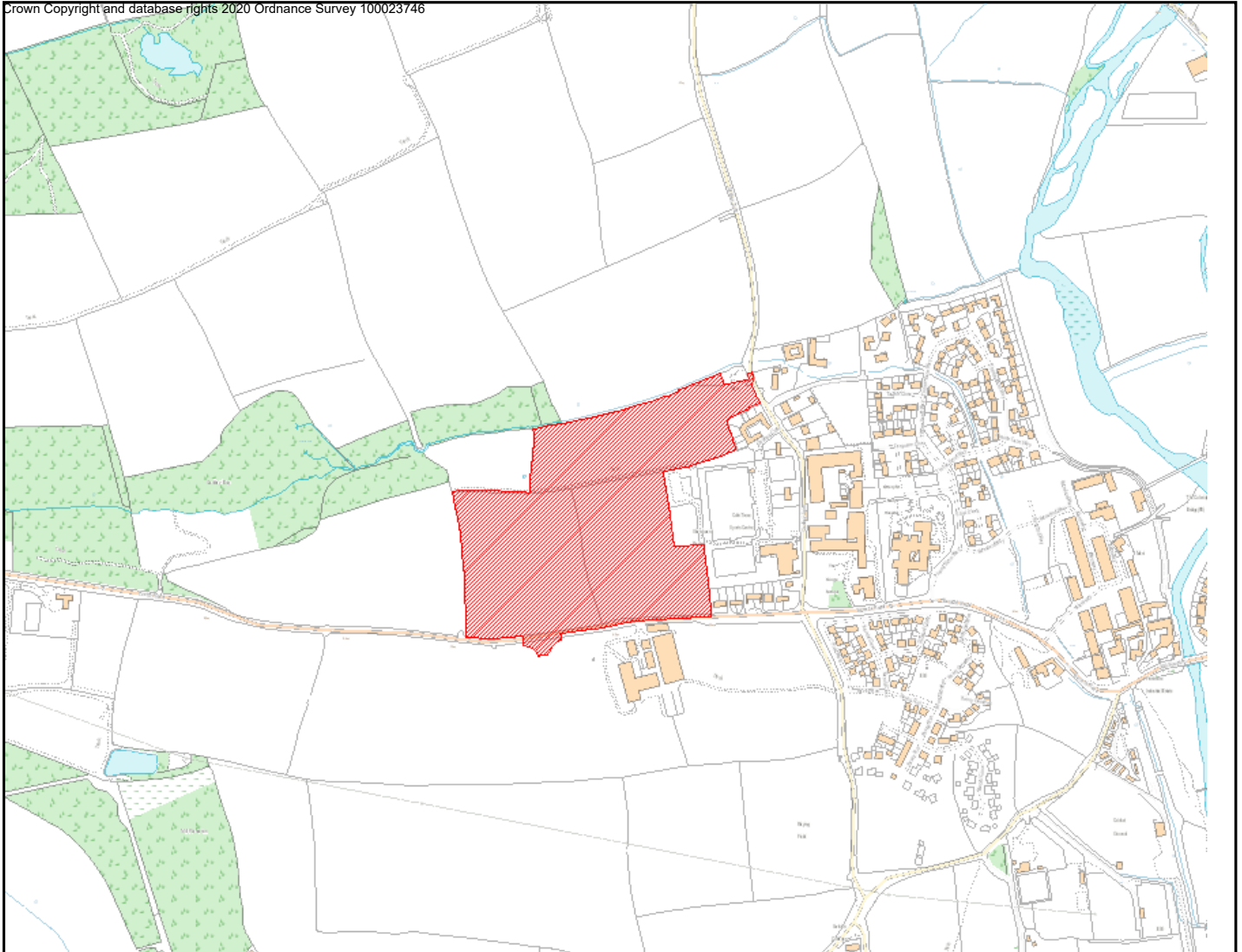
**Proposal** Outline planning application with all matters reserved except access for up to 150 new dwellings, a 210 Space primary school, construction of a new roundabout on Exeter Road, a new junction onto Cadhay Lane, and associated infrastructure



**RECOMMENDATION:**

- 1. Adopt the appropriate assessment**
- 2. Secure affordable housing and habitat mitigation through a Section 106 legal agreement**
- 3. Approval with conditions**

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		<b>Committee Date: 6<sup>th</sup> January 2021</b>
<b>Ottery St Mary (Ottery St Mary)</b>	<b>20/1504/MOUT</b>	<b>Target Date: 21.10.2020</b>
<b>Applicant:</b>	<b>Mr David Black</b>	
<b>Location:</b>	<b>Land Opposite Barrack Farm Exeter Road</b>	
<b>Proposal:</b>	<b>Outline planning application with all matters reserved except access for up to 150 new dwellings, a 210 Space primary school, construction of a new roundabout on Exeter Road, a new junction onto Cadhay Lane, and associated infrastructure</b>	

**RECOMMENDATION:**

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**EXECUTIVE SUMMARY**

**This application is before members as it represents a departure from the development plan and as the officer recommendation is contrary to the views of the ward member and the parish council.**

**Part of the application site lies within an area allocated for Community and Educational Uses under Strategy 24 of the Local Plan. However, what is proposed in the application departs substantially from the allocation in that it seeks to build houses on this, and adjoining land, and to construct a primary school on adjacent land further to the west of the allocation. In such circumstances the application needs to be considered in the context of sustainable development and a determination made as to whether the benefits of the proposal outweigh the harm of departing from the adopted allocation. The impacts on the local highway network, trees, local landscape, the setting of heritage assets, flooding and wildlife have all been addressed.**

**The provision of housing on agricultural land outside of a BUAB, below policy level of affordable housing, and the visibility of the site from various viewpoints within the town and local area all weigh against the proposal. However, the overriding benefits of the proposal through providing a new primary school to replace an existing school which is required due to identified dangers from flooding, control of the impact from the housing at the reserved matters stage,**

together with provision of affordable housing within the town and the construction of a new roundabout which would improve highway safety are considered to outweigh the dis-benefits of the scheme.

Accordingly, on balance, it is considered that the proposal is acceptable subject to the package of measures proposed in the application to mitigate any harm, secure affordable housing, including an overage clause, and habitat mitigation through a legal agreement and appropriately worded safeguarding conditions.

## **CONSULTATIONS**

### **Local Consultations**

Ottery St Mary - Cllr Vicky Johns

I am sending in my strong objection to the above planning application, with the following reasons;

1. It is contrary to the Ottery st Mary & West Hill Neighbourhood plan and East Devon Local Plan. This plan involved a lot of work and was voted for unanimously and democratically by the local people. The plan sets out what is acceptable use for this piece of land and the applicant is trying to change the use of the land that is protected by the plan, this is in itself wrong.
2. Ottery St Mary has already exceeded the amount of housing deemed necessary within East Devon plan and the additional housing would increase the pressure and problems on the infrastructure.
3. The affordable housing deemed for areas outside the built up boundary is 50% and yet this application is only offering 30% which is in itself contrary to the East Devon Local plan.
4. The area could add to the flood risk of housing along that road and to Thorne Farm way, many residents are already aware of the problems of surface water running off the field without the added concern of even more housing and so a non-permeable surface adding to even more water. This was highlighted by the Environment Agency and South West Water.
5. The area has a lot of wildlife living in it and around it that will all be disturbed not to mention the types of plant life living there. The ground is constantly wet hence the name 'Cadhay Bog'.
6. The increased traffic is a major concern of everyone, this road is the main road into Ottery from the Exeter side and as such is constantly busy adding to this just increases the danger. School pick up and drop off times are exceptionally busy and adding another school and more housing just increases the danger.
7. The application has stated that the traffic will leave by the Cadhay Lane road, anyone that knows this road knows how narrow that road is. The road is a single road pretty much all of the way with only the odd passing part, the increase of traffic would be significant and not, in my opinion, workable. A house along that road asked to build a single house in their own garden and was turned down because of the increase in traffic and the difficulty of that road, so obviously 150 houses and a school would be a no as well.
8. People are being encouraged to walk and yet this school is on the furthest point out of Ottery without a proper path or cycle lane. The access to the area would

involve either crossing a very busy road or walking along a very busy road neither of which would be suitable for very young primary school aged children, let alone the disabled.

9. Removing the school from Tipton St John would, in my opinion, basically rip the heart out of the village. Tipton is a very close community minded village where people walk their children to school and enjoy being a part of the community. We have been advised that the school floods and that there is a danger to the children and yet every Tipton parent that I have spoken to has advised that since the reason works in Tipton the school has not flooded. The roads out of Tipton flood but these are the same roads that the children will have to commute to get to a new school in Ottery St Mary, so the issue remains the same just further to go to get the children back home.

10. We have been advised that the majority of children reside in Ottery and yet over 80 children currently attend Tipton school with only 31 coming from Ottery, so the others are from Tipton and other areas.

11. There are a number of reports from the applicant that have insufficient evidence, as pointed out by both the Environment Agency and South West Water.

12. We have been advised that the school will cost approximately £7million pounds with the Diocese funding £1million and the rest being made up by the sale of the houses and yet there are no calculations to prove this or as to how those figures were reached.

13. As an outline planning application I feel that there is just not enough information and what little information there is is very limited. For example by implying that the school building and housing will not change the area that much when it is quite apparent that it will.

We are aware that the Tipton school needs rebuilding as the buildings are not fit for purpose however has the funding for that been looked into? The government have advised that there is funding for schools and yet we have seen no evidence of that being looked into.

With the information that I have in front of me I strongly object to this application but I reserve the right to change my opinion if further information comes to light.

#### West Hill And Aylesbeare - Cllr Jess Bailey

As adjoining ward member I would like my OBJECTION to this application to be noted. My concerns are as follows:

1. It runs contrary to the adopted Ottery St Mary and West Hill neighbourhood plan and EDDC local plan, so there is no planning policy support for it.
2. The proposed increase in housing will put further pressure on local services in Ottery St Mary - Ottery St Mary has already experienced significant housing numbers in recent years.
3. The roads in the vicinity are already very congested and I do have significant concerns about road safety.
4. The percentage of affordable housing offered is below what is required in the EDDC local plan.
5. The Environment Agency has objected because insufficient evidence has been provided to assess the flood risk.

## Ottery St Mary Town Council

This application was discussed at the West Hill Parish Council meeting on 4th August 2020.

Although Councillors acknowledge the need for a new primary school, they did not support the application as:

1. The application does not comply with the Neighbourhood Plan or Local Plan. The Local Plan Strategy 24 safeguards part of this site for educational and community use, but does not support additional housing. The application does not comply with Neighbourhood Plan Policy NP25 in that the amenity of surrounding residents will be affected, there is inadequate provision for access and parking, and the ability of the Kings School to expand in the future will be compromised.
2. Lack of impact analysis on the community:
  - a. Kings School is at capacity. The proposed development does not allow for expansion at the Kings site with only a small area safeguarded.
  - b. Community services such as the Medical Centre are already under pressure.
  - c. Infrastructure is under pressure from current traffic volumes and very limited parking in Ottery centre. Additional traffic volumes will increase problems on narrow roads in Ottery and surrounding area.
  - d. Current significant congestion problems near Kings School will be exacerbated by traffic to/from the new school, particularly at drop off and pick up times.
3. No benefit for the community other than the provision of a primary school.
4. The proposed development will be on good quality agricultural land.

Details:- Outline planning application with all matters reserved except access for up to 150 new dwellings, a 210 Space primary school, construction of a new roundabout on Exeter Road, a new junction onto Cadhay Lane, and associated infrastructure

### Town Council Comments:

Ottery St Mary Town Council vigorously opposes this planning application on the grounds that:

- a) It is development outside the built up area of the boundary, which is contrary to the Ottery St Mary & West Hill Neighbourhood Plan and East Devon Local Plan
- b) Is building houses on land designated for education and community use, which is contrary to the Ottery St Mary & West Hill Neighbourhood Plan and East Devon Local Plan
- c) The houses in the East Devon Local Plan for Ottery St Mary have already been exceeded and these additional houses would increase pressure and problems on the infrastructure
- d) The five year housing land supply required by the Government is already being demonstrated by East Devon District Council, therefore there is no justification for this application
- e) The affordable housing offered is 45 so 30%, not 50% which would be 75 and is contrary to the East Devon Local Plan
- f) Concern that the development would increase pollution and flood risk, recognising the concerns already expressed by the Environment Agency and South West Water
- g) Concerned that the development would lead to damage to wildlife

- h) Concerned that it would lead to development of countryside and the landscape
- i) Concern that it would result in adverse visual impact, being on steeply rising ground on the edge of Ottery St Mary
- j) Increased traffic congestion and an expressed concern about the lack of evidence provided by the applicant to demonstrate that the traffic problems would be properly dealt with and the Council is not happy with the proposals they put forward and the prospect of their realistic delivery
- k) Concern about the impact of not only taking the school out of Tipton St John village but the negative impact on the community, social infrastructure, families and particularly the children who would be directly affected by having to travel to a new school they have been happy at in a new location from Tipton to Ottery St Mary. The Council feels that by removing the school would tear the heart out of the village.
- l) The Council has a concern about the lack of public transport links as some pupils currently at the school in Tipton travel from Newton Poppleford and Sidmouth. This proposal would also increase the school run traffic around the Kings School area, whereas it should be encouraged for people to be more active and walk to school in a safe environment.

## **Technical Consultations**

### **DCC Flood Risk Management Team**

#### Recommendation:

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

#### Observations:

We only accept FEH rainfall for new applications in line with best practice. The FSR is based on a dataset from 1970s and is out-of-date.

The applicant should provide evidence to show that long term storage has been included within the calculations.

The applicant should clarify that the attenuation basins on the Northern Boundary will remain outside of flood zones 2/3 to prevent significant decreases in capacity from flood events.

The applicant should consider, if they haven't already, engagement with local schools to ensure that when the SuDS are implemented they can deliver wider educational benefits.

### **Conservation**

This application has been assessed on the setting of the nearest listed buildings and character of the Conservation Area of Ottery St. Mary. In general the application site sits outside of the Conservation Area and away from the core historic development

area. It is influenced by the steep topography that rises above the town and river. There is some concern that there may be minimal impact on the significance of the heritage assets through the potential for key views towards the town. This may be through the ridge heights of the principle structures located within the heart of the site. At this stage, it is suggested that the possibility for any key views are considered in the review of any development.

### Environment Agency

Thank you for contacting us in relation to conditions for this application.

Environment Agency position (06/11/20)

Notwithstanding our previous position in which we considered further information should support the application in relation to the flood risks on site over the lifetime of the development, we consider that the proposed development may be acceptable subject to the inclusion of the following condition relating to flood risk, which intends to protect the areas at flood risk from any development, including land raising or storage of material until further assessment is undertaken.

#### Condition – Flood Risk Buffer Area

No development, including landscaping works shall take place within 50m of the Thorne Farm Stream unless a more accurately defined flood zone has been demonstrated through adequate flood risk assessment and appropriate flood modelling, to the satisfaction of the Local Planning Authority, taking advice from the Environment Agency. A scheme for any development within the 50m buffer area shall be submitted to and approved in writing by the local planning authority.

Reason – As indicated in our previous responses, we consider that the application at present does not clearly define the appropriately developable areas of the site with reference to the area at the north of the site mapped as flood zone 2 and 3 (medium to high risk). The flood maps cannot be used as a site-specific indication of the flood risk, and may be under-representative.

The above recommended condition takes a conservative approach to protecting the area currently at flood risk, consistent with Environment Agency flood maps, as well as taking account for any potential increase in floodplain extents resulting from climate change over the lifetime of the development. If the applicant wishes to propose development in this area a part of a reserved matters or other, application, further flood assessment is required to be undertaken to clearly define the flood risks in this area.

Please contact us again if you require any further advice.

Environment Agency position (12/10/20)

Following review of the response to our comments from Sam Hurdwell of HBS Norse Group (dated 23rd September 2020), we consider that our previous position is still applicable in that we consider further information is required to fully assess the flood

risks posed to the site over the lifetime of development. However, we recognise that the application is an outline proposal with no set layout. In this case we consider that planning conditions would be necessary to secure an undeveloped buffer area in the north of the site without further flood modelling undertaken by the applicant. The reason for this position and advice is provided below.

Reason - We reiterate that we do not have an in-principle objection to the proposed development at this site, however an outline application should establish the parameters within which development is acceptable. We consider that the application at present does not clearly define the appropriately developable areas of the site to take the proposal beyond outline stage. We consider that it is necessary for the applicant to undertake further assessment of the flood risks to the site from the Thorne Farm Stream and consider climate change over the lifetime of the development in order to identify the areas suitable for development, to steer development to the safest locations. This should include assigning site specific design flood levels to the topographic layout.

Advice - Notwithstanding this, we recognise that your authority may be minded to approve the application because it is at outline stage. If this is the case, we would consider it inappropriate to approve the application without securing a generous 'buffer' area in the north of the site within which no development (including no land raising) shall occur without further flood modelling. Please contact us again if you are minded to approve the application to discuss this approach.

Please contact us again if you require any further advice.

Environment Agency position (11/08/20)

We raise an objection to the proposed development on the grounds that insufficient information has been submitted to fully assess the flood risk to the proposal over the lifetime of the development. The reason for this position and advice is provided below.

Reason - Most of the development site is located within flood zone 1, however the northern boundary of the development encroaches into flood zone 3, identified by Environment Agency flood maps as having a high probability of flooding. This boundary is also adjacent to the Thorne Farm Stream which is classed as a main river at this location. We have reviewed the Flood Risk Assessment (FRA) prepared by Hamson Barron Smith (dated March 2020). Whilst we have no in-principle objection to the proposal on the basis that the new built development is located in flood zone 1 (low probability of flooding), we advise that further consideration is required in the assessment relating to the Thorne Farm Stream and the potential influence on the development layout.

Under the climate change discussion, it would be appropriate to consider the likely increase in fluvial flows in the watercourse and subsequent impacts on the extent of out of bank flooding, which will extend beyond the mapped extent of Flood Zone 3. It will be necessary to consider a 'design' flood level for a long-section along the watercourse and demonstrate how this relates to the boundary of the built development through consideration of the topography. A clear, unobstructed



floodplain corridor should be retained for such an extreme design event and it should be shown that garden boundary fences/hedges do not encroach in to this area.

Linked to this, the applicant will also need to demonstrate that the SuDS lagoon can remain operational during the extreme design flood event. A consideration of the extent of Flood Zone 2 would be appropriate in this analysis. This may also be a consideration of the Lead Local Flood Authority who can provide advice on appropriate surface water management.

#### Overcoming our objection

The applicant may overcome our objection by submitting additional information to satisfy the concerns raised within this letter. Please re-consult us on any additional or revised information submitted.

Please contact us again if you require any further advice.

#### Devon County Highway Authority

#### Observations:

This application is in outline with all matters reserved except for accesses onto the existing highway network, these include a new roundabout on the B3174 Exeter Road to the south of the proposed development, a new emergency access and foot/cycleway access on the B3174 Exeter Road to the south of the proposed development and a new vehicular (through route) access in Cadhay Lane to the north of the proposed development.

Most of the proposed development internal infrastructure is indicative only however, if this application is approved, it will determine access points for all modes of travel to and from the site. This will largely determine the main through traffic route of the site and where the internal accesses are likely to be located for the proposed primary school and residential dwellings.

As Highway Development Management Officer for East Devon I have previously been involved in consultations and discussions with NPS (acting for Devon County Council) on the highway aspects of the application however, this does not prevent me giving an impartial and professional response to this application. I have been consulted as Overseeing Organisation (DCC/NPS) in respect of the Stage 1 Road Safety Audit process and have observed that this process has been conducted to the appropriate standards and protocols. I understand that the applicant has had discussions with The King's School and the LED Leisure Centre about possible alterations to the Cadhay Lane traffic calming. I have not been party to these discussions and whilst they are mentioned within the application, they do not form part of the outline application and will be subject to reserved matters application/s.

It should be noted that within this application alterations to the extent of existing speed limit and changes of traffic priority will be required to facilitate the new roundabout junction on the B3174 Exeter Road and the new access to the site on Cadhay Lane. Whilst such extensions to the speed limit and changes of priority can be agreed in principle in this application. Any speed limit changes and change of

priority proposed and any subsequent alterations to traffic calming in Cadhay Lane will be subject to the Highways and Traffic Orders Committee consideration before they can be implemented on site.

## Section S106 Contributions

### Highway Works:

Potential highway works as set out in the Transport Assessment accompanying the application are to be agreed with Devon County Council highways and will be documented within the S106 agreement including any necessary Traffic Regulation Order/s. The Local Highway Authority will require full funding contributions for all new or altering works on the existing highway when reserved matter design details are known.

### Access Proposals:

#### Pedestrian

Pedestrian access to the site, it is proposed a new pedestrian access path will be constructed along the northern side of Exeter Road; linking the south east corner of the site with the existing footway at the junction of Exeter Road and Cadhay Lane.

#### Cycle/Pedestrian

The site has pedestrian and cycle links to the town with the existing shared cycleway and footpath from Thorne Farm Way area to Canaan Way car park, and town centre, only. Within the site, pedestrian access will be subject to the final layouts of the reserved matters application, however it has been currently shown as a mixture of shared vehicular and pedestrian routes, shared cycle and pedestrian routes, and pedestrian only routes.

### Public Transport:

Two new bus stops are proposed along Exeter road to provide adequate public transport links to the development.

### Delivery Vehicles and Private Vehicles:

It is proposed the main vehicular access to the site will be from Exeter Road (B3174) via a new Midi roundabout which will form a robust speed management device to ensure drivers adopt an appropriate and safe speed as they enter the development and the town, speed data readings indicate that at present vehicle speeds at this location on Exeter Road are excessive. A fourth arm to this roundabout is considered to provide improved access to Barrack Farm to the south side of Exeter Road.

### Through Traffic:

A vehicular access point will be off Cadhay Lane, this has been designed to divert traffic coming southwards through the new development to ease the existing congestion issues experienced around the entrance to The King's School and leisure facilities.

#### Emergency Access:

A third vehicular access junction has also been considered to the south east of the site. However, this will be for emergency vehicle access only to ensure emergency vehicles have an alternative route through the development should the other become inaccessible

#### Transport Assessment

##### Scoping:

Scoping discussions have taken place with both the Development Control Officer for East Devon (Jerry Upfield) and Highways England (HE). Discussions with Jerry Upfield concluded that he was satisfied with the scope of the TA and the assessment of the local highway network that has been undertaken. Whilst I, as Highway Development Management Officer for East Devon Area, was consulted by the author of the TA (WSP) regarding the scope of the TA, this does not stop me from making objective and impartial comments upon the proposed development and the TA.

I understand that discussions are ongoing with Highways England with regards to possible impacts upon their network of the A30 and the Daisy Mount Junction. New Junction Criteria - Stage 1 Road Safety Audit. As Local Highway Authority DCC requires that all proposed new accesses onto existing A, B and C roads, where there has not been an access before, are accompanied by at least a Stage 1 Road Safety Audit and that corresponding Designer Responses to problems raised in the Stage 1 RSA accompany the RSA process throughout the full design process. This is to ensure that matters of safety are identified independently at an early stage and that these can then influence designs now and going forward and with the more detailed plans at a later stage.

In this case the Stage 1 RSA has been undertaken by WSP, who are also authors of the TA and have also made the Designers Response to the Stage 1 RSA. This scenario was put to me as the 'Overseeing Organisation' (NPS/DCC) and I did not see that there would be any conflict of interest if the road safety auditors and the designers were from the same company - providing that they are from completely separate offices and locations and do not have any prior involvement with the design proposals, even though they are employed by the same company.

The Design Team are from WSP - Exeter Office and the Stage 1 RSA Team was from WSP - Bristol Office. One S1 RSA team member holds a Road Safety Certificate of Competence meeting the requirements of the European Directive 2008/96/EC and GG119 paragraph 3.9 and appendix G and the terms of reference of the Road Safety Audit were as described in the Design Manual for Roads and Bridges (DMRB) Standard GG 119 Road Safety Audit. The Stage 1 RSA and Stage 1 RSA Designers Response has been submitted to the LPA and forms part of the application details. I have visited the site and noted the Problems Raised, Recommendations and the Designers Responses in the Stage 1 RSA and I have not found any other matters of safety that have not been addressed in the report.

## Traffic Predictions

I have looked at the predicted traffic generation (TRICS) from the development of the school and dwellings and the diversion on Cadhay Lane and apart from the apparent lack of school staff numbers (6.2.2.) referred to above, I have no reason to doubt the figures put forward or their future growth analysis.

### Development Proposals:

#### Primary School

6.2.2. The existing Tipton St John Primary School is located at the centre of Tipton St John close to the River Otter and has approximately 95 pupils and 20 staff.

Following the proposed relocation, the school will accommodate 210 pupils.

The existing Tipton St John Primary School has approximately 95 pupils and 20 staff which equates to a pupil/staff ratio of 0.21 staff per pupil. If this ratio is maintained at the new site it would mean that, at capacity, there would be 44 staff and 210 pupils, making a total of 254 two-way people movements per day attracted to the school site. Whilst the TA gives TRICS data for 210 pupils it does not appear to give details of the staffing ratios at the comparison sites or any proposed staffing numbers for the new school. Therefore the Local Highway Authority wishes to know what the proposed staffing levels at the new school are likely to be, at capacity, and whether these staff movements have been accounted for in the predicted school movements and in the total movement predictions for the development overall.

#### School Clubs:

In recent years with multi-occupational households it has been the trend for Primary and other Schools to offer out-of-hour school clubs so that pupils can be offered breakfast prior to the school academic day and a variety of school clubs after the school day. These clubs have the effect of extending some pupil and staff movements to and from school to outside of those times normally associated with the start and finish of the school day and whilst such movements are hard to quantify. It should be noted that especially in the afternoon/evening, attendance of after school clubs, travel movements can be extended into the evening travel peak hour of 17:00 - 18:00, whereas movements to the school in the morning peak tend to correspond with the existing peak travel time of 08:00 - 09:00.

#### 150 Dwellings

As these can only be indicative at present, I have no comment to make about them.

#### New Roundabout

The proposed new roundabout will require more detailed designs at the reserved matters stage. It is thought that a midi-sized four arm roundabout would be adequate to serve the traffic from the development and that diverted from Cadhay lane. There will be adequate pedestrian crossing points on all arms of the roundabout.

## New Junction from Cadhay Lane

The development proposes a new access junction to the site from Cadhay Lane. It is intended to change the priority of southbound vehicles so that they will use this junction to the development 'Through Route' to the new roundabout and then either go east towards the town centre or west towards the A30 and its connections to Exeter and other localities.

The County Highway Authority reserves the right to comment on any further applications for this development.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. 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;
  
2. This permission shall not constitute an approval of the internal layout plan submitted with the application, because it has been treated as being for illustrative purposes only

REASON: For the avoidance of doubt

3. No development shall take place until details of the layout and construction of the accesses have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented before the development is brought into use.

REASON: To ensure the layout and construction of the access is safe in accordance with the NPPF.

### Natural England

#### DESIGNATED SITES [EUROPEAN] - FURTHER INFORMATION REQUIRED

##### Habitats Regulations Assessment - Recreational Impacts on European Sites

This development falls within the 'zone of influence' for the East Devon Pebblebed Heaths SAC, as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured.

Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

## Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

## Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice<sup>[1]</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8 Bats and Artificial Lighting. They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.

Net gain (East Devon)

We advise you to follow the mitigation hierarchy as set out in paragraph 118 of the National Planning Policy Framework (NPPF) and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal.

In accordance with the paras 170 & 174 of the NPPF, opportunities to achieve a measurable net gain for biodiversity should be sought through the delivery of this development. Note however this metric does not change existing protected site requirements.

In the Chancellor's 2019 Spring Statement, the government announced that it "...will mandate net gains for biodiversity on new developments in England to deliver an overall increase in biodiversity".

Accordingly and to future proof the proposed development, we advise that the proposals are reviewed in light of this commitment towards the delivery of biodiversity net gain. On 29 July 2019, Natural England released the updated and improved Biodiversity Metric 2.0. This replaces the earlier 'Defra biodiversity metric'.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

## Contaminated Land Officer

The site appears to be predominantly farmland. However, it is located on the edge of existing development and several former pits are shown to have been located within the site boundary. We would therefore recommend that the following condition (CT3) be applied to any permission granted.

Unless otherwise agreed by the Local Planning Authority, development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

### 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination.

(ii) an assessment of the potential risks to:

Human health,  
Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,  
Adjoining land,  
Groundwaters and surface waters,  
Ecological systems,  
Archeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

### 2. Submission of Remediation Scheme

Where identified as necessary as a result of the findings of the investigation above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted for approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria,



timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

### 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development (other than any part of the development required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and will be subject to the approval in writing of the Local Planning Authority.

### 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 above and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 2. This must be subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

### 5. Long Term Monitoring and Maintenance

Where identified as necessary, a monitoring and maintenance scheme to include monitoring the longterm effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of reports on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN16.

### Housing Strategy Officer Melissa Wall

This site lies outside the built up area boundary for Ottery St Mary and therefore is considered open countryside. In accordance with Strategy 34 we should be seeking 50% affordable housing on-site.

The applicant has submitted a viability assessment as part of their application and is proposing to provide 30% (45 units) as affordable housing. The offer of 30% affordable housing takes into account the shortfall in funding for the school of £5.2 m and the need to generate a land value of this figure to enable the school to be built. The tenure mix of the affordable units is as per policy with 70% for rent and 30% for other routes into home ownership such as shared ownership. This would amount to 32 units for rent and 13 home ownership. This viability assessment was jointly commissioned by EDDC and DCC and the lower level of affordable housing has been agreed due to the exceptional circumstances.

Under strategy 34 where less than policy compliant levels of affordable housing are being provided an overage clause will be sought within the S106 agreement, this also applies where the residential development is 'enabling development' and a reduction in affordable housing helps to ensure another planning objective is achieved. As in this situation the new houses and disposal of development land with planning permission will assist and enable the delivery of another objective, a new school. Therefore I would expect to see an overage clause in the Section 106 agreement.

Ottery has seen large amounts of development in recent years and with this affordable housing. These affordable units have all now been delivered. Despite this there is still a good level of housing need with 91 applicants in bands A-D wanting affordable rented homes in Ottery St Mary and a further 74 in band E. The current need for affordable rented homes in the district is 2,309 (bands A-D) which rises to 4,242 when you include band E. The need is mostly for 1 and 2 bedrooms although there is also need for 3 and 4 bedroom family homes for rent. The provision of affordable homes on-site should meet the need and provide a mix of house sizes for rent with more 1 and 2 beds. Any flats should be very carefully designed and large blocks avoided as these tend to have management issues. The affordable units should be tenure blind and pepper potted throughout the site.

### Devon County Archaeologist

I refer to the above application and your recent consultation. A programme of archaeological investigation has been undertaken across the proposed development site. These investigations have demonstrated that the archaeological potential of the site is low and that the scale and situation of this development will not have any impact upon any significant heritage assets.

No further archaeological mitigation is required and the Historic Environment Team has no comments to make on this planning application

## Devon County Council Education Dept

Devon County Council as the Education Authority fully supports the above planning application which would enable the relocation of Tipton St John Primary School out of the floodplain, provide high quality educational facilities and ensure that the future need for additional primary pupil places within Ottery St Mary and the surrounding villages can be met.

Currently there is a real health and safety concern at Tipton St John Primary School as the lower site is located in the flood plain (EA flood zone 3) and there is a significant risk of flooding of both the access road and the school buildings. The school has experienced flooding in recent years, including 2016, twice in 2014 and once in 2012. The Environment Agency has advised that the school is at a high risk of flooding and that this risk will increase as a result of climate change and that all efforts should be made to relocate the school to a safer location in accordance with Government planning policy.

The existing school timber buildings on the lower site are cramped and inadequate and need almost continuous repair specifically to the lower structure to remedy the decay.

For over a decade the Education Authority has actively explored funding opportunities and potential sites for a new school in the vicinity of Tipton St John, however these have been unsuccessful. The search for a new site has been widened to Ottery St Mary because looking at current and future cohorts of children attending Tipton St John Primary School, it is clearly apparent that the majority of pupils do not live within the school's catchment area and this trend is only set to increase. At the same time there is an increasing need for primary school places to be provided within Ottery St Mary. The statutory responsibility for ensuring there are sufficient places rest with the Education Authority and as such needs to fund the relocation. The cost of a new 210 place primary school is estimated at £7.2 million and therefore there is an estimated £5.2 million shortfall in funding with no obvious funding stream from government hence the mixed-use application with all proceeds from residential land funding the new school.

Retaining the school on its current site isn't a sustainable option. From the perspective of the Education Authority, the proposal which is the subject of this planning application is currently the only feasible deliverable option for Tipton St John Primary School to be relocated out of the flood plain and to have new buildings. Should you require any further information please do not hesitate to contact me.

EDDC Landscape Architect - Chris Hariades

(For full response see website)

### Conclusion

The application site falls outside of the Built-Up Area Boundary for Ottery St Mary. Although there is an allocation in the southwest corner of the site for education/

community use the illustrative layout plan shows housing proposed for this location. None of the application is therefore supported in the Local Plan or Neighbourhood Plan.

Contrary to the findings of the submitted Landscape and Visual Impact Assessment the site is considered to have unacceptable landscape and visual impacts due to its elevated open position within a predominantly rural context, beyond the established urban envelope. The topography of the site with moderately steep to steep slopes would present design challenges and would make it difficult to achieve the layout shown in the illustrative site plan.

There is a lack of detail information provided for the proposed site access points which form part of the outline application and which would be required to make a proper assessment of their appropriateness.

For the above reasons the application is considered contrary to the following Local Plan Policies: Strategy 37 (Development in the Countryside); Strategy 46 - Landscape Conservation and Enhancement and AONBs; D1 (Local Distinctiveness) and should be refused on this basis

#### South West Water

I refer to the above application and would advise that South West Water has no objection subject to foul flows only being connected to the public combined sewer network.

It is noted that the FRA submitted with the application proposes a potential discharge of surface water to the public combined sewer in Exeter Road which is unacceptable.

Surface water must either be managed by one of the following;

On site by means of ground infiltration.

Discharge to the Thorn Farm Stream to the north.

Discharged to the dedicated public surface water sewer located in Thorn Farm Way as shown in blue on the attached plan. (Found in the documents section)

#### Exeter & Devon Airport - Airfield Operations+Safeguarding

This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria providing that the recommendations within the Cyrrus NDB Technical Safeguarding Assessment CL-5474-RPT-002 1.0, which is based on revised plan NPS-DR-A-(00)-001 Rev P3, are adhered to and it is assured that the heights of the highlighted houses 124-131 are limited to 61.5m AMSL and the roofs are pitched at approximately 45 degrees for these plots and that metallic substances, such as foil backed insulation, tiles with high metallic content or supporting metallic structure, are not used for the

construction of the roof elements. Solar panels either PV or Thermal should not be allowed for these plots also.

Additionally, due to the proximity of the development to the airports navigational aid it is recommended that additional security measures are employed to reduce the risk to life from contact with high voltage and the risk to aviation security by interference with a navigational aid. Security fencing and increased signage to secure the site is recommended to ensure the site is protected.

Accordingly, Exeter Airport will have no safeguarding objections to this development provided the recommendations are implemented and adhered to and there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter Airport.

### NHS Local

#### ***Introduction***

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF. Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.

As the attached document demonstrates, University Hospitals of Leicester NHS Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare.

It is further demonstrated that this development will create potentially long term impact on the Trust ability provide services as required.

The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trust is unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated.

Further, the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide a services required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.

### **CIL Regulation 122 and 123**

The Trust considers that the request made is in accordance with Regulation 122:

*“(2) A planning obligation may only constitute a reason for granting planning permission for the*

*development if the obligation is—*

*(a) necessary to make the development acceptable in planning terms;*

*(b) directly related to the development; and*

*(c) fairly and reasonably related in scale and kind to the development.”*

### **S 106**

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount **£214,889.00** sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document.

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

Further comments 16.12.20:

The attached was submitted on the Trust's behalf in connection with planning application 20/1504 for land at Barrack Farm, Exeter Road, Ottery St Mary.

We would be grateful if both documents might be removed from further consideration by the Council in connection with this specific planning application.

### Devon County Council, Minerals & Waste

Land opposite Barrack Farm, Exeter Road, Ottery St Mary (20/1504/MOUT)

I refer to your consultation of 1st October 2020 concerning the above application, which was sent some time after validation of the application. My understanding is that the consultation was prompted by an enquiry by the applicant, and I wish to underline the importance of your Council meeting its statutory obligation to consult with the County Council in its role as mineral planning authority for applications falling within a Mineral Consultation Area.

The western part of the application site, including the proposed school and some of the proposed housing indicated on the illustrative masterplan, lies within the Mineral Consultation Area for the nearby sand and gravel resource. The extent of this resource is defined on the Policies Map for the Devon Minerals Plan by a Mineral Safeguarding Area, which extends to within 50m of the western boundary of the application site.

The Devon Minerals Plan forms part of the statutory development plan within East Devon, with Policy M2 seeking to protect mineral resources within Mineral Safeguarding Areas from sterilisation or constraint by non-mineral development. Table 8.1 of the Plan indicates that the resource within the vicinity of the application site - the Budleigh Salterton Pebble Beds - is a strategic resource of County importance.

The application is accompanied by a 'Preliminary Mineral Resource Assessment', which concludes that "the proposed development will not sterilise important mineral resources" and that "the mineral resource at the site is not of strategic importance". However, it is considered that this Assessment is flawed for the following reasons:

- (a) the Assessment's consideration of resource sterilisation seems to be limited to the mineral resource within the site, rather than considering the potential constraint on areas of resource within the nearby Mineral Safeguarding Areas; and
- (b) the discussion in section 4.5 of the Assessment disregards the long term purpose of mineral safeguarding, which is to avoid the permanent sterilisation of mineral resources and ensure their availability well beyond the period of the current Minerals Plan. The availability of sufficient sand and gravel resources at allocated sites is not a sound reason to allow sterilisation of unallocated resources that may be required in the long term when allocated resources have been worked out.

It is recognised that there are no economic sand and gravel resources underlying the application site, and direct sterilisation of the mineral resource will not occur through the proposed development. However, it is necessary to consider the potential for the development to constrain future extraction of mineral resources within the nearby Mineral Safeguarding Area through introduction of land uses that are sensitive to the effects of quarrying including housing and a school.

Directly to the west of the application site is an outcrop of the Peble Beds that sits astride the B3174 and includes commercial and residential premises to the south of that road. Given the limited extent of this area of resource and the constraints on potential extraction imposed by the road and existing properties, it is considered that this block of sand and gravel is unlikely to be economic to quarry now or in the future.

To the north west of the application site, between Cadhay Bog and Cadhay Wood, is a more substantial block of sand and gravel that is of comparable extent to the area at Straitgate Farm allocated for extraction by Policy M12 of the Devon Minerals Plan. While there may be hydrogeological and ecological constraints on extraction within this area, future quarrying cannot be ruled out at this stage and a precautionary approach to the safeguarding of this resource from constraint by other development should be taken in line with Policy M2.

At its closest point, the application site would be around 200m from the edge of this block of sand and gravel resource, with the illustrative site layout indicating that the areas closest to the resource would be used for SuDS attenuation, habitat areas, public open space and sports field, with new housing and the school building located further away. It is considered that this degree of separation between quarrying and sensitive properties is likely to be adequate to prevent future mineral extraction within the area to the north west of the application site having adverse impacts through noise and dust on future residents and school users, assuming that standard environmental control measures are included in any future mineral planning permission.

Based on the discussion above, it is concluded that the proposed residential and school development would not sterilise or constrain sand and gravel resources within the nearby Mineral Safeguarding Areas and that the proposal accords with Policy M2 of the Devon Minerals Plan. Devon County Council therefore has no objection in its

role of mineral planning authority.

Details of this application have been passed to the Devon Stone Federation (DSF) by Andy Hill, the Devon Minerals Officer. The DSF represents aggregate mineral operators in Devon and is a consultee for planning proposals within Mineral Safeguarding Areas and Mineral Consultation Areas defined in the adopted Devon Minerals Plan. In commenting on applications, the DSF considers whether the proposals are consistent with Policy M2 of the Devon Minerals Plan, which seeks to prevent mineral resources from being sterilised by incompatible surface development.

In this case the proposal is an outline application for a substantial new residential development with a school, public open space, access and drainage, including a SUDS area with only access reserved. The western part of the site lies within a Mineral Consultation Area defined to protect the adjacent sand and gravel deposit from sterilisation from sensitive surface development.

The application is accompanied by a Mineral Resource Assessment, but the DSF does not support the conclusions that as there are no aggregate resources within the site itself, the development does not have potential to sterilise the nearby mineral resources. The Mineral Consultation Area was defined as a buffer surrounding the nearby Mineral Safeguarding Area to identify land within which new development may have potential to constrain the future extraction of the nearby mineral depending on its sensitivity. Furthermore the claim that there are adequate resources allocated within the current Mineral Plan to meet the landbank requirements is not a relevant consideration. Mineral safeguarding is intended as a long term measure to help ensure that essential aggregate resources area available for future generations. The latest version of the Mineral Safeguarding Guidance jointly published by the BGS and the Planning Officers Society is available via this link [https://mineralproducts.org/documents/MPA POS Minerals Safeguarding Guidance Document.pdf](https://mineralproducts.org/documents/MPA_POS_Minerals_Safeguarding_Guidance_Document.pdf)

The DSF notes that the nearest part of the Mineral Safeguarding Area, to the west of the site, is already constrained by the B3174 and existing development, however to the north west is a larger block, which retains the potential for extraction in the long term and therefore the possibility for sensitive development to sterilise the underlying mineral remains.

We note however that the illustrative layout submitted with the outline application shows the north western part of the site, closest to this larger block as open space, SUDs and school sports field. Provided the layout that is submitted at the detailed stage remains as shown on the illustrative layout or similar, then the DSF does not consider that these uses are sufficiently sensitive to potential future extraction of the sand and gravel in the deposit to the north west to justify grounds for objection in principle to the proposals in this outline application.

However we request that should the Council grant permission that it ensures that DCC as the Mineral Planning Authority, and the DSF as the appropriate body representing the mineral operators are both consulted at the detailed stage.



## **Other Representations**

A significant number of representations have been received in relation to the application. These include 132 objections to the development, and 17 in support. A wide range of issues have been raised by the objectors. The most frequent concerns are as follows:

The proposal is contrary to the Development Plan (91 comments); traffic and highway issues (78); flooding issues (60); the infrastructure of Ottery is unable to cope (66); School should remain in Tipton (38); Questioning the funding of the development (21); the impact on Cadhay Lane (17); impact on Kings School ( 17); too much housing in Ottery already ( 13); surface water run off issues (9); impact on wildlife (9); there is no flooding at the Tipton site (6); impact on County wildlife site/ Cadhay bog (5); lack of local jobs (4); the roundabout is not needed (4); loss of agricultural land (4); issues regarding the flightpath(3); loss of hedgerows and trees (3); the Ottery hospital site should be used (3); lack of local jobs (4); and the impact on the quarry (3).

Comments in support of the proposal state the following:

The issue of flooding is real (8 comments); the proposed school better reflects the catchment area (7); all options for the school have been considered (6); the existing school buildings are at the end of their life (6); better school facilities are needed (5); the scheme helps with traffic on Exeter Road (3); the Neighbourhood Plan says school places are needed (3)

## **PLANNING HISTORY**

None

## **POLICIES**

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

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

Strategy 24 (Development at Ottery St Mary)

Strategy 34 (District Wide Affordable Housing Provision Targets)

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

Strategy 37 (Community Safety)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

RC5 (Community Buildings)

RC6 (Local Community Facilities)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)

Ottery St Mary and West Hill Neighbourhood Plan (Made)

Policy NP1: Development in the Countryside

Policy NP2: Sensitive, High Quality Design  
Policy NP4: Settlement Containment  
Policy NP5: Local Green Spaces  
Policy NP7: Flood Defences  
Policy NP8: Protection of Local Wildlife Sites and Features of Ecological Value  
Policy NP9: Accessible Developments  
Policy NP12: Appropriate Housing Mix  
Policy NP13: Accessible and Adaptable Homes  
Policy NP14: Demonstrating Infrastructure Capacity  
Policy NP16: Supporting Schools  
Policy NP25: Land Identified for Education uses in Ottery St Mary

### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

### **Site description**

The site comprises of three fields of 10.3ha. They are situated to the West of Ottery St Mary, on the left hand side of Exeter Road when approached from the Daisymount roundabout, and on the west side of Cadhay Lane. The fields are currently let to tenant farmers and are used for intermittent grazing. There are hedgerows between the fields. The site slopes up from Exeter Road to the north and west, and thence slopes down towards a small brook on the Northern boundary. An area of woodland is within the north-west corner of the site. The site is bordered to the East by Kings School and a skatepark, with some houses on Cadhay Lane and Exeter Road. The remainder of the site is bordered by farmland and woodland.

### **Proposal**

This is an outline application for the development of a new primary school and up to 150 new homes. The school would be situated in the Western part of the site. The homes would be distributed across the remainder of the site. A new access point is proposed to be created on Exeter Road, and a new through road to Cadhay Lane would also be created. Various estate roads are also shown on the layout plan.

The proposal is for 30% of the houses to be affordable.

The application has arisen due to the need to relocate the existing Tipton St John Primary School away from its current location. It has been identified in the accompanying viability report (which has been independently assessed) that in order to fund the relocation of the school, approximately £5.2m in funding is required which cannot be met from existing funding. As a result, the report identifies a number of scenarios which would deliver this amount of funding, including options for up to 175 homes, and up to 35% affordable housing.

The conclusion of the viability report was that in order to construct the school, 175 dwellings would be needed with 30% affordable housing. However, a scheme of 150

dwellings which would achieve a deficit of £0.6m was chosen with the County Council taking the financial risk that this may not achieve the full amount of funding. It is understood that other funding will be used to make up this deficit.

## **ANALYSIS**

The main considerations in the determination of this application relate to

- The principle of the proposed development
- Affordable Housing
- Design and Layout
- Loss of agricultural land
- Appropriate assessment
- Impact on the setting of the listed building(s)
- Impact on highway safety
- Impact upon residential amenity
- Flooding/surface water drainage
- Landscaping
- Ecology
- Other issues including planning obligations
- Planning balance and conclusion.

### **Principle of Development**

The site is outside of the development boundary for Ottery St Mary where development is not permitted under Strategy 7 of the Local Plan. There is an allocation for community and education use in part of the site adjacent to Kings School. Strategy 24 of the Local Plan states that this is required due to further development within Ottery St Mary generating the need for additional primary school provision. An area of land in the North in the proximity of the stream is designated as a flood risk area, with the area of woodland to the North West designated a County Wildlife Site. Due to the location outside of the development boundary, there is a requirement for 50% of any proposed housing to be affordable, which is less than the 30% put forward in this proposal.

A neighbourhood plan has been adopted for Ottery St Mary and West Hill parishes. The proposal conflicts with policy NP1 of the Plan, which states that development in the countryside must maintain the rural character of the area, and there are no policies which explicitly support residential development in this location or permit exception to local plan policies.

However the proposal does not conflict with Policy NP4 of the NP because it is not shown as an area of containment between Ottery and West Hill on the proposals map, and NP16 which promotes the provision of new and expanded schools within the parish. Policy NP25 also promotes the use of the site identified in the Local Plan for education and community purposes for the provision of a new school, providing it is demonstrated that it is not required by the Kings School.

The proposal has therefore been advertised as a departure from the development plan. It is acknowledged that the school is not situated in the location allocated in the Local Plan, and that there is no policy support for housing. The applicant argues that there is a specific need for a school in this area in order to replace a school which

requires to be relocated from Tipton St John, and that residential development is required in order to fund the building of the school. Furthermore, the applicant argues that the requirement for 50% affordable housing would result in inadequate receipts in order to build the school. A viability appraisal has been submitted with the application.

The applicant argues that there is a specific need for a school in this area in order to replace a school which requires to be relocated from Tipton St John, and that residential development is required in order to fund the building of the school.

The comments of the applicant are supported by many others, in particular the Board of Governors of the existing school, who state the following:

“The school has a small, split site divided into two by a road. The lower site of the school is on a floodplain and is vulnerable to flooding along the road and submergence of the grounds around the buildings. The result is an inability to guarantee safe access and egress from the site and a large order flood can cause the incursion of water into the classrooms, as happened in 2008.

“The Board has worked with the Environment Agency (EA), Devon County Council, local councillors and the MP to mitigate the flood risk but the minor improvement works undertaken by the EA since 2016 to manage surface water issues on the Metcombe Brook in the area around Tipton Vale were intended to have a 'benefit in managing flows for low order flood events on the Metcombe Brook, but will be insignificant for large order (i.e. more extreme) events and flooding from the River Otter.' (See EA letter November 2019 in Appendix C of the Planning submission).

“The village of Tipton no longer provides a sustainable number of pupils for a school and the proposed relocation to the western edge of Ottery St Mary is a response to the growing numbers of primary age children in the Ottery area whilst remaining as close to Tipton St John village as possible and near to The King's School, to which the vast majority of the pupils progress.

The children of Tipton St John village will continue to be within the catchment area of the relocated school.

“A new purpose-built school would provide the pupils and staff with the educational benefits of appropriate space and opportunities within and outside the school, rather than the cramped and inadequate accommodation and facilities on the existing site. There would be a hall, library, school playing fields, classrooms of a size which meet government standards, smaller rooms and spaces for meetings, group work and staff preparation and planning, and also a sufficient number of toilets - all of which are lacking at the existing school.”

There is therefore the requirement to determine whether there are material considerations which would allow for a departure from the development plan, under paragraph 47 of the Framework. This will be discussed at the end of the report.

## **Affordable Housing**

The site is outside of the built up area boundary for Ottery and therefore the Local Plan envisages that it should provide 50% affordable housing. The applicants have provided a viability assessment indicating that it is not viable to provide the 50% target, and to build the primary school. This is due to a shortfall in funding to build the school of £5.3m. A number of scenarios have been tested, with the scenario of 175 dwellings and 30% affordable housing producing more than the required funding. However the applicant has put forward a scheme of 150 dwellings with 30% affordable housing, which would deliver less than the required funding, particularly as the viability report was written prior to the inclusion of the new roundabout, which significantly increases costs.

The 30% figure would amount to 45 units, which under the policy of the Council would equate to 32 units for rent and 13 for shared ownership.

Although the figure is less than the 50% policy requirement, the delivery of 30% affordable housing is welcomed and there is a need within Ottery for affordable housing. Should the application be approved, this would be subject to an overage agreement which would ensure that a percentage of any additional profit comes to the Council to provide additional affordable housing in the area.

## **Design and Layout**

Scale, layout and appearance are reserved matters which are required to be considered in detail with a subsequent application, however indicative plans are submitted and it is necessary to consider the siting and potential design of the school and residential areas.

The school is proposed within the Western part of the site, just below its highest point. It is proposed as a 210-space primary school arranged in a rectangular fashion approximately 50 metres by 20 metres. To the rear (West) it is proposed to site sports fields flanked by habitat areas. A small parking area for staff and visitors is proposed in front of the school.

The housing is proposed to be arranged along the frontage of Exeter Road and a series of streets, including a block of apartments in the centre of the site. There is some housing on the North field although no development is proposed close to the flood plain or within the Western part of the field, close to the Cadhay Bog Wildlife Site.

In order to access the housing, it is shown that the hedgerows will need to be breached in four locations.

## **Loss of agricultural Land**

The proposal would result in the loss of agricultural land. Policy EN13 of the Local Plan protects the Best and Most Versatile land from development. This is described as land within Grades 1, 2 and 3a under the agricultural classification system. The land is shown in the mapping system as Grade 3 and is not subdivided further.

The land is used mainly for grazing, although some part of the land at the highest part has been used for maize growing in the past. Due to the sloping nature of the remainder of the land it is not considered suitable for intensive agricultural use. It should also be noted that one of the fields is allocated in the local plan for non-agricultural use. On this basis it is not considered that the proposal would result in the significant loss of BMV agricultural land.

### **Habitat Regulations and Appropriate Assessment:**

Natural England has advised that an Appropriate Assessment must be carried out as the site lies within close proximity of the East Devon Pebblebed Heaths, this assessment must consider whether the proposal will adequately mitigate any likely significant effects of the aforementioned area. This has been included as a separate report. It is considered that the proposal adequately mitigates any impacts upon the Pebblebed Heaths and will not result in any likely significant effects. Natural England have been given 21 days to comment on this appropriate assessment. Assuming that they are happy with the report, and subject to securing the necessary financial contribution through a S.106 Agreement, the proposal will not have any likely significant effects and is acceptable in this regard

### **Conservation and Archaeology**

The closest buildings to the site which are listed are approximately 750 metres from the closest point of the site. These are Cadhay House, which is Grade 1 listed, and Otter Mill, which is Grade 2 listed. The Grade 2 Registered Park and Garden at Cadhay is some 590m north of the site.

Because of the elevation of the site it will be visible from various parts of the Conservation Area, however there are no long or short distance views from the Conservation Area which will be directed towards the proposal site. Glimpses are possible at long range from the Heritage Assets, particularly Cadhay House, and the Grade II\* Listed Chanters House. These are long distance views from which it is difficult to appreciate aspects of historic significance.

Overall, the proposed development is not considered to affect the aspects of setting that contribute towards the significance of either the Conservation Area or other heritage assets and would not affect the ability to appreciate their significance.

There is considered to be potential for previously unknown below-ground archaeological deposits to be present within this landscape and the central and southern parts of the site are considered to have topographical potential for both prehistoric burials (in the form of ring ditches around former barrows) and later prehistoric/Romano-British settlement. However, the archaeological potential of the site is low and that the scale and situation of this development will not have any impact upon any significant heritage assets. The County Archaeologist has stated that no further archaeological mitigation is required

### **Highways**

Whilst the proposal is in outline, matters of access are not reserved matters and therefore are required to be considered in full with this proposal. The proposed

accesses to the site are from a new roundabout on Exeter Road, and a new junction onto Cadhay Lane. In addition, a number of internal roads are shown on indicative plans, although these can be considered as reserved matters as part of the layout.

The new roundabout proposed as part of the scheme is a 4 arm 'midi' roundabout, designed to slow traffic entering the town from the Exeter direction. This would address current issues of speeding into the town. The fourth arm is to enable safe access to Barrack Farm.

The Cadhay Lane junction has been designed to ensure that traffic generated by the development does not impact on the area around the entrance to The King's School and leisure facilities. In addition this acts as an alternative route for those using Exeter Road to access Cadhay and Fairmile, without having to use part of Cadhay Lane which is particularly busy at the start and end of school days.

In addition, a proposed emergency access is shown on Exeter Road, closer to the existing housing. It is stated that this will be for emergency vehicles only.

A Stage 1 Road Safety Audit (RSA) has been submitted. This is a thorough assessment of the scheme as submitted in terms of any highway design or safety issues. The audit identified a number of problems which required solutions. These include provision of pedestrian dropped crossings, continuation of footways, facilities for crossing the roundabout for cyclists, widening of the proposed footway along Exeter Road, a refuge island opposite the bus stop, adequate road surfacing, adequate surface water drainage, visibility checks, new layout warning signs, extension of the speed limit on Cadhay Lane, and the cutting back of vegetation at the Cadhay Lane junction.

The RSA has been responded to by the designers. Many of the issues (such as road surfacing and drainage) will be addressed at the detailed design stage. The design response challenges the need to give priority to those on Cadhay Lane, and to extend the footway along Cadhay Lane.

The Highway Authority notes that the application is in outline form only but with access to be determined. On that basis, it deems the proposal for the new roundabout and Cadhay Lane access acceptable, whilst noting that there is a requirement for detailed technical designs for these to be submitted, and that the internal layout is not approved at this stage.

## **Drainage**

The site is mainly located within Flood Zone 1, meaning a low risk of flooding. A small area along the northern boundary adjacent to the watercourse known as Thorne Farm Stream is identified as medium risk (Flood Zones 2 and 3). The proposed layout shows this to be undeveloped or public open space.

In addition to fluvial flooding, the site has been assessed for potential flooding from surface water. Currently the area is at low risk from surface water flooding, however the introduction of built development has the potential to alter this, and surface water will need to be managed by an appropriately designed drainage system.



It is proposed to use infiltration systems or soakaways in order to control the runoff. However, soakaway testing has not been completed and in order to mitigate any increase in volume, long term storage is proposed in the form of attenuation basins on the northern and southern ends of the site, which would capture water coming down from the more elevated parts of the site.

The foul drainage will require a pumping station to serve the northern catchment, with a pumped rising main link to the southern parts of the site before a gravity connection to the existing combined SWW sewer.

A management plan will need to be drawn up which considers the responsibilities of each part of the drainage system, this will include the maintenance of SuDs within the site.

After an initial objection from the lead local flood authority (LLFA) and the Environment Agency (EA), a revised flood risk assessment was submitted, this resulted in objections being withdrawn. The LLFA have withdrawn their objection subject to conditions which include information on soakaway results, a detailed drainage design, proposals during construction and details of adoption.

## **Landscaping**

A Landscape and Visual Impact Assessment was submitted with the application. This shows the landscape setting of the site, considers the proposal from key views and makes an assessment of local landscape character.

The key views which have been assessed as having a high impact are in the following areas- Cadhay Lane, Pixie Walk and properties adjacent to the school. In addition the area around St Saviours Road further within the town, which has views towards the site. The view from a number of footpaths will also be affected, including footpath 94 (Cadhay), 23 (River walk), 50 (Sidmouth Road) and 18/19 (Chineway Hill). The latter is over 2 miles from the site but on an elevated position directly looking over the town and to the fields beyond.

The conclusions of this assessment are that the construction phase results in temporary large and medium adverse effects on the area. It states that the impact on the area will be noticeable and will become part of the urban edge in time. There are considered to be moderate, or slightly adverse impacts after the construction phase on Cadhay Lane, St Saviours Road and footpaths in Cadhay and on Chineway Hill.

The findings of this report have been challenged by the Council's Landscape Officer, who states that the site has an unacceptable landscape and visual impact due to its elevated open position beyond the established urban envelope. There is also a criticism of the methodology used in the taking of the photographs and the omission of key view points.

The applicant has responded to many of the technical points and has included further viewpoints and photographs. However, there is clearly an agreement that the

proposed development will change the built form of the town and will be noticeable from key viewpoints within the town and to the east.

## **Ecology**

A Preliminary Ecological Appraisal report was undertaken in May 2019. Bat activity and dormouse surveys were subsequently undertaken during 2019. The Ecological Impact Assessment draws on this information and includes an updated desk study to provide baseline data for the Site and assess the ecological implications of the development.

The site comprises improved and poor semi-improved grassland fields bound by hedgerows with woodland and a vegetated stream present in the north. The Site lies 3.65km from the East Devon Pebblebed Heaths SAC/ East Devon Heaths SPA, and Cadhay Bog County Wildlife Site borders the north west of the Site. The Site itself was found to have evidence of a range of protected and notable species, including badgers, bats, dormice and nesting birds. The Site also has habitat suitable for amphibians, reptiles, invertebrates, hedgehog and polecat.

The development will result in the loss of the majority of the grassland and will require removal of multiple hedgerow sections to provide access into and throughout the site. However, the majority of the hedgerow habitat will be retained and the north western field (containing woodland and poor semi-improved grassland) will be outside of the development area and will be managed for wildlife.

The following mitigation and compensation measures are proposed to minimise impacts on important ecological features:

- European site mitigation contributions to LPA to offset recreational impacts on East Devon Heaths SPA.
- Adherence to a CEMP to minimise impacts of water and air pollution on the designated sites and downstream habitats;
- A SuDS scheme will be included to limit impacts from runoff and water pollution, and attenuation ponds created as part of this will be enhanced for wildlife;
- Provision of on-site Open Space to provide alternative opportunities for exercising dogs, rather than using CWSs and the SPA/SAC;
- Buffer zone to protect Cadhay Bog CWS, including allocation of the north western field as a wildlife area.
- Retention and protection of the majority of hedgerows, woodland and stream;
- Native hedgerow planting to compensate for habitat loss on a 2:1 basis;
- POS to include wildflower grassland and scattered trees;
- Retention and protection of badger sett;
- Application for a European Protected Species Licence for dormice, with suitable vegetation removed under a Method Statement at an appropriate time of year, taking into account dormice and other wildlife;
- Planting of thorny shrubs to deter human and pet access into the CWS, woodland and badger sett;
- Lighting strategy for bats and other nocturnal wildlife;
- Measures to avoid harm to badgers and other wildlife during construction;

- Installation of bird boxes, dormouse boxes, bat boxes and insect bricks;
- Hedgehog holes in solid fences; and,
- Long-term management plan to include appropriate management of habitats to maximise wildlife benefits.

The ecological report states that overall, the development will result in a net gain in biodiversity, provided the mitigation and enhancements are undertaken in accordance with the report.

### **Impact on amenity of residents**

There are two areas where proposed residential properties are close to existing properties. The indicative site layout shows a number of plots (118-123) which back towards existing properties in Cadhay Close. The closest back to back distance is approximately 25 metres. Whilst this may be an acceptable relationship in terms of overlooking, further details will need to be provided in terms of levels, locations of windows etc. There is the ability to alter the location of these plots at the reserved matters stage, given that layout is a matter yet to be determined and there appears to be scope to rearrange the plots within this area.

There are also a number of plots shown along Exeter Road. These will be separated by the existing houses by a public open space so there will not be an impact from the houses on the existing properties.

### **Planning obligations**

As part of any application of 10 dwellings or more, affordable housing is required. In this case, 30% affordable housing will be required as part of a Section 106 agreement. An overage clause will also be required.

NHS England originally requested the following: - Contribution towards the cost of care of new residents for 1 year following occupation of each dwelling as there is a lag between housing completions and receiving NHS funding - these contributions are for unplanned development i.e. departures from the development plan. At this point in time, the request for funding on non-allocated sites is justified in principle but the evidence behind the amount requested from the NHS is not in sufficient detail to ascertain how the money will be spent and if the amount requested is correct given that different patients would require care others would not. Accordingly, this request is not justified at the present time and does not meet the tests for securing a financial contribution. However, just before the publication of this report they asked that their comments be removed from consideration.

Habitat mitigation (non-infrastructure contribution) of £190 per dwelling will also be required.

### **Other issues**

There are a number of issues which have been raised by consultees and objectors which are addressed below.

It is stated that the site is under the flightpath for planes accessing Exeter Airport. A Non-Directional Beacon (NDB) facility is installed adjacent to the development site. This navigation aid serves aircraft on approaches to Runways 08 and 26 at the Airport. Due to the proximity of the NDB to a number of plots (124-130) these houses should be limited in height and not fitted with metallic substances, including PV and solar cells. Providing these issues are satisfied, there is no objection from the operations manager at Exeter Airport.

The proximity to mineral extraction has been questioned. Whilst there is the potential for future extraction within 200 metres of the site boundary, the degree of separation between quarrying and sensitive properties is likely to be adequate to prevent future mineral extraction within the area having adverse impacts through noise and dust on future residents and school users, assuming that standard environmental control measures are included in any future mineral planning permission.

It has been raised that King's School will be unable to expand or accommodate those within the catchment area. The school current caters for its catchment area and permits students from outside of the area to attend as there is spare capacity. It has been stated that the school does not wish to expand its numbers further and is able to construct new buildings within its existing grounds, as evidenced by a recent application for new classrooms (20/2311/FUL).

It has also been stated that the hospital is underused and could provide an alternative location for the school. It is not considered that this land, even if available, would be sufficiently large enough to accommodate a new primary school, and would result in the loss of a community asset.

It is stated that the flooding issues at Tipton have been overstated, and that the school should remain in the village. Comments in support of the application have been received from many directly involved with the school, who state clearly that the threat from flooding is real, that the existing buildings are no longer suitable for education, and that the school would benefit from relocation. Given that the catchment area for the school also includes Ottery St Mary there is no requirement for the school to remain in Tipton St John.

### **Planning balance and conclusion**

The proposal seeks to provide a new primary school for the area, whilst erecting new residential development, and to construct a new road through the site. The development is on greenfield land that is not in accordance with the allocation in Strategy 7 and Strategy 24 of the EDDC Local Plan. As such, the proposal represents a departure from the development plan. It is therefore considered important to undertake an assessment against the three strands of sustainability to ascertain whether the benefits of the proposal (other material considerations) outweigh the harm arising from the proposed development and its location outside of the allocation and BUAB for Ottery St. Mary.

## Economic

The proposal would result in a number of jobs within the construction phase, although these would be temporary. The proposed school will create employment in excess of those already employed at the existing school, due to the increase in the size of the school. Overall the proposed development can be seen to have economic benefits that weigh in favour of the proposal.

## Social

The application proposes to provide a 210 space new primary school which will accommodate pupils from Tipton St John, Ottery St Mary and surrounding areas. This will provide better facilities than the current school and become a focal hub in this part of the town and it is likely that the facility will also be used by the community for other uses. As identified elsewhere in this report there is a genuine need to relocate this school given the limitations of the existing accommodation and the flooding issues with the existing site. In the absence of any alternative means of making this happen it is considered that the ability to achieve this through this proposed development creates significant social gains from the scheme that weigh in its favour.

It is also proposed that 30% of the proposed housing will be affordable. Whilst less than the 50% required within Strategy 34 of the Local Plan, this would provide a significant amount of affordable housing for local people. Accordingly, it is considered that there would be significant social benefits to the local community through this proposal.

## Environmental

The use of unallocated land to provide housing where it is in agricultural use and can contribute towards the nation's food supply is a dis-benefit of the proposal. A further dis-benefit of the proposal is the loss of hedgerows and the visibility that the site will have within the landscape and from residential dwellings. The creation of a new road through the site will result in more traffic, however the creation of a new roundabout and footpath will result in the slowing of traffic and an increase in safety. And whilst the application proposed residential development on a greenfield site outside of any BUAB, the site for the proposed housing is to the west of the town which has better road links than elsewhere in the town.

In conclusion taking the above into account, the overriding benefits of the proposal through providing a new primary school and affordable housing, providing social and economic benefits, are considered to outweigh any harm caused by the proposed housing and outweighs the fact that the proposal represents a departure from local plan policy.

## **RECOMMENDATIONS**

### **That Members:**

- 1. Adopt the appropriate assessment attached to this report**

**2. Approve subject to the following matters to be secured by a Section 106 legal agreement:**

- **Habitat mitigation (non-infrastructure contribution) of £190 per dwelling**
- **30% of housing to be affordable**
- **Overage clause for the above**

**3. Approve subject to the following conditions:**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).
2. Approval of the details of the layout, scale and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
4. No development shall take place until a detailed phasing plan including all necessary works to implement the development has been submitted to and agreed in writing with the Local Planning Authority. The development shall not be carried out other than in strict accordance with the Phasing Plan as may be agreed unless otherwise agreed in writing with the Local Planning Authority.  
(Reason - to ensure the development proceeds in a properly planned way from an early stage and to limit any unacceptable impact on the locality in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan)
5. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such

vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

(Reason - To ameliorate and mitigate, at an early stage, against the impact of the development on the local community in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

6. No development shall take place until further technical details of the layout and construction of the accesses shown in drawings 68131-GA-001 P03 and 68131-GA-002 P02 have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented before the development is brought into use.

(Reason: To ensure the layout and construction of the access is safe in accordance with the NPPF and Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

7. Unless otherwise agreed by the Local Planning Authority, development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

#### 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination.

(ii) an assessment of the potential risks to:

Human health,  
Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,  
Adjoining land,  
Groundwaters and surface waters,  
Ecological systems,  
Archeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

## 2. Submission of Remediation Scheme

Where identified as necessary as a result of the findings of the investigation above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted for approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development (other than any part of the development required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be



produced, and will be subject to the approval in writing of the Local Planning Authority.

#### 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 above and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 2. This must be subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

#### 5. Long Term Monitoring and Maintenance

Where identified as necessary, a monitoring and maintenance scheme to include monitoring the longterm effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of reports on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

(Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN16 (Contaminated Land) of the East Devon Local Plan 2013-2031.)

8. The recommendations within the Cyrrus NDB Technical Safeguarding Assessment CL-5474-RPT-002 1.0, which is based on revised plan NPS-DR-A-(00)-001 Rev P3 shall be adhered to and the heights of the highlighted houses 124-131 are limited to 61.5m AMSL and the roofs are pitched at approximately 45 degrees for these plots and that metallic substances, such as foil backed insulation, tiles with high metallic content or supporting metallic structure, are not used for the construction of the roof elements. Solar panels either PV or Thermal should not be allowed for these plots also.

Additionally, due to the proximity of the development to the airports navigational aid it is recommended that additional security measures are employed to

reduce the risk to life from contact with high voltage and the risk to aviation security by interference with a navigational aid. Security fencing and increased signage to secure the site is recommended to ensure the site is protected.

(Reason: To ensure air safety and to remove any potential obstructions to navigational equipment in accordance with Policy TC12 (Aerodrome Safeguarded Areas and Public Safety Zones) of the East Devon Local Plan 2013-2031)

9. As part of a reserved matters application for the residential elements of the proposal a detailed Design Code for the whole of the residential element of the development shall be submitted to and agreed in writing with the Local Planning Authority. The Design Code shall include details and principles of site layout, highway design (including footways and shared surfaces), soft and hard landscaping, materials to be used on dwellings and for ground surfacing, building heights, spans and proportions, boundary features, window and door details, details of flues, meter boxes, eaves and roof ridges and treatment of verges and open areas to the front, rear and side of all dwellings, car parking courts and areas, and details and design parameters of public open space areas including play equipment where necessary. Each phase of the development shall thereafter be carried out in accordance with the approved details.

(Reason - to ensure that the development is planned as a whole in a cohesive manner, to avoid piecemeal development displaying differing design ethics, and to ensure that the resulting development is of high quality as required by Local Plan policies and in line with government guidance in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

10. As part of any reserved matters application a detailed Landscape and Ecology Management Plan (LEMP) for a minimum period of 25 years shall be submitted and should include the following details:

Extent, ownership and responsibilities for management and maintenance.

Details of how the management and maintenance of open space will be funded for the life of the development.

Inspection arrangements for existing and proposed trees and hedgerows and monitoring of bio-diversity net-gain.

Management and maintenance of trees and hedgerow.

Management and maintenance of shrub, herbaceous and grass areas.

Management of ecological habitat, maintenance of any ecological mitigation measures and further measures for enhancement of biodiversity value.

Management and maintenance of any boundary structures, drainage swales and other infrastructure/ facilities within public areas.

Maintenance shall be carried out in accordance with the approved plan.

(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) and Policy D2 (Landscape Requirements) of the East Devon Local Plan.

11. The landscaping scheme approved at the reserved matters stage shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - 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 East Devon Local Plan)

12. Prior to the commencement of any works on site, a Tree Protection Plan (TPP) and Arboricultural Method Statements (AMS) for the protection of all retained trees, hedges and shrubs on or adjacent to the site, shall be submitted to and approved in writing by the Planning Authority.

The layout and design of the development shall be informed by and take account of the constraints identified in the survey and report.

The tree survey and report shall adhere to the principles embodied in BS5837:2012 and the AMS shall indicate exactly how and when the trees will be protected during the development process.

The development shall be carried out in accordance with the approved details. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS.

The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason: To ensure the continued well being of retained trees in the interests of the amenity of the locality in accordance with Policy D3 (Trees and Development) of the East Devon Local Plan.)

13. Prior to the commencement of any works on site (including demolition and site clearance or tree works), details of the design of building foundations, access roads and car park surface construction (temporary and permanent) the layout (with positions, dimensions and levels) of service trenches, ditches, drains and other excavations on site (insofar as they may affect trees on or adjacent to the site), shall be submitted to and approved in writing by the Planning Authority.

(Reason: To ensure the continued well being of retained trees in the interests of the amenity of the locality in accordance with Policy D3 (Trees and Development Sites) of the East Devon Local Plan.)

14. Each new dwelling or flat with one bedroom shall be provided with at least one parking space (excluding garages), each new dwelling or flat with two or more bedrooms shall be provided with at least two parking spaces (excluding

garages).

(Reason: To ensure there is sufficient parking provision in accordance with Policy TC9 (Parking provision in New Development) of the East Devon Local Plan)

15. The following information shall be submitted at the reserved matters stage:
- (a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with DCC groundwater monitoring policy.
  - (b) Evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins/tanks.
  - (c) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (e) A plan indicating how exceedance flows will be safely managed at the site.

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

{Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance(2017), Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031)

16. No development, including landscaping works shall take place within 50m of the Thorne Farm Stream unless a more accurately defined flood zone has been demonstrated through adequate flood risk assessment and appropriate flood modelling, to the satisfaction of the Local Planning Authority, taking advice from the Environment Agency. A scheme for any development within the 50m buffer area shall be submitted to and approved in writing by the local planning authority.

(Reason: In order to protect development from flooding in accordance with Policy EN21 (River and Coastal Flooding) of the East Devon Local Plan 2013-2031)

## NOTE FOR APPLICANT

### Informative:

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

2. This permission shall not constitute an approval of the layout plan submitted with the application, because it has been treated as being for illustrative purposes only

Plans relating to this application:

NPS-DR- A(00)008	Location Plan	16.07.20
68131-GA-007-P01	Additional Plan	14.12.20

List of Background Papers

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

<b>Appropriate Assessment</b>		
<b>The Conservation of Habitats and Species Regulations 2017, Section (63)</b>		
Application Reference	20/1504/MOUT	
Brief description of proposal	Up to 150 new dwellings, a 210 Space primary school, construction of a new roundabout on Exeter Road, a new junction onto Cadhay Lane, and associated infrastructure	
Location	Land Opposite Barrack Farm Exeter Road Ottery St Mary	
Site is:	<p>Within 10km of the East Devon Heaths SPA (UK9010121)</p> <p>Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602)</p> <p>(See Appendix 1 for list of interest features of the SPA/SAC)</p>	
<b>Step 1 Screening for Likely Significant Effect</b>		
<b>Risk Assessment</b>		
<p>Could the Qualifying Features of the European site be affected by the proposal?</p> <p>Consider both construction and operational stages.</p>	<p>Yes - additional residential accommodation within 10km of the SPA/SAC will increase recreation impacts on the interest features.</p>	
<b>Conclusion of Screening</b>		
<p>Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?</p>	<p>East Devon District Council concludes that there <b>would be</b> Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the residential use, in the absence of mitigation.</p> <p>See evidence documents on impact of development on SPA/SAC at: East Devon District Council - <a href="http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf">http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf</a></p> <p>An <b>Appropriate Assessment</b> of the plan or proposal <b>is necessary</b>.</p>	
Local Authority Officer	Darren Roberts	Date: 07.12.20
<b>Step 2 Appropriate Assessment</b>		
<p>NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.</p>		
<b>In-combination Effects</b>		

<p>Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.</p>	<p>Additional housing within 10km of the SPA/SAC add to the existing issues of damage and disturbance arising from recreational use.</p> <p>In –combination plans/projects include around 29,000 new dwellings allocated around the estuary in Teignbridge, Exeter and East Devon Local Plans. This many houses equates to around 65,000 additional people contributing to recreational impacts.</p> <p>This is a ‘windfall’ site and is therefore not included in the above figures</p>
<p>Mitigation of in-combination effects.</p>	<p>The Joint Approach sets out a mechanism by which developers can make a standard contribution to mitigation measures delivered by the South East Devon Habitat Regulations Partnership.</p> <p>Residential development is also liable for CIL and a proportion of CIL income is spent on Habitats Regulations Infrastructure. A Suitable Alternative Natural Green Space (SANGS) has been delivered at Dawlish and a second is planned at South West Exeter to attract recreational use away from the Exe Estuary and Dawlish Warren. However, to date no ‘SANGS’ have been provided or planned specifically to take pressure away from the East Devon Pebblebed Heaths.</p>
<p><b>Assessment of Impacts with Mitigation Measures</b></p>	
<p>Mitigation measures included in the proposal.</p>	<ul style="list-style-type: none"> <li>• A contribution of £190 per dwelling towards mitigation of impacts on the Pebblebed Heaths will be sought via a legal agreement under Section 106 of the Act.</li> <li>• Dwellings will be liable for CIL which will contribute towards infrastructure projects which may include habitat creation</li> </ul>
<p>Are the proposed mitigation measures sufficient to overcome the likely significant effects?</p>	<p>Yes –</p> <p>1) The Joint Approach contribution offered is considered to be sufficient to mitigate recreational pressures given the approach taken for all new dwellings within 10 kilometres of the SPA. This is suitable for the East Devon Heaths SPA/SAC.</p>
<p><b>Conclusion</b></p>	
<p>List of mitigation measures and safeguards</p>	<p>Total Joint Approach contribution of £190 per dwelling will be provided via a Section 106 agreement.</p>
<p>The Integrity Test</p>	<p>Adverse impacts on features necessary to maintain the integrity of the East Devon Pebblebed Heaths <b>can</b> be ruled out.</p>
<p>Conclusion of Appropriate Assessment</p>	<p>East Devon District Council concludes that there would be <b>NO</b> adverse effect on integrity of the East Devon Pebblebed Heaths <b>provided</b> the mitigation measures are secured as above.</p>
<p>Local Authority Officer</p>	<p>Date:</p>
<p>21 day consultation to be sent to Natural England Hub on completion of this form.</p>	

## **Appendix 1. List of interest features:**

### **East Devon Heaths SPA:**

**A224 *Caprimulgus europaeus*; European nightjar (Breeding) 83 pairs (2.4% of GB population 1992)**

**A302 *Sylvia undata*; Dartford warbler (Breeding) 128 pairs (6.8% of GB Population in 1994)**

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

### **East Devon Pebblebed Heaths SAC:**

**This is the largest block of lowland heathland in Devon. The site includes extensive areas of dry heath and wet heath associated with various other mire communities. The wet element occupies the lower-lying areas and includes good examples of cross-leaved heath – bog-moss (*Erica tetralix* – *Sphagnum compactum*) wet heath. The dry heaths are characterised by the presence of heather *Calluna vulgaris*, bell heather *Erica cinerea*, western gorse *Ulex gallii*, bristle bent *Agrostis curtisii*, purple moor-grass *Molinia caerulea*, cross-leaved heath *E. tetralix* and tormentil *Potentilla erecta*. The presence of plants such as cross-leaved heath illustrates the more oceanic nature of these heathlands, as this species is typical of wet heath in the more continental parts of the UK. Populations of southern damselfly *Coenagrion mercuriale* occur in wet flushes within the site.**

**Qualifying habitats: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:**

**H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath**

**H4030. European dry heaths**

**Qualifying species: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:**

**S1044. *Coenagrion mercuriale*; Southern damselfly**

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,



- The distribution of qualifying species within the site.

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