

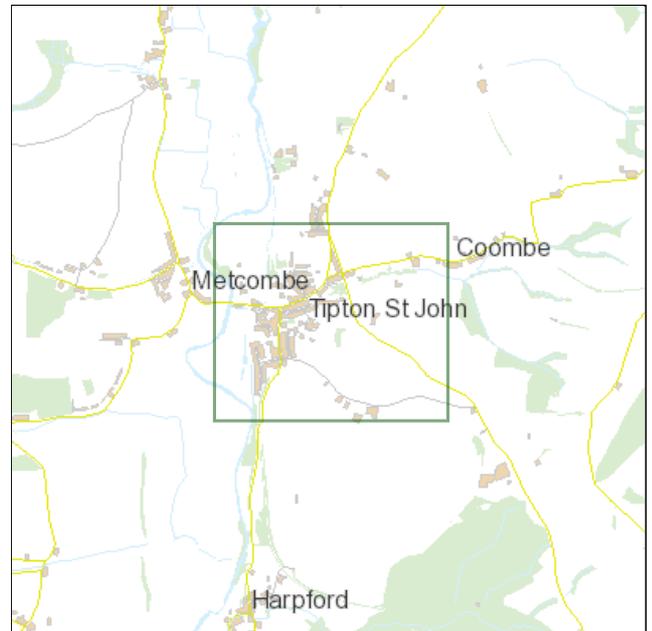
**Ward** Ottery St Mary

**Reference** 21/1788/VAR

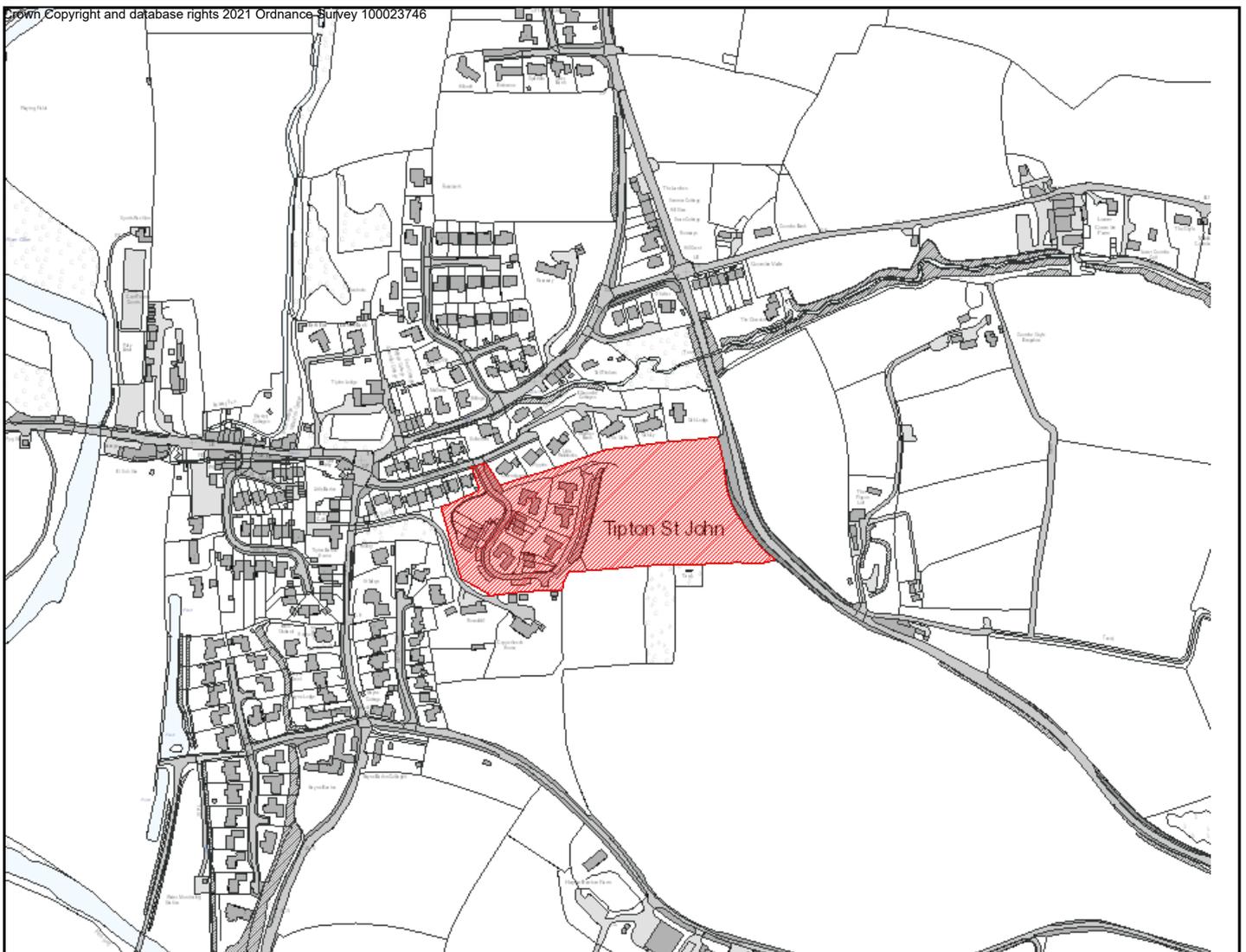
**Applicant** Mr M German (Barton Grange Developments Ltd)

**Location** Barton Grange Barton Rise Tipton St John EX10 0AN

**Proposal** Variation of conditions No. 2 (Approved Plans) and No. 6 (Landscaping Scheme) of planning permission ref: 15/2753/VAR to allow for reverting to the original green living wall and alterations to landscaping (retrospective)



**RECOMMENDATION: Retrospective Approval (conditions) subject to a legal agreement linking the decision to the original S106 agreement (and previous variations), amending the open space plan and providing for maintenance of the drainage system.**



		<b>Committee Date: 29<sup>th</sup> September 2021</b>
<b>Ottery St Mary (Ottery St Mary)</b>	<b>21/1788/VAR</b>	<b>Target Date: 25.10.2021</b>
<b>Applicant:</b>	<b>Mr M German (Barton Grange Developments Ltd)</b>	
<b>Location:</b>	<b>Barton Grange Barton Rise</b>	
<b>Proposal:</b>	<b>Variation of conditions No. 2 (Approved Plans) and No. 6 (Landscaping Scheme) of planning permission ref: 15/2753/VAR to allow for reverting to the original green living wall and alterations to landscaping (retrospective)</b>	

**RECOMMENDATION: Retrospective Approval (conditions) subject to a legal agreement linking the decision to the original S106 agreement (and previous variations), amending the open space plan and providing for maintenance of the drainage system.**

#### **EXECUTIVE SUMMARY**

**This application is before the Committee because it is a major application and the recommendation is contrary to the view of the Town Council.**

**The proposal is for adjustments to an exception site development which has already delivered ten affordable houses that have been occupied for some time. The five open market houses approved as part of the scheme have yet to be fully occupied but are finished or nearly finished.**

**The adjustments relate to the elevation treatment of the dwellings and the landscaping of the site.**

**Part of the approved scheme was the installation of green walls to parts of the three highest dwellings within the site. An earlier revised proposal to paint the walls dark green and train ivy up them was refused at a Committee meeting in June. However, to address this single reason for refusal the green, or living walls are now proposed to be reinstated and it is proposed to install them retrospectively.**

**The adjustments to the landscaping have arisen largely because of the sloping nature of the site. The introduction of retaining walls and changes in boundary layouts have necessitated the application. Subject to a condition to secure its implementation, the revised layout and landscaping would still achieve the integration of the scheme within the AONB that was secured in previous applications.**

**Subject to conditions to secure the implementation of the landscaping and other matters, and provision and ongoing maintenance of the living walls, the amendments to the previously approved scheme are acceptable.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council**

Town Council Comments:

The Town Council supports reverting to the original green living wall but not with the alterations to landscaping. The Town Council would like specific details of what the retrospective landscaping would be. We strongly feel that these should be two specific revisions.

#### **Other Representations**

9 objections have been received raising the following concerns

- the green walls are unnecessary and costly to install and maintain and may cause maintenance issues
- the landscaping is inadequate
- the development is an eyesore and should be properly landscaped and maintained
- The original conditions should be upheld
- Other elements of the development have not been carried out in accordance with the approved plans and should be enforced
- Concerns about drainage
- Concerns over what will happen to the hilltop area of open space and whether the developer intends to deliver this.

### **Technical Consultations**

No comments received.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
11/2172/MFUL	Housing development of 5 open market dwellings and 10 affordable dwellings and provision of public area (revised proposal including reduction in proposed houses from a total of 19)	Approval with conditions	12.09.2013

14/1745/VAR	Amendment to planning permission 11/2172/MFUL (housing development of 5no open market dwellings and 10no affordable dwellings) to increase the size of the open market units (nos 1, 2, 3, 6 and 10) and add garages.	Approval with conditions	24.12.2014
15/2753/VAR	Variation of condition 2 (amended design of proposed dwellings) and removal of condition 3 (previously securing development to code level 5) of permission 14/1745/VAR (development of 15 no. houses).	Approval with conditions	31.08.2016
No ref.	Variation to the S106 agreement to allow staircasing up to 100%.	Approval	18.06.2018
19/1794/VAR	Variation of Condition 2 (plans condition) to regularise changes made to the built development and variation of Condition 6 (landscaping scheme) of permission 15/2753/VAR (development of 15 no. houses).	Refusal	17.06.2021

## **POLICIES**

### Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP1: Development in the Countryside

Policy NP2: Sensitive, High Quality Design

Policy NP5: Local Green Spaces

Policy NP6: Valued Views

Policy NP8: Protection of Local Wildlife Sites and Features of Ecological Value

Policy NP9: Accessible Developments

Policy NP12: Appropriate Housing Mix

Policy NP13: Accessible and Adaptable Homes

Policy NP14: Demonstrating Infrastructure Capacity

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

Strategy 35 (Exception Mixed market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries)  
Strategy 38 (Sustainable Design and Construction)  
Strategy 43 (Open Space Standards)  
Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
Strategy 47 (Nature Conservation and Geology)  
D1 (Design and Local Distinctiveness)  
D2 (Landscape Requirements)  
D3 (Trees and Development Sites)  
EN5 (Wildlife Habitats and Features)  
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)  
EN13 (Development on High Quality Agricultural Land)  
EN14 (Control of Pollution)  
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)  
EN22 (Surface Run-Off Implications of New Development)  
H2 (Range and Mix of New Housing Development)  
RC2 (New Open Space, Sports Facilities and Parks)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2019)  
National Planning Practice Guidance

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

Barton Rise is a development of 15 houses and flats, 10 of which are affordable, that was constructed on a field accessed from Barton Orchard. The development is largely complete, other than landscaping, and the affordable dwellings have been occupied for some time.

The development occupies the west facing slopes of a hill that continues to rise to a high point located towards the south east corner of the field. The site is completely located within the Area of Outstanding Natural Beauty. While bordered on most sides by mature hedge banks and trees, the main Sidmouth to Ottery St Mary Road lies to the north albeit set below the field's high point and itself screened by a bank and mature hedge.

#### **ANALYSIS**

This application follows the refusal of planning permission in June this year for variations to certain detailed aspects of the house design, a revised landscaping scheme and omission of living walls from three of the dwellings.

The sole reason for refusal related to the omission of the living walls. The other aspects of the development were considered acceptable. The June report can be found at: [Agenda for Planning Committee on Wednesday, 9th June, 2021, 10.00 am - East Devon.](#)

The application was refused for the following reason:

By virtue of their elevation in the landscape and the use of painted render, which is a hard, flat, uniform surface, for the exterior walls of the upper parts of the buildings, units 1-3 would appear visually jarring against a backdrop of fields, hedgerows and trees. Furthermore, growing ivy over the walls of the dwellings would not be a suitable long term form of mitigation because of its potential to cause structural damage. The proposal would therefore fail to conserve the landscape and scenic beauty of the East Devon Area of Outstanding Natural Beauty. Consequently the development would be contrary to Strategies 7 - Development in the Countryside and 46 – Landscape Conservation and Enhancement and AONBs and Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031, Policy NP2 - Sensitive, High Quality Design of the Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill 2017-2031 and guidance in the National Planning Policy Framework (2019), including paragraph 172.

The current application seeks to overcome this reason for refusal by reinstating the living walls as originally approved. In all other respects the proposal is the same as was considered at the June meeting.

The living walls would be fitted retrospectively and details have been provided to show how they would be installed, irrigated and drained. It is therefore considered feasible to install the living walls. Notwithstanding that the developer has sold the affected properties to individual owner/occupiers and two of them have objected to the proposal. Both are of the view that it would place an unforeseen and costly burden on them and may give rise to maintenance problems in future. One of them has suggested painting the walls instead but this alternative was rejected by Members at the June meeting.

Whilst there is some sympathy with the objectors' position, this issue was unresolved when they bought the properties and therefore there was a risk that retrospective action would be needed. Given that there is no technical reason why the living walls cannot be installed and given the environmental benefits, particularly with regard to integrating the development into the AONB landscape, it is concluded that the proposal should be supported.

Any issues regarding the cost of retrospectively fitting the living walls are between the property owners and developer as a civil matter. However, any formal enforcement action would need to be taken against the owners of the properties should the living walls not be re-instated. The purchase of the properties at a time when they were not in accordance with the approved planning permission should have been picked up at the purchase and conveyancing stage.

### Other matters

There continue to be objections to the appearance of the development and the lack of formal landscaping. However, there is an acceptable scheme on plan which meets with approval from the Council's Landscape Architect. The developer has not implemented it because it has not been granted formal approval but if permission is forthcoming then it is understood that the developer is ready to carry out the work in the next planting season. This should address longstanding concerns about the

appearance of the site and begin the process of integrating the development into the landscape.

### Habitat Regulations Assessment and Appropriate Assessment

The site is within 10km of the Pebblebed Heaths and ordinarily new development would be required to make a financial contribution towards mitigation of the recreational use of the Pebblebeds by the occupants of the new dwellings. In this case the approval for development on this site dates back to 2011 and pre-dates the introduction of charging. Although no contribution has been secured in respect of this development, the extant permissions mean that the site can be (and already is) occupied without a habitat mitigation payment. Furthermore, the new scheme does not change the size of the dwellings or the number of bedrooms and would not therefore result in an increased impact on the Pebblebeds compared to the fallback.

On this basis this proposal will not give rise to likely significant effects and is acceptable without any further mitigation.

### **CONCLUSION**

The proposal fully addresses the previous reason for refusal and therefore subject to a condition securing implementation of the living walls and other conditions, as well as a deed of variation to the legal agreement as before, the proposal is supported.

### **RECOMMENDATION**

**APPROVE subject to a S.106 linking agreement and subject to the following conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan 11-528 T1 A dated 20/11/2015

#### Units 1-3

Floor Plans C.X.03, C.X.04, C.X.05, C.X.06, C.X.07, C.X.08 dated 22/02/2018

Roof Plan C.X.09 dated 22/02/2018

Elevations C.X.17, C.X.18, C.X.19, C.X.20, C.X.21 dated 22/02/2018

Elevation A.07 dated 06/09/2019 (in respect of the extent of the living walls only)

#### Units 4-5

Floor Plans C.A.04, C.A.05 dated 15/05/2018

Roof Plan C.A.06 dated 15/05/2018

Elevations C.A.11, C.A.12, C.A.13, C.A.14 dated 15/05/2018

#### Unit 6

Floor Plans C.G.08, C.G.09, C.G.10, C.G.11 dated 13/04/2018

Roof Plan C.G.12 dated 13/04/2018

Elevations C.G.18, C.G.19, C.G.20, C.G.21, C.G.22, C.G.23 dated 13/04/2018

### Units 7-9

Floor Plans C.B.05, C.B.06, C.B.07, C.B.08 dated 15/05/2018

Roof Plans C.B.09, C.B.10 dated 15/05/2018

Elevations C.B.16, C.B.17, C.B.18, C.B.19 dated 15/05/2018

### Unit 10

Floor Plans C.G.08, C.G.09, C.G.10 C.G.11 dated 13/04/2018

Roof Plan C.G.12 dated 13/04/2018

Elevations C.G.18, C.G.19, C.G.20, C.G.21, C.G.22, C.G.23 dated 13/04/2018

### Units 11-15

Floor Plans C.C.06, C.C.07, C.C.08, C.C.09 dated 15/05/2018

Elevations C.C.15, C.C.16, C.C.17, C.C.18, C.C.19, C.C.20 dated 15/05/2018

### Landscaping

Hard Landscape Masterplan: Groundworks, Fences, Boundaries & Hard Surfaces Masterplan & (outline) Specifications TStJ 0-1 22/10/2020 rev 8 dated 11/03/2021

TStJ 09 Landscape Revisions at Barton Orchard Tipton StJohn TStJ 0-9-18/02/2021 rev 9 dated 12/04/2021

### Drainage

Windes Pipe Export received on 29 June 2021

WE04174-103C received on 29 June 2021

WE04174-104B received on 29 June 2021

(Reason - For the avoidance of doubt.)

2. The hard and soft landscaping scheme hereby permitted shall be carried out during seasonally appropriate times and be completed no later than 20 December 2021 unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any new planting or grass areas which fail to make satisfactory growth or which dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.  
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)
3. Within two months of the date of this decision a 25 year landscape and ecology management plan (LEMP) shall be provided for approval by the Local Planning Authority covering all areas excluding private gardens. The LEMP shall include the following:
  - o Management objectives
  - o Extent, ownership and responsibilities for management and maintenance.
  - o Details of how the management and maintenance of open space will be funded for the life of the development.
  - o Management of existing and proposed trees and hedgerows.
  - o Management and maintenance of new trees shrub and hedge planting

- o Management and maintenance of grass and wildflower areas.
- o Management and enhancement of site biodiversity value.
- o Management and maintenance of any boundary structures, paths, furniture, drainage swales and other infrastructure/ facilities within public areas.
- o Inspection and monitoring arrangements
- o Relevant drawings to indicate the locations and extent of features covered by the plan.

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 Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)

4. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no dwelling shall be enlarged, improved or altered and no building, enclosure, swimming or other pool, oil or LPG container shall be provided within its curtilage without prior planning permission from the Local Planning Authority.  
(Reason - To preserve the character and appearance of the buildings and their setting in accordance with strategy 46 - Landscape Conservation and Enhancement and AONBs and policy D1 - Design and Local Distinctiveness - of the East Devon Local Plan 2013-2031.)
5. Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected within the curtilage of any dwellinghouse, other than any indicated in the landscaping scheme hereby permitted, without prior planning permission from the Local Planning Authority.  
(Reason - To maintain the landscaped character of the site in accordance with Policy D1 - Design and Local Distinctiveness and Strategy 46 - Landscape Conservation and Enhancement and AONBs of the East Devon Local Plan 2013-2031.)
6. The windows in the side of units 7 and 9 shall be obscure-glazed and non-opening and shall be maintained as such in perpetuity.  
(Reason - To protect the amenity of adjoining neighbours in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
7. Notwithstanding the submitted details, prior to the first occupation of the relevant dwelling the first floor window (reference W.X.09) in the north west elevation of unit 3 and the stairwell window (reference W.X.16) in the north elevation of unit 1 shall be fitted with obscure glass and fixed shut. The glazing restriction shall be retained in perpetuity.

(Reason - To protect the amenities of neighbouring residents in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

8. No external lighting shall be installed other than in accordance with a lighting scheme which has first been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall comply with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused.  
(Reason - In the interests of the character and appearance of the East Devon Area of Outstanding Natural Beauty in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs and Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
9. The development hereby approved shall only be undertaken in accordance with the mitigations and recommendations contained in the Ecological Assessment Report dated September 2011 and the accompanying Reptile survey report dated October 2011.  
(Reason - To protect the ecological value of the site in accordance with Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan 2013-2031.)
10. The garaging for units 1, 2, 3, 6 and 10 shall remain available for parking and shall not be converted or permanently lost for other residential uses.  
(Reason - There is limited potential for any other form of additional parking provision within the site in the interests of the character and appearance of the AONB and in accordance with Policies D1 - Design and Local Distinctiveness and Strategy 46 - Landscape Conservation and Enhancement and AONBs of the East Devon Local Plan 2013-2031.)
11. Within 6 months of the date of this decision or such other period of time as may be agreed in writing by the Local Planning Authority, 'biotecture' living walls shall be installed on units 1, 2 and 3 (now known as 15, 17 and 19 Barton Rise) in full accordance with drawing A.07 dated 06.09.2019 (in which the relevant walls are labelled 'Green Walls') and the details of the biotecture product submitted on 29 June 2021. Prior to installation of the living walls a plan for their ongoing maintenance and a method and timescale for replacement and/or repair of the walling in the event of total or partial failure shall be submitted to and approved in writing by the Local Planning Authority. The living walls shall thereafter be maintained, repaired or replaced in accordance with the approved details. In any event and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the living walls shall be retained as such in perpetuity.  
(Reason - In the interests of design and the character and appearance of the AONB and in accordance with Policies D1 - Design and Local Distinctiveness and Strategy 46 - Landscape Conservation and Enhancement and AONBs of the East Devon Local Plan 2013-2031.)

12. In Units 1-3 no interior lights serving the second floor shown on drawing C.X.08, nor any serving the associated stairwell to this floor from the first floor, shall be installed other than in accordance with the details accompanying the letter from EDP Environmental dated 14 April 2018 (ref. 2302/IJS) unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - In the interests of the character and appearance of the AONB and in accordance with Policies D1 - Design and Local Distinctiveness and Strategy 46 - Landscape Conservation and Enhancement and AONBs of the East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

##### Informative:

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

##### Plans relating to this application:

T1	Location Plan	06.09.19
A.07 rev A(8) amended	Proposed Elevation	30.04.20
TStJ 0-9 rev 9	Landscaping	13.04.21
Tstj 0-1 22/10/2020 Rev 8-11 03 2021	Landscaping	11.03.21
Windes Pipe Export	Other Plans	21.05.21
WE04174-104B	Other Plans	21.05.21
WE04174-103C	Other Plans	21.05.21
C.X.03 rev 02	Proposed Floor Plans	13.08.20
C.X.04 rev 02	Proposed Floor Plans	13.08.20
C.X.05 rev 02	Proposed Floor Plans	13.08.20
C.X.06 rev 02	Proposed Floor Plans	13.08.20
C.X.07 rev 02	Proposed Floor Plans	13.08.20
C.X.08 rev 02	Proposed Floor Plans	13.08.20

C.X.09 rev 02	Proposed roof plans	13.08.20
C.X.17 rev 02	Proposed Elevation	13.08.20
C.X.18 rev 02	Proposed Elevation	13.08.20
C.X.19 rev 02	Proposed Elevation	13.08.20
C.X.20 rev 02	Proposed Elevation	13.08.20
C.X.21 rev 02	Proposed Elevation	13.08.20
C.A.04	Proposed Floor Plans	13.08.20
C.A.05	Proposed Floor Plans	13.08.20
C.A.06	Proposed roof plans	13.08.20
C.A.11	Proposed Elevation	13.08.20
C.A.12	Proposed Elevation	13.08.20
C.A.13	Proposed Elevation	13.08.20
C.A.14	Proposed Elevation	13.08.20
C.G.08 : ground	Proposed Floor Plans	25.02.21
C.G.09 ground	Proposed Floor Plans	25.02.21
C.G.10 : ground	Proposed Floor Plans	25.02.21
C.G.11 : garage	Proposed Floor Plans	25.02.21
C.G.12	Proposed roof plans	25.02.21
C.G.18 : north east	Proposed Elevation	25.02.21
C.G.19 : south east	Proposed Elevation	25.02.21
C.G.20 : south west	Proposed Elevation	25.02.21
C.G.21 : north west	Proposed Elevation	25.02.21
C.G.22 : courtyard SW	Proposed Elevation	25.02.21

C.G.23 : courtyard NW	Proposed Elevation	25.02.21
C.B.05	Proposed Floor Plans	13.08.20
C.B.06	Proposed Floor Plans	13.08.20
C.B.07	Proposed Floor Plans	13.08.20
C.B.08	Proposed Floor Plans	13.08.20
C.B.09	Proposed roof plans	13.08.20
C.B.10	Proposed Elevation	13.08.20
C.B.16	Proposed Elevation	13.08.20
C.B.17	Proposed Elevation	13.08.20
C.B.18	Proposed Elevation	13.08.20
C.B.19	Proposed Elevation	13.08.20
C.C06	Proposed Floor Plans	13.08.20
C.C.07	Proposed Floor Plans	13.08.20
C.C.08	Proposed Floor Plans	13.08.20
C.C.09	Proposed Floor Plans	13.08.20
C.C.15	Proposed Elevation	13.08.20
C.C.16	Proposed Elevation	13.08.20
C.C.17	Proposed Elevation	13.08.20
C.C.18	Proposed Elevation	13.08.20
C.C.19	Proposed Elevation	13.08.20
C.C.20	Proposed Elevation	13.08.20

List of Background Papers

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