

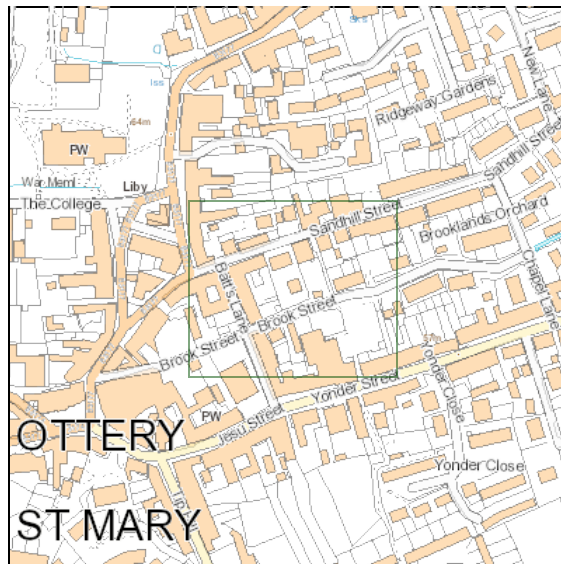
**Ward** Ottery St Mary

**Reference** 20/2668/FUL

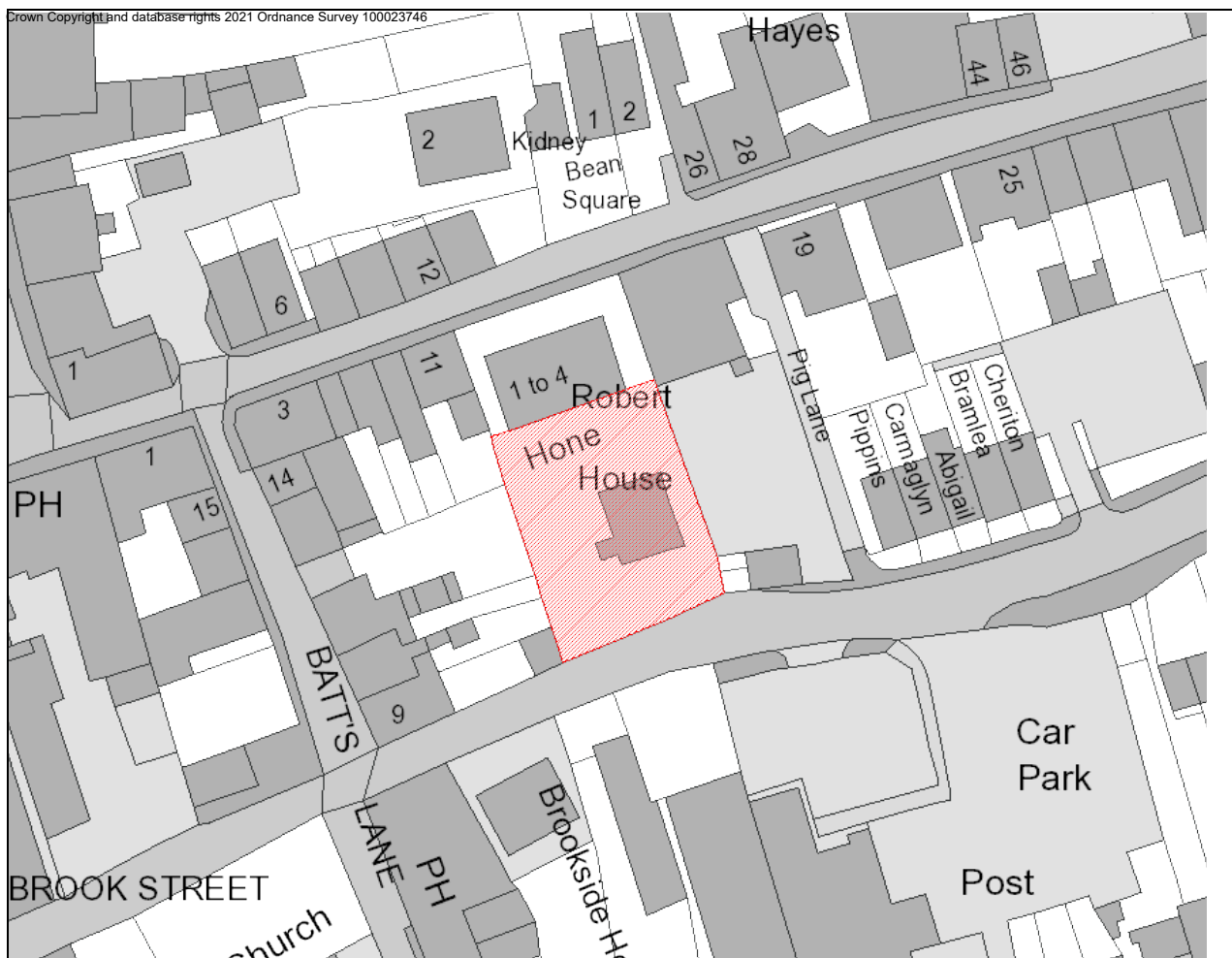
**Applicant** Trustees Of The Ottery Feoffee Charity

**Location** Ottery Feoffee Charity Community Centre Brook Street Ottery St Mary EX11 1EZ

**Proposal** Replacement of the Community Centre with 6 no. residential flats.



**RECOMMENDATION: Refusal**



		<b>Committee Date: 27<sup>th</sup> October 2021</b>
<b>Ottery St Mary (Ottery St Mary)</b>	<b>20/2668/FUL</b>	<b>Target Date: 29.01.2021</b>
<b>Applicant:</b>	<b>Trustees Of The Ottery Feoffee Charity</b>	
<b>Location:</b>	<b>Ottery Feoffee Charity Community Centre Brook Street</b>	
<b>Proposal:</b>	<b>Replacement of the Community Centre with 6 no. residential flats.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Committee as the officer recommendation differs from the view of a Ward Member.**

**The proposal involves the redevelopment of the Ottery Feoffee Charity Community Centre site in Brook Street, which houses a community centre building run by the Trustees of Ottery Feoffee Charity, with a scheme comprising the construction of a two storey building housing 6no affordable one bedroom flats that would be managed as 'build to rent' units.**

**The scheme is being promoted by the Charity, which also owns the neighbouring premises to the north of the site, Robert Hone House, which itself accommodates four flats.**

**The site, located to the east of the town centre in a predominantly residential area, is within the designated Ottery St. Mary Conservation Area. The front portion of the site, as well as Brook Street itself, lies within flood zones 2 and 3. The site and building floor levels are raised by between 1.5 and 3 metres above that of the adjacent road.**

**Whilst recognising the clear social benefits of affordable housing provision that the scheme would realise, the development would involve the loss of an existing community building without any evidence having been provided as to options for its retention for its current use, or other community purpose(s), having been fully explored in line with the key requirements of Strategy 32 of the adopted Local Plan. Its loss would also be contrary to the provisions of Neighbourhood Plan Policy NP17 which 'strongly resists' the loss of a Community Facility of Value, of which the existing Centre is listed as being for protection.**

Furthermore, aside from the unacceptability of the principle of the development, there are also matters of detail that are considered to weigh against the proposal.

First, it thought that the scheme would result in a building of excessive scale that would amount to an overdevelopment of the site. Moreover, it would involve the engineering of finished floor levels necessitating the construction of retaining walls in such close proximity of existing historic walls that define the western and eastern site boundaries that there can be no certainty, in the absence of further information, that these would not be adversely affected as a result of the scheme.

In addition, the building itself would exhibit a bulk, massing and proportions that would relate poorly to the more traditional adjacent cottage-style properties in Batts Lane that back towards the western boundary of the site and in relation to which, even allowing for the intended excavation of the site to create lower floor levels, it is considered it would appear unduly physically and visually dominating.

The development would also feature end gables and a roof plan that would appear too deep within this context.

The scheme would therefore fail to preserve or enhance, and result in harm to, the character and appearance of the designated heritage asset (i.e. the conservation area) in this case.

The site layout would also be at odds with the prevailing pattern of surrounding residential development which is largely defined by the rear gardens of Brook Street and Sandhill Street properties backing onto each other with reasonable standards of amenity and privacy for occupiers. By way of contrast, the scheme would result in a poor amenity and privacy relationship with a number of adjacent properties as well as the flats in Robert Hone House itself; the latter owing to the lack of adequate separation distance between existing and proposed buildings and therefore likely to result in an over intensive use of the communal space within.

In addition, there has been a failure to satisfactorily address concerns raised by the Environment Agency with regard to the design flood level that is considered to be necessary in order to mitigate flood risk. As such, the excavations that are proposed to lower the ground levels, which are offered as a means of seeking to mitigate the impact of the development upon the street scene and conservation area, are likely to change the flood zone classification of the part of the site to be developed from flood zone 1 to either flood zone 2 or flood zone 3, thereby triggering the need for application of the sequential test for flood risk. Within these zones, the acceptability of residential development, which falls within the category of 'more vulnerable' development for flood risk purposes, is likely to be called into question with a further likelihood that it would fail such a test as well, possibly, as the exception test.

The corollary of this would be to raise the intended floor levels so as to avoid this scenario. However, this would be at risk of accentuating the concerns in relation to the impact upon both the character and appearance of the conservation area and neighbouring residents set out above.

**In the circumstances therefore, it is not considered that it has been adequately demonstrated how these concerns could be appropriately reconciled to address all of these issues and, as such, taken together with the absence of any agreed mechanism, in the form of a legal agreement, to secure the proposed units as affordable housing, it is thought - notwithstanding the support offered by the town council and ward member - that the scheme as submitted should be refused.**

## **CONSULTATIONS**

### **Local Consultations**

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

The Town Council supports the application, with one exception, subject to approval from the environment agency and meeting their conditions.

#### **Ottery St Mary - Cllr Geoff Pratt**

Ottery Feoffee Charity (the applicant) is regulated by a scheme of the Charity Commissioners which gives the Trustees a wide discretion to meet the needs of local people in Ottery St. Mary and the surrounding districts. The prime aims of the scheme are to provide assistance to people in need and to provide affordable accommodation for local people who cannot afford to purchase their own homes or to maintain the homes they own. At present the Charity own 22 flats for this scheme. The Trustees consider that future demand for the accommodation they provide will increase. There is an existing waiting list of applicants.

In October 1971 the Feoffees provided a day centre for the Community in Brook Street. For several years the Trustees have been concerned over the condition (a single story timber structure) of the building having regard to its age and the maintenance costs. The building is underutilised and has become increasingly expensive to repair and maintain. There are other meeting places in the Town as well as many coffee shops and restaurants which the community use. In these circumstances the Trustees are of the opinion that it is in the best interest of the Charity that the community centre is replaced with purpose built flats to be made available under the scheme for local people in need of accommodation.

It is noted that by the Ottery St. Mary Neighbourhood Plan Policy NP 17 proposals that will result in the loss of community facilities of value will be strongly resisted. The Community Centre is listed in Appendix 4 of the NP as a facility of value. However paragraph 7.26 of the NP (page 57) "development which jeopardises provision of Community facilities will not be supported without clear justification. I would submit that the specific benefit of providing accommodation for people in need more than justifies approval of this application.

Local Plan Strategy 32 (loss of community Sites and buildings) resists the loss of community uses where it harm social or community gathering. However in this application the applicants will continue to make the land available for Community use with the benefit of affordable accommodation which it is submitted the benefit of such use will outweigh any actual or perceived harm

LP. Strategy 24 (Development at Ottery St Mary) requires development to be compatible with the character of the site and its surroundings. Brook Street is mainly residential but with commercial buildings nearby and an EDDC car park opposite. The proposed development is focused on meeting local needs.

The site lies within flood zone 1 and adjacent to the boundary of flood zone 3. The Architect has taken future flood risk into account by raising the floor level.

My preliminary view based on the information presently available to me is that I would support approval of this application. I reserve my right to change my views in the event that further information becomes available to me.

### **Technical Consultations**

DCC Historic Environment Officer

21/12/20 - Application No. 20/2668/FUL

Ottery Feoffee Charity Community Centre Brook Street Ottery St Mary EX11 1EZ - Replacement of the Community Centre with 6 no. residential flats: Historic Environment

My ref: ARCH/DM/ED/36128a

I refer to the above application. The proposed development lies in a largely undeveloped part of the town, in area of archaeological potential within the historic core of Ottery St Mary and to the south of the site of Hone Almshouses which are thought to have been founded in the mid-15th century. There is therefore the potential for the proposed development site to contain archaeological and artefactual deposits associated with the medieval settlement and development of this part of the town. However, the information submitted in support of this application is not sufficient to enable an understanding of the significance of the heritage assets with archaeological interest within the application area or of the impact of the proposed development upon these heritage assets.

Given the high potential for survival and significance of below ground archaeological deposits associated with the medieval settlement of Ottery St Mary and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. The requirement for this information is in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance - and EN8 - Significance of Heritage Assets and their Setting, and paragraphs 189 and 190 of the National Planning Policy Framework (2018).

The additional information required to be provided by the applicant would be the results of a programme of intrusive archaeological investigations (field evaluation). The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the

potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

7/4/21 - Application No. 20/2668/FUL

Ottery Feoffee Charity Community Centre Brook Street Ottery St Mary EX11 1EZ - Replacement of the Community Centre with 6 no. residential flats: Historic Environment

My ref: Arch/DM/ED/36128b

I refer to the above application. The Historic Environment Team have now received a copy of the report setting out the results of the archaeological field evaluation undertaken by Oakford Archaeology here. This has demonstrated the presence of post-medieval ditches containing artefactual material dating to the 17th and 18th centuries. No heritage assets were exposed of such significance that the Historic Environment Team would advise preservation in situ. However, the impact of the development upon these heritage assets should be mitigated by a programme of archaeological work to investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

In the light of these results I would like to withdraw the Historic Environment Team's previous objections and would instead recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

## Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological supervision of all groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

## Environmental Health

I have considered the application 20/2668/FUL and note that this site is close to nearby residents who may be impacted during the construction process. Therefore, I recommend approval with the following conditions:

1. Construction working hours shall be restricted to 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays.
2. There shall be no burning on site.

We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

## Conservation

This is an area of significant character. The street is a mixture of modern residential (mostly) terraced houses. This linear form is broken by rear access lanes and traditional outbuildings serving a mixture of commercial and residential properties on Sandhill Street, Batts Lane and Yonder Street.

There is a traditional stone and brick boundary wall that is a strong characteristic of this road. It is a very dominant feature of the existing site too. On inspection the lower "plinth" level that is currently roughly rendered, it is revealed to be in fact stone. It is

most likely that it is the same wall that continues to the Eastern neighbouring property where the stone is visible at this point. It is recommended that this is retained (without the render over the stone) or at least rebuilt using the same materials and a lime mortar mix. This is in order to retain and enhance the character of the conservation area.

The heritage statement makes a fair assessment of the site illustrating that it was a former burgage plot that it still serves as a garden to the existing residents and for visitors to the community centre. This garden is bounded by neighbours' gardens to the West and an outside space to the East. The common factor of this site the adjacent sites is the distinctive historic boundary walls and outbuildings. The proposed design entails excessive engineering works and the submitted drawings illustrate substantial retaining walls as a consequence of the new ground level. It fails to include information with regards to the impact and potential for permanent loss of the all these historic boundaries. The proposed retaining walls the space or pathway (on the East) are too tight to the boundaries. Although the ridge height is less than that of Robert Hone House in Sandhill Street, it does not sympathetically respond to the ridge heights of the adjacent building in Brook Street and Batts Lane. The gable ends and roof plan is too deep and clumsy. The overall massing is too large and out of proportion compared to the nearby cottage style houses. This is an opportunity to design a building of its time that respects the local vernacular.

There is merit in using a natural slate roof, however it is disappointing that Upvc windows and doors are proposed. In general the use of Upvc is not supported.

Overall the principle of the development is a planning concern, however the design is over scale and will have some negative impact on the historic boundaries. The character of the existing historic garden space has been too compromised by the size of the development and the extensive hard landscaping. In conclusion, as it stands it is considered that there will be a negative impact on the significance of the conservation area.

#### Environment Agency

Thank you for the consultation with regards to the above proposed development.

#### Environment Agency position

We object to the development on flood risk grounds due to the adequacy of the flood risk assessment.

#### Flood Risk

The flood risk assessment prepared by Dennis Gedge, dated September 2020, has been reviewed. We disagree with the design flood level that is promoted in the assessment.

During the design fluvial flood event (1-in-100year AEP Climate Change) flood depths in the region of 750mm are likely to be experienced in Brook Street adjoining the development site. Given a ground level of 52.36mAOD in the highway, the design flood level would be in the region of 53.11mAOD. The finished flood level for the ground floor of the new development is stated as 52.72mAOD, which is in the region of 400mm below the design flood level. With a 300mm allowance for freeboard on top of the design flood level, it is suggested that a finished floor level in the order of 53.41mAOD



should be promoted. It should be recognised that excavations within the existing site to lower the ground levels will effectively change the flood zone designation to either flood zone 2 or flood zone 3, where the acceptability of such 'more-vulnerable' development has to be questioned in more depth.

On the basis of the above discussion, the Environment Agency would wish to object to the application.

#### Housing Strategy Officer

Strategy 34 sets the policy target for affordable housing provision on development sites and for Ottery St Mary a target of 25% affordable housing is required. The threshold at which the policy applies will be the minimum set out in Government policy or guidance. Paragraph 63 of the NPPF sets out when affordable housing should be sought from developments. Affordable housing should not be sought for developments that are not major developments (10 homes or more or site area of 0.5 hectares or more), other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). Ottery St Mary is a designated rural area and therefore the threshold of 5 units applies, for sites of between 6-9 units a contribution towards affordable housing will be sought instead of on-site provision

The applicant for this site is a local charity whose purpose is for the prevention or relief of poverty through housing for elderly people or people with disabilities. This development would effectively be providing almshouses for local elderly people in need of affordable rented accommodation. This in itself is a form of specialist affordable housing for the elderly. The applicant has requested that this development is looked at as providing affordable housing rather than having to pay a commuted sum towards affordable housing. The use as affordable housing could be safeguarded through a legal agreement.

In order to meet the NPPF definition of affordable housing for rent the rent level should be set in accordance with Government rent policy or should be at least 20% below market rents. The landlord should be a registered provider unless it is a build to rent scheme. Provisions should be included to ensure the dwellings remain affordable for future eligible households or the subsidy is recycled for affordable housing.

If the above criteria are met then these units can be classed as affordable housing and secured as such through a S106 agreement and this then removes the requirement to provide a financial contribution.

In order to meet the above definition and to satisfy the Council of the charity's intentions with this development the applicant should provide additional information to include; whether it is registered as a Registered Provider with Homes England, information on rental levels and how they are set and how often they are increased, the type of tenancy agreement or licence offered to occupants including the typical term offered and how the tenancy can be ended, whether there is an age limit to living there, whether there is a waiting list and details on how occupants are selected and assessed as being eligible.

#### Other Representations

11 representations of objection have been received along with 1 representation of support from the Almshouse Association.

#### Summary of Grounds of Objection

1. Overlooking of, and loss of privacy to, neighbouring properties.
2. Building is far too close to properties behind and to the side.
3. Greater size and height relative to existing building would be detrimental to visual amenity.
4. No parking provision for residents, visitors or service vehicles (including carers or suppliers), thereby worsening an existing significant problem within the town, especially with Batts Lane and Brook Street being narrow and congested.
5. Safety concerns from residents - particularly elderly or disabled - walking onto Brook Street, which is narrow and unpaved.
6. Loss of a valued green space used by locals and wildlife.
7. Disruption and upheaval during construction work, including noise and dust.
8. Query stability of adjacent building that is currently largely held up by the raised ground within the site.
9. Surface water drainage will run onto neighbouring property as a result of the lowering of site levels.
10. Advertising of the premises would have helped them make more money.
11. Detrimental impact upon so many homes and residents' daily lives.
12. Loss of light to neighbouring properties.
13. Loss of community facility used for yoga classes and band practice, among other things.
14. There are a number of empty houses in close proximity that need developing rather than taking down a perfectly good building and replacing it.
15. Further loss of town centre land to development with no additional parking provision being made.
16. There will be regular illegal parking in Brook Street.

#### Summary of Grounds of Support

1. One of the benefits of the almshouse model is its unique legal status which ensures genuinely affordable housing to the community in perpetuity; this status is secured in the legal definition authorised by the Charity Commission.
2. Almshouses are exempt from Right to Buy, which means that the almshouses cannot be bought or sold, thus decreasing the availability of affordable housing in the area.
3. Should the dwellings be sold by the charity, the capital from the sale cannot legally be used for anything other than the provision of further almshouse development.
4. There are therefore a number of safeguards in place to ensure that communities are not left without a form of truly affordable housing.

## **POLICIES**

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

#### Strategy 1 (Spatial Strategy for Development in East Devon)

#### Strategy 4 (Balanced Communities)

#### Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 24 (Development at Ottery St Mary)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 43 (Open Space Standards)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

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

EN22 (Surface Run-Off Implications of New Development)

H3 (Conversion of Existing Dwellings and Other Buildings to Flats)

RC6 (Local Community Facilities)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies  
NP2 (Sensitive, High Quality Design)

NP3 (Infill, Backland and Residential Garden Development)

NP12 (Appropriate Housing Mix)

NP17 (Community Facilities of Value)

NP22 (Ottery St. Mary Conservation Area)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2021)

#### **Relevant Planning History**

There is no previous history relating to the application site.

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

The site, which is approximately 0.05 hectares in area, is located on the northern side of Brook Street to the east of Ottery St. Mary town centre and, more specifically, around 50 metres to the east of the crossroads junction with Batts Lane.

It houses the Ottery Feoffee Charity Community Centre premises, which comprises a single storey building with vertical timber boarded walls over a brick plinth beneath a shallow felt pitched roof oriented gable end on to the highway. It is owned and managed by the applicants, the Trustees of the Ottery Feoffee Charity.

The structure has an open setting with the remainder of the site mainly laid to grass, the level of which is, variously, between 1.5 metres and 3 metres above that of Brook Street with a gentle fall from north to south. The floor level of the building itself is around 2 metres above street level.

The principal frontage onto Brook Street is defined by a mixed render-faced stone and brick retaining wall with a low chain link fence above. It is broken via a pedestrian entrance to a short flight of steps leading up to the building.

The site has an entirely open boundary to a two storey complex of flats, known as Robert Hone House, to the north and a mix of timber fencing and brick wall treatment to the west and east boundaries with the rear gardens of nos. 9-11 Batts Lane and a private parking area to the rear of residential properties within the former Old School building respectively.

Robert Hone House comprises a two storey building housing four flats that is accessed from Sandhill Street to the north. It is also owned and managed by the applicants and it is understood that residents have use of the communal space around the Community Centre building.

The surrounding area is largely of residential character and comprises a mix of forms of accommodation and building forms, designs and appearances. However, both older and more recent brick terraced housing is characteristic of development in Brook Street to the east of the site.

The site is located within the designated Ottery St. Mary Conservation Area and the front part of the site, as well as Brook Street itself, lie within flood zones 2 and 3.

## **Proposed Development**

The application proposal involves the demolition of the existing community centre building and redevelopment of the site with a scheme comprising a two storey building housing six one bedroom flats, three on each level.

Each flat would consist of an open plan kitchen and sitting room, bedroom and shower room with added porches and bin stores to the principal south-facing elevation to serve the ground floor units and porches and bin and cycle stores serving the first floor level units to the rear (north) elevation. The latter would each also incorporate a hall.

This would necessitate digging the building into the site by between 1 and 2 metres in order to achieve an intended finished ground floor level around 0.5 metres above that of Brook Street. Retaining walls would be constructed around the western, northern and eastern sides of the building. A new pedestrian access from Brook Street would be created adjacent to the south eastern corner of the site with a ramped path leading up to the entrance porches to the ground floor flats while a similar access path to provide the rear access to the first floor units would extend from an existing access alongside Robert Hone House from Sandhill Street. The existing pedestrian entrance off Brook Street would be closed up and the existing steps removed.

The proposed building itself would occupy the majority of the width of the site, allowing only for a pathway around its eastern side to facilitate pedestrian access between the ground and first floor accommodation.

In plan form it would also occupy a position set back within the site that would be just outside of flood zones 2 and 3 and therefore within flood zone 1 (as defined at present).

Viewed from Brook Street, it would exhibit a form, design and external appearance resembling a terrace of three essentially identical dwellings with gabled end walls to the 'outer' units and handed designs to the central and eastern 'pairs' of ground and first floor units. The proposed rear first floor level porches/bin and recycling stores would be housed within three hipped roof projections with, again, the central and eastern flats being handed and sharing a single large roof.

The external wall finishes would comprise red brick and painted render under a slate pitched roof with clay ridge tiles. Entrance doors to the porches and bin/recycling stores would be vertical timber boarded with double glazed panels. Windows would be PVCu-framed and mainly two and three light side-hung casement design.

The roof ridge height of the building would be around 8.2 metres. Submitted site section details indicate that the ridge level itself would be just below the eaves level of Robert Hone House to the north.

The scheme does not provide for any off road parking facilities for the development.

## **Considerations/Assessment**

The proposal falls to be considered having regard to the following material issues that are discussed in turn:

- Principle of Development;
- Loss of Community Facility;
- Impact upon the Character and Appearance of the Conservation Area;
- Flood Risk;
- Impact upon the amenity of surrounding occupiers;
- Other matters.

### **Principle of Development**

The site is located within the defined Built-up Area Boundary of the town as defined in the adopted Local Plan where the provisions of Local Plan Strategy 6 (Development Within Built-up Area Boundaries) consider the accommodation of growth, including housing development, to be acceptable from a strategic policy perspective.

The principle of residential development of the site in fundamental policy terms is therefore acceptable.

### **Loss of Community Facility**

Paragraph 93 of the National Planning Policy Framework (NPPF) states that, in order to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, among other things, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

The provisions of Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) of the Local Plan, among other things, preclude the change of use of social or community facilities, where it would harm social or community gathering opportunities in the area, unless one or more of four specified criteria are met. Although three of these criteria are not thought to be material to assessment of the proposal against this strategy in this case, the remaining criterion is relevant and this requires that options for the retention of the premises for its current or similar use have been fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and that there is a clear demonstration of surplus supply of land or provision in a locality.

In part complementary to the objectives of this strategy, Policy NP17 (Community Facilities of Value) of the made Ottery St. Mary and West Hill Neighbourhood Plan (NP) 'strongly resists' proposals that would result in either the loss of, or significant harm to, defined Community Facilities of Value (CFV). These are separately listed, at Appendix 4 within the Plan, and include the Feoffee Community Centre building.

The preamble to this policy states that its purpose is to provide protection to all community facilities of recognised value.

The agents representing the charity have provided a Statement on Use, Viability and Local Alternatives as part of the application submission, the key points that are set out being as follows:

- Details of bookings for 2018, 2019 and 2020 show that the premises are unoccupied and not in use for 10 or more days every month
- Like many of the community facilities in Ottery St Mary, usage by groups and individuals depends on their needs and budgets which can vary over time
- The net income from Community Centre bookings provides little opportunity for reinvesting in the future of the building with only modest profits made in 2017 and 2018 and a loss in 2019
- The Community Centre is only available to the community because of the Charity continuing to subsidise the operation and maintenance of the building
- Looking to the future, Charity Trustees are aware that the capital cost of replacement windows, a new heating system, and/or further repairs to the roof and exterior of the building, will result in the Community Centre generating a loss, deducting money from Charity funds; this is not considered to be economically sustainable
- If making the Community Centre available to the public is economically unsustainable, depleting Charity funds, the land and property at Brook Street is not being put to best use
- The local community will not be deprived of suitable, if not better, alternative venues or facilities if the Charity pursues a project to deliver more residential accommodation within the town. These include: The Institute; Ottery Station Community Hub; Ottery St. Mary town council building; Ottery St. Mary Cricket Club; Ottery St. Mary Football Club; The Old Boys' School; Kings School; Ottery St. Mary Primary School; the 'Mens' Shed, and various churches.

Although these points are noted and understood, no evidence has been provided to demonstrate that any options for the retention of the premises for its current, or similar, uses, including the marketing of the building, have been actively explored in line with the provisions of Local Plan Strategy 32 referenced above.

Although the submitted statement does seek to provide the requisite 'clear demonstration of surplus.....provision' that is also set out in the strategy, its wording requires both criteria to be met.

No evidence has been provided to demonstrate the extent of efforts that have been made over the past few years to promote or raise awareness of the availability of the premises within, and for, the community or the potential that it might offer as a meeting or activity-centred venue for the wide range of community groups and services that exist within the town and/or further afield.

Furthermore, as referenced above, no evidence has been forthcoming to demonstrate that such uses could be made viable if the facility were, further to completion of a successful robust marketing effort, operated under different ownership that might invest in making improvements to it that would enhance its appeal to prospective community groups/users.

Under the provisions of Local Plan Strategy 32, such an effort could also extend to any potential business or employment use that might equally contribute to the

economic well-being and vibrancy and viability of the town. However, no such effort has been demonstrated.

In any event, and notwithstanding the lack of demonstration of options for the retention of the premises for its present or similar use set out above, it is not considered that the number of bookings made and the level of use to which the premises were put - prior to the pandemic and the first 'lock down' period in March 2020 - necessarily reflected a lack of community interest in the building. Indeed, the evidence presented may be regarded as demonstrating a comparatively healthy level of use.

It is accepted that this needs to be balanced against the social benefits that may be derived from the provision of a form of 'affordable housing' that the scheme would entail. In this regard, the favourable recommendation offered by the town council gives greater weight to these.

The Ward Member rightly references paragraph 7.26 of the Neighbourhood Plan that States 'The retention of these facilities is a key aspect of securing a sustainable future for the Parishes. Development which jeopardises provision will not be supported without clear justification.' Whilst this allows for the loss of community facilities with clear justification, the policy wording clarifies that such loss will be strongly resisted and for the reasons given above, it is not considered that the clear justification has been provided, particularly when balanced with further concerns with the proposal outlined later within this report.

Given the range of factors set out, both above and within the next sections of the report, it is considered that the requirements of Local Plan Strategy 32 have not been met and, moreover, that this failure, coupled with the 'strong resistance' that neighbourhood plan Policy NP applies in relation to the loss of community facilities, should carry significant weight against acceptance of the scheme in principle.

### **Impact upon Character, Appearance and Significance of Conservation Area**

Notwithstanding the incorporation of a predominantly brick external wall finish to try to blend with the existing terraced residential development further along Brook Street to the east of the site, together with the retention of the majority of the retaining wall along its road frontage, there is empathy with the observations made by the Conservation Team in regard to various other elements of the proposed scheme and the likely resulting impact upon the character and appearance of the designated conservation area to which 'Special Regard' must be given.

More particularly, it is considered that the overall scale of the build would appear unduly excessive for the site with consequential detriment to the character and appearance of the street scene and wider conservation area. Whilst there is an acknowledgment that, relative to the generously spacious grassed setting that the existing community centre building enjoys, any redevelopment would be likely to occupy more of the site, it is thought that the proposal as presented would result in its overdevelopment, both in terms of the extent of the site width that it would occupy and the deeper plan form, shallower pitched roof and unsympathetic proportions that it exhibits by comparison with the more traditional cottage-style properties in Batts Lane to the west that back towards the site.



It would also involve significant engineering works to reduce the existing site levels. However, although it is assumed that this is designed to reduce the potential physical dominance of the development in relation to these adjacent dwellings, it has resulted in the need for retaining walls that are in very close proximity to the existing historic walls that define parts of the site's western and eastern boundaries. In the absence of any assessment as to their likely impact upon these walls, including their potential loss, this represents a further cause for concern in relation to the impact of the development upon the designated heritage asset.

As such, and aside from the issues that the proposed finished floor levels present in flood risk terms, which are discussed below, it is not thought that the scheme would be an appropriate response to the constraints of the site in conservation area terms.

It would therefore run counter to the objectives of Strategies 6 (Development Within Built-up Area Boundaries) and 24 (Development at Ottery St. Mary, as well as Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas), of the Local Plan and Policies NP2 (Sensitive, High Quality Design) and NP22 (Ottery St. Mary Conservation Area) of the Neighbourhood Plan.

## **Flood Risk**

The submitted flood risk assessment accompanying the application recommends that the scheme should seek to achieve a design flood level of 52.72 metres AOD with allowance for a freeboard of almost 0.4 metres above.

However, the Environment Agency (EA) considers that the design flood level should be around 400mm higher on account of flood depths of 750mm that it believes would be likely to be experienced in Brook Street and, with a freeboard allowance of 300mm, advise that the finished floor level should be in the region of 53.41 metres AOD.

The EA also highlight that the proposed excavations to lower the ground levels within the site would, in effect, change the flood zone designation, in relation to the intended siting of the development, to flood zone 2 or 3. As such, the acceptability of the scheme, which involves residential development that falls within the 'more vulnerable' category, as set out in the flood risk vulnerability classification, would place the whole principle of the scheme in question if it were then necessary to apply the sequential test and the development were considered to fail both this and the exception test.

No detailed response has been forthcoming in relation to the EA's consultation comments in spite of the length of time that the application has been outstanding and therefore available to the applicants/agents to address them.

In any event, it is likely that any revised proposals incorporating the raised floor levels and freeboard allowance that the EA is seeking would be considered to accentuate the concerns set out in the preceding section of the report in terms of the development being out of character and harmful to the Conservation Area.

In such circumstances, and in the light of the EA's concerns, it is considered that the proposal must currently be regarded as being unacceptable on the grounds of the level of increased flood risk to the development and a likely failure to meet potential sequential and exception test as a result.

### **Impact upon Neighbour Amenity**

The development would be positioned and oriented where the rearward outlook and aspect, more especially from the first floor flats, would directly face the windows and balconies serving the flats in Robert Hone House. These would be at relatively close quarters, with a separation distance between the existing and proposed buildings of around only 10 metres.

Taken together with the intention that the space in between is intended to continue to be used as a shared open amenity space for the occupiers of both developments with no sub-division to demarcate any boundary between the two, it is thought that this would be likely to result in a spatially uncomfortable layout and arrangement for both existing and prospective occupiers.

It is also thought that it would create an unsatisfactory relationship with the occupiers of nos. 9-11 Batts Lane to the west, on account of the physical and visual dominance resulting from the size and scale of the building and its immediate proximity to the site boundary with the rear gardens of these properties, as well as no. 11 Sandhill Street, to the immediate west of Robert Hone House, owing to the level of overlooking of its private rear garden area that would be likely to result from the rear first floor level windows referenced above.

The level of such impacts would again be likely to be exacerbated by any proposals to raise the intended levels of the development to address the flood risk concerns.

It would also fail to reflect the prevailing pattern, layout and arrangement of existing residential development in both Brook Street and Sandhill Street where properties have the benefit of more private rear gardens/spaces that back onto each other, with greater separation distances, in a more traditional manner.

### **Other Issues**

Information has been provided to demonstrate that the proposal would amount to a form of 'build to rent' housing that would be consistent with the applicants' charitable status and wider social objectives and, therefore, that it amounts to a form of affordable housing.

However, direct provision of such housing at a rate of 100% would not ordinarily be required under the provisions of Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted Local Plan. Under the thresholds set out in the Strategy, a target of 25% is set for a number of the towns across the District, including Ottery St. Mary.

Furthermore, relevant Government policy, as set out in national Planning Policy Guidance, requires that this be made in the form of a commuted payment/financial contribution in lieu of direct provision.

The proposal therefore amounts to an over provision of affordable housing. Whilst clearly very welcome from a social perspective, no legal mechanism has been agreed and completed to secure the proposed development as affordable housing and, in spite of the supporting representations made by the Almshouse Association that suggest that there would be no need for any such agreement owing to the applicants' charitable legal status, it is considered that the Council's position in pursuing the objectives of Strategy 34, be it in the form of direct provision or a financial contribution in lieu, would be more appropriately safeguarded through formal agreement.

As such, the absence of any concluded agreement to this effect is a further ground for opposing the scheme.

In any event, even if such an agreement were in place, it is not considered that the benefits that it would secure would be sufficient to outweigh the wider policy, conservation area and flood risk concerns set out above in the wider planning balance in this case.

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

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of the designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

### **CONCLUSION**

Whilst recognising the clear social benefits of affordable housing provision that the scheme would realise through the provision of 6 affordable units, the development would involve the loss of an existing community building without any evidence having been provided as to options for its retention for its current use, or other community purpose(s), having been fully explored in line with the key requirements of Strategy 32 of the adopted Local Plan. Its loss would also be contrary to the provisions of Neighbourhood Plan Policy NP17 which 'strongly resists' the loss of a Community Facility of Value, of which the existing Centre is listed as being for protection.

Furthermore, aside from the unacceptability of the principle of the development, it is considered that the scheme would result in a building of excessive scale that would amount to an overdevelopment of the site. Moreover, it would involve the engineering of finished floor levels necessitating the construction of retaining walls in such close proximity of existing historic walls that define the western and eastern site boundaries that there can be no certainty, in the absence of further information, that these would not be adversely affected as a result of the scheme.

In addition, the building itself would exhibit a bulk, massing and proportions that would relate poorly to the more traditional adjacent cottage-style properties in Batts Lane that back towards the western boundary of the site and in relation to which, even allowing for the intended excavation of the site to create lower floor levels, it is considered it would appear unduly physically and visually dominating and therefore fail to preserve or enhance, and result in harm to, the character and appearance of the designated heritage asset (i.e. the conservation area) in this case.

The site layout would also be at odds with the prevailing pattern of surrounding residential development which is largely defined by the rear gardens of Brook Street and Sandhill Street properties backing onto each other with reasonable standards of amenity and privacy for occupiers. By way of contrast, the scheme would result in a poor amenity and privacy relationship with a number of adjacent properties as well as the flats in Robert Hone House itself; the latter owing to the lack of adequate separation distance between existing and proposed buildings and therefore likely to result in an over intensive use of the communal space within.

There has been a failure to satisfactorily address concerns raised by the Environment Agency with regard to the design flood level that is considered to be necessary in order to mitigate flood risk. As such, the excavations that are proposed to lower the ground levels, which are offered as a means of seeking to mitigate the impact of the development upon the street scene and conservation area, are likely to change the flood zone classification of the part of the site to be developed from flood zone 1 to either flood zone 2 or flood zone 3, thereby triggering the need for application of the sequential test for flood risk. Within these zones, the acceptability of residential development, which falls within the category of 'more vulnerable' development for flood risk purposes, is likely to be called into question with a further likelihood that it would fail such a test as well, possibly, as the exception test.

In the circumstances therefore, and whilst the provision of affordable housing secured through an appropriate legal agreement would be welcomed and supported, taken as a whole, it is not considered that these benefits outweigh the harm caused by this proposal in terms of the loss of the community facility, unsympathetic design, overdevelopment of the site, subsequent harm to the Conservation Area, harm to the amenity of surrounding residents and harm to flood risk.

Therefore, notwithstanding the support offered by the town council and ward member, it is recommended that the scheme as submitted should be refused.

## **RECOMMENDATIONS**

### **1. That the Habitat Regulations Appropriate Assessment be adopted.**

## **2. That the application be REFUSED for the following reasons:**

1. In the opinion of the Local Planning Authority, insufficient evidence has been provided to satisfactorily demonstrate that all options for the retention of the existing building and site for social or community gathering, or business or employment, purposes have been fully explored without success for an appropriate period of time. As such, the proposed development would result in the loss of an existing community facility, identified as a Community Facility of Value, that would harm social and community gathering opportunities in the area. As a consequence, the proposal would be contrary to the provisions of Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) of the adopted East Devon Local Plan 2013-2031, Policy NP17 (Community Facilities of Value) of the made Ottery St. Mary and West Hill Neighbourhood Plan 2017-2031 and guidance as set out in paragraph 93 of the National Planning Policy Framework (2021).
2. On the basis of the information submitted, the Local Planning Authority is not satisfied that the proposed finished floor level of the development would not place it at risk of flooding during an extreme event and, as such, that it will be safe for its lifetime without the vulnerability of its users being exposed, it would avoid an increase in flood risk elsewhere, lead to a reduction in flood risk overall and the inclusion of safe access and escape routes, as part of an agreed emergency plan, has been provided. In addition, excavations to lower ground levels to create the proposed finished floor level would be likely to place the site for the building within a flood zone where new residential development, which is classed as 'more vulnerable' in the flood risk vulnerability classification set out in Annex 3 of the National Planning Policy Framework (2021) (NPPF), may not satisfy the sequential or exception tests for flood risk. As a consequence, the proposal would be contrary to the provisions of Policy EN21 (River and Coastal Flooding) of the adopted East Devon Local Plan 2013-2031 and those of the NPPF.
3. The proposed development would be of an excessive bulk, scale and massing and inappropriate proportions that would relate poorly to the scale and form of adjacent residential properties, and particularly those in Batts Lane to the west of the site, in relation to which it would appear unduly physically and visually dominating. Furthermore, by reason of its occupation of the majority of the width of the site, the excavation necessary to create the proposed floor and site levels and the associated construction of the retaining walls shown on the submitted plans, it would, in the absence of satisfactory information to demonstrate otherwise, place historic boundary walls at risk. As such, it would amount to overdevelopment of the site that would fail to preserve or enhance the character, appearance and significance of the designated Ottery St. Mary Conservation Area, which is a designated heritage asset, in which the site is located. Moreover, the impacts identified would be likely to be exacerbated by any raising of finished floor levels that might alternatively be proposed to address the flood risk issues set out in reason 2. As a consequence, the proposal would be contrary to the provisions of Strategies 6 (Development Within Built-Up Area Boundaries) and 24 (Development at Ottery St. Mary) and Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) of the adopted East Devon Local Plan 2013-2031.

and Policies NP2 (Sensitive, High Quality Design), NP3 (Infill, Backland and Residential Garden Development) and NP22 (Ottery St. Mary Conservation Area) of the made Ottery St. Mary and West Hill Neighbourhood Plan 2017-2031.

4. The development would result in a layout and pattern of residential development, relative to existing neighbouring and nearby development in Brook Street and Sandhill Street, that would not be characteristic of the surrounding area and which would result in an intensification in the residential occupation and associated use of an existing communal space of limited area between the proposed building and Robert Hone House giving rise to an uncomfortable spatial relationship for prospective and existing occupiers respectively. It would also create an unacceptable overlooking impact upon the rear garden of no. 11 Sandhill Street, with consequential detriment to the privacy and living conditions of the occupiers, and an unduly physically overbearing and dominating impact upon the rear gardens of properties at nos. 9-11 Batts Lane to the detriment of the amenities of the occupiers. As a consequence, the proposal would be contrary to the provisions of Strategy 6 (Development Within Built-Up Area Boundaries and 24 and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and Policies NP2 (Sensitive, High Quality Design) and NP3 (Infill, Backland and Residential Garden Development) of the made Ottery St. Mary and West Hill Neighbourhood Plan 2017-2031.
5. In the opinion of the Local Planning Authority, the social benefits arising from the provision of the proposed housing would not outweigh the balance of other material considerations as set out in the other grounds for refusal, more particularly in the absence of any mechanism to secure it as affordable housing and notwithstanding that it would otherwise exceed the requirements for the provision of such housing as set out in Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted 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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

##### Plans relating to this application:

	Location Plan	30.11.20
454391/02 A	Proposed Elevation	30.11.20
454391/01 A	Proposed Floor Plans	30.11.20

454391/03 B : Sections 30.11.20  
proposed

SAV318\_XS1 Sections 30.11.20  
REV 0 : existing

List of Background Papers

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