

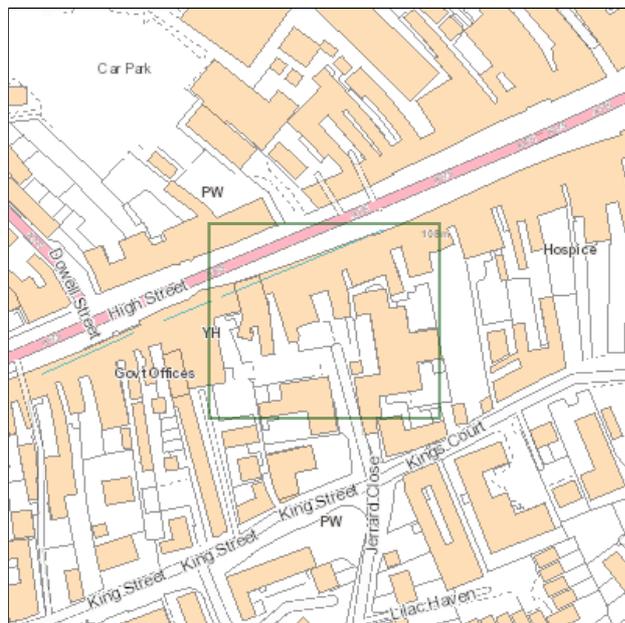
**Ward** Honiton St Michaels

**Reference** 21/1714/FUL

**Applicant** Bodenham (B & H Developments Ltd)

**Location** The Old Workshop Kerslakes Court Honiton EX14 1FL

**Proposal** Construction of 5 bedroom house in multiple occupation (Use Class C4).



**RECOMMENDATION: Approval with conditions**

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		<b>Committee Date: 16<sup>th</sup> March 2022</b>
<b>Honiton St Michaels (Honiton)</b>	<b>21/1714/FUL</b>	<b>Target Date: 20.08.2021</b>
<b>Applicant:</b>	<b>Bodenham (B &amp; H Developments Ltd)</b>	
<b>Location:</b>	<b>The Old Workshop Kerslakes Court</b>	
<b>Proposal:</b>	<b>Construction of 5 bedroom house in multiple occupation (Use Class C4).</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before the Members as the recommendation is contrary to the views of all three ward members.**

**The proposal is for a 5-bed House in Multiple Occupation (HMO) in place of a 2013 approval for two small dwellings. The form of the proposed building is essentially the same as in 2013 but adjustments have been made internally and externally to accommodate the different type of accommodation proposed. In design terms it remains compatible with the character and appearance of the conservation area within which it is located.**

**The site is in a densely developed area with numerous flats and dwellings in close proximity, including several abutting the site. In spite of the close proximity between neighbours, the scheme would secure acceptable living conditions for the occupants of neighbouring properties, avoiding overlooking, loss of light, dominance and harm to outlook.**

**However, in respect of future occupants of the HMO, the accommodation would be compromised in a number of ways owing to the constraints of the site and its surroundings. Two of the bedrooms would have high level windows in the interests of privacy and one of those bedrooms would be quite small, creating a restricted space and outlook. In addition, the only outdoor amenity space would be heavily shaded and would also be used for storage of bicycles which would have to be wheeled through the living room. Whilst the approved scheme also had shortcomings, the new proposal adds to these.**

**No car parking would be provided but the site is in a highly accessible location close to the town centre and bus and train services. There are also car parks close by if any of the occupants own a car.**

In summary, the proposal would make use of a previously developed site in a sustainable location. Whilst it has not been well-conceived in terms of providing high quality living conditions for the occupants owing to the number and size of bedrooms, the restricted outlook from certain rooms, the heavily shaded amenity space and the unsatisfactory bicycle storage arrangements, on balance these shortcomings do not outweigh the benefits of the proposal in terms of providing affordable accommodation in an accessible location, particularly given that the layout complies with HMO Licensing standards. Subject to conditions to protect neighbour amenity and to secure details of materials and other matters, the proposal is supported.

## CONSULTATIONS

### Local Consultations

#### Honiton St Michaels - Cllr Mike Allen

I object to this HMO application because the congestion through overdevelopment in Kerslake court is already substantial and this will only exacerbate the problems of this very congested part of Honiton

#### Honiton St Michaels - Cllr Jake Bonetta

I am in agreement with the residents of this area and object to this planning application. The addition of a very large family home on this already-constrained site seems wholly inappropriate for the area, and will arguably lead to even further congestion and difficulty with parking that is already present in the area.

I am also opposed to this application based on the net loss of a residential dwelling on the site as shown on the application, a move which should be avoided especially considering the current housing price crisis and increasing housing demand we are seeing in Honiton and elsewhere across the District.

I therefore argue that this application is detrimental to the area and is also not needed, and so I object wholly.

#### Honiton St Michaels - Cllr Phil Twiss

I broadly support applications which serve to support a shortage of affordable accommodation in central Honiton, but concerned that the immediate area of this site has been gone past the point of over development, with this likely adding to that.

Noting that DCC Highways comments have no objection to this as a non-car development I think it is very hard to control additional further car movements or parking to and from this site and would like to see management of this issue, which I appreciate is a wider issue than just this application.

On balance I cannot support this application, without an undertaking that there will be 'no traffic' mitigation to restrict additional parking at this site.

#### Parish/Town Council

Honiton Town Council SUPPORTS the application.

### Other Representations

Seven objections have been received raising the following concerns:

- Noise
- Loss of light
- Lack of bin storage
- Disruption during construction
- Lack of parking
- Could generate litter and loitering
- Danger to elderly from additional traffic
- High turnover of residents likely

### Technical Consultations

#### Environmental Health

I have considered the application and do not anticipate any environmental health concerns

#### Private Sector Housing (EDDC)

PSH only received this consultation on the 24/08/21.

In addition to meeting the requirements of the LACORS Housing Fire Safety Guidance for HMO accommodation and the EDDC Space & Amenity Standards it will require an HMO Licence under the Housing Act 2004.

If approved the applicant should contact PSH to discuss these matters prior to commencing works.

#### Conservation

Condition, rooflights to be conservation type.

#### Devon County Highway Authority

Observations:

The County Highway Authority is happy to accept this development as a non-car development, with Honiton benefiting from many sustainable travel options of bus, train and public car parks.

Honiton town can also offer a range of services and facilities to reduce distant travelling.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

### PLANNING HISTORY

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
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04/P1951	Change Of Use To Private Dwelling	Approval with conditions	26.10.2004
05/3374/COU	Change of use from warehouse to ground floor office with 1st floor dwelling.	Refusal	14.02.2006
13/1115/FUL	Conversion and extension of former workshop to form 2 dwellings	Approval with conditions	23.09.2013

## **POLICIES**

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

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 23 (Development at Honiton)

D1 (Design and Local Distinctiveness)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

## **Site Location and Description**

The site is within the built up area boundary and conservation area for Honiton and is located behind the southern side of the High Street, accessed from King Street and Kerlakes Court. The site was formerly occupied by an L-shaped workshop/store building which was two storey at its eastern end and single storey at its western end. That building has now been demolished other than some perimeter walls that adjoin neighbouring properties. The site is surrounded by buildings on all sides, albeit at varying distances. The majority of these buildings are in residential occupation but some are in commercial use. There is currently no dedicated off street vehicle parking available to the site.

## **Proposal**

This application seeks planning permission for the construction of a two storey building to be occupied as a House in Multiple Occupation (HMO) with five bedrooms. The occupants would live as one household with a shared kitchen and living area and two shared bathrooms but they would have their own bedrooms.

The proposal is a replacement for the planning permission for conversion and extension of the former buildings on the site to provide two dwellings which was

granted planning permission in 2013. That permission involved fairly extensive alterations and rebuilding but the drawings indicated that the eastern and northern walls of the two storey building were to be retained (as well as some other perimeter walls). Those two walls have been demolished, along with the roof, leaving very little of the original two storey structure. As a result, the works required to build the development shown in the 2013 permission would amount to a rebuild rather than a conversion. Given that the permission was for a conversion, it is questionable whether that could now be completed, although the applicant disputes that point.

In addition to the change from two dwellings to an HMO, the differences between this application and the 2013 scheme are:

- The proposal is for an entirely new building not a conversion and extension;
- A first floor element at the west end of the building providing head height above the second set of stairs has been omitted because only one set of stairs is now needed;
- Rooflights have been moved from the south elevation to the north elevation;
- Window designs have been amended on the south and east elevations.

### **Main issues**

The main considerations in the determination of this application are:

- Principle of the proposed development
- Impact of the character and appearance of the area
- Impact on residential amenity
- Access and parking

### **Principle**

The site lies within the built up area boundary for Honiton, close to essential services and infrastructure and in a mainly residential area. The principle of a residential development on this site has been accepted twice before in 2004 and 2013 and there continues to be no objection to the development in principle providing its impacts are acceptable in relation to other policies contained in the development plan.

Where this proposal is different to the earlier schemes is in the type of occupation proposed and this has given rise to some local concern. Whereas the 2013 approval was for two one-bed dwellings, this proposal is for a 5-bed house in multiple occupation. There is therefore concern that the building could be occupied by ten people, as compared to 4 people in the approved scheme.

It is noted, however, that an HMO within Use Class C4 is defined as "Use of a dwellinghouse by not more than six residents as a "house in multiple occupation"". An increase in the number of occupants beyond six may therefore fall outside the scope of any permission granted for a C4 use. In addition, by reference to the Nationally Described Space Standard, only one of the bedrooms (bedroom 2) is large enough to qualify as a double. The other rooms would qualify as single bedrooms except for bedroom 5 which is about 1sqm below the standard for a 1-bed bedroom.

The constraints of Use Class C4 and the size of the bedrooms therefore indicate that the building is only suitable for occupation by up to 6 people in 4 single bedrooms and 1 double bedroom. These matters will also be controlled under the required Environmental Health HMO Licence should planning permission be granted. From discussions with EHO Licensing, they have advised that the applicant has been in discussion with them regarding room sizes and compliance with their legislation and that the proposal is likely to be granted a HMO License. This weighs in favour of the proposal.

Whilst this is potentially more occupiers than the previous scheme, it would not be an over-intensive use of the site relative to the densely developed residential surroundings.

Providing the amenity of future occupants and existing neighbours is secured, the development remains acceptable in principle. The issue of car parking associated with the increase in the number of occupants is dealt with separately below.

### **Impact of the proposal on the character and appearance of the area**

The former one and two storey building has now been demolished and this new proposal is for a two storey building that would span the majority of the site. There is a mixture of two, three and four storey buildings surrounding the site and therefore the scale of the building is not considered to be out of character with its surroundings.

The site lies in the Honiton Conservation Area and Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on Local Planning Authorities to pay special regard to preserving and, where possible, enhancing the character and appearance of the area when determining applications which may affect them. In the 2013 application the Conservation Officer provided the following comments:

"An existing approval from 2004 gave consent for conversion of the existing building envelope into a dwelling. This involved very little change to the external appearance and on this basis support was given by the conservation team.

The current application involves a degree of extension over the single storey section which despite the increase in mass would retain the outbuilding characteristics of the existing structure. Having said that this would emphasise the building line across the burgage plot where the tradition is more to follow the perpendicular line to the High Street. The existing two-storey element at least follows this important urban grain. The section of flat roof does appear a little strange in the context but at least the massing is fragmented by this and the building is articulated in a more positive manner. The amended plans have reduced the roof at this end of the dwelling and the result is simpler and more consistent with the vernacular forms of the existing structure. On this basis I would support the application."

In terms of built form, the proposed building is very similar to the 2013 scheme and therefore the comments made by the conservation officer at that time remain valid.

Whilst the building has an unusual roof form over its central section, overall its scale and massing is acceptable.

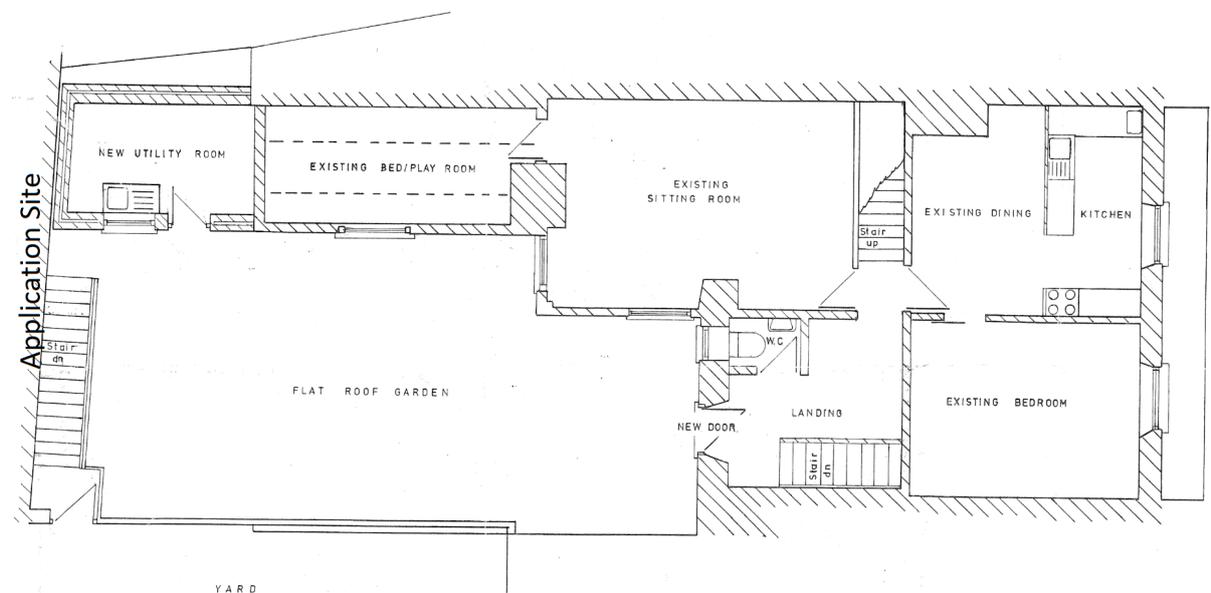
Details of the proposed materials have not been provided in this application, other than timber cladding and render for the walls. There is reference, however, to using the same materials as in the 2013 scheme, namely natural slate for the roof and painted timber for the doors and windows. In principle these are acceptable but further detail should be secured by condition. In addition, natural slate is unlikely to be suitable for the shallow pitch of the roof over the central and western parts of the building so details of the material proposed on those sections of roof are required. Subject to agreement of appropriate materials by condition, the design and appearance of the proposed building is considered acceptable in this location and in keeping with the surrounding buildings.

The proposal is therefore not considered to impact unreasonably on the character and appearance of its surroundings and would preserve the character of the Conservation Area in accordance with Policies D1 and EN10 of the Local Plan.

### Impact on residential amenity

The site is constrained by existing built development on all sides albeit at varying distances and as such the proposal has the potential to impact on the living conditions of surrounding occupants.

To the north of the site lies residential and commercial properties, and in particular there is a flat to the north with a roof terrace adjoining the site. The following layout plan from 1993 indicates how the roof terrace relates to the application site:



The retained rear wall of the former building joins the stairs which rise from ground level to up to the roof terrace. The edge of the terrace is then framed by a metal safety railing. The roof of the proposed building would be raised relative to the retained rear wall by about 1.8 metres. However some of that increase would be due to the roof which would slope away from the terrace. Therefore the apparent height increase

would only be about 1.1m to the top of the eaves. Factoring in the height of the existing wall and the upwards extension, it is estimated that the top of the eaves would be about 2.2m above the floor of the roof terrace. The roof terrace is about 10m deep and 5m wide and this means that, although the proposed building would be to the south, it would not appear overly dominant or oppressive and would not unreasonably impact on residential amenity through blocking outlook or natural daylight to the terrace or the windows of flat. In addition, although the roof would have four rooflights in its north elevation, these would be above eye level and would not intrude on privacy. Furthermore, although there is potential for noise intrusion if the rooflights were open, this is no different to the situation that might arise between any neighbouring properties.

To the east of the site lies The Print House, which is a dwelling with its principal elevation facing the site at a distance of about 7.5 metres. A building in this position would impact on light and outlook for the occupants of The Print House but it would be replacing a building that was only recently demolished. In terms of windows, The Print House has windows facing the site at both ground and first floor level. Those on the ground floor are already subject to intrusion from people accessing surrounding buildings and it was noted that the blinds were closed at the time of the site visit. On the upper floor there are two windows and, although it is not known what rooms they serve, it was noted that the smallest one had a net curtain.

In the elevation of the proposed HMO facing The Print House, one upper floor window would light a stairwell and the other would serve bedroom 2. The separation distance of 7.5m represents a close relationship but the stair window could be obscure glazed without detriment to the occupants of the HMO and this could be secured by condition. Obscuring the bedroom window in a similar manner would create poor living conditions for the occupant of that room. However, given that the window it would face has a net curtain, there is unlikely to be any material intrusion to the occupants of The Print House if the window in bedroom 2 were not obscured – particularly given the positioning of a similar window in the 2013 consent. Subject to obscuring the stair window, the proposal would not impact unreasonably on the occupants of The Print House.

To the south of the site is a dwelling known as 'Holden' which was approved and constructed shortly after permission was granted on the application site in 2013. The proposed dwelling would join the northern gable end of Holden and the south elevation would face Holden's parking area (and that belonging to 'The Old Apple Yard'). In spite of their proximity to each other, the layout of each site is such that there would be no mutual loss of privacy or any other amenity impact. Likewise, owing to the substantial separation distance, there would be no adverse impact on the occupants of the flats further to the south that have a view towards the site.

To the west of the site lies a property known as 'The Old Appleyard' which has a bathroom and a bedroom window overlooking the site, however these are obscure glazed (as required by a planning condition) and therefore there would be no adverse impact on outlook. The single storey nature of the nearest part of the proposed building also means that there would be no material loss of light or sense of dominance.

Turning to the amenity of the occupants of the proposed dwelling, bedroom 5 would be quite small (6.51sqm, the minimum for a single occupancy room in an HMO) and only have high level rooflights with an upwards view of the sky. Bearing in mind that an occupant of an HMO may be inclined to store more of their belongings in the privacy and security of their bedroom, this could be a cramped space. Bedroom 1 on the ground floor would only have a high level window to ensure privacy from people using the adjacent path/yard to access other residential and commercial properties. The window would also be above an area that would be used for storage of recycling.

Whilst the restricted outlook in these two bedrooms would be offset to some degree by the availability of a communal lounge/diner/kitchen, this too would have a restricted outlook. Two of the windows serving the space would have their outlook restricted by the overhanging first floor and all three would look onto a narrow space ranging in depth from 1.6m to 2.9m, part of which would be occupied by bikes. In addition, it is likely that some kind of fence would be required on the boundary for reasons of privacy and security and this would limit the outlook further.

As well as these issues, the only outdoor amenity space serving the property would be heavily shaded by a combination of the overhanging first floor and the neighbouring buildings. It would therefore provide a poor quality amenity space for the occupants. In addition, it would be further compromised because it would provide the only available space for storing bicycles.

In terms of amenity the approved scheme did not set a very high bar because its outdoor amenity spaces were also compromised and neither of the two dwellings met the Nationally Described Space Standard. However, it only proposed two bedrooms (one in each dwelling) and therefore the problems identified in respect of bedrooms 1 and 5 in the new scheme did not arise. In the approved scheme what is now Bedroom 1 was a dining room with glazed doors opening onto a patio; and bedroom 5 was a bathroom. The less intensive occupation of the building in the approved scheme meant that the space could be arranged with the habitable rooms enjoying the best outlook and the other rooms located where the outlook was restricted.

Notwithstanding the shortcomings in the proposed scheme, it is considered that in the absence of adopted standards for dwelling size, garden size and orientation, bicycle storage and bin storage, the proposed HMO would provide adequate living conditions for future occupants given that a HMO Licence is likely to be granted and given that the occupants would be able to share the reasonably sized Kitchen/Dining/Living Area. This is clearly not the best outcome that could be achieved on this site but it is considered that an appeal is unlikely to be successful given the benefits from development in terms of providing low cost accommodation in a highly sustainable location.

### **Access and parking**

This application does not propose to provide any dedicated off street parking to serve the HMO. Whilst it is possible that between them the occupants could have five or more cars, the site lies within 200 metres of a public car park and within walking distance of on street parking and good public transport facilities. Therefore under Policy TC9 the proposal is considered to be acceptable.

It is acknowledged that local residents are concerned that the proposal might give rise to unauthorised parking on private land and additional traffic causing a danger to pedestrians. However, control over the use of the private access and parking areas is a matter for the landowner and therefore such concerns are not a reason to withhold permission. It is reasonable, however, to seek details of access during construction and this can be secured by condition.

### **Other matters**

A condition to secure a programme of archaeological works was imposed on the 2013 permission and although no comments have been received from the Historic Environment Service at DCC for this application, it remains an important consideration. Whilst a written scheme of investigation was agreed in connection with the previous application, none has been submitted with the current application and therefore it is necessary to impose the condition again.

Bicycle storage would be within the outdoor amenity space which would have to be accessed through the living room. As a result of bicycle parking taking up valuable outdoor amenity space and the occupants having to wheel bicycles through the house, the proposal is less than ideal in respect of such provision. Details of the cycle parking layout should be secured by condition.

Bins storage would be outside the dwelling on an area of land adjacent to the access. The drawing indicates that there would be some kind of enclosure around the bins but no details have been provided. In the interests of visual amenity these details should be secured by condition.

### **CONCLUSION**

The proposed development, whilst being different in nature to the scheme it would replace is still appropriate in scale and use for this town centre location. It is well located for access to town centre amenities and would make use of a previously developed site in a sustainable location. Whilst it has not been well-conceived in terms of providing high quality living conditions for the occupants owing to the number and size of bedrooms, the restricted outlook from certain rooms, the heavily shaded amenity space and the unsatisfactory bicycle storage arrangements, on balance these shortcomings do not outweigh the benefits of the proposal in terms of providing affordable accommodation in an accessible location. Subject to conditions to protect neighbour amenity and to secure details of materials and other matters, the proposal is supported.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. 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 2013-2031 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.)
4. Prior to commencement of development details of a construction compound where equipment and materials will be stored for the duration of the development and a plan indicating where construction vehicles will park shall be submitted to and approved in writing by the Local Planning Authority.  
(Reason - Because the site is constrained and the applicant owns no adjoining land and because the site is within the conservation area, details of the storage are essential to maintain its character and avoid disruption to neighbours in accordance with Policies EN10 - Conservation Areas and D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
5. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted, including roofs, walls, windows, doors, eaves and rainwater goods, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the conservation area in accordance with Policies D1 - Design and Local Distinctiveness and EN10 - Conservation Areas of the East Devon Local Plan 2013-2031.)
6. No development above foundation level shall take place until details of the rooflights indicated on the approved plans have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To safeguard the character and appearance of the conservation area in accordance with Policy EN10 - Conservation Areas of the East Devon Local Plan 2013-2031.)

7. No development above foundation level shall take place until details of secure storage facilities for five bicycles and facilities for the storage of refuse and recycling containers has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the bicycle and bin storage facilities have been provided in accordance with the approved details. Thereafter they shall be retained in perpetuity.  
(Reason - To ensure that adequate facilities are available for the occupants of the dwelling in accordance with Policies D1 - Design and Local Distinctiveness and TC9 - Parking Provision in New Development of the East Devon Local Plan 2013-2031.)
8.
  - a) There shall be no burning of any kind on site during construction, demolition or site preparation works;
  - b) No construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays; and
  - c) Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance.  
(Reason - To protect the amenity of local residents from smoke, noise and dust in accordance with Policy EN15 - Control of Pollution of the East Devon Local Plan 2013-2031.)
9. Before the dwelling hereby permitted is occupied the first floor stair window on the east elevation shall have been glazed with obscure glass. The obscure glazing of this window shall thereafter be retained at all times.  
(Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
10. Notwithstanding the provisions 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 upper floor windows, doors or other openings other than those expressly authorised by this permission shall be constructed in any elevation.  
(Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
11. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, C, D and E 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) the dwelling shall not be enlarged, improved or altered and no building or enclosure, swimming or other pool or container used for domestic heating purposes for the storage of oil or liquid petroleum gas shall be provided within its curtilage without the prior express consent of the Local Planning Authority.  
(Reason - To protect the character and appearance of the conservation area and the amenity space of the dwelling in accordance with Policies D1 - Design and Local Distinctiveness and EN10 - Conservation Areas of the East Devon Local Plan 2013-2031.)

## NOTE FOR APPLICANT

### Informative:

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.

### Plans relating to this application:

5418-C-05 A	Location Plan	09.07.21
5418-04 A.1	Proposed Site Plan	09.07.21
5418-C-11 E	Proposed Combined Plans	02.02.22

### List of Background Papers

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