

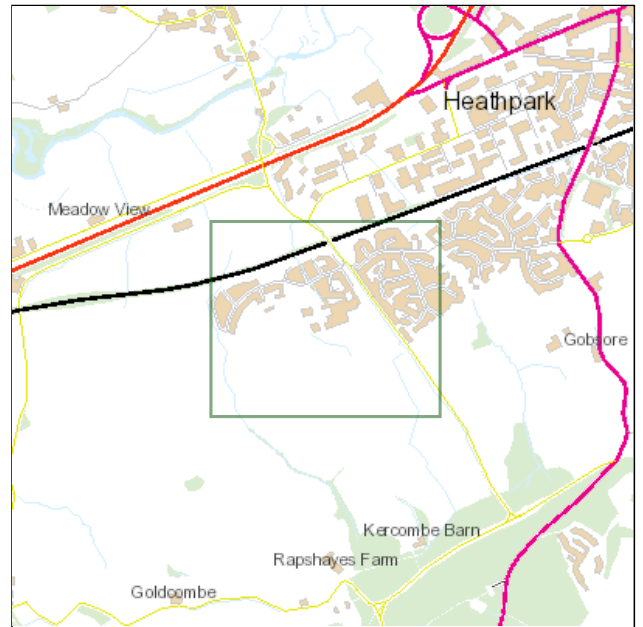
**Ward** Feniton

**Reference** 22/1322/MOUT

**Applicant** Baker Estates Ltd

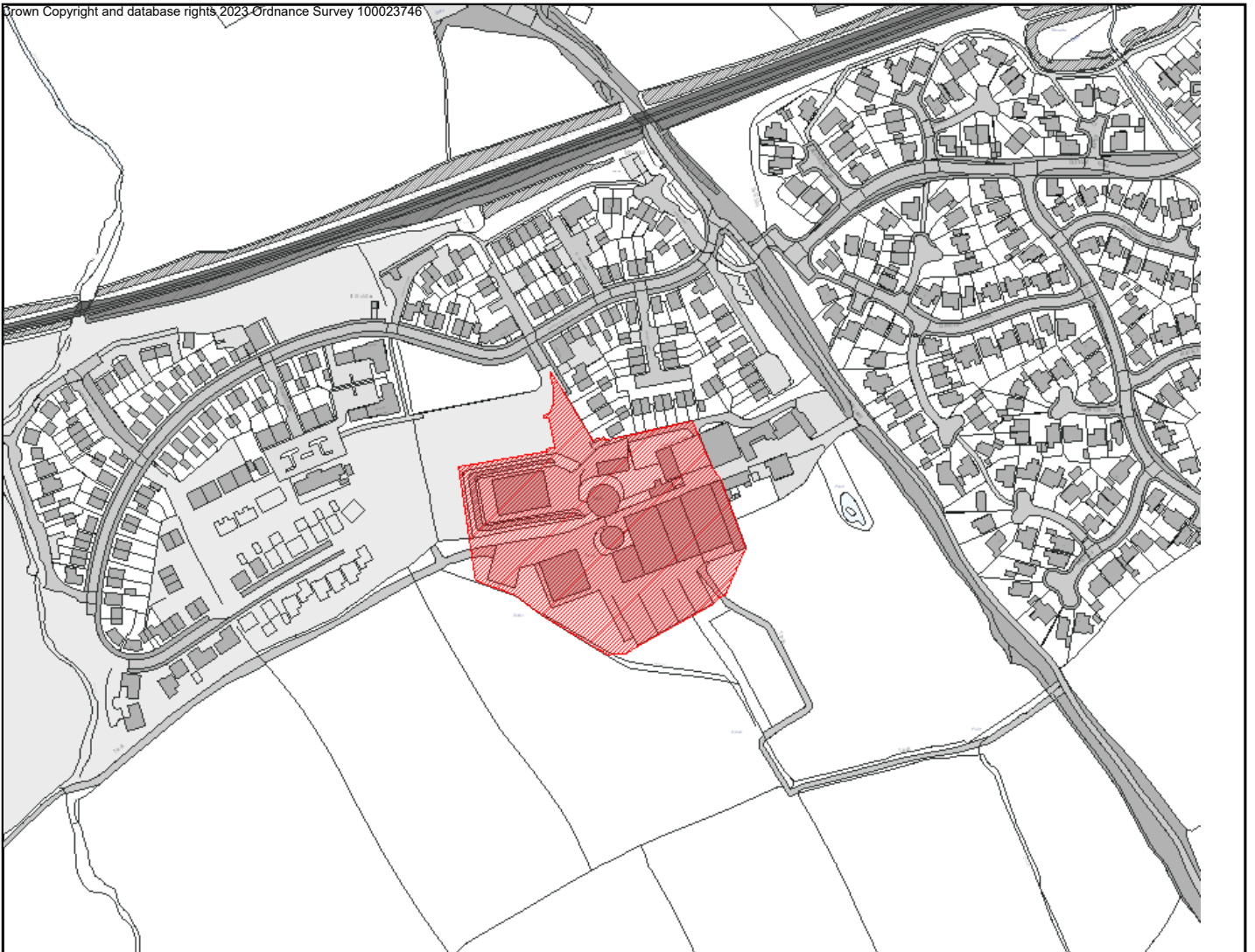
**Location** Land At Hayne Farm Hayne Lane Gittisham  
Honiton EX14 3PD

**Proposal** Demolition of existing farm buildings and  
redevelopment for up to 37 dwellings, formation  
of access, associated infrastructure and open  
space (outline application seeking approval of  
details of access only)



**RECOMMENDATION: Approve subject to a legal agreement**

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		<b>Committee Date: 31.01.2023</b>
<b>Feniton (Gittisham)</b>	<b>22/1322/MOUT</b>	<b>Target Date: 26.09.2022</b>
<b>Applicant:</b>	<b>Baker Estates Ltd</b>	
<b>Location:</b>	<b>Land At Hayne Farm Hayne Lane</b>	
<b>Proposal:</b>	<b>Demolition of existing farm buildings and redevelopment for up to 37 dwellings, formation of access, associated infrastructure and open space (outline application seeking approval of details of access only)</b>	

**RECOMMENDATION: Approve subject to a legal agreement**

### **EXECUTIVE SUMMARY**

**This application relates to a parcel of land comprising a group of agricultural buildings to the south of a development of approximately 300 homes currently under construction to the east of Hayne Lane. The site is approximately 1.55ha in area and would be accessed from the residential development to the north.**

**Outline planning permission with all matters reserved other than access is sought for the clearing of the existing farm buildings and the development of upto 37 dwellings. In principle the site lies beyond the built up area boundary of the town of Honiton and is therefore contrary to the policies of the Local Plan. However the council is currently unable to demonstrate a 5 year housing land supply and so relevant policies such as those that restrict residential development to within the built-up area boundaries are considered to be out of date. As a result the presumption in favour of sustainable development applies and a “tilted balance” assessment is required to assess whether any adverse impacts of granting consent would significantly and demonstrably outweigh the benefits.**

**The assessment identifies that the site is in a relatively sustainable location close to employment spaces and facilities and the edge of Honiton albeit it is some distance to the centre of the town. The site is not within a protected landscape and while close to AONB its impact on the setting of the designated landscape would be limited. In terms of impact on ecology, heritage and other constraints the development is considered acceptable.**

**The development would however entail works that incur a series of abnormal costs to the developer that make the development unviable and therefore unable to deliver a policy compliant level of affordable housing. As a goodwill gesture 3**

units of affordable housing are proposed even though the viability work suggests that this is not viable. Further viability work would need to be undertaken at reserved matters stage once a detailed scheme has been designed and an overage clause applied to safeguard future changes in the viability of the site. The development would however make a full contribution to CIL since this is not negotiable and would help to bolster the council's housing land supply position. This last point must weigh heavily in favour of the development at the present time and on-balance is considered to justify a recommendation of approval.

## **CONSULTATIONS**

### **Local Consultations**

#### Gittisham Parish Council

This item was deferred to the next Town Council Planning Committee meeting. Gittisham parish councillors do not object to the outline application, but have concerns about highways, the impact on the junction with Furze Close and increased traffic passing underneath the railway bridge. They are puzzled by EDDC's proposal to develop Devonshire Road further as employment / industrial land, so close to residential. This is not usually considered to be a favourable mix, and members agree they would like to see a proper assessment carried out.

#### Honiton Town Council

Unanimous Support

#### Honiton St Michaels - Cllr Mike Allen

This proposed development is inside the East Devon AONB, not as stated. The inappropriate siting will add further pressure to the road leading to the industrial estate through a narrow arch under the railway bridge. I object strongly to the replacement of a farm and rural work space by housing which is not justified in this location and would be an unacceptable incursion into protected countryside.

#### Honiton St Michaels - Cllr Phil Twiss

This application is on a redundant brownfield site, the Farm activity having been relocated to another site on the other side of Combe Estate. It is close to, but outside of the East Devon AONB, where development is unlikely to have an adverse impact on it than is the case with other close by developments.

This application makes better use of the site and would complete the Hayne Farm development immediately adjoining it; in reality this is an infill site for 37 dwellings closer to existing developments on the other side of Hayne Lane than a large part of the Hayne Farm development, where no new access would be required on to Hayne Lane.

As adjoining ward member which immediately borders the site of this application, I have no objection to the application itself, but I am concerned that the S106 agreement should reflect appropriate levels of funding for education and healthcare

provision, that takes in to account local services that will be used by residents, if approved.

I understand that there is a proposal for up to a 25% affordable homes element and while not strictly an enforceable planning matter, I wish to have it noted that priority should be given by the Housing Association provide for the affordable elements of the application to be assigned to 'key workers', a sector where there is a severe shortage of suitable accommodation preventing people taking up jobs in East Devon.

### **Technical Consultations**

#### **Police Architectural Liaison Officer - Kris Calderhead**

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application.

It is disappointing to note no reference to Designing out Crime within the Design and Access Statement as it is therefore not known whether such principles have been considered in the scheme. Whilst I appreciate that the masterplan is only illustrative at this stage, I would like to make the following comments and recommendations for consideration.

The layout should avoid having accessible space to the rear of residential back gardens, as this is generally accepted to assist in preventing crime.

The detailed layout should provide overlooking and active frontages to the new internal streets, pedestrian/cycle routes and public open spaces.

Should any existing or new hedgerow be used as new rear garden boundaries, they must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function. Additionally, clear ownership and responsibility for the hedge must be established in order to ensure its effective maintenance and upkeep.

Boundary treatments to the front of dwellings are important to create defensible space to prevent conflict between public and private areas and clearly define ownership of space. The use of low-level railings, walls, hedging for example would be appropriate.

Treatments for the side and rear boundaries of plots should be adequately secure (min 1.8m height) with access to the rear of properties restricted via lockable gates. Defensible space / buffers (i.e. 1m high by 1m deep planting or low-level railings) should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.

Suitable boundary treatments also need to be considered for any open space and play areas. Such space should be protected from vehicle access and be afforded

good natural surveillance opportunities with clear management and maintenance strategies in place.

Pedestrian routes throughout the development must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided as shrubs and trees have a tendency to grow over the path creating pinch points, places of concealment and unnecessary maintenance.

Presumably the site be adopted and lit as per normal guidelines (BS 5489). Appropriate lighting for pathways, gates and parking areas must be considered. This will promote the safe use of such areas, reduce the fear of crime and increase surveillance opportunities.

Vehicle parking will clearly be through a mixture of solutions although from a crime prevention point of view, parking in locked garages or on a hard standing within the dwelling boundary is preferable. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms.

Large rear parking courts are discouraged as they provide access to vulnerable rear elevations of dwellings and are often left unlit with little surveillance.

#### EDDC District Ecologist - Rory Chanter

The proposal and accompanying Ecological Impact Assessment (EclA) (Tyler Grange - 13353\_R02\_TLR\_CW) make no provision for replacement reptile habitat, despite the recognition in the report that the site supports a low population of both slow worm and grass snake, and that the proposals would result in the loss of approximately 0.15 ha of potential reptile habitat. Although only low numbers of reptiles were recorded, this does not mean that the site only supports the individuals recorded during the surveys. Besides from protection afforded under the Wildlife and Countryside Act 1981, slow worm and grass snake are listed as Species of Principle Importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006, and therefore need to be taken into consideration by a public body (EDDC) when performing any of its functions with a view to conserving biodiversity. In accordance with the NERC Act 2006 and EDDC Local Plan Policy EN5, the applicant should provide replacement or enhanced adjacent reptile habitat as part of the proposal, in order to retain the carrying capacity of the local area for reptiles and not negatively impact the conservation status of these species.

The applicant should seek to provide bird boxes in accordance with best practice, which is considered to be the new British Standard BS42021:20221 Integral Nest Boxes Selection and Installation for New Developments. This BS advises on one integrated swift type nest box per each new dwelling.

It is proposed that the creation of an ecological mitigation strategy be made a planning condition. The strategy could be situated within a Landscape and Ecological Management Plan (LEMP) or a Construction and Ecological Management Plan (CEMP). The strategy should contain full details of the mitigation and enhancement measures proposed within the EclA, as well as details of replacement reptile habitat as above.

Reason - To protect important wildlife and habitat features and provide adequate compensatory habitats in accordance with EDDC Policy EN5

### South West Water

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

#### Asset Protection

Please find attached a plan showing the approximate location of a public 160mm water main in the vicinity of the above proposed development. Please note that no development will be permitted within 3.5 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3.5 metre easement, the water main will need to be diverted at the expense of the applicant.

[www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/](http://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/)

Further information regarding the options to divert a public water main can be found on our website via the link below:

[www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-of-water-mains/](http://www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-of-water-mains/)

Should you require any further information, please contact the Pre Development Team via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 1010.

#### Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

#### Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website: [www.southwestwater.co.uk/developers](http://www.southwestwater.co.uk/developers)

## Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

## Environmental Health

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

## Development Delivery Project Manager - Andy Champion

I have now completed my review of the Herridge Property Consulting Ltd Development Viability Appraisal, subsequent Addendum, Terrus Consulting Cost Report Rev 01 and Focus on Designs FRA document. I would comment as follows;

The development appraisal by Herridge Property Consulting appears to be a full appraisal containing all the elements I would want to see, including providing a sensitivity analysis.

### GDV and Market Housing Values:

The GDV seems reasonable, their market research appears (comparables) to be generally consistent with the open market values at the time of the appraisal.

### Review of build costs :

The build costs for the proposed scheme are shown between £1,367 per m<sup>2</sup> and £1,697 these appear to have regard to BCIS rates for high quality housing and seem to be in line generally with BCIS rates for median quartile construction. These are

supported within the Terrus report. Also taking into account wide spread building cost inflation, labour shortages and widespread building material shortages within this sector I consider these build costs are reasonable.

External Works:

External works at 10% are within EDDC's normal acceptable parameters (15%).

Abnormals Costs:

These are substantial, having asked for a cost consultant's report and after initially reviewing this document and asking for further qualification on a number of points, I am satisfied with both the costs produced in the report and also the qualification by the cost consultant on the various points raised.

Contingency level:

5% is within EDDC's normal acceptable parameters.

10% contingency to the demolition and abnormals is considered reasonable in the context of the amount of demolition required, concrete yards and tanks and is additionally supported within the cost consultant's report.

Section 106 Payments;

Not included at this stage

All Professional fee values:

Building Cost Fees (Architects, QS etc.): 8% is within EDDC's normal acceptable parameters.

Acquisition Fees:

seem reasonable

Finance costs:

Finance costs of 7% is above EDDC's normal acceptable parameters of 6.1% - 6.5%. Given the current economic climate, with lenders having become increasingly risk adverse and therefore funding is becoming harder to acquire. Along with The Bank of England raised the base rate to 1.75% in August 2022, with further rate rises currently suggested throughout 2022. The 7% costs which accommodates all fees and is applied to all, seems reasonable.

Disposal fees:

Marketing cost = Lumps sum includes general marketing costs, involving sale brochures, all forms advertising and the salary costs of employing on site sales negotiators.

Sales Agent Fee of 1.5%

Legal fees £600 per unit

Legal Fees for Affordable = £10,000

These generally appear to be within normal acceptable parameters that I would have expected to see.

The development appraisal, addendum and sensitivity analysis all show the site cannot support any level of affordable housing and therefore I have to agree with the viabilities conclusion.



I agree with Melissa comments, in that it is very disappointing that the applicant is only offering 3 units of affordable housing for affordable homes ownership. However we recognise that the various viability assessments show that the site cannot support any level of affordable housing and that the applicant is making a good will gesture by offering 3 units. As this is an outline application we are at this stage seeking to establish the principle of affordable housing provision. The type and amount can only really be established on submission of a reserved matters application when the full details of the scheme are available to better determine viability. Therefore as it usually the case with viability at outline stage a further viability assessment will be required on submission of the RM application but a minimum requirement of 3 units will be secured through the S106. An overage clause will also be required.

#### Contaminated Land Officer

I recommend approval with conditions:

Due to elevated levels of Benzo[b]fluoranthene, Benzo(a)pyrene and Dibenz(a,h)Anthracene, above the S4UL for residential site use with home grown produce further investigation is required post demolition under buildings and in the vicinity of DS03.

A new investigation and risk assessment must be undertaken in accordance with the requirements of the phase I & Phase II investigation and where remediation is necessary a remediation strategy giving full details of the remediation measures required and how they are to be undertaken. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation strategy a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority.

#### Housing Strategy/Enabling Officer - Jo Garfoot

Under the current Local Plan this site is outside of the built up area boundary for Honiton and therefore should be providing 50% affordable housing. A tenure mix of 70% rented and 30% affordable home ownership product will be sought.

The affordable rented units should provide a mix of house types and sizes to include 1, 2, 3 and 4 bedroom houses. Given the high number of affordable apartments in the adjoining development this site should provide more affordable houses to balance out the overall mix of unit types. I note the indicative plan includes a large apartment block and I hope this is not the affordable housing element on this proposed development. Large blocks of flats with communal areas are not very popular with registered providers as they are management intensive due to fire regulations and also anti-social behaviour complaints. Flats in blocks can also be difficult to let as it is not always suitable to house families with young children on upper floors. There is an opportunity with this site to balance out the mix of affordable units and property types across the whole site.

All the affordable units should be built to meet M4(2) building regulations category 2, accessible and adaptable dwellings standard. The affordable units should be transferred to and managed by a Registered Provider.

Additional comments:

The government have introduced through a written ministerial statement and planning policy guidance a new affordable housing tenure called First Homes. First Homes are for eligible first time buyers and are sold with a 30% discount on market price in perpetuity. On initial sale a price cap of £250,000 (after discount) is applied. Eligibility includes an income cap for purchasers and requirement to fund the purchase with a 50% mortgage. First Home should account for 25% of affordable housing provision and is the governments preferred discounted market tenure. EDDC have produced an interim guidance note with more information. This confirms our approach to dealing with First Homes. Whilst this guidance and the introduction of First Homes does not supersede policy within our local plan it is a material consideration in any planning decision and will be weighted accordingly.

Affordable housing provision with First Homes assuming 50% affordable housing based on 36 dwellings (37 proposed dwellings less 1 existing dwelling to be demolished for access):

- o First Homes - 5 dwellings
- o Rented homes - 9 dwellings
- o Other affordable home ownership - 4 dwellings

If the affordable housing percentage changes and we do not seek 50% (for whatever reason) then the above will change.

I agree that the need is predominately for 1 and 2 bedroom properties for rent although this isn't the case with shared ownership or affordable home ownership products. However there are other ways of meeting that need which other house builders are embracing, it is disappointing that Baker Estates are insistent on flats rather than looking at alternatives. My concerns on large blocks of flats come from discussions with the RPs who operate in East Devon and a general desire to do better and provide good quality homes and choice for those in housing need. Blocks of flats on a site such as this with detached 3, 4 & 5 bedroom houses would not be tenure blind and would create stigma for residents living in the flats. There would be restrictions on who could live in a block of flats limiting who could bid. For example out of 404 applicants with a 2 bedroom need only 95 do not have children and can manage stairs.

If the applicant is unsuccessful in their viability challenge and are insistent on providing flats (despite my efforts to encourage them to do better), please have regard to the following:

- o Blocks should not be mixed tenure i.e. rent and shared ownership should be separated with separate block/accesses or only rented units should be provided.
- o Sizes - the indicative sizes used in the viability are too small for 2 bedroom 4 person flats. They would only be suitable for 3 person occupation which would limit further who could occupy them. At these sizes they would be better suited to 1 bedroom flats. As a guide Sovereign's board will now only approve schemes compliant with NDSS or close to it.
- o Outside, private space is very important.
- o Limit the communal areas as much as possible.

If the applicant is willing to look at other options the maisonette type approach is now favoured for meeting 1 bedroom need - this is essentially a house with flat on ground floor and another above with separate entrances. These can be situated at the end of a terrace.

### East Devon AONB

The proposed development represents a major development in close proximity to the AONB. The proposed development forms a further extension to the recent development at Hayne Farm and is within hundreds of metres from the AONB boundary. Furthermore, more distantly, it can be clearly viewed from Roundball Hill to the East - a popular public access site within the AONB. It is noted that this viewpoint is not outlined in the LVTR despite it being shown to be of high potential visibility in Plan2. Zone of theoretical visibility. A more thorough assessment should address this and other publicly accessible viewpoints.

The development has a number of challenging considerations:

- o Impact on land to the south and within the East Devon AONB
- o Further impact on the local road network, in particular Hayne Lane to the south
- o Visual impact - views into the site are likely to be increased in the winter months. It is noted in the LVTR the proposal will
- o Reinforce the boundary hedgerows using locally characteristic species;
- o Incorporate small-scale planting of deciduous tree groups using locally characteristic species such as oak, ash and field maple
- o Where proposed landscaping /screening forms part of a domestic curtilage it is possible these may not remain a long term feature unless conditioned, therefore compromising any landscape mitigation proposals.

This is a major development that will have a significant impact on the landscape character at this location. The National Planning Policy Framework (NPPF) 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. If minded to approve, in order to address the need to have due regard to the AONB designation and to overcome issues of proximity and impact on the AONB, careful consideration should be given to the landscaping on the southern boundaries and the impact on the local road network south from the development.

### National Highways

Council's Reference: 22/1322/MOUT

National Highways Ref: 95407

Referring to the notification of an Outline planning application referenced above (all matters reserved except access), seeking the demolition of existing farm buildings and redevelopment for up to 37 dwellings, formation of access, associated infrastructure and open space, land at Hayne Farm, Hayne Lane, Gittisham

Honiton, EX14 3PD at notice is hereby given that National Highways' formal recommendation is that we offer no objection.

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our License.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via [transportplanning@dft.gov.uk](mailto:transportplanning@dft.gov.uk) and may not determine the application until the consultation process is complete.

## EDDC Landscape Architect

### 1 INTRODUCTION

This report forms the EDDC's landscape response to the outline application for the above site.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

### 2 REVIEW OF SUBMITTED INFORMATION

#### 2.1 Landscape and visual technical report (LV report)

The findings of the LV report are broadly acceptable. As a brownfield site the proposals would have limited impact on valued site features.

The LV report should also have considered views from Roundball Hill 1.1km to the east which is a popular publically access viewpoint with very clear views over the site and also from Awliscombe footpath 1 to the west side of Bushy Knapp. However it is agreed that there are a limited number of viewpoints from where the development would be visible and in such views it would be seen in the context of the existing/ consented housing scheme to the north.

At para. 1.43 the LV report states that building heights should not exceed the maximum ridge height of existing buildings to be replaced. Although no information is provided on existing building heights within the application it appears that the proposed 3 storey units at least would exceed this. As the site is set higher than the existing/ consented site to the north it will have greater prominence and the appropriateness of three storey units is questioned.

#### 2.2 Access and layout proposals

It is noted that the application is outline with all matters reserved except for access.

## 2.2.1 Access

Vehicular access is proposed off Longlands Way. The proposed arrangement is shown on the Site Access proposal, drawing no. 0754-C-P-0331, included at Appendix C of the Transport Statement.

The proposal entails the construction of a new roadway on the right-angle bend of Longlands Way offset from the existing private access drive to the east by approximately 1 metre. The arrangement is poorly considered with little thought for aesthetics and requires pedestrians on Longlands Way to deviate off their line at the proposed crossing with the site road. This is contrary to best practice guidance (Manual for Streets 2007, para. 7.3.6) where pedestrian movements should be given primacy in street design. The proposal also makes access to the existing houses to the east convoluted and misses the opportunity for creation of additional soft landscape areas by providing direct access to existing plots 30-34 off the proposed site access road as illustrated in the alternative sketch arrangement below.

The need for a 5.5m width access road is questioned. This could be reduced to 4.8m and a pinch point provided to reduce traffic speeds. Corner radii at the junction with Longlands Way should be reduced to 1m in line with best practice guidance to further slow vehicle speeds and shorten the crossing distance for pedestrians.

Figure 1- Suggested alternative layout for site access

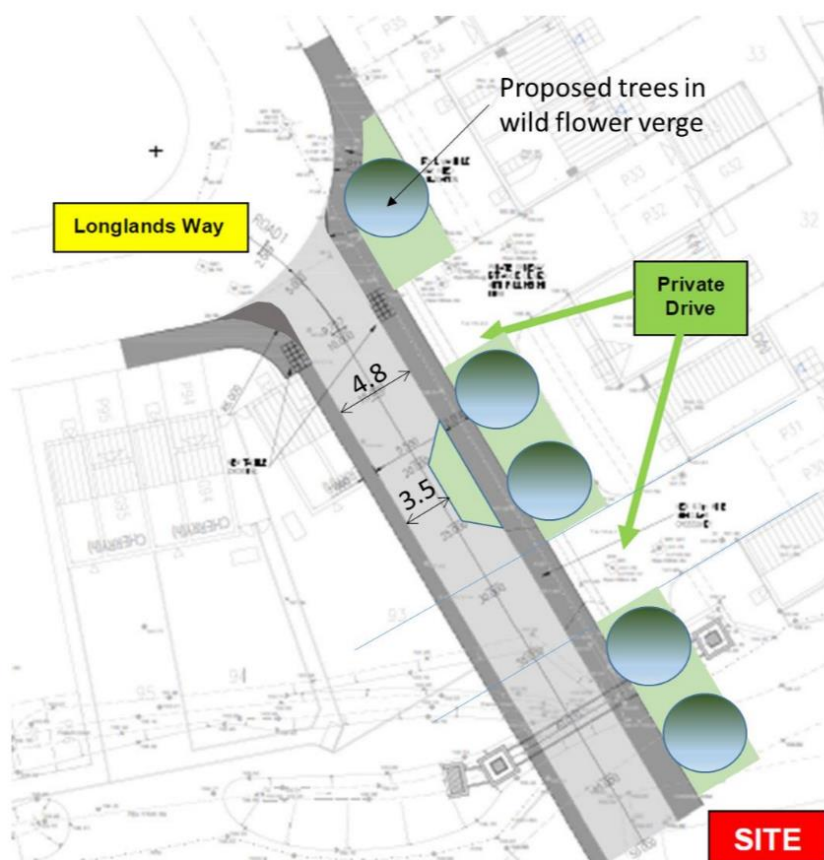


Figure 1- Suggested alternative layout for site access

### 2.2.2 Site layout

Although site layout is a reserved matter a layout plan has been provided and the following comments are made:

The layout is poor being dominated by a five way vehicular junction at its centre.

Proposed housing units in the southwest and southeast corner of the site are placed on the site boundary allowing no opportunity for buffer planting to this important boundary within the East Devon AONB.

The layout does not reflect the layout of the approved/ constructed site to the north and is arranged around a series of cul-de-sacs. A more open layout should be considered set around a central communal space.

The layout should provide for quality green infrastructure and SuDS provision.

Access routes indicated to the east and west of the site should be non-vehicular.

The potential for a new bridleway linking from the west of the site to the Gittisham road as indicated in figure 2 below should be considered as an enhancement of the local rights of way network.

## 3 CONCLUSION AND RECOMMENDATIONS

### 3.1 Acceptability of proposals

For the reasons noted above the principle of development of the site for housing could be considered acceptable in terms of landscape and visual impact subject to scale, height and detail design considerations.

The proposed access details which form part of the application are considered unacceptable for the reasons set out at section 2.2.1 above, The design should be reconsidered and revised details submitted prior to determination of the application.

The indicative site layout submitted with the application is considered unsatisfactory in a number of respects and the applicant should consider comments made at section 2.2.2 above in preparing any reserved matters application.

### 3.2 Conditions

Should satisfactory amended details be provided for access provision and the application is approved, the following conditions should be imposed:

1) No development work shall commence on site until the following information has been submitted and approved:

a) A full set of hard landscape details for proposed walls, fencing, retaining structures, pavings and edgings, site furniture and signage.

b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation including lux levels plan. External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes

for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.

d) A site levels plan indicating existing and proposed levels and showing the extent of earthworks and any retaining walls. This shall be accompanied by 4 sections through the site at a scale of 1:200 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings.

e) Surface water drainage scheme incorporating appropriate SuDS features including proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc.

g) A full set of soft landscape details including:

i) Planting plan(s) showing locations, species and number of new tree, shrub and herbaceous planting, type and extent of new amenity/ species rich grass areas, existing vegetation to be retained and removed.

ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.

iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.

iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

h) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

2) Notwithstanding the landscape details submitted, no landscape works shall begin until a site specific Landscape and Ecology Management and Maintenance Plan has been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the management and ongoing maintenance of hard and soft landscape elements and bio-diversity measures within public/ communal areas. The Plan shall set out the landscape and ecological aims and objectives for the site along with the specific management objectives for each landscape component, and the associated maintenance works required on an Annual and Occasional basis. The Annual Works are those works that will be required every year, such as watering, weeding and cleaning. The Occasional Works are those that will be required on an irregular or cyclical basis, such as repairs and renewals. Details of inspection, monitoring and reporting arrangements shall also be provided including for annual inspection of existing perimeter trees. The Plan shall cover a period of not less than 25 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

Management, maintenance inspection and monitoring shall be carried out in accordance with the approved plan.

3) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

4) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

#### NHS Royal Devon & Exeter NHS Foundation Trust

Please find attached our submission in respect of the following application on behalf of NHS Devon

22/1322/MOUT | Land At Hayne Farm Hayne Lane Gittisham Honiton EX14 3PD | Demolition of existing farm buildings and redevelopment for up to 37 dwellings, formation of access, associated infrastructure and open space (outline application seeking approval of details of access only)

The application has been reviewed from a primary care perspective and the response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance>) which was jointly prepared with NHS England.

The GP surgeries within the catchment area that this application would affect, currently have sufficient infrastructure capacity to absorb the population increase that this potential development would generate.

However, please be advised that this response from NHS Devon is a snapshot of capacity assessment at the date of this letter and should there be any change to this position as a result of any current planning applications that may or may not affect the capacity at Honiton Surgery being approved prior to a final decision on this particular development, then the NHS position could change.

Therefore, whilst at this time there would be no need for a Section 106 contribution towards NHS Primary Care from this development, we would advise that the estimated sum of £580 per dwelling towards NHS Primary Care is factored in to any viability assessments.



Accordingly, the NHS reserve the right to review and respond again when any future planning applications are received by the Council. The NHS cannot guarantee that the response will be the same once all the factors surrounding any future application are considered.

#### DCC Lead Local Flood Authority

##### Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

##### Observations:

We are happy in principle with the proposed strategy but the attenuation calculation should be updated to allow for 10% for urban creep in line with best practice.

#### Devon County Highway Authority

##### Observations:

Having reviewed the submitted documents and attended the site, I am content with the proposed location of the access, it mirrors housing layouts to the north, whilst still maintaining satisfactory deflection to ensure speeds are controlled.

Satisfactory visibility can be achieved in both the east and west direction, in accordance with our best practice guidance, Manual for Streets 1 and 2.

I will reserve judgement upon the internal layout due to this planning application only being outline - securing the access. Though the current proposed access width gives an adjoining footway width of 2m, we now try to aim for 2.5m, if possible.

##### 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

#### Other Representations

4 letters of objection have been received to date (in summary);

- Loss of privacy
- Loss of natural light
- Ground works could disturb unstable ground
- Drainage issues.
- Noise, dust from demolition and construction affecting amenity.
- Increased parking and inadequate parking capacity
- Harm to wildlife
- Asbestos/contaminated land concerns
- Conflicts with policy by spreading into a semi-rural area

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
07/0858/COU	Change of use and alterations to outbuildings to form farm shop	Approve	26.11.2007
12/1397/FUL	Erection of covered feed area and cubicle building	Approve	10.08.2012
12/2635/FUL	Extension to cattle building	Approve	29.01.2013
13/1949/FUL	Extension to cattle building	Approve	25.10.2013

## **POLICIES**

Strategy 7 (Development in the Countryside)  
Strategy 6 (Development within Built-Up Area Boundaries)  
Strategy 2 (Scale and Distribution of Residential Development)  
Strategy 23 (Development at Honiton)  
Strategy 34 (District Wide Affordable Housing Provision Targets)  
Strategy 43 (Open space standards)  
Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
EN5 (Wildlife Habitats and Features)  
EN7 (Proposals affecting sites which may be of Archaeological Importance)  
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems)  
EN16 (Contaminated Land)  
TC2 (Accessibility of New Development)  
D1 (Design and Local Distinctiveness)  
D3 (Trees and Development Sites)  
D2 (Landscape Requirements)

H2 (Range and Mix of New Housing Development)  
Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)  
EN21 (River and Coastal Flooding)  
TC9 (Parking Provision in New Development)  
TC7 (Adequacy of Road Network and Site Access)

### **Site Location and Description**

The proposal seeks outline consent for the creation of 37 dwelling on the southern fringe of the recently constructed Hayne Lane development. All matters are reserved except for the details of the access which would be joined into the recent development under construction to the north. For purposes of the existing local plan the site is positioned outside of the defined built up area boundary of Honiton. The application site itself takes place within the parish of Gittisham, and the ward of Feniton.

The existing site features several agricultural buildings associated with Hayne Farm. These consist of a mixture of livestock buildings, tanks and silos. There is also a

farm shop located on this land, associated with this holding. The site itself is not within a designated area, however the East Devon Area of Outstanding Natural Beauty (AONB) lies to the south, higher up the slope of the hillside.

To the east of the application site is Hayne Lane, a typical narrow width Devon lane with the residential estate beyond. To the west of the application site are more agricultural fields of varying parcel size and shape.

## **ANALYSIS**

### **Policy context and the districts 5 year housing land supply**

Under the adopted Local Plan the site lies outside of the built up area boundary of Honiton and within the open countryside. Under Strategy 7 of the Local Plan residential development would not normally be supported in this location. The legislation is clear that applications should be determined in accordance with the development plan unless other material considerations suggest otherwise. One such consideration is the National Planning Policy Framework. The framework states that plans and decisions should apply a presumption in favour of sustainable development. Explicitly paragraph 11 of the Framework, in the decision-taking section states:

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay*

*; and*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date,*

*granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*

*; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

This development does not take place within a designated landscape and so the tilted balance referred to in ii above should be applied where policies are not up to date.

Members should be aware of the recent report to strategic planning committee on the 14th September 2022. This report stated that the 5 year housing supply in the district (plus buffer) has dropped to 4.65 years. This has direct consequences with regard to paragraph 11 of the Framework as footnote 8 states 'this includes, for

applications involving the provision of housing, situation where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...'

The policies of the adopted East Devon Local plan which are directly related to the supply of housing have evidently not maintained a suitable supply of housing within the district. These policies include, amongst others, establishing settlement boundaries to control sporadic development and a hierarchy of settlements. The weight that can be attributed to these policies is therefore key to whether it is acceptable in principle.

Paragraph 11 of the NPPF is clear in that where the policies of the Local Plan are out of date, which is the case here in the absence of a 5 year housing land supply, then a so called 'tilted balance' is applied, i.e. unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole then consent should be granted. This tilted balance is applicable to the determination of this planning application.

Members should also be aware that paragraph 14 of the Framework advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made. In this instance the proposal takes place within the ward of Feniton. Whilst Feniton has a 'made' neighbourhood plan the defined neighbourhood area, wherein development would be subject to its policies, does not include this site as it was drawn to include the parish of Feniton only. Furthermore, this neighbourhood plan was 'made' in 19 July 2018 – more than two years ago from the time of writing. Accordingly, paragraph 14 of the Framework does not effect the application of paragraph 11 under this proposal.

The above noted the proposal needs to be assessed against the development plan and other material considerations to determine how the assessment of the principle sits with the tilted balance. This is done below with the principle revisited at the end of the report:

#### The impact on the character and appearance of the countryside (and the AONB designation beyond)

A Landscape Visual Impact Assessment (LVIA) has been submitted with this planning application and the landscape officer considers this to be broadly acceptable. It has been agreed that there are a limited number of viewpoints from which the development would be visible. From such views it would be seen within the context of the housing scheme which is currently under construction. However, concern was raised regarding the indicative plans with the 3 storey units shown as likely to have greater prominence.

The East Devon AONB lies further to the south of the application site, at a higher gradient of the sloping land above the 115m gradient line. Whilst there would be

viewpoints of both the development and the AONB designation due to the difference in ground levels the development is unlikely to interrupt or preclude views of this designated land to a harmful degree. There could also be some merit in replacing existing agricultural buildings on the site with lower profile dwelling houses.

The proposal would entail the construction of a new roadway off Longlands Way which forms part of the development to the north which is under construction. In landscape terms this access arrangement causes some concerns as at its northern end it would lead to the new access drive running parallel to a proposed private driveway and footpath creating a wide section of hard surfacing. The Landscape Architect suggests that this should be rearranged and broken up with some additional landscaped areas. The submitted indicative layout would also be dominated by a five way vehicular junction, with indicative positioning of dwellings restricting potential mitigating landscaping.

Whilst these concerns are noted such matters of landscape and layout are reserved for future consideration. Furthermore, conditions have been suggested which specifically deal with landscape aspects of the proposal. Again, landscape is a reserved matter and so it would not be reasonable or necessary to add such conditions to an outline consent. Therefore minimal weight is attributed to these identified harms, which the applicant has an opportunity to address in a forthcoming reserved matters application if consent were to be granted.

Overall some harm to the landscape has been identified albeit there is potential to minimise this through the detailed layout and landscaping details at reserved matters stage. The harm would be localised (and would not harm the qualities of the AONB designation to the south), and taking into account that there are existing buildings on the site, this harm is given modest weight in the planning balance.

### The provision of affordable housing

For the proposal to be compliant with the existing local plan and given that it is outside of any identified BUAB then under strategy 34 an affordable housing target of 50% applies. If the proposal was situated within the BUAB of Honiton then a 25 % affordable target would be sought as per the same policy. However, the adopted local plan strategy for affordable housing, like the BUAB policies, are also considered to be out of date, in light of the Frameworks direction on decision taking.

As the BUABs, and the policies that establish these, are out of date it would seem reasonable for development on the fringes of settlements such as this to adopt the 25% affordable housing figure. This is because in this case the affordable housing would be meeting the needs of Honiton and the boundaries upon which the different targets are predicated have diminished in light of the tilted balance.

This position does not however absolve developers of the need to provide affordable housing as a requirement of the social objective of sustainable development under the NPPF which is clearly to ensure that “a sufficient number and range of homes can be provided to meet the needs of present and future generations”.

In any event neither of the above affordable housing policy figures are targeted under the current proposal. Instead a viability assessment has been submitted to justify a lesser figure of only 3 affordable units. This viability assessment has been reviewed by the Council's in house viability assessor and, due primarily to the abnormal construction costs involved, it has been demonstrated to the planning authority's satisfaction that only 3 affordable units can be constructed. Particular abnormal costs that are significantly impacting on viability in this case are:

- Ground levels – The site levels rise by about 5m from the north-west of the site to the south-east and as a result there would be significant earthworks involved and retaining structures to effectively cut the development into the slope. This would also entail the use of piled foundations and block and beam slabs.
- Demolition and clearance – The existing site is covered by a number of farm buildings with concrete slabs that will all need to be demolished and removed. The buildings are likely involve the removal of asbestos and ground contamination is also anticipated.
- Foul Drainage – The connection point to the foul drain is quite a long way from the site and located uphill and so the development will require it's own foul water pumping station.

Other less significant abnormal costs are also referred to in the appraisal including the loss of one of the approved houses in the approved development to the north, additional costs of surface water drainage, highway costs etc.

The development appraisal, addendum and sensitivity analysis all show the site cannot support any level of affordable housing. It is recognised that the various viability assessments show that the site cannot support any level of affordable housing and that the applicant is making a good will gesture by offering 3 units. As this is an outline application we are at this stage seeking to establish the principle of affordable housing provision. The type and amount can only really be established on submission of a reserved matters application when the full details of the scheme are available to better determine viability. Therefore as is usually the case with viability at outline stage a further viability assessment will be required on submission of the reserved matters application but a minimum requirement of 3 units would be secured through the S106. An overage clause would also be required to revisit this element at reserved matters stage and allow for a 'claw back' position should economic circumstances provide.

It should be highlighted that the development would still make a full contribution to the Community Infrastructure Levy as this is non-negotiable. It is however the affordable housing position in particular that suffers when viability issues are raised as this is secured through a Section 106 agreement which is negotiable. In this case a contribution is also sought from the NHS Foundation Trust which the scheme can also not afford to pay according to the viability work undertaken.

Whether occupiers would be reliant on private modes of transport to reach a suitable level of services and facilities.

Policy TC2 of the adopted Local plan states new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.

The site lies outside of the Built Up Area Boundary (BUAB) for Honiton in the emerging local plan and is approx. 1.2 miles from its town centre. The nearest supermarket is approximately 0.7 miles with the closest employment area being the adjacent Heathpark industrial estate. There is a close by bus stop with a primary and secondary school within a 1.5 miles of this site. The surrounding pedestrian network is in generally good stead with good connectivity in place to Heathpark and beyond.

Taking all of the above into account and noting the distance to a suitable level of services and facilities, as well as the pedestrian routes and transport linkages, the proposal is considered to be in compliance with local plan policy TC2.

The impact on traffic

Whilst access is a reserved matter the impact on the increase in traffic arising from the introduction of up to 37 dwellings on the surrounding network. To facilitate this development the adjacent residential development, currently under construction, requires the movement of one of the units to allow access to this site. A non material minor amendment has been approved on the planning application of the adjacent planning application which facilitated this.

Additional traffic, will of course, be generated by the proposal which would be routed through the existing estate. However, no objections have been received to date from the county or national highway authorities to this element of the proposal.

The impact on wildlife

An ecological assessment has been carried out by Tyler Grange Group. The site is not covered by any statutory designation and is not within 10km of a Special Protection Area.

A site specific phase 2 survey has been conducted in order to ascertain any protected species. Whilst no badgers or bats were found reptile surveys recorded a low population of grass snake and slow worms. Therefore safeguarding of such species is suggested.

New hedgerows, SuDs, grassland area and bat boxes would allow for biodiversity enhancements. No objection has been received from Natural England.

Flooding, Surface and foul water drainage

Policy EN22 of the local plan states that Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

Whilst the lead flood authority have not responded to the consultation request it would appear that there was some pre application advice given by DCC in January 2021. DCC states that for discharge rates on a 'brownfield' site it would be expected that at least 50% betterment in rates for a range of return periods and storm durations occurs. A cellular storage tank within the site is proposed with feed in surface sewers routed along the adoptable highway. Drainage calculations have also been provided. At the time of writing no objection has been raised to this element for the experts at DCC and so this does not weigh against the proposal. A condition is necessary to ensure SuDs details are carried through to reserved matters stage in order to secure policy compliance.

No evidence has been submitted to suggest that the current foul drainage sewage is at capacity and so not able to accommodate the quantum of development proposed. SWW have not objected to the proposal.

#### Provision of Open Space

From the submitted Heads of Terms and indicative layout on site open space is proposed. Strategy 43 of the local plan states that for proposals between 10-49 dwellings in size amenity open space will be required. The layout, which is a reserved matter, should include details of this open space in line with the current requirement standards. At this outline stage a commitment to the provision of open space in the form of a S106 would be required.

#### Consideration of the potential benefits in favour of this proposal

The Framework seeks to significantly boost the supply of housing. The proposal would provide for up to 37 dwellings to bolster the needed supply of housing in the district. This would bring about economic benefits (as will be noted below), as well as social benefits in bringing housing at a time when it is much needed. This provision of housing, in accordance with one of the main thrusts of the Framework, is given significant weight in the planning balance.

Although this proposed development is not in accordance with the adopted Local Plan it is worth noting that the consultation on the draft new Local Plan identifies this site as a preferred allocation. The site is referred to as "Gitti\_6" in the published assessment work which notes its good access road, accessibility to employment opportunities and facilities and its limited impact on the historic environment. The assessment notes the sites low-medium sensitivity in landscape terms but that trees and hedgerows on adjoining land reduce its impact including on the nearby AONB.



The only significant concern raised in the local plan assessment work is the limited transport links into the town. Although the emerging Local Plan cannot carry weight at this early stage it is worth noting the assessment work that has been carried out and the significant potential for this site to be allocated in the future.

#### Whether the proposal conflicts with the development plan, taken as a whole.

As can be seen from the forgoing sections there has not been severe conflict with the individual policies of the adopted local plan. Footnote 8 of the Framework 'triggers' the need for a development proposal to be considered against paragraph 11 d) ii. but this, in itself, does not determine the weight to be attached to the conflict with any development plan policies relevant to that proposal. If there is no 5 year housing land supply the most important policies are deemed to be out-of-date for the purpose of paragraph 11 d). However, the Framework does not prescribe the weight which should be given to the conflict with those development plan policies in such circumstances.

At the time of writing the housing supply deficit is approximately half a year behind meeting its 5 year target. Although this deficit is not considered a 'significant' shortfall it nevertheless has direct bearing on this proposal.

#### The paragraph 11 balance

It can be seen from the above that paragraph 11 d is applicable because of the 5 year housing land supply position within the district. There are no land designations, as stipulated in the exhaustive footnote of the same paragraph, preventing the application of this tilted balance. The proposed development outside of the build-up area represents encroachment into the countryside. This change in the character of the landscape results in modest harm. However, the proposal would provide much needed housing within the district and provide some affordable housing which, although very modest, is nevertheless socially beneficial. As this can be achieved whilst mitigating the impact of the development on ecology and, to a degree landscape, it is clear that benefits of the proposal outweigh the adverse impacts.

The proposal would bring some economic benefits including short term through the construction phase and longer term through additional spend generated by new residents, who would also help to sustain local services. These benefits are attributed moderate weight in the planning balance.

Taken in the round the above considerations have not established that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

#### Final planning balance - S38(6)

The Framework indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites the policies in the development plan are to be considered out of date. In such cases planning permission should be approved without delay unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme.

Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act (2004). The Framework is only one such material consideration and even where paragraph 11 applies, it remains necessary to reach a final conclusion against section 38(6).

It can be seen that this proposal would provide homes towards meeting the housing need within the district. This can be achieved in a relatively suitable location with transport links to an appropriate level of services and facilities. The harm that would arise to landscape and the character of the area, would not significantly and demonstrably outweigh the very substantial benefits the scheme would provide in relation to housing provision and other identified benefits.

The outcome of the Framework paragraph 11 d) process indicates that this decision should be taken otherwise than in accordance with the development plan. The proposal would therefore amount to sustainable development when assessed against the Framework, taken as a whole. This is a material consideration which would outweigh the identified limited landscape conflict.

### Conditions and S106 legal matters

As the absence of a 5 year housing land supply has carried significant weight in the assessment of this application it is considered appropriate to consider whether a reduced timescale for the submission of reserved matters and commencement of development is appropriate.

There is a need to bring forward development quickly to bolster supply and the fact that this application is only in outline at this stage indicates the level of work needed to bring it forward. It will only benefit our 5 year land supply position if this happens more quickly than the usual timescales which at 3 years for submission of reserved matters and 2 years from their approval to commence could lead to development not actually commencing until later than 5 years from now. It is therefore recommended that reserved matters be submitted within 1 year and commencement within 2 years to bring the timescales for delivery to within the next 5 years and in-line with those for commencement under a full consent.

In order to mitigate the impact of this development a legal agreement would be needed to secure the planning obligations set out in the report. At the time of writing a S106 legal agreement securing the above requirements has not been secured. Accordingly, the recommendation to Members is that of a resolution to approve, subject to the completion of the S106 and the conditions below.

## **RECOMMENDATION**

APPROVE subject to completion of a legal agreement to secure:

- Provision of on-site affordable housing
- Provision of Open space and maintenance
- Arrangement of maintenance for any grassland/parkland/communal areas.
- Revisiting of viability at reserved matters stage and beyond (overage clause)

and the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).
2. Approval of the details of the layout, scale and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
3. No development shall take place until a revised Construction and Environment Management Plan (CEMP) (to include schemes for the suppression of dust and air quality measuring and mitigation has been submitted to and agreed in writing with the Local Planning Authority. The development shall not proceed otherwise than in strict accordance with the CEMP as may be agreed unless otherwise agreed in writing with the Local Planning Authority.  
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
4. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site.  
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
5. No development shall take place until the applicant (or their heir or successor in title) has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

(Reason - To ensure that an appropriate record is made of archaeological evidence that may be affected by the development.)

6. Prior to their installation, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls, roofs and ground surface materials of the proposed development shall be 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 sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

7. The development shall not proceed other than in strict accordance with the Flood Risk Assessment dated March 2022 conducted by Focus on Design.  
(Reason -To ensure the development complies with the guidance as set out in the National Planning Policy Framework) and policy EN21 of the East Devon Local Plan).

8. The development shall not proceed other than in strict accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Assessment dated 8th April 2022 reference 13353\_R02-TLR-CW conducted by Tyler Grange.

(Reason -To ensure protected species are managed in an appropriate way in accordance with Policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan.)

9. Due to elevated levels of Benzo[b]fluoranthene, Benzo(a)pyrene and Dibenz(a,h)Anthracene, above the S4UL for residential site use with home grown produce further investigation is required post demolition under buildings and in the vicinity of DS03.

Prior to the commencement of development (excluding demolition) a new investigation and risk assessment must be undertaken in accordance with the requirements of the phase I & Phase II investigation and where remediation is necessary a remediation strategy giving full details of the remediation measures required and how they are to be undertaken. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation strategy a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority.

(Reason: To ensure that any contamination existing and exposed during the development is identified and remediated, in accordance with policy EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031).

10. The landscaping scheme approved at the reserved matters stage shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be

maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan)

11. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arborocultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

In any event, the following restrictions shall be strictly observed:

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - To ensure retention and protection of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness), D4 (Landscape Requirements) and D5 (Trees on Development Sites) of the East Devon Local Plan.)

12. No development hereby permitted shall commence until the following information has been submitted prior to reserved matters / discharge of conditions stage and approved in writing by the Local Planning Authority:
  - (a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.
  - (b) Evidence that there is a low risk of groundwater re-emergence downslope of the

site from any proposed soakaways or infiltration basins/tanks.

(c) A detailed drainage design based upon the approved Flood Risk Assessment

And Drainage Strategy dated March 22 conducted by Focus on Design and the results of the information submitted in relation to (a) and (b) above

(d) Detailed proposals for the management of surface water and silt runoff from the

site during construction of the development hereby permitted.

(f) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(g) A plan indicating how exceedance flows will be safely managed at the site.

(h) A detailed assessment of the condition and capacity of the existing surface water

drainage system that will be affected by the proposals. The assessment should identify

and commit to, any repair and/or improvement works to secure the proper function of

the surface water drainage receptor.

No building hereby permitted shall be occupied until the works have been approved

and implemented in accordance with the details under (a) - (h) above.

Reason: The above conditions are required to ensure the proposed surface water

drainage system will operate effectively and will not cause an increase in flood risk

either on the site, adjacent land or downstream in line with SuDS for Devon Guidance

(2017) and national policies, including NPPF and PPG. The conditions should be pre-

commencement since it is essential that the proposed surface water drainage system

is shown to be feasible before works begin to avoid redesign / unnecessary delays

during construction when site layout is fixed.

#### NOTE FOR APPLICANT

Informative:

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

#### Plans relating to this application:

0756-101

Location Plan

15.06.22

List of Background Papers

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