

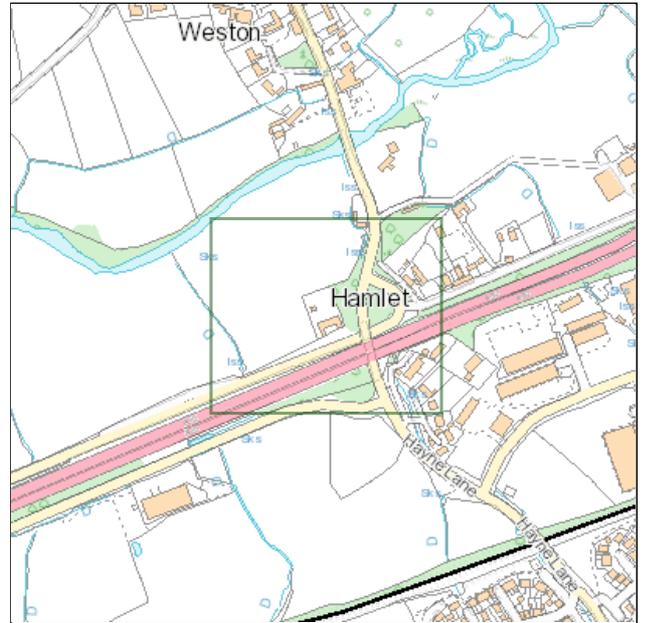
**Ward** Feniton

**Reference** 22/1622/FUL

**Applicant** Mr Mark And Mrs Lisa Clouter

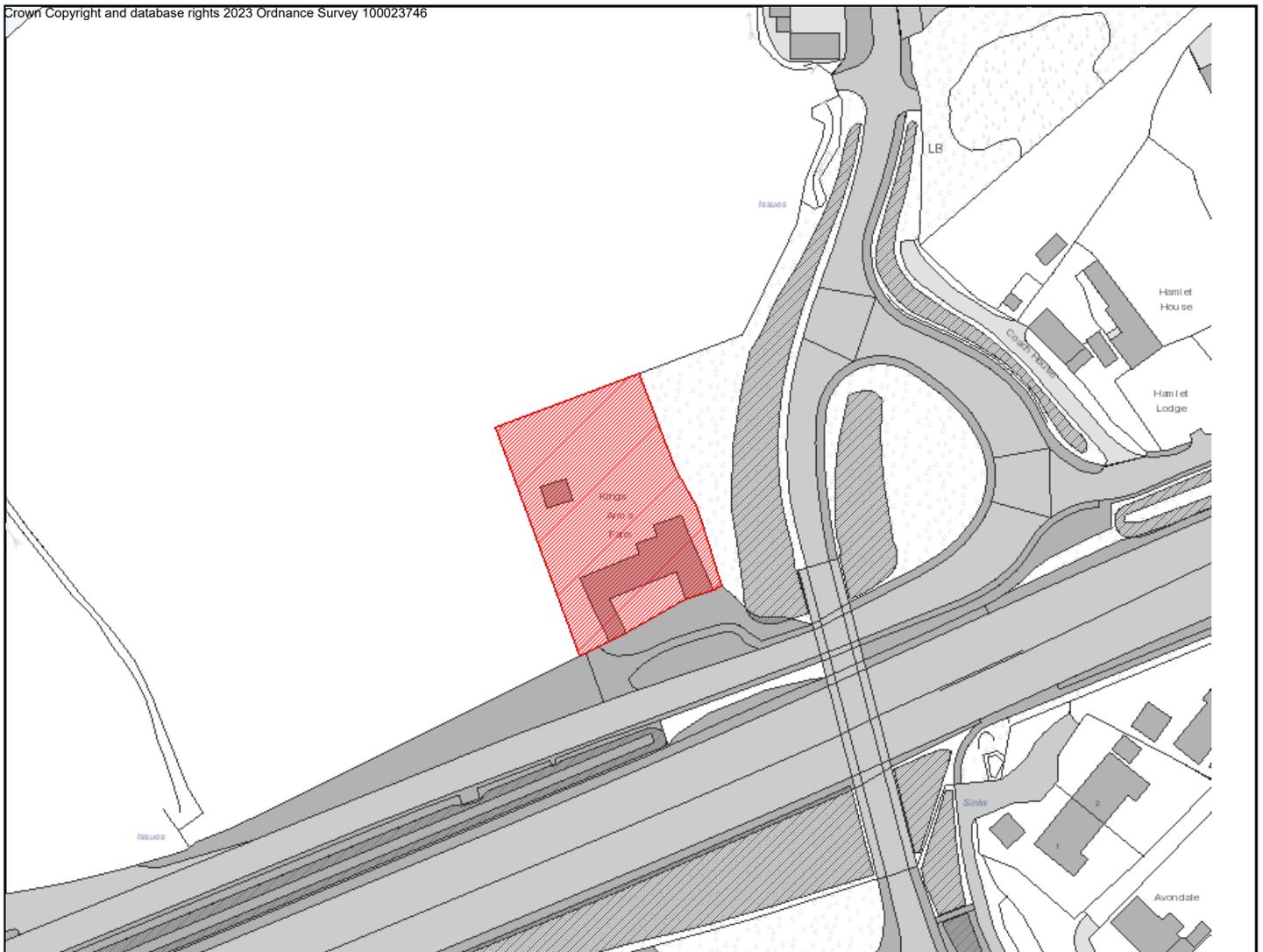
**Location** Kings Arms Farm Nags Head Road Gittisham  
Devon EX14 3AP

**Proposal** Construction of a two storey 18-unit residential  
home for vulnerable people.



**RECOMMENDATION: Refusal**

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		<b>Committee Date: 31.01.2023</b>
<b>Feniton (Gittisham)</b>	<b>22/1622/FUL</b>	<b>Target Date: 28.09.2022</b>
<b>Applicant:</b>	<b>Mr Mark And Mrs Lisa Clouter</b>	
<b>Location:</b>	<b>Kings Arms Farm Nags Head Road</b>	
<b>Proposal:</b>	<b>Construction of a two storey 18-unit residential home for vulnerable people.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**The proposal seeks planning consent for the creation of a detached two storey 18 unit residential home for vulnerable people. There is an existing dwelling on the site which is currently being operated for this purpose. The proposed building would be positioned behind this existing building in a form of tandem development. Whilst there is not an objection raised in principle to the development as an expansion of the existing C2 use of the site there are two main issues which could result in harm.**

**Due to the proximity of the River Otter part of the proposed building would be within floodzone 2. Therefore the sequential test is required to be carried out. The submitted Flood Risk Assessment does not provide cogent reasoning for the provision of such a C2 use within a floodzone or why other sites (outside of floodzone 2 and 3) could not accommodate this development.**

**During the processing of the planning application a Tree Protection Plan and Arboricultural Method Statement were requested to account for the impact on existing trees which provided significant screening of the site and the development proposed. However, this was not carried out and instead these trees were significant lopped so as to no longer provide for a constraint. The consequence of this is that the site, as it stands at the time of writing, is significantly more exposed from the public realm.**

**The design of the block lacks reference to the surrounding built form, is purely functional and has a lean to roof with a shallow pitch adding to its bulk. Given that the site context has now changed this lack in quality is now exposed, such that there is conflict with policies which seek to reinforce local distinctiveness and ensure development is sympathetic to the local character.**

**Therefore due to these two reasons a recommendation of refusal is made. As this recommendation conflicts with the comments of a ward member this proposal is referred to members of the Development Management Committee.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

Gittisham parish council has no objection to this application.

#### Feniton - Cllr Alasdair Bruce

Having received a copy of your email to Mr Clouter regarding their application I am somewhat what concerned at the apparent sudden appearance of your objections given the positive information they received in August of 2022.

In light of this I would ask that you defer putting this application forward for your discussion with the chair of planning committee, so that further discussions can take place to see if your belated objections can be addressed. If you are not prepared to do this then I wish to register to have this application be called in to the next committee meeting.

### **Technical Consultations**

#### Police Architectural Liaison Officer - Kris Calderhead

22/1622/FUL | Construction of a two storey 18-unit residential home for vulnerable people. | Kings Arms Farm Nags Head Road Gittisham Devon EX14 3AP

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

I have liaised with the local neighbourhood policing team who have no objection to the scheme.

I would like to make the following comments from a designing out crime perspective.

- o Boundary treatments are somewhat unclear on the site plan, but they must be substantial enough to prevent casual intrusion to private space. 1.8m high fencing or similar is appropriate. Any open access, particularly to the rear, leaves the site vulnerable to burglary, theft offences and more challenging to monitor movement at the site.

- o Access control: what access control measures will be in place? Unauthorised access and casual intrusion on to site should be prevented with private space clearly defined. Visitors should be directed to staff and not be granted access beyond the public realm without permission.

- o Will there be any systems in place to monitor staff and resident movements i.e. comings and goings etc?

- o Presumably management plans, policies and procedures are in place to deal with incidents, behaviour, care, safeguarding etc?

- o It is recommended that external doors and accessible windows are certificated to a nationally recognised security standard such as PAS24:2016 for example, as directed by Part Q Building Regulations.

- o Consider the use of defensive planting (1m high by 1m deep) on elevations with ground floor windows to prevent unimpeded access to open windows.
- o The bin store should be robust enough to be easily secured with a lock to the door that prevents residents being accidentally locked in e.g. thumb turn egress.

### Environment Agency

#### CONSTRUCTION OF A TWO STOREY 18-UNIT RESIDENTIAL HOME FOR VULNERABLE PEOPLE KINGS ARMS FARM NAGS HEAD ROAD GITTISHAM DEVON EX14 3AP

Thank you for consulting us on the above planning application.

#### Environment Agency position

We object to the application on grounds that insufficient information has been submitted to demonstrate that the proposed private package treatment plant is justified in this location and, if so, is viable and will not be detrimental to the environment. We recommend that the application is not determined until a satisfactory Foul Drainage Assessment has been submitted.

The reasons for this position are provided below.

#### Reasons - Foul drainage

The information submitted with the application indicates that foul drainage will be disposed of to a non-mains foul drainage system.

Government guidance within the National Planning Practice Guidance (paragraph 020 in the section on water supply, wastewater and water quality - Reference ID: 34-020-20140306) stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. We note that the site is located relatively close to mains drainage, so it is important that the applicant provides sufficient justification as to why their proposal cannot connect to the mains drainage.

Paragraph 20 also states that 'applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment'. Any planning application for a non-mains system should therefore be accompanied by a Foul Drainage Assessment (FDA) form including a justification for why connection to the mains sewerage system is not feasible and sufficient information to demonstrate that the proposed system will be viable in this location and will not be detrimental to the environment. Sufficient information would normally include the provision of the following:

- o Full details of the proposed flows (based on Flows and Loads 4);
- o A plan showing the location of the proposed treatment plant and appropriately sized soakaway field/discharge point; and

o Percolation test results to demonstrate the viability of soakaways in this location.

The FDA form is available online at <https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>

In the absence of this information we advise that the proposal is unacceptable because it does not provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development.

#### Advice to applicant - Environmental Permitting

Any non-mains foul drainage system associated with this development will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010, unless it satisfies the General Binding Rules for small sewage discharges in England. The General Binding Rules can be found online at <https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the proposed foul discharge will not satisfy the General Binding Rules the applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted, particularly if the discharge is located within an area served by a mains sewer. Additional 'Environmental Permitting Guidance' can be accessed online at <https://www.gov.uk/permits-you-need-for-septic-tanks>.

#### Other Representations

None received to date.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
94/P0446	Change Of Use From Antique Storage To Workshop	Approve	06.06.1994
06/0999/COU	Change of use to residential single dwelling	Approve	05.06.2006

### **POLICIES**

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

Strategy 7 (Development in the Countryside)

EN5 (Wildlife Habitats and Features)

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

TC2 (Accessibility of New Development)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

D2 (Landscape Requirements)

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)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2021)

### **ANALYSIS**

#### The proposed use and principle of the development

It is understood that the premises is used as a care home under use class C2, however no planning permission has ever been granted for this use. The most recent planning application for the site was in 2006 for its change of use to a private dwelling and was made by the previous owner. It is understood that the application was submitted to try and facilitate an alternative sale, but although granted, the consent was never implemented (the proximity of property to the A30 and associated noise and difficulty of drainage were suggested reasons why it was not pursued).

The applicants understanding is that he bought Kings Arms Farm as an House in Multiple Occupation (HMO) for vulnerable people. The site has for the previous 17 years had "on site assistance for residents" (so meaning the site and its use have been Use Class C2 since purchase in 2006). The applicant claims that, by default of the passing of 10 years, this C2 use is now lawful.

The submitted Design and Access Statement states that the existing building is currently occupied by 6 residents with learning difficulties. This operation is managed by United Response. The D & A described this as a HMO that could fall into a C4 use (Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom) or C2 depending on the level of care provided.

The Use Classes Order defines a C2 use as "use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)). Use as a hospital or nursing home. Use as a residential school, college or training centre." Care is defined in the Order as "personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder and treatment." The use of the existing building for the care of the 6 residents with learning difficulties with a care element would fall within a C2 use. Council tax records notes the property type as a 'residential institution – communal residences' which was last updated in June 2013. Informal enquiries made to the planning authority also suggest that a care home use existed during this time. Therefore, on the balance of probability, and without evidence to the contrary it is likely that the existing C2 use of the building is established for the purposes of assessing this development.

As such, no affordable housing requirement exists in Policy terms, there is no conflict with Strategy 34 of the LP and there is no requirement for a planning obligation in this respect.

The proposal takes place within the open countryside where rural restrictive policies generally limit development unless it accords with a specific policy of the local plan. Although there is no specific policy covering the expansion of existing care homes in the countryside there is policy support for the expansion of existing residential and business premises and support for the provision of care homes. There is not therefore considered to be any objection to the principle of developing the site as proposed. Therefore, with the principle established, it is necessary to consider contextual matters.

### The impact on trees

The boundary of the plot was surrounded by mature trees with mid to large canopies. These offered significant screening of the site and would have minimised the impact of the development on the surrounding landscape by reducing the overall prominence and breaking up the massing, when viewed from adjacent public vantage points.

During the processing of this planning application a tree protection plan and arboricultural method statement was requested to ensure the longevity of the trees - in order to provide suitable screening for the building proposed. These pieces of additional information were not carried out and instead the trees surrounding the footprint of the proposed building were chopped to a significant extent. Whilst what remains of the significantly lopped trees can no longer form a constraint on the development the site is now significantly more exposed. So during the processing of this application the context of the development has now been altered. This needs to be factoring in the decision taking on the potential impact on the character and appearance of the area.

### The proposed design and impact on the character and appearance of the area

The proposal seeks planning consent for the creation of a two storey 18 bedroom residential block to cater for vulnerable people. Configured in an L shape building the focus is on the courtyard/garden area within the centre of the site. Mono-pitched roofs sit atop two floors of accommodation. Internally additional areas are dedicated towards staff with some dedicated communal rooms.

There are some surrounding dwellings of a traditional appearance in the area. These are either detached or form a traditional terrace fronting the adjacent highway. The character and appearance of the surrounding area is open and rural in nature with sporadic residential and agricultural development. The land to the north and west of the site is generally flat as this consists of the flood plain for the River Otter. Long distance views of the rolling hills of the Blackdowns can be seen further to the north east. The site contributes towards this open setting with a traditional design and well - proportioned dwelling fronting the adjacent highway. The overpass of the A30, and indeed the A30 dual carriageway itself lies in close proximity to the east of the application site and are urbanising features. However, it should be noted that the 'off ramp' of the overpass on the north side of the A30 is somewhat screened with

vegetation. Despite these noted features the site still retains a predominantly rural context.

The proposed block is not subservient to the host dwelling and reflects none of its character and features. Nor does it represent an attractive or distinctive design to provide appropriate contrast. By erring on the side of functionality the design would form a formulaic block with wings of accommodation such as those found at a school or hospital in an urban setting. This arrangement, volume and shape results in a large bulk in stark contrast to the modest proportions of the existing building. The shallow mono pitch roof form, introduced to aid optimal thermal use of the building, has the effect of adding significant bulk to the building and is a roof form which is not reflective of surrounding buildings. This roof form and associated bulk would be readily apparent from surrounding vantage points and especially on the approach to the site when heading in an easterly direction.

Clearly perceptible within the landscape due to the removal of landscape screening this utilitarian style of accommodation is at odds with the more traditional domestic scale and style of its surrounds and the traditional materials common to the area. The proposal upsets the balance and harmony with the existing building, and appears incongruous with other similarly proportioned dwellings in the area. The proposal therefore fails to integrate with the surrounding area in a meaningful way.

Whilst there are existing detracting features within the surrounds, such as the nearby overpass and dual carriageway, these do not alter the largely rural character of the site and does not mean that further degradation of the environment is justified or would meet the policy requirements.

There is conflict with strategy 7 and policy D1 of the local plan in this regard which requires development to reinforce the local distinctiveness of the area.

### The Potential for Flooding

The River Otter lies to the north of the application site. As a result of the position of this River much of the surrounding land falls within its flood zone. The application site in particular is encroached by flood zone 2 and specifically this covers the north west corner. Part of the footprint of the building falls within flood zone 2 and so the sequential test is applicable to this development in accordance with the NPPF. The sequential test aims to assess whether there are any reasonable available sites which could accommodate the development in an area less prone to flooding i.e. flood zone 1. 'Reasonably available sites' are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. It is incumbent on the applicant to demonstrate why this site is most appropriate and why there is no other reasonable available sites to place the development. Alterations to ground levels in the past have not overcome these requirements, and indeed ground level movements could alter flood risk elsewhere outside of the site.

As a result of the above during the processing of this planning application it was advised that a site specific FRA (Flood Risk Assessment) was produced in order to

provide the opportunity to express that this location, above any other, would be suitable. An FRA was produced following this which stated;

The NPPF (Annex 3: Flood risk vulnerability classification) classifies the proposed development as 'More vulnerable' (in this case the development is a 'Residential institutions - residential care homes (extension of)').

The NPPF identifies and details 'more vulnerable' uses being compatible in Flood Zone 2, and no Exception Test is required.

The NPPG helpfully provides interpretation of how the sequential (and if successful the exception test) is to be applied. Residential institutions do indeed fall under the 'more vulnerable' category and table 2 states that within flood zone 2 more vulnerable uses do not require the application of the exception test. However, as per the notes to table 2, 'This table does not show the application of the Sequential Test which should be applied first to guide development to the lowest flood risk areas; nor does it reflect the need to avoid flood risk from sources other than rivers and the sea'. Therefore the submitted FRA is incorrect in terms of its claim that further assessment is not required. The development is not exempt from application of the sequential test, and clearly table 2 is not aimed at addressing the sequential test.

In the absence of evidence to suggest that the accommodation provided would address any more localised need for residential development, the view is taken that the geographical area to which the sequential test should be applied is the district of East Devon. No exploration of alternative sites in flood zone 1 has been attempted or reasons made explicit as to why this site would benefit in terms of its operation being situated adjacent to an existing care facility. The link with the existing facility is unclear and if there is an operational need for this development to be on the same site then the development could be re-sited or redesigned to avoid the parts of the site that are within flood zone 2.

Therefore no cogent evidence has been presented as to how and why the proposal would meet the sequential test, despite the delay in the processing of this planning application to allow for an updated FRA. Neither have any attempts been made to relocate the proposal outside of the flood zone. There is therefore conflict with the NPPF and policy EN21 of the local plan which seeks to ensure development is positioned in appropriate areas free of potential flood risk.

### The impact on traffic

Given the amount of bedrooms proposed and the increase in staff and visitors it is reasonable to expect an increase in traffic using the sites access and exit junction with the adjacent highway. The existing junction is free of any hindrance that could potentially effect visibility and the road is relatively straight for a stretch of approximately 60 metres in each direction. The road appears lightly trafficked, as the adjacent dual carriage way which covers much of the same route is clearly preferred by road users.

Accordingly, and without any objections raised by the Highway Authority, this issue does not weigh against the proposal.

### Potential benefits

It needs to be recognised that in providing a C2 use for vulnerable people this contributes towards a social dimension which needs to be given weight in the planning balance. It is clearly important that care facilities are provided to help those in need and there is no objection in-principle to this facility being expanded to help to meet those needs and these benefits being delivered subject to an appropriate design and the flood risk issues being addressed.

There would also be short term benefits arising from the construction phase resulting in some employment.

### Other matters

Updated plans have been received showing a sewage treatment plant to counter the objection by SWW. A separate FDA1 form has now been submitted upon request. Therefore there are no objections to treatment of foul water.

In addition to the issue regarding foul drainage the applicant was also given the opportunity to address the flood risk issues and protection of trees prior to the formation of a recommendation. The submitted information on flood risk did not overcome concern, as explained above. Further, the changes to the site conditions as a result of recent actions required reassessment of the impact of the design on its local context. Therefore officers have attempted to work with the applicant to address these fundamental issues but this has not been successful.

### Conclusions

The proposal seeks to create a residential home for vulnerable people as an expansion to the existing accommodation on the site. The social benefits of providing this service is recognised, however part of the building lies within floodzone 2 and there has not been any exploration to discount other sites, outside of flood zones 2 or 3, which could contain this kind of residential development. Nor has any attempt been made to relocate or redesign the block to address the flooding constraints on the site.

Furthermore, significant lopping and chopping of perimeter trees has exposed this site to wider public viewpoints. The proposed design does not sit well in relation to the host building and is not of a quality which takes opportunities to enhance the site. Within this context the lack of quality design of the proposal represents a further reason for refusal.

Therefore although the principle of the development is sound these restrictions due to the potential flood risk and poor quality of design weighs heavily against the proposal and so a recommendation of refusal is made.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The Environment Agency Flood Map indicates that the site lies in flood zone 2 where there is a significant risk of flooding. There are other reasonably available sites within the district of East Devon with a lower probability of flooding than the application site which would be appropriate for the type of 'more vulnerable' residential home development for vulnerable people. In the absence of a sequential test showing there are no alternative sites for a residential home for vulnerable people there is a lack of evidence that the proposal would bring about wider sustainability benefits for the community that would outweigh the flood risks for the buildings and potential occupiers over the lifetime of the buildings on a site within the existing parameters of flood zone 2. The proposals is therefore contrary to guidance within the National Planning Policy Framework and National Planning Policy Guidance and Policy EN21 (River and Coastal Flooding) of the East Devon Local Plan.
2. The proposed design, by virtue of its scale, massing, roof design and poor articulation fails to provide suitable reference to its rural surrounds or provide suitable subservience to the original building. This resulting harm is made more prominent from the public realm by the felling of the natural boundary screening. As such the proposal is considered to conflict with the requirements of strategy 7 (Development in the Countryside) and policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and guidance contained with the National Planning Policy Framework and National Design Guidance.

### 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 proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

#### Informative:

The applicant/developer is advised that before any dropped kerbs are installed you should contact the Area Highways Management Team at Sowton Exeter on 0845 155 1004 or email [eastareahm@devon.gov.uk](mailto:eastareahm@devon.gov.uk) for a licence under Section 184 of the Highways Act 1980.

#### Plans relating to this application:

	Location Plan	25.07.22
P5	Proposed Elevation	25.07.22

P4	Proposed Elevation	25.07.22
P1	Existing Combined Plans	25.07.22
P2	Proposed Floor Plans	25.07.22
P3	Proposed Floor Plans	25.07.22

List of Background Papers

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