

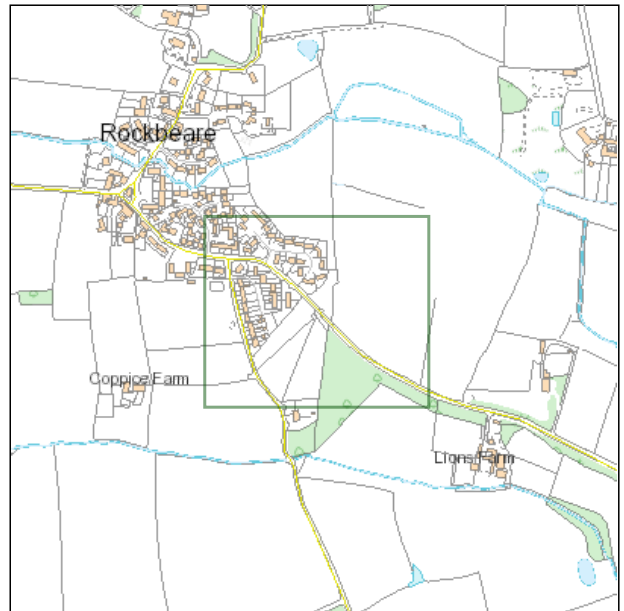
Ward Whimble And Rockbeare

Reference 22/2824/OUT

Applicant Mr Cyril Emmett

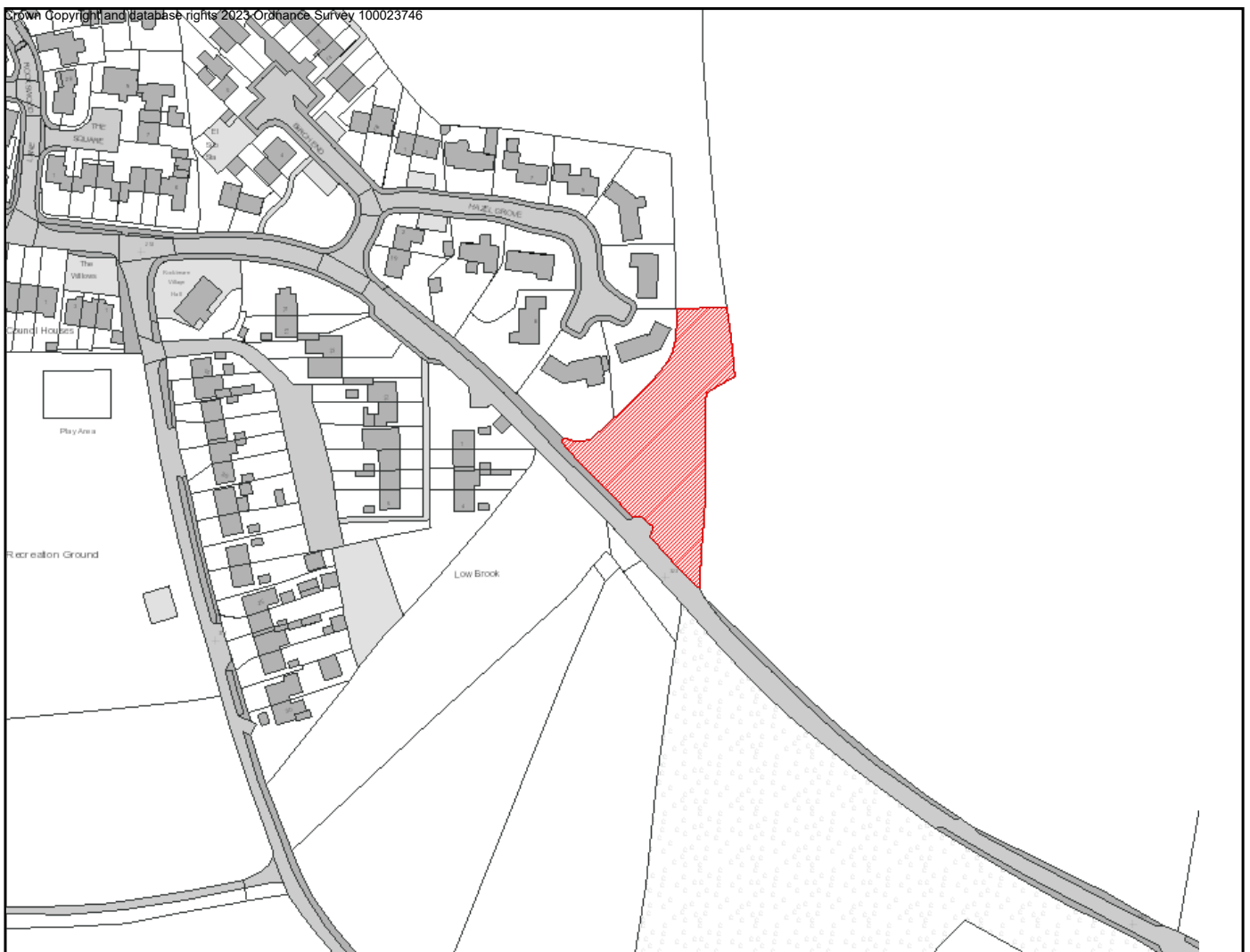
Location The Littlefield Land South Of Hazel Grove
Rockbeare

Proposal Outline application for the construction of up to
four dwellings (all matters reserved except for
access)



RECOMMENDATION:

- 1. Adopt the appropriate assessment forming part of the report**
- 2. Approve the application with conditions**



		Committee Date: 28.03.23
Whimple And Rockbeare (Rockbeare)	22/2824/OUT	Target Date: 07.03.2023
Applicant:	Mr Cyril Emmett	
Location:	The Littlefield Land South Of Hazel Grove	
Proposal:	Outline application for the construction of up to four dwellings (all matters reserved except for access)	

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EXECUTIVE SUMMARY

The proposal seeks outline planning consent for the creation of four dwellings with all matters reserved except for access.

Under the adopted Local Plan the site lies within the open countryside. Under Strategy 7 of the Local Plan residential development would not normally be supported in this location. 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.

Access is a matter to be considered at this outline stage. A layout plan has been submitted which illustrates the position of the access on to the adjacent road. This access is currently outside the 30mph zone of Rockbeare and would join onto a Devon road of mostly single width. The position of the new access in a central location resulting in visibility splays of 2.4 by 47 metres. Submitted plans show that the speed limit signs would be repositioned so that the sign entrance would be within the 30mph zone. Subject to a condition ensuring this the access and the splays are considered acceptable.

The proposal would result in urbanising of the existing rural qualities of these field. Further Rockbeare has meagre levels of services and facilities with pedestrian links from this site which are considered substandard. These issues weigh against the proposal.

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'. This is the so called 'tilted balance'.

Applications for planning permission must also 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 proposal would provide homes towards meeting the housing need within the district. The harm that would arise to landscape and the character of the area and substandard pedestrian linkages are unlikely to significantly and demonstrably outweigh the benefits the scheme would provide in relation to housing provision and other identified benefits.

The outcome of the Framework 'tilted balance' process indicates that this decision should be taken otherwise than in accordance with the development plan. The proposal is likely to 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. Accordingly the application is recommended for approval.

CONSULTATIONS

Local Consultations

None received at time of writing.

Technical Consultations

None received at time of writing.

Other Representations

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

- Access visibility will be poor and potentially dangerous
- insufficient amount of parking shown.
- Water run off from the site causing issue for surrounding properties.
- Extend this village footprint and would set a precedent.
- Loss of privacy to neighbouring properties.
- Housing demand would be met by Cranbrook

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

EN5 (Wildlife Habitats and Features)
D1 (Design and Local Distinctiveness)
TC2 (Accessibility of New Development)
TC9 (Parking Provision in New Development)
TC7 (Adequacy of Road Network and Site Access)
D3 (Trees and Development Sites)

Neighbourhood Plans

Rockbeare (made)

National policy

National Planning Policy Framework 2021

Site Location and Description

The site of the proposal concerns field parcels on the fringe of the settlement of Rockbeare. This is to the east of the village and when travelling from the east would be seen on the approach to the village. To the south of the site is a typical Devon highway of mostly single carriageway width.

To the east of the site are residential properties of Hazel Grove, which consist of detached centrally positioned two storey dwellings. These properties and their rear gardens face the site. On the opposite side of the highway and to the south west of the site are the properties of 1-4 Lowbrook.

The site is not positioned within a Green Wedge or within a designated flood zone.

Proposed Development

The proposal seeks outline planning consent for the creation of four dwellings with all matters reserved except for access. This site lies on the fringe of Rockbeare. Indicative layouts have been submitted with this application to established how the site can accommodate the four dwellings proposed.

A new access is proposed along the south perimeter of the site in order to connect to the adjacent highway.

The matters of layout, landscaping, scale and appearance have been reserved for the next stage and so are no for consideration under this outline application.

Analysis

The principle of the development

When assessed against the adopted East Devon Local Plan the proposal lies outside of the settlement of Rockbeare where there is a presumption against residential development. The existing adopted local plan contains rural restrictive policies which rely on Built Up Area Boundaries (BUAB) to define suitable areas for residential development.

Under the adopted Local Plan the site lies outside of the built up area boundary of Rockbeare 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.

A recent report to strategic planning committee on the 14th September 2022 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 are out of date. 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.

The Rockbeare neighbourhood plan (NP) has been 'made'. Within the NP there is a policy permitting the principle of residential development within the defined settlement area boundary. Policy ROCK07 states that if development is to be permitted beyond this boundary then exceptional circumstances are required. NP policy ROCK08 facilitates development within garden areas, subject to proviso's. However, there is no evidence that this land has lawfully established use as a garden.

Like the BUABs within the local plan these boundaries can no longer be given significant weight in the planning balance, as these policies have failed to provide an appropriate amount of housing required in the NPPF. Although there are certain provisions which mean that in some circumstances NP policies can maintain suitable weight this is only the case when these were 'made' within the last two years. This is not the case with the Rockbeare NP.

Whilst it is apparent that significant weight can no longer be placed on the settlement area boundary; the NP nevertheless has established that there was considered to be a suitable level of services and facilities to have established one. Rockbeare contains a village hall, school, and pub. Travel and transport linkages are also adequate with good connections to Cranbrook and further afield to Exeter. Whilst the level of services and facilities are meagre it remains the case that until the 5 yhls deficit made relevant housing policies out of date such residential development within the settlement area boundary would have been acceptable as a matter of policy under the NP. Now that the settlement area boundary cannot be given full weight or relied upon this cannot preclude the development on the fringe of this boundary as a matter of principle.

This element shall be revisited within the planning balance sections. However, it is first necessary to establish whether there are contextual restrictions on this proposal.

Potential impact on the character and appearance on the area

Whilst the site is contiguous with the built form of the settlement it is nevertheless within an agricultural field parcel of a rural character and appearance. The building of residential development on this site would result in the spread of the built form of the village into the countryside. This change in character and appearance would be readily apparent from the public realm of the adjacent highways. Layout, appearance and scale are reserved matters and it could be that a sympathetic design could significantly reduce the impact on this field parcel. However, at this outline stage the intrinsic harm of introducing urban elements into the countryside weighs against the scheme.

Access - Impact on highways

Access is a matter to be considered at this outline stage. A layout plan has been submitted which illustrates the position of the access on to the adjacent road. This access is currently outside the 30mph zone of Rockbeare and would join onto a Devon road of mostly single width.

There is an existing vehicular access from this field parcel to the road and under this proposal this would be closed with the position of the new access in a more central location affording improved visibility splays of 2.4 by 47 metres. The layout plans show that the speed limit signs would be repositioned to the east of the entrance thereby incorporating the proposed access within the 30mph zone. If the speed limit for passing traffic was 30mph then the proposed visibility splays would accord with manual for streets and therefore be acceptable.

The repositioning of the speed limit signs will likely need approval from the highway authority and could concern land outside of the application site. Therefore a negatively worded Grampian condition could be imposed. This would prevent occupation of the dwellings, and therefore residential use of the access, until this highway matter has been resolved. Although we have a plan of the access the relocation of the speed limit signs could require further adjustment to comply with the needs of the Highway Authority. Therefore this condition will require the submission of further details in this regard.

Provided such a condition is imposed this would not weigh against the proposal.

Ecology

An ecological impact assessment has been conducted which has looked into the potential impact of protected species.

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

The development would also result in the loss of moderate condition modified and other neutral grassland, as well as loss of hedgerow to accommodate accesses. However, the creation of four dwellings with associated parking, access, and gardens, as well as urban tree planting, is also proposed. The loss of habitat on the site is

considered to be insignificant due to the existing low value, but there will be a net loss in biodiversity according to the documents BNG metric calculations.

The Rockbeare Neighbourhood Plan Policy No. Rock01 would require appropriate replacement of the lost hedgerows. Although Landscaping is a reserved matter this could be conditioned such that suitable replacement hedgerow planting is secured at the reserved matters stage.

The potential impacts of a proposed development on various wildlife species, including badgers, hedgehogs, bats, breeding birds, and dormice. Measures to prevent harm to wildlife during construction are proposed, including capping trenches and excavations overnight, providing means of escape for trapped animals, and cutting hedgehog holes in fences.

The lighting used during construction has the potential to impact commuting and foraging bats by causing avoidance behaviour and habitat fragmentation effects. To minimize this impact, a sensitive lighting strategy in accordance with the Institution of Lighting Professionals and Bat Conservation Trust guidance has been advocated.

To ensure that reptiles and amphibians are not harmed or killed during the development, which would be an offence under current legislation, vegetation sward should be kept under 10cm. Any refugia, brash piles and habitat piles on site must be checked by an ecologist before removal. Woody vegetation/hedgerows will be removed using hand tools.

In line with national and local planning policy it is recommended that ecological enhancements are included in the design of the development. This will include a least one bird box and one bat box per dwelling. A recommended location for bat boxes is at the apex of a gable end with a southerly aspect.

It is also recommended that a 'bee and bug' brick be included and these are best placed on a southerly elevation at least 1m from the ground, ensuring no vegetation obstructs the brick. Gaps are to be provided in the bases of garden fences to facilitate the movement of hedgehogs.

The site was considered to be of relatively low ecological interest, with no significant adverse impacts predicted on important ecological features. Avoidance measures and careful timing of works have been incorporated into the design to eliminate impacts on protected and notable species and habitat creation has been included to compensate for habitat loss. A number of enhancement measures have been recommended with the aim of providing a net biodiversity gain.

Other matters

Concerns have been raised with regards to potential overlooking. Appearance is a reserved matter however at this outline stage there is no reason as to why these dwellings could not be configured to be sympathetic to the private amenity areas of adjacent properties.

In terms of drainage there is no reason as to why a soakaway system could not be installed, given the land available, to ensure suitable percolation rates and dispersal of run off.

Layout is a reserved matter but suitable parking spaces are likely to be able to be achieved given the confines of the site.

Recognising the potential benefits of the proposal

The Framework seeks to significantly boost the supply of housing. The proposal would provide for additional 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.

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 purposes 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 – 'tilted 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 settlement represents encroachment into the countryside. This change in the character of the landscape results in modest harm. Additionally, there is a lack in continuous pedestrian linkages to services and facilities also weighing against the scheme. However, the proposal would provide much needed housing within the district which would be socially beneficial.

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 are unlikely to establish 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. The harm that would arise to landscape and the character of the area and substandard pedestrian linkages are unlikely to significantly and demonstrably outweigh the benefits that 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 is likely to 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.

Accordingly, based on the current lack of a 5 year supply of housing the recommendation is one of approval.

RECOMMENDATION

1. Adopt the appropriate assessment
2. APPROVE the application subject to the following conditions:
 1. Approval of the details of the layout, scale and 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.)

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)
3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
4. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
5. The development hereby approved shall be carried out in accordance with the mitigation measure of the submitted Ecology Impact Assessment conducted by ge consulting and dated December 2022. (Reason - To ensure the potential impact on protect species is mitigated in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan, and guidance within the National Planning Policy Framework).
6. Notwithstanding plan 01-PHL-101 C hereby approved and prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority) of arrangements which secure the highway improvement works for the relocation the 30mph speed limit signs to the east of the site. No dwellings shall be occupied until the works have been carried out in accordance with the approved details. (Reason - In the interest of highway safety, in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan, and guidance contained within the National Planning Policy Framework).
7. The visibility splays of the access hereby approved, having the dimensions of 2.4m x 47m in each direction, shall be safeguarded at the access to the site such that there is no obstruction to visibility at a height exceeding 600mm above the nearside level of the adjacent highway. (Reason - In the interest of highway safety, in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan, and guidance contained within the National Planning Policy Framework).
8. Any reserved matters application including details of landscaping shall ensure that appropriate replacement hedgerow planting is provided to compensate for the loss of hedgerow involved in the formation of accesses to the site. The replacement planting shall thereafter be carried out in accordance with the

agreed details and any new planting which fails 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 the landscape quality and bio-diversity of the area, in accordance with the requirements of Policy No. Rock01 Local Woodlands, trees and Hedgerows of the Rockbeare Neighbourhood Plan).

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:

0447_ROC_EX_ 1.0	Location Plan	23.12.22
01-PHL-101 C : highways access including levels	Layout	27.01.23

List of Background Papers

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