

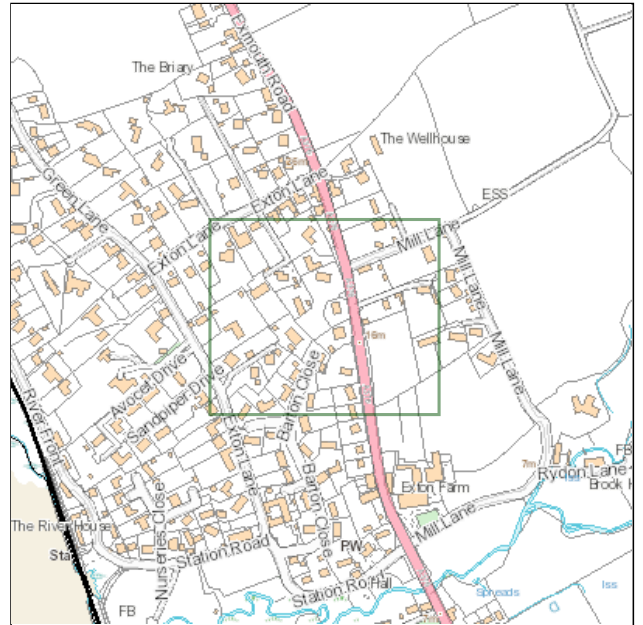
Ward Woodbury And Lymptstone

Reference 22/2549/OUT

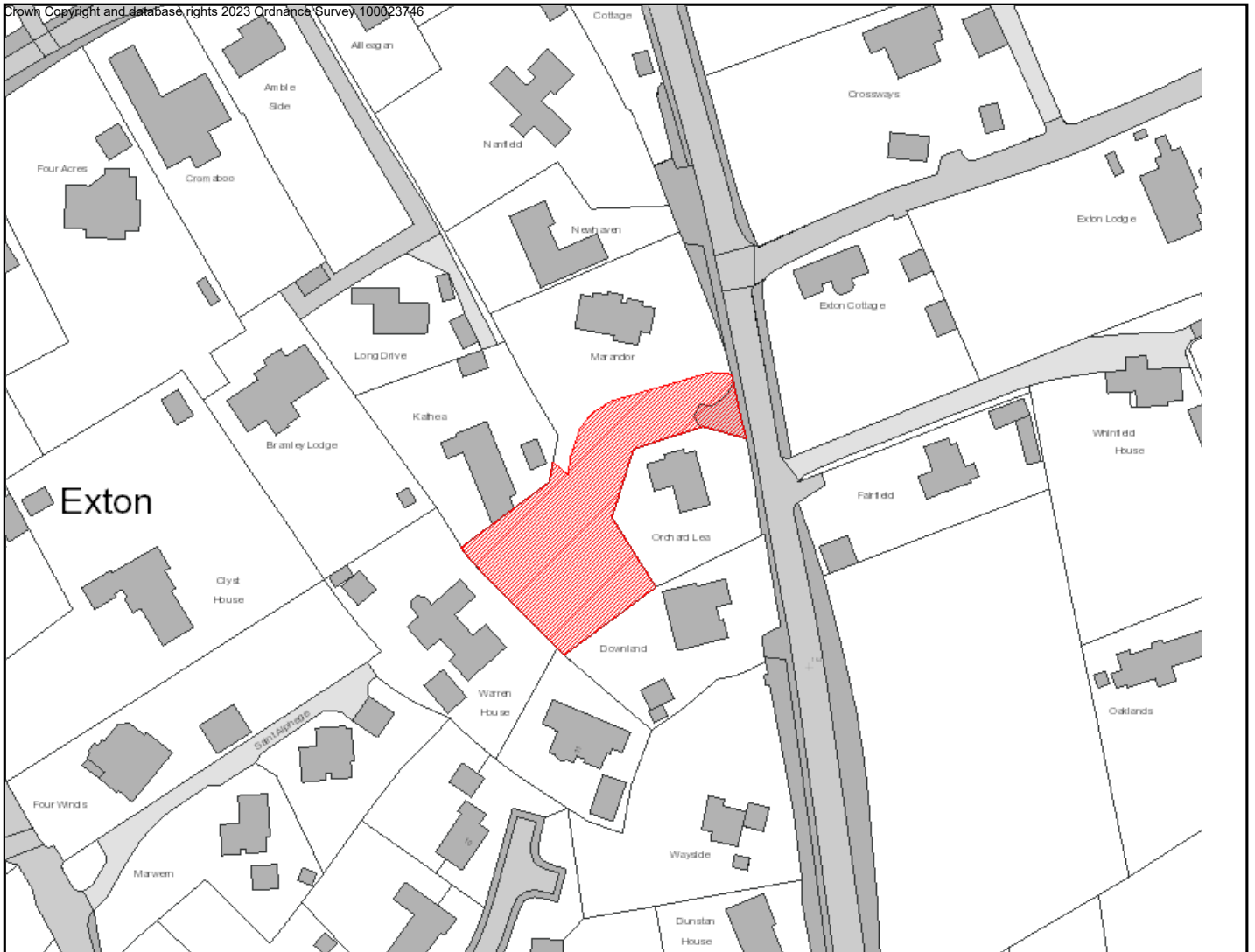
Applicant Mr Vernon Bristow

Location Marandor Exmouth Road Exton Exeter EX3 0PZ

Proposal Outline application with some matters reserved (access, layout and scale) for the erection of two storey detached dwelling with associated parking, garage and south-west facing garden



RECOMMENDATION: Approval with conditions



		Committee Date: 28 March 2023
Woodbury And Lympstone (Woodbury)	22/2549/OUT	Target Date: 07.02.2023
Applicant:	Mr Vernon Bristow	
Location:	Marandor Exmouth Road	
Proposal:	Outline application with some matters reserved (access, layout and scale) for the erection of two storey detached dwelling with associated parking, garage and south-west facing garden	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Planning Committee as the recommendation differs from that of the Ward Member and Parish Council, and as a departure from the Local Plan.

The application seeks outline planning permission for the construction of a dwelling, with matters of access, layout and scale being considered, and appearance and landscaping being reserved matters.

Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan, or where the policies in the development plan which are most important for determining the application are out-of-date, permission should be granted unless within a protected area or the adverse impacts of granting planning permission for residential development of the site would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The application site lies within Exton, which is not identified as a sustainable location in the Local Plan for new development. However the Council can no longer demonstrate a five year housing land supply, and Strategy 7 (Development in the Countryside) which seeks to focus development within Built-up Area Boundaries, is no longer considered to be up-to-date. As such a tilted balance assessment is required.

Exton, whilst not having a defined built up area boundary, has good transport links, with the train station, bus services and access to the Exe Estuary cycle path, and the application site is located adjacent to the main road and the main bus route.

The site is surrounded by existing residential properties and whilst submitted in outline, with some matters reserved the site is considered to be commensurate with that in the vicinity and of a sufficient size to be capable of accommodating a dwelling without detriment to the amenities of the occupiers of neighbouring properties, trees, ecology or highway safety.

Overall, whilst there is no policy support for the proposal within the Local Plan, in the absence of a five year supply, it is considered that the proposal represents a sustainable form of development. There would be no adverse impact that would significantly and demonstrably outweigh the benefits, including the provision of a new dwelling which increases the vitality of the village and makes a small contribution to the housing supply, and creation of jobs during the construction period, when assessed against the policies in the NPPF taken as a whole. Accordingly it is recommended that the application is approved as a departure from the Local Plan.

CONSULTATIONS

Local Consultations

Woodbury and Lympstone - Cllr Geoff Jung
22/2549/OUT

I have viewed the documents for 22/2549/OUT for outline application with some matters reserved (access, layout, and scale) for the erection of two storey detached dwelling with associated parking, garage and south-west facing garden at Marandor Exmouth Road Exton.

Exton is considered an unsustainable location and therefore new development is not supported by the present local plan. Therefore, I cannot support the application however I reserve my final views on the application until I am in full possession of all the relevant arguments for and against.

Parish/Town Council

Woodbury Parish Council does not support this application.

Exton is an unsustainable village and this application is against EDDC Policy.

Technical Consultations

EDDC Trees

In principle I have no objection to the proposal.

Other Representations

Three representations have been received 2 raising objections, and 1 neutral, summarised below

Objections

- Unsustainable location
- Loss of privacy and overlooking
- Not possible to assess full impact due to outline application
- Proposed development too close to boundary
- Loss of morning light
- Properties surrounding site will be impacted
- Additional surface water run-off.
- Additional noise and disturbance
- Site levels have been raised
- Additional pollution arising from loss of trees
- Access onto A376 difficult and potentially dangerous
- Additional traffic from another dwelling
- Does not mirror footprint of other properties in the village
- Potential damage to site boundaries

Neutral

- Other 'infill' applications have been refused and Exton remains unsustainable
- Proposed property too close to boundary and will intrude on neighbouring properties
- Dwelling on site previously dismissed on appeal and nothing has changed in terms of access.
- Development not appropriate prior to the new village plan

PLANNING HISTORY

Reference	Description	Decision	Date
22/1521/OUT	Sub-division of land into 2no. plots for the development of 2no. detached dwellings, associated parking, garages and generous, south-westerly facing gardens.	Withdrawn	04.10.2022
21/1510/FUL	Proposed rear extension, garage side extension, re-roofing and additional dormer windows	Approved	16.09.2021
87/P0394	Bungalow	Refused Appeal dismissed	28.05.1987 13.04.1988

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The site lies within the village of Exton and currently forms part of the large garden associated with a substantial detached property known as Marandor. The garden is irregularly shaped, narrowing in the middle and then widening out into a rectangular shaped area to the southern part of the site.

The application site area extends to around 0.21ha, including a wide landscaped entrance drive which hosts a number of established trees. The main body of the site has been recently cleared although there are a number of trees to the boundaries. Some of these trees on the north western boundary of the site are quite significant and would appear to have been the subject of a provisional tree preservation order, although it is not clear whether this was confirmed. Nevertheless they are attractive trees which it is considered should be retained should any development of the site be proposed.

ANALYSIS

The main issues to be considered in the determination of this application relate to the policy context and principle of the development; whether the site is of sufficient size to accommodate a dwelling without detriment to the character and appearance of the area; residential amenity of the occupiers of neighbouring properties; trees; ecology; or highway safety.

Policy Context and Principle

Para. 12 of the National Planning Policy Framework (NPPF) confirms the Development Plan as the starting point for decision making and that development that conflicts with it should not usually be granted unless other material considerations indicate otherwise. Para. 218 of the NPPF confirms that the policies within the framework are themselves material considerations.

Whilst the site is located within the village of Exton, in planning terms it is within the countryside where policies of restraint apply. Strategy 7 (Development in the Countryside) of the Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

The Council's strategic approach to new residential development is to direct new housing to larger towns within the District and to smaller towns and villages which have a range of services and are therefore considered to be sustainable locations. The smaller towns and villages are listed under the provisions of Strategy 27 (Development at the Small Towns and Larger Villages) of the Local Plan. Exton is not identified as a settlement suitable for new residential development under Strategy 27 therefore in planning terms, under the Local Plan, the site is located within the countryside.

Exton does have good transport links with the train station, bus services and access to the Exe Estuary cycle path and a public house, although under the adopted Local Plan it does not contain the facilities required for it to be considered a sustainable settlement. A list of settlements to include in Strategy 27 was considered in detail in the examination of the local plan - the list is based on the Small Towns and Villages Development Suitability Assessment produced by EDDC that was used by the Local Plan Inspector to finalise the list of settlements for Strategy 27. This did not include Exton which whilst rating highly in transportation terms, was considered to be a settlement that lacks everyday facilities and services such as a shop, post office, school etc. such that residents are likely to be overly dependent on the use of the car to access them.

Since this time, however, the Local Plan is in the process of being reviewed, and the sustainability of settlements and villages is again being considered. During the course of this a number of sites within Exton have been considered, with 2 being on the eastern side of the main A376. This assessment has found that there are a number of facilities which could be found within 1,600m of the village. These include Exton train station approximately 500m to the west and the convenience store at the petrol station 500m to the north. Employment opportunities at an industrial estate 1400m to the north, and Darts Farm slightly further. These can be accessed by pavement, although it is narrow. There is also a half hourly bus service to Exeter/Exmouth from a stop on the A376 adjacent to the site. It is also close to the Exe Estuary Trail which offers convenient walking/cycling access to other settlements nearby. The emerging Local Plan can carry no real weight at this early stage of preparation, however the evidence base that sets the settlement hierarchy for the new local plan can carry some weight as the most up to date assessment of the sustainability of settlements in the district.

This being said, at the present time there is not considered to be any policy support for the development as a sustainable location.

The sustainability of Exton has however been tested in a number of appeals in recent years with mixed results. In general terms sites on the eastern side of the Exmouth Road have been dismissed due to the distance to the limited services and facilities available and the need to cross the main road which is seen as a barrier to walking or

cycling. Sites on the western side of the Exmouth Road have had more mixed findings from Inspectors with a number being dismissed due to poor access to services and facilities. An appeal against application No. 15/1619/FUL was however allowed because it was close to the railway station from which a wider range of services and facilities could be quickly accessed. Others further from the station have generally been dismissed. An appeal on land south of Orchard Cottage, Exmouth Road (application No. 17/2109/FUL) is however of interest as despite dismissing the appeal because it was within the green wedge the inspector concluded it was in a sustainable location with good access to services and facilities. This was despite it being further from them than the site the subject of this current application. It should also be noted that the appeals referred to were all at times when the Council could demonstrate a 5 year housing land supply and so the circumstances of this case are clearly different.

Tilted Balance

Despite the clear lack of policy support from the development plan, the council cannot demonstrate a five year land supply. This means that the policies for the delivery of residential dwellings across the district are out of date. Although this does not mean that the policies of the Local Plan are irrelevant, it means that the tilted balance needs to be applied as per paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states that:

Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

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

The consequences of not having a 5 year housing land supply, means that the policies which are most important for determining the application are out of date and d) applies such that planning permission should be granted, unless the provisions of *i. or ii.* apply. With respect to *i.* the site is not located in a protected area which would provide a clear reason for refusing permission, therefore *ii.* is engaged and the harm of the proposal must demonstrably outweigh the benefits of the proposal.

It is important to note that the fact that the site is located in the countryside and outside of a BUAB as defined by the East Devon Local Plan cannot reasonably be a reason

to refuse planning permission and the main test in determining this application relates to whether the adverse impacts of granting planning permission for residential development of the site would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Character and Appearance of the Area

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

The application site forms part of the extended garden area of the property, it is enclosed by shrubs, hedging and trees and laid to grass. It is a large plot, surrounded by large detached properties occupying spacious gardens, and in this respect the size of the application site is commensurate with that of surrounding development. It is considered that there is sufficient space to comfortably accommodate a new dwelling of the suggested scale and layout such that it would not appear at odds or out of character with the surrounding development. Whilst the design of the building is a reserved matter, the suggested layout, with single storey elements to the east and west of the proposed central two storey building is found to be reasonable in this location.

Residential Amenity

Policy D1 of the Local Plan states that proposals should not adversely affect the amenity of occupiers of adjoining residential properties. The construction and occupation of any new dwelling on the site will alter the current situation and introduce a built form and activity which does not currently exist. Concerns raised about potential overlooking or loss of privacy are appreciated, however these matters would form part of the detailed design of the building and would be considered further at the reserved matters stage. It is considered that there is sufficient space within the site to be able to construct a dwelling that would not result in any material loss of privacy, outlook or residential amenity such that refusal of planning permission on these grounds could be reasonably sustained.

Trees

The main body of the application site itself is open, although there are a number of large shrubs/small trees on the boundaries with neighbouring properties. It is proposed to retain the existing boundary screening to the south west and north west, and provide significant additional planting to the south east and north eastern boundaries.

The proposed siting of the dwelling and areas of hardsurfacing would not result in any incursion into the root protection areas of any of the existing trees although existing boundary screening should be subject to appropriate protection.

A large Monterey Cypress tree is located adjacent to the proposed shared access, which forms a prominent feature within the streetscene, however as no alterations are proposed to the configuration of the access, this should not be impacted by the proposed development. There is also a group of trees on the eastern side of the driveway which are to be protected and retained.

It is considered that subject to suitable protection measures and works being undertaken in accordance with the submitted Arboricultural Impact Assessment and Tree Protection Plan the proposal will not have an adverse impact on trees.

Ecology

Policy EN5- Wildlife Habitats and Features of the Local Plan states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

The main body of the site is laid to grass with planting to the boundaries. A preliminary Ecological Assessment found no evidence of reptiles or badgers, or other protected species. Overall it was considered that the only potential ecological constraints within the site was the potential for breeding birds within the boundary planting. It is considered that there is potential for the development to include a biodiversity benefit such as that suggested in the Ecological Appraisal, and subject to this being conditioned, the proposal is not considered to adversely affect biodiversity and legally protected species.

Highway Safety and Parking

Policy TC7- Adequacy of Road Network and Site Access of the Local Plan states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

The proposal would use the vehicular access onto Exmouth Road, which currently serves the host property and the property to the south, Orchard Lea, although it is understood that the host property will use an existing alternative entrance to the north of the property as its main access if the new dwelling is constructed. No alterations to the entrance are proposed.

Exmouth Road is a busy A road providing the main link between Exeter and Exmouth although at this point the traffic is subject to a 30mph speed restriction.

No comments have been received from the County Highway Authority in respect of the proposal although the access arrangements are such that it is not considered that there are any highway safety concerns regarding the access serving an additional dwelling should the northern access serving Marandor not be used.

Policy TC9- Parking Provision in New Development of the Local Plan states that spaces will need to be provided for parking of cars and bicycles in new developments. The proposal suggests that a double garage and parking for a further 2 vehicles, together with turning would be provided which is considered to be appropriate to serve the dwelling.

Surface Water Drainage

Concerns have been expressed about the ability of the site to dispose of surface water. It should be noted that the site is not within a flood zone and a sustainable drainage system is suggested. Whilst the design and materials of the dwelling are reserved matters it is, however, considered appropriate to impose a condition that requires the submission of a detailed surface water management plan with any forthcoming reserved matters application.

Habitat Mitigation

The site is located in close proximity to the Exe Estuary and the East Devon Pebble bed Heaths Special Protection Areas (SPA's) which provide an important recreational resource for the local community. However, these are sensitive environments which are important to nature conservation and are subject to European wildlife site designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47- Nature Conservation and Geology of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.62 per dwelling which has been secured alongside this application.

CONCLUSION

Whilst there is no policy support for the proposal within the East Devon Local Plan, in the absence of a five year housing land supply, it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, including the provision of an additional dwelling which will make a small contribution to the Councils housing land supply, and the creation of jobs during construction works, when assessed against the policies in the NPPF taken as a whole. Accordingly, it is recommended that the application is approved as a departure from the Local Plan.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Approval of the details of the appearance of the building, 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. 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.)
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 a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development 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 sympathetic to the character and appearance of the existing building in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
5. Any landscaping scheme approved as part of a reserved matters application 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 - To preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)
6. Any reserved matters application shall be accompanied by details of existing and proposed ground and finished floor levels in relation to a fixed datum point. Development shall only proceed in accordance with the agreed details.
(Reason - To preserve and enhance the character and appearance of the area in accordance with policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
7. Any reserved matters application shall be accompanied by detailed surface water management and drainage plan. Development shall only proceed in accordance with the agreed details.

(Reason - To ensure that surface water run-off from the site is appropriately managed in accordance with policy EN22- Surface Water Implications of New Development of the East Devon Local Plan 2013-2031.)

8. The development hereby approved shall be undertaken in accordance with the recommendations contained within the Preliminary Ecological Appraisal prepared by Encompass Ecology Ltd and dated 17 May 2022.

(Reason - To ensure that protected wildlife species are appropriately protected and accommodated for in any new development in order to comply with Policy EN5 - Wildlife Habitats and Features of the adopted East Devon Local Plan 2013-2031).

9. The development hereby approved shall be undertaken in accordance with the recommendations and tree protection measures contained within the Arboricultural Impact Assessment and Tree Protection Plan and Arboricultural Method Statement prepared by Advanced Arboriculture Ltd and dated 24 November 2022.

(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 D3 (Trees and Development Sites) of the adopted East Devon Local Plan 2013-2031).

NOTE FOR APPLICANT

Informative:

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

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

Plans relating to this application:

PL01 D	Location Plan	16.11.22
PL03 E	Proposed Site Plan	16.11.22

List of Background Papers

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