

		Committee Date: 25.04.2023
Broadclyst (Broadclyst)	23/0047/FUL	Target Date: 07.03.2023
Applicant:	Mr Gary Moore (Land And Planning Consultancy)	
Location:	The Gardens Blackhorse	
Proposal:	Construction of 5 bungalows with associated access, parking and landscaping and demolition of existing stable building.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Development Management Committee as the proposal is a departure from the Local Plan.

Planning permission is sought for the construction of five detached bungalows, and a vehicular access off Honiton Road to serve the site. The development would take place in the paddock immediately adjacent to the existing property on the plot. Members will note the grant of a recent planning permission on land to the north of the site for three bungalows ref 22/0549//FUL which was approved as a departure from the Local Plan.

The site is located within the hamlet of Blackhorse, close to Clyst Honiton, with the site and nearby properties located outside any designated built-up area boundary. However, there is a notable amount of development in the vicinity. In particular, in addition to the existing dwellings to the south and west of the site, the land on the northern side of Blackhorse Lane is part of the Tithebarn/ Mosshayne development site, which is currently being developed into a significant area of housing, totalling 1,500 dwellings, including a neighbourhood centre and recreational facilities. Also, the Exeter Science Park is situated a short distance to the west of the site, and several bus services run along the former A30, which is also close to the site. Additionally, close to the bus stop is a public house. Blackhorse Lane, from where the site is accessed is a designated cycle route linking Cranbrook with Exeter and wider cycle networks.

In simple planning policy terms, the site is in the countryside and the proposal does not benefit from any planning policy support. However, as detailed above, in this instance, the location of the site is such that there are a number of factors which indicate that the site can be considered to be sustainable. Indeed, once those factors are fully considered, it is considered that it would be unreasonable

to argue that the development would be unsustainable.

The proposal would be for a modest development of 5 bungalows on a large site. The design and layout of the bungalows would be such that they would not appear unduly prominent or intrusive when viewed from Honiton Road and would be read in the context of surrounding development without detriment to the character and appearance of the area or any wider landscape impact. Owing to the generous size of the site and limited scale of the proposed bungalows, the development would have a limited impact on the amenities of the occupiers of the nearest neighbouring properties.

On the basis that the application site and land to the north which benefits from an extant planning permission for 3 dwellings are in the same ownership it is considered that the two sites should be considered in respect of affordable housing provision. The Council's Affordable Housing Officer has advised that a commuted sum of £28,958 per unit would be required towards affordable housing which equates to a financial contribution of £231,664. The applicant has agreed to the requirement to provide affordable housing as a commuted sum which would be secured via a legal agreement. On the basis that the appropriate affordable housing contribution is secured, it is considered that the proposal would comply with the provisions of Strategy 34- District Wide Affordable Housing Provision Targets of the Local Plan.

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, 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

Parish/Town Council

Thank you for consulting Broadclyst Parish Council.

The site's location is outside a black line for development and as such is technically, development in the countryside, (Strategy7 in the EDDC Local Plan applies); however, its location immediately to the south of a strategic allocation and a recently approved application for 3 bungalows in the northern part of The Gardens field, suggests that it is not deemed an unsustainable location in planning terms.

The proposal for 5 bungalows makes good use of the plot. Our research when preparing the Neighbourhood Plan identified a lack of bungalows in the parish. Each plot meets requirements for parking, cycle storage;

Broadclyst Neighbourhood Plan supports the planning application 23/0047/FUL with the following policies

' Electric car charging points are provided within each of the garages. NP policy T3 ' Parking Provision & DC4 ' Residential Storage

' Bin storage for each plot ' NP policy DC4 ' Residential Storage. There is a bin collection area for bin days only.

' Plot 2 & 3 on the illustrative street scene shows solar panels on the bungalow's roofs. NP policy DC 1&2

' The plot will be serviced by soak-away drainage which is supported by NP policy DC3 Sustainable Drainage

' The creation of 140m of new native species hedge as part of the boundaries dividing the new and existing properties. NP NE4 ' The Protection and Enhancement of Hedgerows

' Does not meet policy H4 ' Social and Affordable housing

Technical Consultations

EDDC Housing Officer:

I understand the history of the previously withdrawn applications and that on-going dialogue with the applicant indicates acceptance, from them, regarding their obligation for a 50% AH on-site provision or as a commuted sum.

With this in mind I believe the commentary (highlighted below) submitted by my predecessor on the related applications still stands. I can also confirm that the multiplier for the commuted sum calculation is still valid at £28,958.00 per unit.

This application is for 5 detached bungalows. Government policy on threshold states that affordable housing will not be sought for residential development that are not major developments. Major development is defined as 10 units or more (in designated rural areas this threshold is 5) or the site has an area of 0.5 ha or more. This site, according to the planning application form, has a site area of 0.56 ha which would make it a major development triggering a requirement for on-site affordable housing. Furthermore, it appears that this site has been sub-divided to create two separate sites (although under the same ownership), the northern part of the site has planning permission for 3 bungalows (22/0549/FUL) accessed from Blackhorse Lane and this application is for a further 5 bungalows, making 8 in total. The Affordable Housing Supplementary planning document states that proposals that artificially sub-divide sites in the same ownership will be closely examined so that the affordable housing threshold is not circumnavigated. The planning officer should carefully consider whether the proposal should be treated as a single site for the purpose of affordable housing thresholds.

Based on the site area which is in excess of 0.5ha then on-site affordable housing should be provided and this would amount to 50% due to the location outside of any built-up area boundary. Therefore 2 units for affordable housing should be provided on-site and the 0.5 as a commuted sum of £28,958.

If the planning officer concludes that this site has been artificially sub-divided to avoid an affordable housing contribution, then we would look at the whole area in the

applicant's ownership and instead of on-site provision a commuted sum towards the provision of affordable housing would be sought. This would be £28,958 x 8 units = £231,664.

Either way of looking at this site results in a requirement to provide affordable housing either on-site or as a commuted sum.

County Highway Authority:

The proposed access will provide sufficient visibility to both the east and west direction upon London Road sometimes referred to as Honiton Road. This road is due to have enhancements which help reduce the speed of this stretch of road up to Cranbrook.

The internal layout will have off-carriageway parking and turning for each of the proposed dwellings, as well as a passing place to allow for simultaneous exit and egress onto London Road.

I do not believe a Construction and Environment Management Plan (CEMP) is required for only 5 dwellings especially as the site benefits from good internal space to manage construction and wheel washing.

I would recommend the provision of secure cycle storage, to help encourage sustainable travel and mitigate upon the trip generation intensification of this site. However the locality is within walking distance to the new Park and Change site, bus stop services, Co-cars and Co-bikes.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION:

1. No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel to in accordance with the East Devon Local Plan 2013-2031.

Other Representations

1 letter of representation has been received from the Exeter Cycling Campaign requesting further details provided in this application about secure cycle storage facilities.

PLANNING HISTORY

Reference	Description	Decision	Date
22/2282/FUL	Construction of 5 bungalows with associated access, parking and landscaping and demolition of existing stable building	Withdrawn	
22/0549/FUL	Construction of three bungalows with associated parking and vehicular entrance	Approval with conditions	17.06.2022

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 7 (Development in the Countryside)

Strategy 10 (Green Infrastructure in East Devon's West End)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN5 (Wildlife Habitats and Features)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description

The site refers to a large paddock (approx. 0.56 ha) to a residential property known as The Gardens which is accessed via Honiton Road. The site is relatively open and flat and contains an existing stable block. It is bound by Honiton Road to the south and residential properties to the east and west.

The site is located outside any designated built-up area boundary, but does have a notable amount of development in the vicinity. Most notably, there are existing dwellings to the east and west of the site - these are a mixture of bungalows and two storey dwellings. Furthermore, the land on the northern side of Blackhorse Lane is part of the Tithebarn development site, which is currently being developed into a

significant area of housing. The Exeter Science Park is situated a short distance to the west of the site. The former A30 is located a short distance from the site; a bus service runs along this road, and there is also a public house situated alongside it.

The site is not the subject of any national or local landscape designations and falls within an area designated as flood zone 1.

Proposed Development:

Planning permission is sought for the construction of 5 no detached bungalows and garages across the site. The proposal includes the construction of a new vehicular access onto Honiton Road with the development accessed via a shared private driveway.

Two bungalows would be constructed at the front of the site to the side of the existing property with an internal driveway leading down to three further detached bungalows to the north of the site. Each bungalow would have a large private garden and off road parking spaces.

The bungalows would have a modern design with a rendered finish and timber clad walls with dark grey windows.

The proposal also includes the planting of approximately 140 metres of new native hedgerow to create the boundaries between the proposed bungalows.

Issues and Assessment:

The main issues for consideration in the determination of this application are in terms of:

- The Policy Context
- The Council's position in relation to 5 year housing land supply
- The principle of development and sustainability
- Affordable Housing Provision
- The impact on the character and appearance of the area,
- The impact upon the amenity of surrounding residents,
- The Impact on highway safety
- The impact upon trees and ecology

ANALYSIS

Policy Context:

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The sites falls within the Broadclyst Neighbourhood Plan area which it is understood has been examined but has not yet been to referendum and therefore the policies contained within it cannot at this moment in time be afforded any significant weight.

Five Year Housing Land Supply:

The Council is required under the NPPF to maintain a 5 year housing land supply. Annual monitoring of the housing supply position revealed that as of September 2022, the Council is unable to demonstrate a 5 year housing land supply position with supply standing at 4.68 years.

The consequences of not having a 5 year housing land supply means that the presumption in favour of sustainable development in the NPPF applies and that planning permission should be granted unless:

- (i) the application of policies in the NPPF that protect areas or assets of particular importance such as AONB's, SSSI's, Heritage Coast, Heritage Assets, areas at risk of flooding or coastal change etc 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 the NPPF taken as a whole.

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 the residential conversion would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Principle and Sustainability:

Given the nature of the proposal, and the location of the site outside of a built-up area boundary, this development represents a departure from the Local Plan. The application has been advertised as such.

Members will recall that planning permission for the construction of three detached bungalows on land immediately to the north of the site has been approved under application ref 22/0549/FUL. Approval was granted on the basis that despite the site being located outside a built-up area boundary, it is in a sustainable location and, consequently, that the development was acceptable in principle. Previously, the following was reported with regard to the principle and sustainability of the site which is considered to be equally applicable to the application site immediately adjacent:

"The application site to which this report relates is located outside any built-up area boundary designated in the East Devon Local Plan. Therefore, in planning policy terms the site is within the countryside in an unsustainable location. As a result, the proposal does not gain any planning policy support from the Local Plan with the proposal being contrary to Strategy 7.

However, it needs to be considered whether there are any other material considerations that may support the proposal and outweigh the policy objection.

In this instance, the location of the site and its relationship to other development is such that it is a material consideration to weigh into the balance.

Whilst it is noted that there are existing dwellings to the east and west of the site, this in itself is not considered sufficient to mean that the site is in a sustainable location. In this regard, there are more notable developments in the area which are considered to give weight to an argument that it would be unreasonable to argue that this site can be considered unsustainable; most notably, these are the Tithebarn/Mosshayne development which is taking place on the northern side of Blackhorse Lane, and will lead to the construction of around 1,500 dwellings in close proximity to the site benefiting from a local centre and recreational facilities, and Exeter Science Park is situated a short distance to the west of the site.

In addition, although Blackhorse Lane is now a no through road for vehicular traffic, it is a designated cycle path which provides easy access to Exeter in the west, and also to Clyst Honiton, Cranbrook and Exeter Airport in the east. Additionally, the former A30, a short distance to the south of the site, is served by several bus services serving destinations including Exeter, Exeter St. Davids railway station, Exeter Airport, Cranbrook, Ottery St. Mary, Honiton, Axminster, Woodbury and Exmouth. Furthermore, there is a public house situated adjacent to the former A30, within walking distance from the site.

The location of the site close to these services and facilities, benefiting from good access links means that the site can be argued to be well located and close to a range of services and facilities to an extent that could minimise the use of the car.

The points raised above highlight a number of reasons why, despite the location of the site outside a built-up area, it can be considered to be in sustainable location and development. When these factors are given consideration alongside the local plan, it is considered that, on balance the development would be in a sustainable location and, therefore, that the proposal is acceptable in principle."

Whilst each application is determined on its own merits, being positioned immediately adjacent to the site for the three approved bungalows, it is considered that there have been no material changes to the assessment above and that, consequently, the principle and sustainability of the development remains acceptable for the reasons detailed above. Subject to an assessment of other material considerations, the principle of development is considered to be acceptable where the five dwellings would contribute to the Council's five year housing land supply. This along with the sustainable nature of the development are considered to weigh in favour of the proposal within the overall planning balance.

Affordable Housing:

The comments received by the Councils Affordable Housing Officer refer to the site having a site area of 0.56 ha which would make it a major development triggering a requirement for on-site affordable housing. Members should note that this is not the case because sites that are over 0.5 ha are only considered to be major developments where the number of dwellings is unknown. In the case of this application, the proposal is for 5 dwellings.

The application site does however form part of a larger site which includes land to the north (under the same ownership) which benefits from planning permission for 3 bungalows (22/0549/FUL) accessed from Blackhorse Lane. This application is for a

further 5 bungalows, making 8 in total, exceeding the government threshold of 5 for affordable housing contained within paragraph 64 of the NPPF.

The Council's Affordable Housing Supplementary planning document states that proposals that artificially sub-divide sites in the same ownership will be closely examined so that the affordable housing threshold is not circumnavigated. On the basis that the application site and land to the north which benefits from an extant planning permission for 3 dwellings are in the same ownership it is considered that the two sites should be considered in respect of affordable housing provision.

The Council's Affordable Housing Officer has advised that a commuted sum of £28,958 per unit would be required towards affordable housing which equates to a financial contribution of £231,664. The applicant has agreed to the requirement to provide affordable housing as a commuted sum which would be secured via a legal agreement.

On the basis that the appropriate affordable housing contribution is secured, it is considered that the proposal would comply with the provisions of Strategy 34-District Wide Affordable Housing Provision Targets of the Local Plan.

Character and Appearance:

Policy D1- Design and Local Distinctiveness of the Local Plan requires that proposals respect the key characteristics and special qualities of the area in which the development is proposed and ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Introducing built development within the site would result in a degree of impact on the character and appearance of the area and would change the character of the site from a paddock to a cul-de-sac of bungalows. Whilst this would be the case, despite occupying an elevated position in relation to Black Horse Lane, the development is considered to be well designed with the layout of bungalows being appropriate to the pattern of development in the area. The two bungalows at the front of the site would continue the building line with frontages onto Honiton Road. The bungalows would be set back from the road with generous amounts of space around them. The three detached bungalows at the rear of the site would be positioned with sufficient space around them with generously sized amenity areas.

The paddock is generously sized and whilst its redevelopment would result in a change in character, it is considered that the layout of the development has been carefully considered and owing to the scale and modest height and design of the bungalows, it is considered that the impact on the character and appearance of the area would be limited as demonstrated by the submitted site section/ street elevation drawing. The bungalows themselves would be of an appropriate modern design and form and the proposed materials are considered to be appropriate to the context of surrounding development. The bungalows would be read in the context of the existing development along Honiton Road, and would not be seen as a visual intrusion into the area/countryside.

The proposal would comply with the provisions of policy D1- Design and Local Distinctiveness of the Local Plan. The lack of visual harm or harm to the character and appearance of the area weighs in favour of the application.

Residential Amenity:

The site is bound on its western side by a number of residential properties including the Gardens itself and Meadow View. To the east of the site and separated by a driveway is Killenaule and to the north of the site is the site for the recently approved three detached bungalows by the same applicant.

The development of the paddock with a further five detached bungalows would have a degree of impact on the amenities of the occupiers of adjoining properties. However the single storey form of the buildings and the manner in which the site would be laid out would be such that it would be difficult to argue that there would be significant harm in terms of the physical impact of the development.

The site is generously proportioned and the submitted site plan demonstrates that the proposed bungalows would be positioned a sufficient distance from its boundaries so as to prevent any overlooking or loss of privacy, particularly bearing in mind the single storey form and design of the proposed bungalows.

Given the above, the proposal is considered to be acceptable in terms of its impact on the occupiers of neighbouring properties and would comply with the provisions of policy D1 which seeks to ensure that developments do not adversely affect the amenities of the occupiers of existing residents. However, to ensure that the Local Planning Authority has control over any changes to this, it is considered reasonable to withdraw permitted development rights for the construction of any extensions to the dwellings, or the addition of dormer windows or rooflights which could give rise to overlooking.

Highway Safety and Parking:

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan state 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.

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. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.

The application proposes a new vehicular access onto Honiton Road which would serve the five bungalows.

The County Highway Authority have raised no objections to the application and have advised that the proposed access will provide sufficient visibility to both the east and west direction upon London Road sometimes referred to as Honiton Road. This road

is due to have enhancements which help reduce the speed of this stretch of road up to Cranbrook.

The CHA have advised that the internal layout will have off-carriageway parking and turning for each of the proposed dwellings, as well as a passing place to allow for simultaneous exit and egress onto London Road.

The CHA recommends the provision of secure cycle storage, to help encourage sustainable travel and mitigate upon the trip generation intensification of this site but notes that the site is within walking distance to the new Park and Change site, bus stop services, Co-cars and Co-bikes.

In the absence of any highway safety objections to the proposal, it is considered that the proposal complies with policies TC7 and TC9 of the Local Plan.

Impact on Trees:

There are a number of mature trees on the site, particularly along the site's eastern boundary which positively contribute to the visual amenity of site which are to be retained and incorporated into the development. The application is accompanied by an Arboricultural report, impact assessment and tree protection plan which demonstrates that with the exception of a number of fruit trees, all existing trees will be retained and protected during the development such that it is considered that the development will not adversely impact on the health and wellbeing of trees. Subject to a condition that requires the development to be carried out in accordance with the AIA and tree protection measures, it is considered that the proposal complies with the provisions of policy D3- Trees and Development Sites of the Local Plan.

Ecological Impact:

The application is accompanied by an ecological report which concludes that the site consists of a pony paddock, categorised as neutral grassland. The report includes the results of a preliminary visual inspection of the stable building for bats and nesting birds. Two bat emergence surveys were undertaken in August 2022, and a static bat detector was deployed in the stable for seven nights in August to record any bat activity.

The report concludes that demolition of the stable would result in the destruction of a brown long-eared bat night roost and a common pipistrelle bat day roost. The works could also potentially result in bats being disturbed, injured or killed during works. The proposed works and demolition of the stables would therefore require a European Protected Species Licence from Natural England.

In these circumstances the Local Planning Authority has a statutory duty under Regulation 3(4) to have regards to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species maybe affected.

The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by

Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations: The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application and that failing to do so will be in breach of the Habitats Regulations.

The three tests are:

1. the activity must be for imperative reasons of overriding public interest or for public health and safety;

In this case it is considered that the imperative reasons of overriding public interest are as follows:

- The delivery of housing on a sustainable site without the need to develop greenfield land in a less sustainable location and without any landscape harm.
- The development would make a positive contribution towards the Council's 5 year housing land supply
- The development would secure an affordable housing contribution of £231,664

2. there must be no satisfactory alternative;

In this case the stables are currently redundant and located centrally within the site. Removal of the stables is required so as to be able to redevelop the site in a manner that makes efficient use of the land in a comprehensive layout which allows facilitates access to the rear part of the site. Retention of the stables would make no contribution towards the character and lay of the proposed residential development.

3. favourable conservation status of the species must be maintained.

To mitigate for the loss of the night and day roosts, the proposal includes the provision of a timber, open-fronted bin store, with a pitched roof, that brown long-eared bats could use as a night roost and common pipistrelle bats could use as a day roost. The ecologist states that waney-edge timber cladding on the bin store would also provide potential day roosts for brown long-eared, common pipistrelle and other crevice-dwelling bat species. The bin store would be positioned adjacent to the retained eastern hedgerow boundary and mature oak tree, and away from any lighting, so that bats can easily access it from the adjacent habitat without being disturbed by lighting. As such there would be no loss of roosting provision as a result of the development and subject to a condition that requires the applicant to submit a copy of the licence from Natural England prior to demolition of the stables, and which requires the development to be carried out in accordance with the mitigation measures and ecological enhancement measures including the provision of the

alternative bat roosting habitat in the form of the bin store, it is considered that the application does demonstrate that favourable conservation status of the brown long eared and common pipistrelle bats would be maintained.

Having regard for the above assessment, it is considered that the three tests can be met and that Natural England are likely to grant an EPS licence.

It should also be noted that the application is accompanied by an ecology plan which proposes further ecological enhancements which includes the planting and formation of 140 metres of new native species hedgerow which would provide additional foraging/ commuting habitat for bats, the integration of ecological features including built-in bird nesting boxes, bee bricks, bat boxes and external lighting designed to be wildlife friendly.

On balance, having regard for the above, it is considered that the proposal complies with the provisions of policy EN5- Wildlife Habitats and Features of the Local Plan and that in granting planning permission the Council has met its legal duty to consider the tests and the Directive.

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 £367.67 per dwelling which has been secured as part of this application.

Surface Water and Drainage:

The site is located within an area designated as flood zone 1 (low probability of flooding). Whilst this is the case, it is accepted that the site urbanisation would lead to an increase in impermeable areas over its current greenfield use as a paddock. A surface water drainage strategy has not been submitted a part of the application although it is stated on the planning application forms that surface water would be disposed of by soakaways. There is no objection in principle to the use of SUDs as a means of disposal of surface water but it is recommended that a condition is imposed which requires the submission of a detailed surface water drainage and

management plan to ensure that surface water will be adequately disposed of and does not lead to increase flooding elsewhere in accordance with the provisions of policy EN22- Surface Run-Off Implications of the Local Plan.

Planning Balance and Conclusions:

Whilst the proposal represents a departure from local plan policy by proposing residential development outside of any BUAB, the site is considered to be in a sustainable location at the West End of the District in close proximity to new housing development which includes a neighbourhood centre and recreational facilities, the Science Park, the new Park and Change site, bus stop services, Co-cars and Co-bikes.

In light of this, and given that the proposal will not result in a harmful visual impact and as the development would take place within a paddock with no incursion into the countryside, the site is considered to be a sustainable form of development and of a form that raises no wider harm or planning concerns.

It is, therefore, considered that the proposal is acceptable as the lack of harm coupled with the social, economic and environmental benefits to be derived from the proposal outweigh the lack of planning policy support for the proposal.

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, 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.

Consequently, it is recommended that this application is approved.

RECOMMENDATION

1. APPROVE subject to the applicant entering into a legal agreement to secure a financial contribution of £231,664 towards affordable housing.
2. APPROVE subject to the following conditions:
 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
 2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
 3. No development 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.)

4. Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the Arboricultural Report and Arboricultural Impact Assessment submitted by Aspect Tree Consultancy on the 03.08.2022 and the tree protection plan ref 05871 TCP 25.08.22 and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority

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.

(d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason – A pre-commencement condition is required to ensure retention and protection of trees on the site prior to and during construction 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 New East Devon Local Plan 2013-2031).

5. The development hereby approved shall be undertaken in accordance with the Landscaping Plan produced by Land and Planning Consultancy, dated August 2022 ref 52-LPC-10 and the 5 Year Management and Maintenance Plan dated September 2022 prepared by Land and Planning consultancy. The

landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping 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 the visual amenity of the area, and to accord with the provisions of Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan 2013 - 2031.)

6. The development hereby approved shall be undertaken in accordance with the approved Ecological enhancement measures detailed within the Preliminary Ecological Appraisal prepared by Richard Green Ecology dated October 2022 and as shown on ecology plan drawing no 52-LPC-11 and the bat and wildlife lighting layout plan ref 52-LPC-12 prepared by Land and Planning Consultancy, dated August 2022.

(Reason - In the interests of ecology and biodiversity in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031.)

7. No dwelling hereby approved shall be brought into its intended use until the vehicular access, turning areas, parking spaces, hardstanding and access drainage, and cycle and bin storage serving that dwelling have been provided in accordance with details shown on site plan drawing number 52-LPC-02 and Junction Visibility and Vehicles Swept Path Analysis drawing no 130 REV A. The access, turning areas, parking spaces, hardstanding, access drainage, and cycle and bin storage shall be retained for that purpose at all times.

(Reason - To ensure that adequate facilities are available for the traffic attracted to the site, and to comply with the provisions of Policies TC2 (Accessibility of New Development), TC7 (Adequacy of Road Network and Site Access) and (TC9 Parking Provision in New Development) of the Adopted East Devon Local Plan 2013-2031).

8. Prior to the occupation of any dwelling hereby approved visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the details shown on the Junction Visibility and Vehicles Swept Path Analysis drawing no 130 REV A where the visibility splays provide intervisibility between any points on the X and Y axes of 2.4 x 120 metres in both directions. The visibility splays shall be kept permanently clear of all obstructions greater than 600 mm high.

(Reason: To provide adequate forward visibility from and of vehicles using the road in accordance with Policy TC7 - Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031)

9. The development hereby approved shall be carried out in accordance with the finished floor levels and ground levels shown on site section and illustrative street elevation drawing no 52-LPC-13 dated August 2022.

(Reason: In the interests of the character and appearance of the area in accordance with policy D1- Design and Local Distinctiveness of the East Devon Local Plan 2013-2031).

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within Schedule 2, Part 1 Classes B or C for the enlargement, improvement or other alterations to the dwellings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.
(Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031.)
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse unless approved as part of this application.
(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, D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031)
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within Schedule 2. Part 1, Class F for the provision of a hard surface within the curtilage of the dwellings hereby permitted shall be undertaken.
(Reason – In the interests of the character and appearance of the development, to protect retained trees and to prevent additional surface water run-off space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031.)
13. No demolition of the stable block shall be undertaken until a copy of a Natural England bat licence has been submitted to and acknowledged in writing by the Local Planning Authority.
(Reason - In the interests of ecology and biodiversity in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031.)
14. No development above slab level shall continue until details of a permanent surface water drainage and management plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details, which shall be installed prior to the first occupation of the development hereby approved,

and shall thereafter be maintained and retained for the lifetime of the development.

(Reason - In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy EN22 (Surface Water Run-Off Implications of New Development) of the East Devon Local Plan 2013 to 2031 and paragraph 103 of the NPPF).

Plans relating to this application:

52-LPC-02	Proposed Site Plan	10.01.23
52-LPC-03 : Plot 1	Proposed Combined Plans	10.01.23
52-LPC-04 : Plot 2 & 5	Proposed Combined Plans	10.01.23
52-LPC-13 : illustrative street	Sections	10.01.23
52-LPC-05	Proposed Combined Plans	10.01.23
52-LPC-10	Landscaping	10.01.23
52-LPC-14	Street Scene	10.01.23
	Flood Risk Assessment	10.01.23
Landscape managemen t plan	General Correspondence	10.01.23
05871 TCP 25.08.22	Tree Constraints Plan	10.01.23
130 A : Visibility/sw ept path	Other Plans	10.01.23
52-LPC-01	Location Plan	10.01.23
52-LPC-07	Proposed Combined Plans	10.01.23
52-LPC-08	Proposed Combined Plans	10.01.23

52-LPC-11 : Ecology	Other Plans	10.01.23
05871 TPP 29.09.22	Tree Protection Plan	10.01.23
52-LPC-06 : Plot 1	Proposed Combined Plans	10.01.23
52-LPC-12 : Bat/Wildlife	Other Plans	10.01.23
	Ecological Assessment	10.01.23
arb impact assessment	Arboriculturist Report	10.01.23
	Tree Survey	10.01.23

List of Background Papers

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