

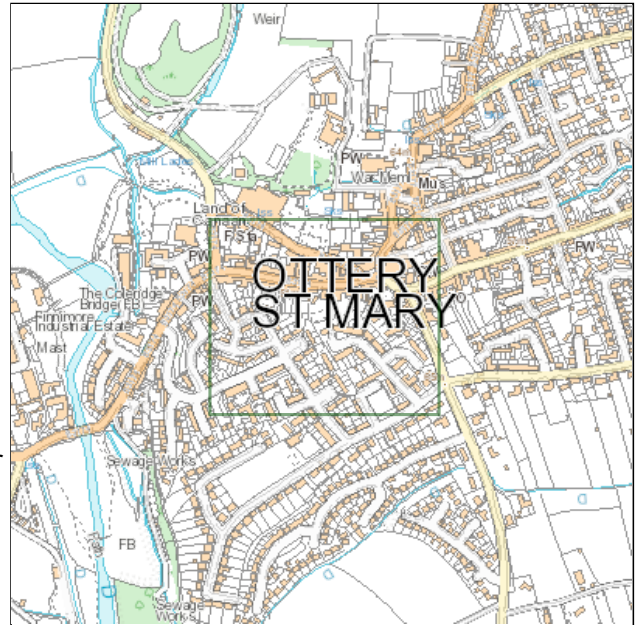
Ward Ottery St Mary

Reference 22/1645/FUL

Applicant Mr Keith Taylor

Location 9 Mill Street Ottery St Mary Devon EX11 1AA

Proposal Construction of 3 no. detached dwellings to rear of The Old Manse with associated amenity space and parking.



RECOMMENDATION: Approval with conditions



		Committee Date: 25.04.2023	
Ottery St Mary (Ottery St Mary)	22/1645/FUL	Target 26.09.2022	Date:
Applicant:	Mr Keith Taylor		
Location:	9 Mill Street Ottery St Mary		
Proposal:	Construction of 3 no. detached dwellings to rear of The Old Manse with associated amenity space and parking.		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before the Committee because the officer recommendation differs from the views of the commenting ward member.

The scheme involves the construction of 3no detached two storey dwellings on an elevated sloping site to the rear of no. 9 Mill Street (also known as The Old Manse) close to the town centre. The boundary of the designated Ottery St. Mary Conservation Area bisects the site from west to east and a protected mature Beech tree is positioned on its western boundary.

The land has historically been used for the parking of staff and other vehicles and as a garden associated with offices occupying no. 9 itself, albeit the former are now vacant and the latter has been rather neglected latterly. Access to the parking facility is via a steep private driveway of single vehicle width off the end of Franklea Close, a residential cul de sac to the south. There is no vehicular access to the site from Mill Street.

Planning permission has previously been granted, in 2018, for a development including the construction of 7no dwellings on the site with access and parking facilities, the latter consisting of only 4no spaces, via the driveway. This formed part of a scheme that also included the conversion of no. 9 and a separate annexe building to form a further 3no units. However, this permission lapsed in 2021 without being implemented.

The present scheme incorporates the provision of 7no parking spaces in total with an identical access arrangement to that previously proposed.

The layout of the scheme and the scale, design and appearance of the dwellings and their impact upon the character and appearance of the conservation area and its setting are considered to be acceptable. Subject to the agreement of

certain details, it is accepted that the layout also pays sufficient regard to the health and well-being of the Beech tree. It is also considered that there are also no other issues of concern in relation to neighbour impact, ecology or drainage.

The principal matter of objection to both the town council and the ward member, however, remains the proposed access arrangement.

Whilst the shortcomings of the driveway, in terms of the gradient, limited width and lack of separate footway provision, are acknowledged, it is considered that these need to be balanced against the lawful use of no. 9 and the site for office and associated garden/parking purposes and the level of associated vehicle activity that could alternatively be re-introduced without any requirement for planning permission. Indeed, given the greater flexibility that now exists for changes between commercial uses that are capable of taking place without any need for planning permission, such activity could, in theory, be intensified.

It is also felt that the more appropriate level of parking provision being proposed, relative to the approved 2018 scheme (7 spaces for 3 dwellings against 4 spaces for 10 units), would reduce the likelihood of on-street parking within Franklea Close and elsewhere in the town centre as well as pedestrian activity along the driveway, thereby also reducing risks associated with pedestrian/vehicular conflict. In any event, whilst a less than ideal arrangement, given the nature of the driveway itself it is considered that such risks would be minimal.

Furthermore, whilst maintaining that the matter of numbers of parking spaces is a matter for the Authority to consider against relevant Local Plan policy, no objections are raised to the proposal by the County Highway Authority.

As such, when considered against the benefits arising from the provision of housing within an accessible and sustainable town centre location as well as the creation of construction jobs, alongside the absence of any other technical objections to the scheme, it is thought that the overall balance weighs in favour of the development.

CONSULTATIONS

Local Consultations

Parish/Town Council

The Council continue to object to the application as the new scheme has not addressed the problem of access to the site and the gradient of the drive is totally unsuitable.

Ottery St Mary - Cllr Peter Faithfull

I am writing in relation to the proposed development at the Manse, 9 Mill St, Ottery St Mary. This application is in my ward and my preliminary view, based on the information presently available to me is that it should be refused.

The main issue for me is lack of adequate access to the site. The only vehicular access to the site is along a quite long, narrow driveway from Franklea Close. This is a steep, north facing driveway with no space for pedestrian walkway. With many residents now using online shopping, there is a need for access to be adequate for delivery vehicles to access the site. There will also be a need for the delivery of building materials while the site is being developed. The driveway is approximately 1:6 gradient and likely to become slippery in winter. With no parking spaces for the flats their alternative parking will be in Franklea Close, meaning they will need to access the site by foot against the proposed vehicles. There is also concern by neighbouring residents about vehicles damaging their properties when accessing the site, due to the narrow width of the access driveway.

I am also very concerned about the wildlife in and around the site. There is a badger set close to this site and a very high likelihood of slow worms and other protected wildlife on this site.

There are issues of privacy for the residents of the proposed apartments of the old building by the positioning of the two houses nearest to the building due to the slope of the site, which are likely to cause overlooking. The proposed houses will also have an overbearing nature on Mill St, which is in a conservation area.

These are my views, based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

Technical Consultations

County Highway Authority

Observations:

The Highway Authority has visited the site and the proposed development and change of use to form 1 maisonette, 1 Annex and 3 no. detached houses is acceptable in principle at this location from a traffic generation point of view.

The site's position with easy access to the centre of the town makes this an ideal development for low car occupancy, and would be deemed to be sustainable. Though parking numbers is an East Devon District Council policy to administer.

The proposed access from Franklea Close is narrow and very steep, approximately 14% and is not ideal for a pedestrian or disabled travel route, and there seems to be no provisions for a separate footway. The drawings show the turning area from the parking spaces is achievable and vehicles can leave in a forward facing motion.

New dropped kerbs will be required on Mill Street to allow pedestrians to cross.

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 part of the development hereby approved shall be brought into its intended use until the access, parking facilities and turning area have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure that adequate facilities are available for the traffic attracted to the site.

2. 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 in accordance with the East Devon Local plan 2013-2031.

Officer authorised to sign on behalf of the County Council

2 December 2022

Contaminated Land Officer

No development approved by this planning permission shall commence until a remediation strategy to deal with any identified risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - I. all previous uses
 - II. potential contaminants associated with those uses
 - III. a conceptual model of the site indicating sources, pathways and receptors
 - IV. potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must

be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN16.

National Highways

22/1645/FUL - Construction of 3 no. detached dwellings to rear of The Old Manse with associated amenity space and parking, at 9 Mill Street, Ottery St Mary, Devon, EX11 1AA

Thank for consulting National Highways on proposed amendments to the above application. We were originally consulted on application 22/1645/FUL in August 2022 and offered no objections as set out in our attached response dated 22 August 2022.

The amendments primarily comprise the omission of the previously proposed change of use of the Old Manse. We are satisfied these changes will not result in an adverse impact on the safe operation of the strategic road network and continue to offer no objections to application 21/1645/FUL as amended.

Environmental Health

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

There shall be no burning on site and no high frequency audible reversing alarms used on the site.

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

South West Water

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

Asset Protection

Please find enclosed a plan showing the approximate location of a public 150mm sewer and a public 150mm surface water sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Please click [here](#) to view the table of distances of buildings/structures from a public sewer.

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

www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/

Clean Potable Water

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

Foul Sewerage Services

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

www.southwestwater.co.uk/developers

Surface Water Services

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

1. Discharge into the ground (infiltration); or where not reasonably practicable,

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

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that a method proposed to discharge surface water flows into a surface water sewerage network system would be acceptable and meets with the Run-off Destination Hierarchy. Please note, it is **not** permitted to discharge surface water flows into a foul (only) sewer, and please also note that discharge to the public combined sewerage network is **not** an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

See sewer map under document tab

EDDC Trees

Arboricultural Comments on planning application 22/1645/FUL.

The most significant tree on the site is the protected Beech (identified as T1 within the supporting arboricultural report TH/B3550622). Immediately to the west of this is the third party owned Sycamore identified as T2. Due to their elevated location these trees are seen for some distance outside of the application site.

In providing these comments I am mindful of the planning history (14/0662/MFUL and 16/1987/MFUL) and appeal decision in relation to trees at this site. Specifically the accepted stance of the appeal inspector regarding the offset root protection area (RPA) of the sycamore T2 and the juxtaposition of the proposed dwelling and the Beech T1.

Based on the previously approved scheme and appeal decision no objection is raised to the principle of the proposed scheme.

Should the scheme be approved, I would suggest the following points are addressed via pre-commencement conditions:

- 1) The RPA of the Beech T1 extends into the garden of House 1. The existing ground in the garden slopes down to the north and has historically been terraced with steps used to transverse the steepest section of slope. Notwithstanding the submitted cross sectional information, it is not entirely clear from the provided plans on the existing and proposed finished ground levels within the RPA of the Beech T1. Any planning approval should be subject to a condition requiring the submission of a plan showing both existing and proposed finished ground levels, within the RPA of

the Beech T1. This could be incorporated into either the hard or soft landscape details for the sake of convenience.

2) The arboriculturalist has not been provided with details relating to proposed underground service runs, presumably the works of these details will only be finalised after planning approval. Underground services can impact of the RPA of retained trees, to ensure there no future conflict an updated AMS and TPP should be submitted to the LPA prior to the commencement of works on site. The updated AMS and TPP shall include all underground utility runs, including soakaways, location of site huts, cabin, welfare facilities, contractors parking, materials storage and mixing areas. In addition tree protection details can be updated to include the protection of the retained pendulous tree in the open space immediately adjacent to Mill Street, in the far northern end of the site.

Conservation

CONSULTATION REPLY TO CENTRAL TEAM
LISTED BUILDING CONSENT/CONSERVATION AREA
PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: 9 Mill Street Ottery St Mary Devon EX11 1AA

GRADE: APPLICATION NO: 22/1645/FUL

CONSERVATION AREA:

PROPOSAL: Construction of 3 no. detached dwellings to rear of The Old Manse with associated amenity space and parking.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

The application is improved and there are no further comments other than the heritage statement demonstrates that some of the roof is visible from lower levels at the Old manse and so that it preserves the conservation area the roofs should be in natural materials. It is recommended they are constructed of natural slate with clay ridge tiles and timber fascia's.

PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

SUGGESTED CONDITIONS:

Prior to the construction of the development, hereby permitted, samples of the materials to be used and method of fixing in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and thereafter maintained as such.

Reason: In the interests of preserving the listed building, its setting and any features of historic or architectural interest that it possesses.

DATE: 6/3/23

INITIALS: M.Pearce

Other Representations

A total of five representations of objection across two rounds of consultation (original and amended plans) have been received.

Summary of Grounds of Objection

1. Increased use of inadequate access to the site; the track from Franklea Close is steep and narrow with no footways or passing places and is in inadequate condition and could not be used by vehicles and pedestrians at the same time.
2. Impossible for track to be used by emergency service, good delivery, furniture removal, construction, etc. vehicles.
3. Noise of vehicles using the track will intrude neighbouring properties, affecting use and enjoyment for the occupiers.
4. Difficult for vehicles to reverse safely along track when necessary.
5. Previous applications rejected on grounds that the track is inadequate to provide access and upheld at appeal in 2004.
6. Historical use of the track has not occurred for fifteen years and was in any event light, involving the arrival and departure of 2-3 cars daily at 9am and 5pm only.
7. Use of pedestrian path through site has the potential to become a new public right of way that would further impact privacy of existing adjacent properties and residents of the new development and increase mix of vehicles and pedestrians using the track.
8. Position of house on plot 1 would interfere with privacy and enjoyment of garden of no. 25 Franklea Close and would itself be overlooked, exacerbated by the difference in levels.
9. Encroachment of plot 1 and one of the parking spaces onto third party land.
10. Too many parking spaces proposed; previous approved proposals recognised the inadequacy of the access track in providing a much lower number of spaces as part of a 'car free' scheme.
11. One of the proposed parking spaces is positioned round a blind corner at the bottom end of the track.
12. Will lead to increase in parking in Franklea Close.
13. Increased safety risk for pedestrians.
14. Town does not need any more dwellings as schools and the doctor's surgery are already unable to cope and development would add to parking and congestion.

PLANNING HISTORY

Reference	Description	Decision	Date
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16/1987/MFUL	Change of use on the ground floor of The Old Manse from A2 (Financial & Professional Services) to A1 (Shops)/A2 (Financial & Professional Services)/A3 (Restaurants & Cafes)/A4 (Drinking Establishments); conversion of the upper floors to form 1 no. maisonette; construction of an additional storey on the Annex and conversion to form 2 no. flats; and construction of 7 no. townhouses.	Approval with conditions	04.04.2018
14/0662/MFUL	Change of use on the ground floor of The Old Manse from A2 (Financial & Professional Services) to A1 (Shops)/A2 (Financial & Professional Services)/A3 (Restaurants & Cafes)/A4 (Drinking Establishments); conversion of the upper floors to form 1 no. maisonette; construction of an additional storey on the Annex and conversion to form 2 no. flats; and construction of 8 no. townhouses.	Refusal Appeal dismissed	05.06.2014 19.12.2014
01/P2581	Proposed Residential Development Of Land To Rear Of The Old Manse [Amended Proposal]	Refusal Appeal dismissed	18.02.2003 23.04.2004

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 24 (Development at Ottery St Mary)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 43 (Open Space Standards)

Strategy 47 (Nature Conservation and Geology)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

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

EN22 (Surface Run-Off Implications of New Development)

E9 (Town Centre Vitality and Shopping Areas)

E10 (Primary Shopping Frontages)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies
NP2 (Sensitive, High Quality Design)

NP22 (Ottery St. Mary Conservation Area)

Government Planning Documents
NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

9 Mill Street, also known as The Old Manse, is a currently vacant 19th-century two storey building that occupies a town centre location. Until a few years ago, it was in use as a solicitor's office.

It has a localised prominence in Mill Street owing to it being both detached from, and at right angles to, terraces of commercial and residential premises/properties to both its west and east whose principal elevations abut the back of the footway.

A small garden area is set out to the immediate east of the building, to the south of which, and set back on elevated land, is a more modern detached single storey building of utilitarian appearance, described in previous applications relating to The Old Manse as the 'Annexe'.

The application site comprises an area of open land that rises to the south of this building that is understood to have been a garden area to the former office. It contains the surface of a level parking area, previously used by staff, accessed via a driveway of single vehicle width off of a turning head at the end of Franklea Close, a residential cul de sac on the hillside to the south.

Since the closure of the office, the land - which extends to approximately 0.14 hectares in area - has been left largely unmanaged.

The boundary of the designated Ottery St. Mary Conservation Area bisects the site from west to east, with the lower northern portion of the site located within it. A mature Beech tree positioned on the site's western boundary is formally protected by a tree preservation order (no. 13/0005/TPO).

A steep bank containing a mix of deciduous stems and an evergreen hedge forms the part of the southern boundary of the site with the rear garden of no. 25 Franklea Close to the west of the access driveway referred to above. Boundary treatment elsewhere takes the form of a combination of walls, fences and young trees.

An area of vacant land borders the site to the east while the rear gardens of properties in Winters Lane and neighbouring premises in Mill Street lie beyond the western boundary; the former on more elevated land.

Background

Planning permission was granted in April 2018 (application ref. 16/1987/MFUL) for a scheme involving the change of use of the ground floor of no. 9 to mixed A1 (Shops)/A2 (Financial & Professional Services)/A3 (Restaurants & Cafes)/A4 (Drinking Establishments) use (under the former structure of use classes set out in the Town and Country Planning (Use Classes) Order)) together with the conversion of the first floor and roof space to create a maisonette, the construction of an additional storey on the 'Annexe' building and its conversion to form two flats and the new build construction of 7no townhouses on the current application site.

However, this permission was not implemented and, as such, lapsed in April 2021.

The application succeeded a previous refusal, and subsequent dismissal at appeal, for a scheme for the site (application ref. 14/0662/MFUL) that included the construction of 8no townhouses.

Proposed Development

The application scheme comprises the construction of three detached two storey dwellings together with the laying out of their associated curtilage areas and a total of 7no parking spaces around a central turning area positioned just inside the site at the end of the access driveway.

The scheme would consist of two, three and four bedroom units. The proposed central unit (plot 2) would be partially dug into the slope of the site and designed so that its principal entrance, in its south-facing elevation, would be at first floor level. Plot 1, to its west, would be mainly constructed on a portion of the site that contains the levelled parking area. Plot 3 would be positioned towards the eastern site boundary. The gradient of this part of the site would suggest that it may also be necessary to either dig part of the build into it or raise ground levels locally.

Plots 2 and 3 would be largely similar in form, scale and height. Both would comprise a regular gabled form with fully pitched roofs with overall ridge heights of 9 metres. Plot 1, the larger four bedroom unit, would exhibit a lower main body of similar form, around 8 metres in ridge height, with a slightly subservient two storey hipped roof extending north off its eastern half.

Externally, each unit would be finished with a mix of painted smooth render and timber or composite cladding with a colour stain finish under a concrete tile roof.

The submitted layout details show a private footway connecting the development, around the perimeter of plot 3, to an existing yard area between the rear of no. 9 and the Bay Tree Cafe premises at no. 11 Mill Street (albeit it would appear that the yard occupies third party land).

The proposals originally submitted also incorporated the change of use of no. 9 itself and the 'Annexe' building to residential units. However, an initial 'phase 1' ecological survey of the buildings has revealed 'evidence of bats'. These elements of the scheme have therefore now been omitted.

Considerations/Assessment

The proposal falls to be assessed having regard to the following material considerations that are discussed in turn.

Principle of Development

The site occupies a location, in close proximity to the town centre, within the Built-up Area Boundary of the town as defined in the adopted and made local and neighbourhood plans respectively. In broad strategic policy terms therefore, it would be appropriately located for the accommodation of further residential development.

Furthermore, it would be relatively proximate to the wide range of services and facilities offered within Ottery St. Mary, including sources of employment and public transport links.

The site also comprises 'previously developed land' given its historical association with no. 9, its former use for office purposes and the continued existence of the parking area formerly used in conjunction with it.

It is again accepted therefore that the fundamental principle of a residential redevelopment of the site remains acceptable.

In broader terms, the scheme would also boost the supply of housing, and therefore contribute to addressing the shortfall of provision across the District, given the current lack of a five year supply of deliverable housing sites, in line with the relevant guidance set out within the National Planning Policy Framework (NPPF).

Impact upon Character and Appearance of Conservation Area

As stated above, the site lies in part within the designated conservation area while regard would also need to be paid to the character of its setting in consideration of the impact of development outside, but immediately adjacent to it.

As a designated heritage asset, paragraph 199 of the NPPF requires that great weight should be given to its conservation when considering the impact of development on its significance. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 requires that any harm to, or loss of, significance of a designated heritage asset should require clear and convincing justification. Paragraph 201 states that permission should be refused for development that would lead to substantial harm unless there are substantial public benefits that would outweigh it or certain other specific circumstances apply, whilst paragraph 202 advises that where a proposal would lead to less than substantial harm to significance such harm should be weighed against the public benefits of the proposal.

The designated conservation area is largely characterised by a tight-knit but informal arrangement of buildings in and around predominantly narrow streets combined with variations in ground levels. From higher ground within the town, such as the churchyard of St. Mary's Church, this creates a varied and attractive roofscape that contributes to the historic character of the town centre. Open spaces also contribute to the character of the area and the most significant of those in the town centre is arguably the churchyard itself. Other areas of open space, such as the application site, are less important as views of these sites are more limited and they are not publicly accessible. As such, in the context of the tight-knit urban environment it is again considered that there is potential for the site to accommodate development without causing significant harm to the character and appearance of the area.

The main issue therefore is whether the particular design and layout proposed in this application is appropriate. In this regard, there are various factors that are thought to weigh in favour of the development.

The steep roof pitches and two-storey form of the proposed dwellings is considered to be compatible with the scale and appearance of surrounding buildings, albeit they would be markedly different to the more compact proportions of properties on Mill Street and would clearly occupy rather more elevated positions within the townscape.

Equally, it is acknowledged that the proposed layout would not necessarily be reflective of the established and more traditional layout of the town centre development where, typically, buildings within the main streets directly front onto adjoining pavements in providing the public realm with its characteristic tight-knit character. As such, it would not necessarily reinforce the local character from which much of the significance of the conservation area is derived.

However, in common with other exceptions to this character that are exhibited elsewhere throughout the conservation area, such as the developments at Paxford House Square and the former Marist Convent site, it is accepted that the impact of the development upon its character, appearance and setting would in this case be largely restricted to a short length of Mill Street and strongly filtered occasional views from longer distance between buildings, such as from the churchyard.

Indeed, within these, the development would likely be viewed against a backdrop of the rising land to the south and the crest of the hill upon which residential development in Franklea Close and Winters Lane already dominates.

Furthermore, whilst it is acknowledged that it does not represent a 'fallback' option in regard to any alternative development of the site owing to the expiry of the permission ref. 16/1987/MFUL, it is considered relevant to highlight that the previous approved scheme involved a greater density of development for the construction of more units of greater height than currently proposed. In this context, it is thought that the intended creation of three larger dwelling plots should be regarded as being of at least equal acceptability.

In terms of the form, scale, design and appearance of the dwellings themselves, subject to the agreement of further details of the palette of materials and finishes proposed it is considered that they would essentially be acceptable and that objection on the grounds of any harmful impact upon the character, appearance and significance of the conservation area, or the wider townscape of this part of the town, could not reasonably be justified.

Consequently, it is felt that the level of harm to the character and appearance of the conservation area would, as with the previous approved scheme for the site, be less than substantial. Indeed, given the reduced density of development and the three storey nature of the new build dwellings approved under application ref. 16/1987/MFUL, it is contended that the present scheme would be less overbearing on Mill Street.

It is also thought that the same principle would apply in relation to the concerns raised regarding privacy. In point of fact, the scheme now no longer currently

proposes residential accommodation within no. 9 itself or the 'Annexe' building. The issue is therefore, at the present time, immaterial.

In such circumstances, and in line with NPPF paragraph 202, such harm should be weighed against the public benefits of the contribution that the scheme would provide towards the supply of housing through the development of a 'brownfield' site in a reasonably sustainable location.

Impact upon Neighbour Amenity

The principal matter for consideration in this regard is considered to be the effect of the scheme upon the living conditions of the occupiers of no. 25 Franklea Close, a neighbouring property that occupies higher ground to the south, and to the west of the access driveway, with a rear garden that falls sharply towards the site, the boundary with which is defined by an evergreen hedge and deciduous stems on a bank that falls steeply into the site itself.

Plot 1 would be positioned in close proximity to the bottom of this bank, and therefore the southern site boundary, so as to minimise incursion into the root protection area (RPA) of the protected Beech tree on the western boundary.

However, despite this, it is considered that the screening effect of the evergreen hedge - which is predominantly in the ownership, and therefore the control, of no. 25 - coupled with the appreciably lower ground upon which this unit would be constructed would in combination largely mitigate any potentially adverse physical or visual impact upon the amenities of the neighbouring occupiers.

Whilst it is likely that the roof of the building would likely be visible above the top of the evergreen hedge, based on its height at the present time, it is not considered that this would equate to substantive harm to the neighbours' living conditions.

Equally, it is thought that the hedge would provide an appropriate level of screening of the single bedroom window proposed at first floor level in the rear elevation of plot such that any harmful overlooking/privacy impact upon the rear and rear garden of no. 25 would be avoided.

In terms of impact upon other neighbouring or nearby properties, it is considered that there would be sufficient separation between the development and these to avoid any particular issues of concern.

Access/Parking

This issue continues to be of greatest concern to the town council and the commenting ward member, principally on account of the length, narrow width and comparatively steep gradient of the access driveway to the site off of the end of Franklea Close and the lack of accompanying footways to facilitate separate pedestrian access.

Whilst these inadequacies are recognised, it is felt that there are factors that weigh in favour of acceptance of the proposed access arrangements.

First, the driveway has historically been in use as a means of accessing the parking facility linked to the offices that previously occupied no. 9 Mill Street. In the absence of any doubt as to the lawfulness of the use of the premises for such purposes and/or the associated parking area, it is considered that it would be possible to reintroduce an office use to the building, and/or other potential uses (in light of the relaxation to the change of use regime introduced in recent years), without the need for a further grant of planning permission. This, coupled with the not inconsiderable surface area of the parking facility itself, would likely generate a certain level of traffic movement to and from the site via Franklea Close and the driveway that may be comparable to that triggered by three dwellings.

It is also noted that the previous approved scheme, under application ref. 16/1987/MFUL, involved the construction of 7no three bedroom units with access from Franklea Close and the provision of only 4no spaces. It is also accepted that the current proposal would provide 7no spaces, and would therefore likely generate more traffic movements along the driveway by comparison owing to the greater capacity of the scheme to accommodate parking on site.

However, it is felt that there would be something of a 'trade off' that should be factored in to consideration of the wider impacts in comparing the likely effects arising from the previous approved scheme and that now proposed. This is in terms of both the likely reduction in vehicle parking associated with the occupation of the development within Franklea Close and/or elsewhere in the town centre as well as the reduced likelihood of associated pedestrian activity along the driveway owing to the ability for prospective residents to park within the development rather than elsewhere and having to access it on foot.

In any event, despite its relatively steep gradient, narrow width and lack of footways, the straightness of the driveway (with good intervisibility between vehicle drivers and pedestrians) and the possibility of an alternative pedestrian connection to Mill Street and the services and facilities within the town centre would to some extent help mitigate the potential risk of vehicular and pedestrian conflict along the driveway.

It should be noted however that the connection of the proposed footway at the Mill Street end would be to third party land. Its connection through to Mill Street itself could not therefore be secured through any grant of permission for the development.

Nevertheless, in the wider balance of the considerations that are material to assessment of the proposal it is not thought that the provision of this connection, or any requirement that it be dedicated as a public right of way, would be necessary to make the development acceptable.

It is also not considered that the activity along the driveway that would be generated by the scheme would be likely to materially adversely impact the general living conditions of the occupiers of the properties in Franklea Close to either side it to an extent that could reasonably justify opposing the development on such grounds, more particularly given the perceived absence of any other sustainable reason for refusal.

The proposed footway connecting the development to Mill Street (via the yard between nos. 9 and 11) is not intended to be dedicated as a public right of way. It is not therefore envisaged that it would become popularised locally as a means of access from Franklea Close to the town centre.

The 2004 appeal referenced in third party representations involved a scheme for the site comprising the retention of the office car parking facility, albeit relocated, alongside the construction of two detached dwellings (application ref. 01/P2581). This is in contrast to the subsequent proposals for the site, including that to which the current application relates, which have not/do not envisage any ongoing use of the driveway in connection with any commercial use of no. 9.

Above all, it should also be recognised that, whilst leaving the matter of the number of parking spaces being proposed within the scheme to the Council's consideration, the County Highway Authority raises no objection to the development on grounds relating to highway safety or increased risk of vehicular and pedestrian conflict.

The lack of parking spaces for the flats referenced by the ward member is no longer relevant as the elements of the original proposals to convert the first floor and roof space of no. 9 and to extend and convert the 'Annexe' building to create further residential units have been omitted since those comments were made.

At the time of writing, no further ward member comments have been submitted in relation to the revised proposals relating to the 3no new build dwellings alone.

Impact on Trees

The protected Beech tree on the western boundary is the most significant specimen, in terms of its maturity and amenity value to this part of the townscape, in the context of the assessment of the proposal and the response of the scheme to the constraints that it presents has been scrutinised by the Council's Arboricultural Officer.

The observations received advise that there are no arboricultural objections to the development provided appropriately-worded pre-commencement conditions are attached to any permission granted to require the submission for approval of details of: a) the existing and proposed finished ground levels within the RPA of the Beech tree, and b) proposed underground service runs (utilities, soakaways, etc.) and above ground facilities, such as the location of site huts, cabins, welfare facilities, contractors' parking and materials storage and mixing areas.

The latter should take the form of an updated arboricultural method statement (AMS) and tree protection plan (TPP).

Conditions to this effect are therefore recommended.

Ecology

The application is accompanied by a preliminary ecological assessment report, the principal conclusion of which is that the development is not considered likely to result in any significant ecological impact.

However, it does set out recommendations for mitigation so as to minimise risk to nesting birds and potential disturbance to bats. These take the form of the installation of a bat tube/brick on a south, east or west-facing wall of one of the dwellings alongside at least one bird nesting box on a north or sheltered east-facing wall.

Further mitigation measures are also recommended to provide for pollinating insects as well as ground level holes within plot boundary walls/fences to enable small mammals, such as hedgehogs to access gardens for foraging and commuting.

The appropriate management of external lighting within the scheme is also highlighted within the report so as to minimise the potential for light disturbance that might otherwise disrupt bat commuting routes, discourage bats from foraging and draw insect prey away from foraging areas. Specific recommendations are made in regard to the use of motion sensors, the downward angling of lighting, low level lighting of footpaths and the use of LED luminaries or narrow spectrum bulbs that emit minimal ultra-violet light.

The report advises that the site search revealed no evidence of badgers, such as latrines, foraging marks or trails and, as such, no further survey work is considered necessary.

In the circumstances therefore, whilst there is locally believed to be a badger sett on vacant land to the east of the site it appears evident from the ecology survey that it does not extend into it.

In relation to reptiles, such as slow worms, the report states that the site has negligible potential to support these owing to the limited extent of available habitat and the absence of favoured tussocky grassland.

Drainage

It is intended that foul and surface water drainage from the development would be discharged via main and separate surface water sewer connections respectively.

South West Water have advised that such arrangements would be acceptable. The proposed discharge of surface water via the surface water sewer that crosses the site would meet with its Run-off Destination Hierarchy.

Other Matters

There is no requirement to provide affordable housing as part of the scheme since the scale of development (3 dwellings) would fall below the threshold (6 dwellings or more) that would trigger the need for an off-site financial contribution (in lieu of direct provision) under Local Plan Strategy 34 (District Wide Affordable Housing Provision Targets).

No details as to the intended location of recycling and refuse storage facilities for the development, to enable access to collection vehicles, have been provided. However, it is thought that these can be secured by means of an appropriately-worded condition.

Conclusion

In assessing the balance of the material considerations set out above, it is thought that the proposed development would be acceptable.

In addition, it is again also highlighted that the contribution that the proposal would provide towards increasing the supply of housing, having regard to the present lack of a five year supply of available housing land across the District, weighs in favour of acceptance of the development.

Habitat Regulations Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation 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 Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of the designation. 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 the financial contribution has been secured. 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.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be APPROVED 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. Notwithstanding the submitted details, 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 has 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 area, which forms part of the designated Ottery St. Mary Conservation Area and its setting, in accordance with Policies D1 (Design and Local Distinctiveness) EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) of the adopted East Devon Local Plan 2013-2031 and Policies NP2 (Sensitive. High Quality Design) and NP22 (Ottery St. Mary Conservation Area) of the made Ottery St. Mary and West Hill Neighbourhood Plan 2017-2031.)

4. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. 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 amenity and 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 adopted East Devon Local Plan 2013-2031 and Policy NP2 (Sensitive. High Quality Design) of the made Ottery St. Mary and West Hill Neighbourhood Plan 2017-2031.)

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

(Reason - A pre-commencement condition is required to ensure that the details are agreed before the start of works to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)

6. No development shall commence until a remediation strategy to deal with any identified risks associated with contamination of the site in respect of the development hereby permitted has been submitted to, and approved in writing

by, the Local Planning Authority. This strategy shall include the following components:

1. A preliminary risk assessment which has identified:
 - I. all previous uses
 - II. potential contaminants associated with those uses
 - III. a conceptual model of the site indicating sources, pathways and receptors
 - IV. potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete.

Any changes to these components shall require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This shall be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

(Reason - A pre-commencement condition is required to ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EN16 (Contaminated Land) of the adopted East Devon Local Plan 2013-2031.)

7. Notwithstanding the submitted details, no development shall commence until satisfactory details as to the existing and proposed finished ground levels within the root protection area of the Beech tree (defined as tree T1 in the arboricultural report dated 27th June 2022 - ref. TH/B355/0622 - prepared by Advanced Arboriculture) have been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out, and the proposed finished ground levels shall be formed, in accordance with the approved details in addition to the other measures for the protection of trees prior to and during the course of development set out in the report, including the accompanying Arboricultural Method Statement and Tree Protection Plan.

(Reason - A pre-commencement condition is required to ensure the retention and protection of trees on and adjacent to the site during and after construction. The condition is required 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.)

8. Notwithstanding the submitted details, no development shall commence until an updated Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) have been submitted to, and approved in writing by, the Local Planning Authority. The updated AMS and TPP shall include details as to the location of all underground utility runs, including soakaways, the location of site huts, cabins and welfare facilities and contractors' parking and materials storage and mixing areas. The development shall thereafter be carried out in accordance with the approved details in addition to the other measures for the protection of trees prior to and during the course of development set out in the AMS and TPP within the arboricultural report dated 27th June 2022 (ref. TH/B355/0622) prepared by Advanced Arboriculture.

(Reason - A pre-commencement condition is required to ensure the retention and protection of trees on and adjacent to the site during and after construction. The condition is required 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.)

9. The development hereby permitted shall be carried out in accordance with the measures for the mitigation of the impact of development and ecological enhancement recommended in the Preliminary Ecological Appraisal survey report dated February 2023 (ref. DCE1520) prepared by Devon and Cornwall Ecology.

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

10. The dwellings hereby permitted shall not be occupied until the vehicular access, turning area and parking spaces shown on the approved plans have been provided in accordance with the approved details. These shall thereafter be retained and kept available for those purposes at all times.
(Reason - To ensure that adequate and safe provision is made for the occupiers and in the interests of highway safety in accordance with the requirements of Policy TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan 2013-2031.)
11. No development above foundation level shall take place until satisfactory details of secure cycle/scooter storage facilities have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter remain available for these purposes.
(Reason - To promote sustainable travel in accordance with Policy TC4 (Footpaths, Bridleways and Cycleways) of the adopted East Devon Local Plan 2013-2031.)
12. None of the dwellings hereby permitted shall be occupied until refuse and recycling storage facilities for the development have been provided in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority.
(Reason - In the interests of ensuring that adequate provision is made for the storage of recycling and refuse within the development in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)
13. Before any development commences, details of final finished floor levels and finished ground levels in relation to a fixed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - A pre-commencement condition is required to ensure that adequate details of levels are available and considered at an early stage in the interests of the character and appearance of the locality in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)
14. No external lighting shall be installed at any time unless the full details of the external lighting 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 enable the Local Planning Authority to consider lighting details in the interests of safeguarding protected wildlife species and their habitat in accordance with Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

8501-05C (1 and 2)	Sections	08.02.23
8501-02F	Proposed Site Plan	08.02.23
8501-06B (3 and 4)	Sections	08.02.23
8501-11 layout 1	Layout	08.02.23
8501-12 layout 2	Layout	08.02.23
8501-13A layout 3	Layout	08.02.23
8501-LP B	Location Plan	08.02.23
8501-10C Drainage	Layout	15.02.23

List of Background Papers

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