

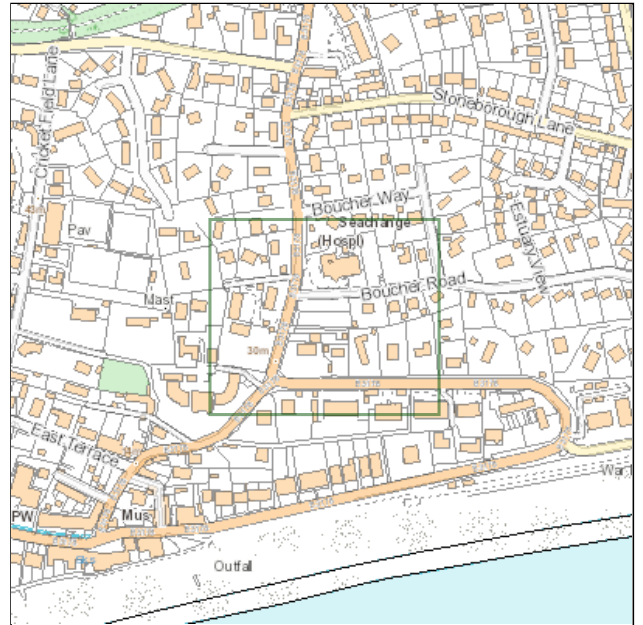
Ward Budleigh And Raleigh

Reference 23/0235/FUL

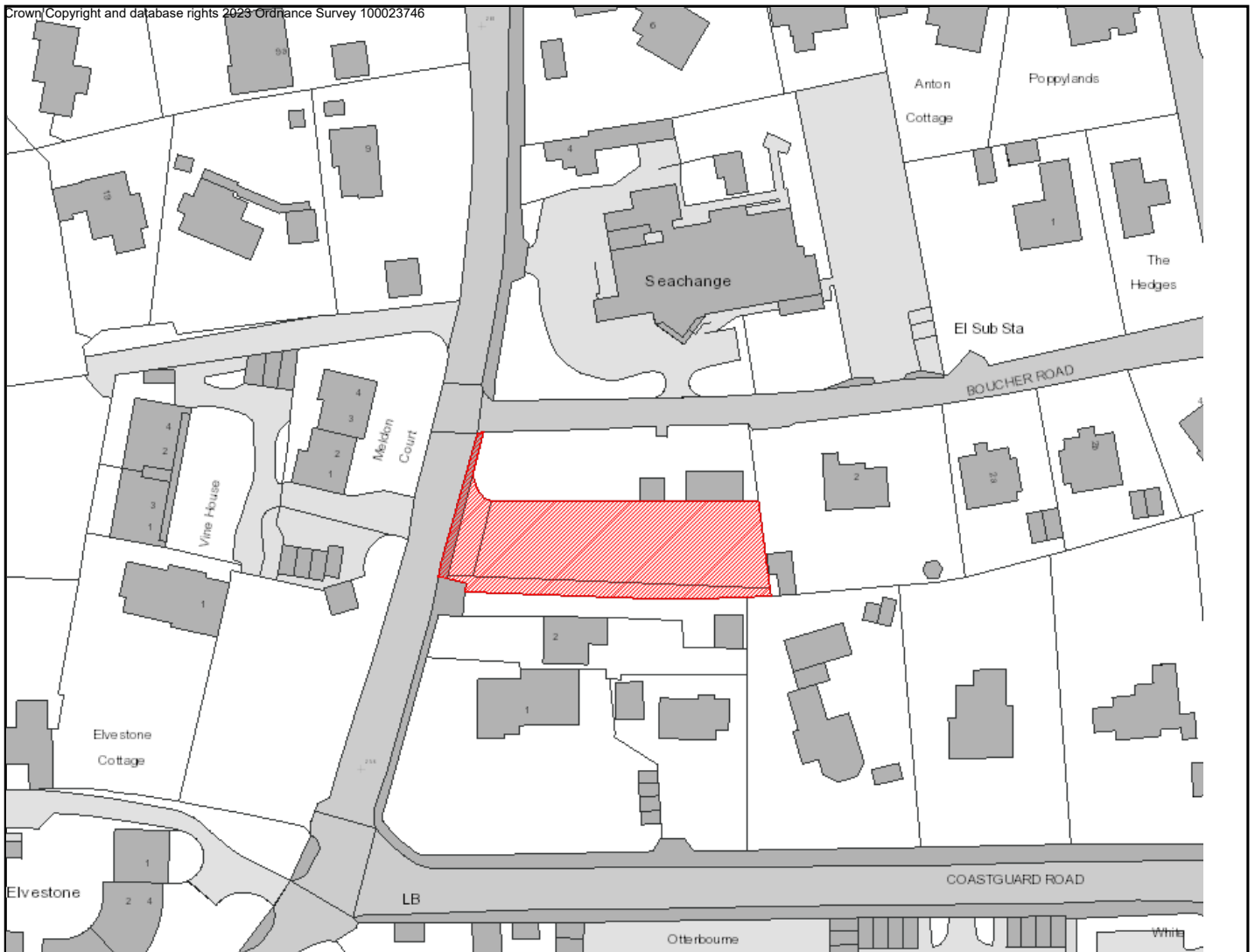
Applicant Naomi and Katie Crocker

Location Land East Of East Budleigh Road Budleigh
Salterton EX9 6HE

Proposal Construction of two dwellings and associated
access.



RECOMMENDATION: Refusal



		Committee Date: 20.06.2023
Budleigh And Raleigh (Budleigh Salterton)	23/0235/FUL	Target Date: 10.04.2023
Applicant:	Naomi and Katie Crocker	
Location:	Land East Of East Budleigh Road	
Proposal:	Construction of two dwellings and associated access.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is brought before the Committee owing to a difference of opinion between officers and the commenting (now former) ward member.

It relates to a detailed scheme for the construction of two identical, albeit handed, detached three bedroom dwellings on an elongated site, approximately 0.1 hectares in area, off East Budleigh Road located within the Built-up Area of Budleigh Salterton as defined in the adopted Local Plan and the designated East Devon Area of Outstanding Natural Beauty.

A visually prominent Red Oak tree, subject of a tree preservation order, occupies a central position within the site.

A detailed planning permission is in place (ref. 22/1427/FUL) for the construction of a pair of three bedroom units of conventional two storey form and height on the site.

The current scheme, however, relates to revised proposals for the two dwellings principally involving the addition of further accommodation in the form of a study within their respective roof spaces. Their provision necessitates the addition of pairs of larger triangular pitched roof dormer elements to the rear elevation roof planes.

Further modifications to the design and appearance of both units are also proposed involving the raising of their main roof ridge heights by 0.3 metres, from 8 metres to 8.3 metres, and the substitution of a face brick external wall finish at ground floor level for additional render over a blue/black brick plinth with the same brick to be used for a dental band around both buildings at first floor level.

In addition, hedges inside the southern and eastern boundaries of the site that were shown on an landscaping plan attached to permission ref. 22/1427/FUL, and subsequently conditioned, to be retained have been, respectively, substantially cut back and removed in its entirety.

It is considered that the addition of the proposed dormers would, owing to their large scale and triangular form, the extent of the respective roof planes that they would occupy, the matching ridge heights to those of the main roofs and resulting lack of subservience and the size, configuration and positioning within the gable of the windows, represent poor design.

Furthermore, it would result in building forms that would appear visually incongruous in design terms to the detriment of their character and appearance and that of the immediate street scene and surrounding area.

Overall, it is thought that they would reinforce a sense of scale, bulk and massing to both dwellings that officers have, over the course of a number of applications for residential development of the site over the past three years, sought to avoid so as to prevent overdevelopment of the limited plots that they occupy.

As such, whilst the other modifications proposed are less objectionable or, in the case of the removal of the hedges, capable of being mitigated, it is felt that these main revisions would be unacceptable.

Notwithstanding the support for the proposals expressed by the ward member and town council therefore, it is recommended that permission be refused.

CONSULTATIONS

Local Consultations

Parish/Town Council

This Council supports the application.

Budleigh and Raleigh – (Former) Cllr Alan Dent

Please note that as a Ward Member I support the variation detailed in this application.

The development of two small houses on the area opposite the Budleigh Hospital (now Seachange), has been through a number of iterations before the current plans were approved.

This application is to introduce a working area within the roof space which includes windows to provide light without increasing the roof ridge height. The current plans do not afford such a space in the relatively small building.

There are no issues of overlooking or creating a monolithic and overbearing structure and in my opinion provides additional working accommodation. As we are

in an environment where working from home is becoming increasingly prevalent this variation makes practical sense.

Technical Consultations

County Highway Authority

Observations:

I have visited the site and reviewed the relevant planning documents. The access provides suitable visibility in both the north and south direction according to our current best practice guidance, Manual for Streets 1 and 2, which also states that a minimum road running width can be as a minimum 2.75m, which I believe is possible within the parameters of the proposed design.

The two dwellings will have sufficient space to provide off-carriageway turning and parking. I do not believe that two dwellings will create a trip generation intensification that will be unacceptable to the local highway network. Though I would encourage the provision of secure cycle storage, particularly to mitigate for shorter required trips.

Overall, The County Highway Authority (CHA) has no objection to the proposal.

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 in accordance with the East Devon Local Plan 2013-2031.

Other Representations

Three representations of objection have been received.

Summary of Grounds of Objection

1. Previous proposal for a third floor refused on good and sensible grounds.
2. Increased height would look out of proportion on such a small site.
3. Higher windows would cause more overlooking to neighbours and reduce privacy.
4. More bedrooms suggests potentially more residents; is there adequate parking available?
5. Private road width is below the minimum required under the Highways Act
6. Length of private road and size of turning circle unacceptable as a fire and rescue service vehicle access route that complies with Building Regulations.
6. No provision for any visiting driver or delivery vehicle to turn on site if both plots each have a car in the allocated spaces.
7. Construction continuing ahead of the determination of the application.

8. Breach of condition of previous permission restricting construction working hours.
 9. Upsetting to have to revisit matters when the 'right outcome' of the previous application is in place.

PLANNING HISTORY

Reference	Description	Decision	Date
22/1427/FUL	Construction of two dwellings and associated access	Approval with conditions	27.10.2022
22/0172/FUL	Construction of two dwellings and associated access.	Refusal	04.07.2022
21/1517/FUL	Erection of two four bedroom dwellings and associated access	Withdrawn	02.02.2022
21/1042/RES	Construction of 2no dwellings (approval of details of layout, scale and appearance of buildings and landscaping of site pursuant to outline planning permission ref. 19/2333/OUT)	Withdrawn	11.06.2021
19/2333/OUT	Construction of 2 no. dwellings and associated access (outline application seeking means of access only)	Approval with conditions	03.01.2020
17/0495/OUT	Construction of two dwellings and associated access (outline application seeking means of access only).	Non-determinati on appeal lodged	05.09.2017

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 21 (Budleigh Salterton)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Budleigh Salterton Neighbourhood Plan 2017-2031 Policies

H1 (Meeting Local Housing Need over the Period of the Plan)

H2 (Maintaining Local Character)

H3 (Infill Developments and Extensions)

B1 (Identity of Town and Seafront)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

The application site comprises the southern part - around 0.1 hectares - of an area of land located adjacent to the junction of Boucher Road with East Budleigh Road, which form its northern and western boundaries respectively, approximately 400 metres to the north east of the town centre. It is located within the Built-up Area Boundary of the town as defined in the adopted Local Plan and, in common with the full extent of the built-up area, within the designated East Devon Area of Outstanding Natural Beauty (AONB).

Extending to around 0.163 hectares in area, the land was, until a few years ago, leased by Clinton Devon Estates (CDE) to Budleigh Salterton Hospital and made available for use by patients and visitors as a garden. Following the closure of the hospital and the re-establishment of the building as a Health and Wellbeing Hub, the northern part of the land has been continued to be leased and made available for both Hub users and members of the public. However, the southern portion was fenced off from this area by CDE around five years ago and had, until recently, remained unused.

As a consequence of this subdivision of the land, the site is of linear configuration, extending back around 55 metres from the principal East Budleigh Road frontage (which is defined by a brick wall of around 1 metre height incorporating a gated entrance) but only around 15 metres in width on average, measured north/south. There is a gentle fall from west to east across the site. A mature Red Oak tree, subject of a tree preservation order, dominates the central part of the site. A hedge, mainly comprising Laurel, separates it from the neighbouring residential property to the south, no. 2 East Budleigh Road, while no. 2 Boucher Road, another residential property, borders it to the east.

Background

Outline planning permission was granted to CDE in January 2020 (application 19/2333/OUT refers) for a development comprising the construction of two dwellings on the site. Although details as to the means of access - off East Budleigh Road - were discharged at the outline stage, the remaining detailed matters, comprising the layout and landscaping of the site and the scale and appearance of the units, were reserved for later consideration.

The submission did, however, include an indicative site layout plan that showed two dwellings of very modest footprint area, one positioned to each side of the Red Oak tree, served by a shared private driveway with 2no parking spaces and turning facilities for each unit. It also incorporated, indicatively, a new hedged boundary with the retained Health and Wellbeing Hub garden to the north.

The site has since been sold to the current applicants, for whom this application represents the fifth attempt to secure permission for a detailed scheme for residential development.

The first of the applications (ref. 21/1042/RES) was withdrawn in the light of the site area incorporating additional land relative to that to which the outline permission related (thereby meaning that it could not be dealt with as an application for reserved matters approval).

Application 21/1517/FUL, subsequently made as a full submission, was also withdrawn in the light of officer concerns owing to the inappropriate scale, form, design and appearance of the two dwellings and the perception that the scheme amounted to an overdevelopment of the site, principally on account of the modest plot sizes and the incursion of both dwellings into the existing hedge along the southern boundary as well as a similar hedge that previously existed along the eastern boundary.

These views were shared by the town council as well as interested third parties.

Application 22/0172/FUL, relating to a revised scheme for the development of a pair of identical, albeit handed, four bedroom units, and involving the use of the respective roof spaces to create one of the bedrooms, was refused under delegated powers, in July this year, for the following reason:

'The proposed development would, by reason of the excessive height, bulk, massing and scale of each of the dwellings, combined with the limited sizes and awkward configuration of both the site as a whole and the individual plots that they would occupy, appear disproportionately large, cramped and visually dominant. Accordingly, the proposed development would conflict with the established grain, density, pattern, layout and character of existing surrounding development. It would also result in the unacceptable overdevelopment of the site, which would be readily apparent from public vantage points, to the detriment of the established character and appearance of the locality. Consequently, the proposal would conflict with Strategy 6 (Development Within Built-up Area Boundaries) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031, Policies H1 (Meeting Local Housing Need Over the Period of the Plan), H2 (Maintaining Local Character) and H3 (Infill Developments and Extensions) of the made Budleigh Salterton Neighbourhood Plan 2017-2031 and guidance as set out in the National Planning Policy Framework (2021).'

Although considered to represent a less cramped form of development in terms of the footprint area and positioning of both units, and thereby enabling the retention of the hedges along the southern and eastern boundaries, the applicants' insistence upon the provision of four bedroom dwellings - with one of the bedrooms accommodated within the roof spaces - resulted in what was perceived to be a visually awkward, incongruous and contrived building form, exhibiting elements such as principal pitched roofs with 'cut off' flat-tops and no ridge, front projecting gable elements of the same height that failed to demonstrate any visual subservience and blind dormers on the rear elevations to facilitate headroom for staircase access to the roof space bedrooms.

Once the developable area - taking into account the constraints of the Red Oak tree - had been established, they were considered to be disproportionately excessive in height for the modest sizes of their respective plots, as well as the overall site size and configuration, and, by virtue of their design, inappropriate and out of character with surrounding development in the area.

It was thought that the site, being a difficult one to develop given the constraints of its largely linear configuration and the protected tree, realistically required a less ambitious approach to the scale of dwelling that would sit comfortably within each plot.

However, in October last year permission was finally granted (application ref. 22/1427/FUL) - under delegated powers - for a scheme comprising a pair of three bedroom dwellings of more conventional two storey form, height, bulk and massing.

The approved details show fully pitched roofs - with no roof space accommodation or associated alterations or additions - and subservient two storey front gable projections with ridge heights of 8 metres and 7.3 metres respectively. External wall finishes comprise render over face brick under composite slate roofs.

A landscaping plan accompanying the application showed the retention of the hedges along the southern and eastern site boundaries. Their retention was also secured by a condition attached to the permission.

Proposed Development

Further to the grant of permission and the subsequent discharge of conditions attached to it, the construction of the approved development has commenced and, at the time of writing, had reached an advanced stage.

However, the current application seeks permission for modifications to the height, design and external appearance of both units.

These involve the incorporation of a study within the roof space. However, the provision of a staircase with sufficient headroom necessitates the addition of pairs of large connected triangular gabled pitched roof dormers to the respective rear elevations of both dwellings. Each gable would feature a small triangular window at its head.

Externally, these additional elements would be finished with composite slate roofs and slate hanging to the gables to match that on the approved buildings.

The overall roof ridge height of both units would also be raised by 0.3 metres, relative to the approved ridge heights, to accommodate the additional usable space.

It is also proposed that the approved face brick external wall finish to the ground floor of both dwellings be substituted for a predominantly white painted render finish on a blue/black face brick plinth. The same brick would also be used to form a dental band at first floor level around both units.

The remaining dimensions, footprint areas, roof finishes and general elevation treatment of both dwellings, together with the site layout, including vehicular parking and shared access arrangements, would largely remain unchanged from the details approved under planning permission 22/1427/FUL.

A condition attached to the permission ref. 22/1427/FUL requiring the submission for approval of details as to the means of protection of the hedges during the course of development was subsequently discharged. However, during the course of development the hedge along the southern boundary of the site has been substantially cut back while the hedge within the eastern boundary has been removed in its entirety.

Curiously though, the same landscaping plan as that approved under application 22/1427/FUL (i.e. showing their retention) has been provided with the current application.

Considerations/Assessment

As a standalone fresh full submission, i.e. as opposed to an application made under section 73 of the Town and Country Planning Act for a minor material amendment to an existing planning permission, the Local Planning Authority is entitled to consider the principle of the development afresh.

However, in view of the extant nature of permission 22/1427/FUL, or indeed any material change to the policy or any other context within which it was previously considered, it is not considered that any change of stance in this regard could reasonably be justified.

There is still a requirement, though, to consider the submitted revised proposals against a number of local plan provisions, not least those of Strategy 6 (Development Within Built-up Area Boundaries) that require, among other things, that development is compatible with the character of its site and its surroundings.

These are reflected in those of Policy D1 (Design and Local Distinctiveness) which, among other criteria, only permits proposals that respect the key characteristics of the area, requires that the scale, massing, height and materials of buildings relate well to their context and do not adversely affect the urban form, trees worthy of retention or the amenity of neighbouring occupiers.

This is further expanded upon in the content of Policies H1 (Meeting Local Housing Need over the Period of the Plan), H2 (Maintaining Local Character), H3 (Infill Developments and Extensions) and B1 (Identity of Town and Seafront) of the made Budleigh Salterton Neighbourhood Plan.

Policy H1 requires that new housing development should be of a modest scale (in compliance with, among other strategies/policies, Local Plan Strategy 6).

Policy H2 places an emphasis upon the objective of maintaining the town's local distinctiveness and ensuring that regard is paid to the scale, massing, density, height, design and materials of buildings in the town (outside of the conservation area) in the control of housing schemes.

Policy H3 stipulates that infill development should not be detrimental to the character of the town and should meet certain criteria that include the avoidance of overdevelopment and loss of amenity of neighbouring properties and the requirement that it should, including garden size, reflect the existing grain, density and pattern of surrounding development.

Policy B1 requires that developments take into consideration, among other things, the town's unique identity and distinctive urban form in terms of street patterns and groups of buildings.

It will be evident from the site history that particular regard has been paid by officers to the need to ensure that the site is developed in as sympathetic a manner as possible given the constraints in terms of the limited sizes of both plots, relative to those of surrounding properties/buildings, and the presence of the protected Red Oak tree within the central part of the site. Negotiations have sought to achieve a

comparatively modest scale and conventional, non-contrived design and appearance of unit that reflects, so far as possible, the character of neighbouring development and which, individually and as a pair, avoid appearing disproportionate in scale, height and massing, both within their respective plots and the wider street scene of East Budleigh Road as well, to a slightly lesser extent, as Boucher Road.

Within this context therefore, it is considered that the addition of the proposed triangular dormers to the rear elevation of both dwellings would result in building forms that would appear visually incongruous in design terms to the detriment of their character and appearance and that of the immediate street scene and surrounding area.

Whilst the addition of dormers of more modest proportions and sympathetic form to the two units might not be unduly objectionable in principle, in this case it is felt that the combination of their large scale and triangular form, the extent of the respective roof planes that they would occupy, the matching ridge heights to those of the main roofs and resulting lack of subservience and the size, configuration and positioning within the gable of the windows would represent poor design.

Furthermore, it is thought that they would reinforce a sense of scale, bulk and massing to both dwellings that officers have, over the course of a number of applications, sought to avoid. Although arguably not as harmful, in terms of the form, proportions, height and scale of each unit, as the proposals subject of the refused application ref. 22/0172/FUL, it is nevertheless considered that the dormers would represent the introduction of a wholly inappropriate design element and the two buildings would, as a result, appear disproportionately bulky, 'top heavy' and contrived in form.

The increased roof ridge height of both units relative to that approved under application 22/1427/FUL, whilst regrettable given the extent of previous efforts to negotiate an acceptable scale and height of building for the site, is considered to be comparatively modest and therefore not of itself thought to be objectionable.

However, in the absence of measurements at this stage it is not known if the construction of both dwellings, as carried out to date, is in line with the previously approved plans or the current proposals in terms of the roof ridge heights. However, if the latter, in the event that the current application is refused the increase in height will still need to be addressed.

The proposed revisions to the external wall finishes is also considered to constitute something of a retrograde step in the overall design quality of both units. The previously approved combination of face brick at ground floor level with render above again represented the outcome of lengthy officer negotiation in an attempt to secure an appearance to the development that was thought to best reflect the prevailing character and appearance of nearby buildings.

Whilst it is acknowledged that it is only intended to be applied to the wall plinths and a dental band at first floor level, the use of a blue/black facing brick within the scheme is not reflective of local character and the omission of the approved red brick walls.

The other principal issue of concern relates to the hedges along the southern and eastern site boundaries. There is clearly a discrepancy between the landscaping plan approved under permission ref. 22/1427, and re-submitted as part of the current application, and the situation on site given the hedge removal work that has taken place during the course of development, as described above.

Of note is para 135 of the National Planning Policy Framework 2021 which states that:

Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)

Whilst not necessarily itself of material concern in the overall planning balance in this case given the opportunity available to secure planting to replenish the loss of the hedges, it is nevertheless considered that it further undermines the efforts previously taken by officers to secure their retention so as to seek to assimilate and soften the development of both plots, more especially in view of their limited areas.

Conclusion

In assessing the balance of the material considerations set out above, it is thought that the submitted revised proposals for two dwellings on the site would be unacceptable on the grounds of their inappropriate design, principally owing to the incongruous and contrived form of the proposed roof dormer additions, and resulting detrimental impact upon the character and appearance of the development itself and that of the wider street scene and surrounding area.

Habitat Regulations - Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths and Exe Estuary through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and 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 REFUSED for the following reason:
 1. The proposed rear dormers to each dwelling would, by reason of their large scale and triangular form, together with the extent of the respective roof planes that they would occupy, the matching ridge heights to those of the main roofs and resulting lack of subservience and the size, configuration and positioning of the windows within the gables, result in contrived roof forms that would appear visually incongruous to the detriment of the character and appearance of both dwellings and that of the wider street scene and surrounding area. They would also add to the overall bulk, massing and scale of the roofscape of each dwelling in a manner that would result in their appearing disproportionately large for their respective plot sizes and giving rise to an impression of overdevelopment. As such, the proposed development would conflict with the established grain, density, pattern, layout and character of existing surrounding development. The proposal would therefore be contrary to the provisions of Strategy 6 (Development Within Built-up Area Boundaries) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031, Policies H1 (Meeting Local Housing Need Over the Period of the Plan), H2 (Maintaining Local Character) and H3 (Infill Developments and Extensions) of the made Budleigh Salterton Neighbourhood Plan 2017-2031 and guidance as set out in the National Planning Policy Framework (2021) in particular Chapter 12.

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good

relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Plans relating to this application:

8256-LPC	Location Plan		08.02.23
8256-05L	Proposed Site Plan		01.02.23
8256-06P	Proposed Plans	Combined	01.02.23
8256-08G	Proposed Plans	Combined	01.02.23
8256-09G	Proposed Plans	Combined	01.02.23

List of Background Papers

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