

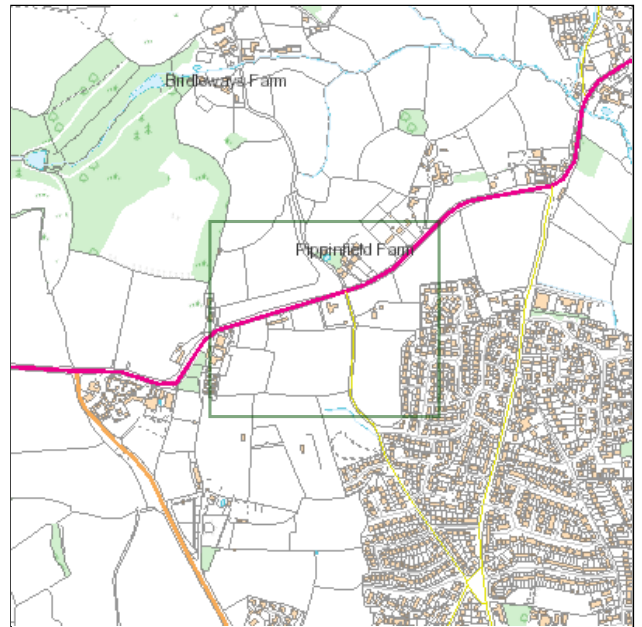
**Ward** Seaton

**Reference** 22/2582/FUL

**Applicant** Mr Justin Werb

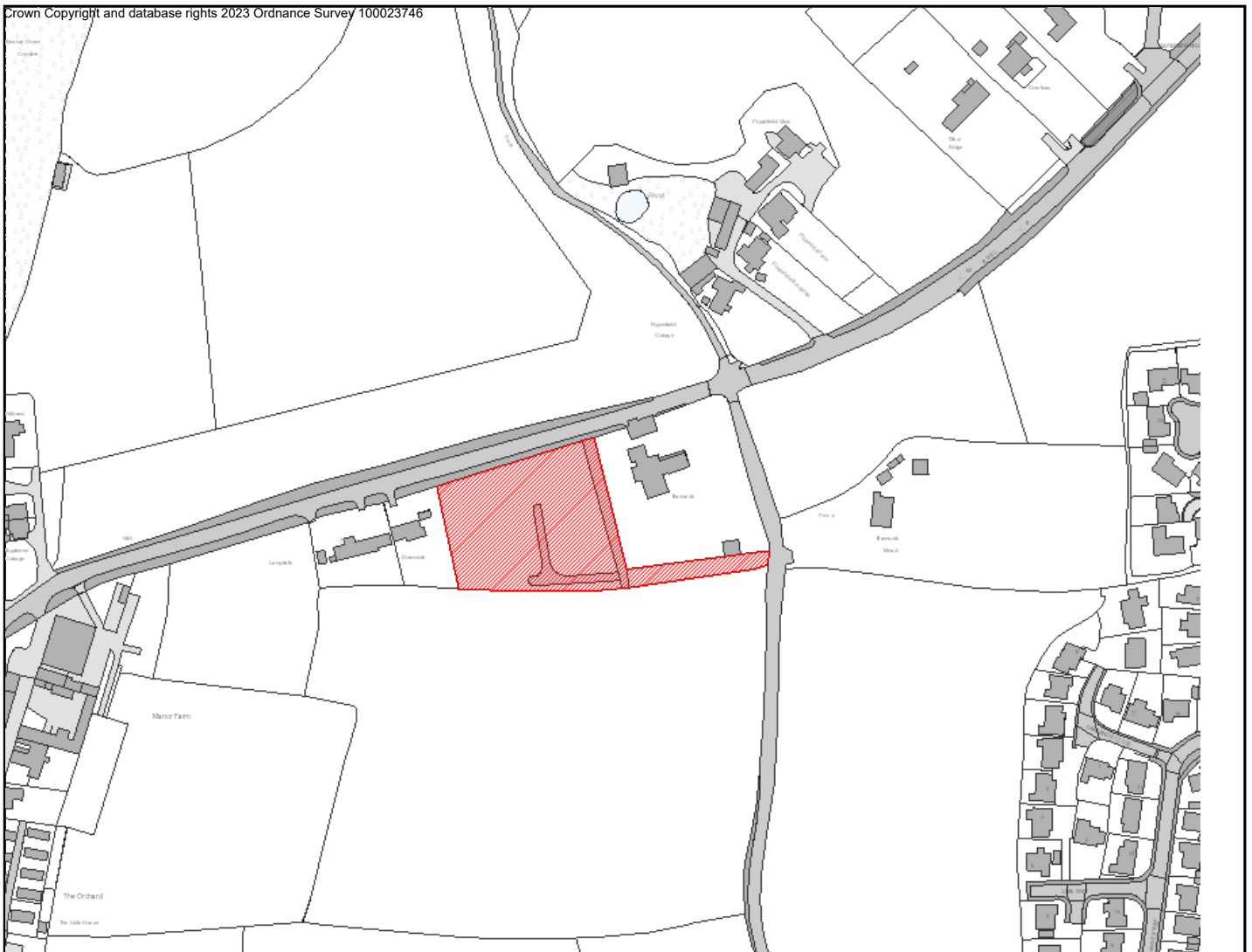
**Location** Barnards (land Adjoining) Harepath Hill Seaton  
EX12 2TF

**Proposal** Erection of one dwelling and associated works.



**RECOMMENDATION: (i) Refusal (ii) Adopt the Appropriate Assessment**

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|                            |   |                                    |
|----------------------------|---|------------------------------------|
|                            |   | <b>Committee Date: 18.07.2023</b>  |
| <b>Seaton<br/>(Seaton)</b> | <b>22/2582/FUL</b>                                    | <b>Target Date:<br/>16.01.2023</b> |
| <b>Applicant:</b>          | <b>Mr Justin Werb</b>                                 |                                    |
| <b>Location:</b>           | <b>Barnards (land Adjoining) Harepath Hill</b>        |                                    |
| <b>Proposal:</b>           | <b>Erection of one dwelling and associated works.</b> |                                    |

**RECOMMENDATION: (i) Refusal (ii) Adopt the Appropriate Assessment**

### **EXECUTIVE SUMMARY**

**This application is before the Planning Committee because the recommendation is contrary to the view of one of the former Ward Members.**

**The proposal is to construct a self-build dwelling on land about 200m outside the Built-up Area Boundary for Seaton. For this reason the proposal would be contrary to the Local Plan. The site is a parcel of land between two dwellings that is not actively used for agriculture but retains that status.**

**The site is not close to the town centre and although there are various amenities in the northern part of the town, including a primary school, surgery and local shop, Barnards Hill Lane does not provide a safe access owing to the lack of a pavement and street lighting. The distance to local amenities and the gradient of the roads would also be a further deterrent to walking and cycling. The occupants of the proposed dwelling would therefore be likely to be dependent on travel by car for most journeys and this weighs heavily against the proposal having regard to the Local Plan and NPPF.**

**In landscape terms the proposal would contribute to ribbon development along Harepath Hill, infilling one of the many gaps that are a key characteristic of this site which lies beyond the Green Wedge around the northern edge of Seaton. The resulting conflict with Strategy 7 and Policy D1 of the Local Plan weighs against the proposal. Notwithstanding that, and subject to further details of levels, the design, scale and siting of the dwelling would be appropriate in the context of the dwellings on each side.**

**In respect of various other matters, including the impact on the bats associated with the Beer Quarry and Caves SAC, the proposal is acceptable and various details and measures can be secured by condition.**

**Owing to the lack of a 5-year housing land supply, the conflict with the Local Plan cannot be given full weight. In these circumstances paragraph 11 of the**

**NPPF indicates that development should be approved unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. In this case, the benefits of delivering one dwelling would be modest whereas the harm arising from the unsustainable location together with the adverse impact on the landscape would be significant. Therefore the proposal is recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### Seaton - Cllr Jack Rowland

Just to let you know that I am in favour of the application despite the proposed dwelling being 300m north of the built up boundary, but bearing in mind the site previously had a dwelling in the same location prior to demolition.

Depending on the view of the EDDC planning officer considering this application if that is contrary to mine and that of Seaton Town Council I will then either attend the delegated Officer / chair meeting or the full planning committee to speak in favour of the application assuming I'm available on the date and time when that may happen.

#### Parish/Town Council

Seaton Town Council have no objections to this application.

### **Other Representations**

Four comments in support of the proposal have been received making the following observations:

- This site has not been agricultural land since it was sold off for development many years ago.
- The fact that there is a dwelling each side of the proposed site and that there was a dwelling on the site proves it was an acceptable site in the past. Modern standards should not be applied to old developments.
- The applicant wants to effectively rebuild "Barnard's End" on his own land, it makes sense as there will be no increase on any local infrastructure or traffic movements than there would have been in the past.
- The self-build aspect of this application should be encouraged and if it is anything like the renovations carried out to "Barnards" it will be a benefit to the locality.
- The driveway access is tight and vehicles currently require the use the driveway of Barnards Mead to turn in to Barnards. Therefore the entrance to Barnards should be widened prior to the start of works, as must the proper lane widening and passing places.
- The driveway to Barnards is concrete with compacted soil further up the hill opposite, with an ineffective means of preventing large scale water run-off from the site, which, under heavy rain, crosses the lane and floods down the drive to Barnards Mead. The new drive should therefore fully comply with SUDS and be permeable with a functional drain and water discharge to prevent worsening of the water issue.

- The planning application looks to be supported by local residents and Seaton Town Council. Importantly there is no requirement for any new access point directly onto the busy A3052.
- The remaining undeveloped field should be restored to its natural grassland when building work is complete.

### **Technical Consultations**

DCC Historic Environment Officer

My ref: Arch/DM/ED/38157a

I refer to the above application. The proposed development lies within a landscape containing evidence of prehistoric and Roman-British settlement. To the north-west lies the Iron Age Seaton Down hillfort, while to the south lies the Honeyditches Roman villa, both protected as scheduled monuments. The county Historic Environment Record shows that there is a concentration of prehistoric activity across this landscape. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known Romano-British and prehistoric activity in the vicinity of the application area. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.'

#### Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

#### Natural England

Thank you for your email received 06 June 2023, requesting Natural England's consultation on the above Appropriate Assessment.

Your AA concludes that East Devon District Council is able to ascertain that the proposal will not result in adverse effects on the integrity of the Beer Quarry and Caves Special Area of Conservation (SAC). Having considered the revised

assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures specified in the AA are appropriately secured by conditions in any planning permission given.

Please see 'Natural England Response' under documents tab

## **PLANNING HISTORY**

Applications from 1949-1975 are summarised below:

- Permission granted for a house adjacent to the current site in 1949 (EG. 27)
- Revised proposals approved in 1950 (EG. 48)
- Permission refused for residential development on the current site in 1955 as ribbon development fronting a major road (EG. 258)
- Permission refused for two bungalows on the current site in 1973 on various planning policy, highway and drainage grounds (EG. 1957)
- Permission refused for one bungalow on the current site in 1973 on various planning policy, highway and drainage grounds (EG. 1963)
- Permission refused for one bungalow on the current site in 1975 on various access, planning policy, drainage and design grounds (75/P0873)

The following application was refused in 1989 for being outside the built-up area, adding to ribbon development, being detrimental to an Area of Great Landscape Value, lacking percolation tests and being detrimental to highway safety:

| Reference | Description       | Decision | Date       |
|-----------|-------------------|----------|------------|
| 88/P2860  | 4 Houses/garages. | Refusal  | 20.03.1989 |

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 25 (Development at Seaton)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

EN6 (Nationally and Locally Important Archaeological Sites)

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

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)

Government Planning Documents  
NPPF (National Planning Policy Framework 2021)  
National Planning Practice Guidance

Site Location and Description

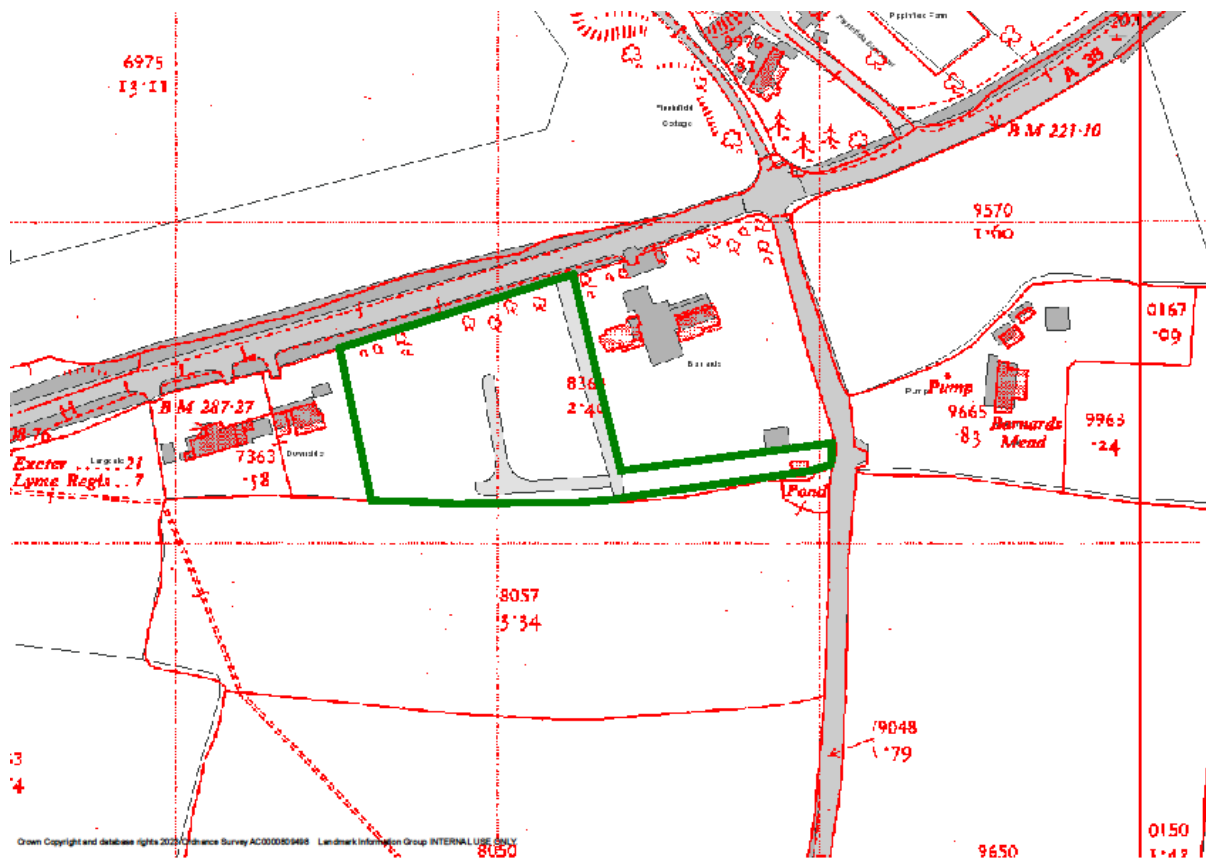
The site is situated on the north-western outskirts of Seaton in a loosely developed area separated from Seaton by open fields forming a 'Green Wedge' which is designated in the Local Plan. It is located on the south side of Harepath Hill but is accessed from Barnards Hill Lane via a driveway serving the host dwelling, Barnards. It lies outside the East Devon AONB and although it was once designated as an Area of Great Landscape Value in the County Structure Plan, that is no longer a current designation. About 250 metres to the north west is a promontory fort which is designated as a scheduled monument and 530 metres to the south is the Honeyditches Roman settlement, which is also designated as a scheduled monument.

The site (excluding the access) consists of approximately 0.47 ha of neutral grassland, with an unmetalled dirt track along the eastern and southern boundaries. There is a 1.5m high vegetated bank on the northern boundary with a 1.8m high wooden panel fence on top for about half of its length. The southern boundary is defined by an established hedgerow with some hedgerow trees and divides the site from the adjacent field. The west and east boundaries join neighbouring residential properties and are defined by a fence and hedgerow, respectively.

Although the site does not form part of the curtilage of Barnards and has not had a planning permission for a change of use away from agriculture, it appears that ground levels on the site of the proposed dwelling have been raised to create a level surface for ball games.

Background

It has been argued that a dwelling has previously existed on the application site but that is not strictly correct according to the evidence. It is understood that Barnards and another dwelling ('Barnards End') were constructed in the 1940s/1950s but the second dwelling was demolished in around 1985. Barnards End was not located on the application site but adjacent to it, as demonstrated by the maps below.



The following image shows the application site overlaid in red on a plan provided by the applicant:



All the evidence indicates that the application site has not previously had a house on it.

## ANALYSIS

Planning permission is sought for a detached self-build dwelling on a plot of land adjacent to the curtilage of Barnards.

The main issues are: whether the proposal would provide a suitable location for the proposed development, having regard the provisions of the development plan and the accessibility of services and facilities; the impact on the character and appearance of the area; highway safety; and the effect on the Beer Quarry and Caves SAC.

## Location

The site is located near to the main settlement at Seaton but it is about 200m outside the Built-up Area Boundary and therefore in the countryside for planning purposes.

Strategies 1 and 27 of the Local Plan set out the overall strategy for the distribution of housing within the district. This is to direct most housing to the West End and the Built-up Areas of the seven main towns and 15 small towns and larger villages.

Strategy 7 of the Local Plan says that planning permission will only be granted in other locations, such as the application site, if the proposal is in accordance with a specific local or neighbourhood plan policy. In the absence of any policy supporting the provision of general market housing in this location, the proposal is a departure from the development plan and has been advertised as such. Furthermore, as the site is agricultural land it does not benefit from support given in the NPPF for development of brownfield sites.

Notwithstanding the lack of policy support, a report to Strategic Planning Committee on the 14th September 2022 stated that the 5 year housing supply in the district (plus buffer) has dropped to 4.68 years. In accordance with paragraph 11 of the NPPF, this means that the housing supply policies in the local plan are out of date. Furthermore, a so-called 'tilted balance' should be applied and development approved unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Whilst the development plan is the starting point for decision making and indicates refusal, paragraph 11 of the NPPF dictates that an appraisal of the merits of this site should be undertaken.

The site is outside the settlement but has road access to the built-up area via Barnards Hill Lane. Within the settlement there is access to a health centre (800m away), car repair garage (850m), primary school (950m), business units at Fosseyway Park (950m), a hospital (1000m), Scout Hut, Martial Arts Centre and Day Nursery (1050m), and a local shop (1150m). Access to these amenities would mean travelling on a 285m long stretch of the single track Barnards Hill Lane with no pavement or street lighting and few refuge places. Though the remainder of the route would be along pavements within the settlement, the lack of safe pedestrian facilities for a significant part of the journey would be a deterrent, especially in low light or dark conditions.

A further consideration is the distance and gradient. The journey from the site to the local amenities is downhill but the distance is likely to be a deterrent in some cases, particularly for those amenities more than 1km away, such as the shop. In addition, the return journey is uphill and more strenuous, particularly if carrying shopping or with young children.

Whilst there is a bus service around the town (Hatch Green 391), it only runs seven times a day with a reduced service at weekends. Furthermore, it can only be accessed via the Barnards Hill Lane which, as already noted, is lacking in pedestrian facilities. The same is true of buses to other towns and villages which can only be accessed via Barnards Hill Lane. Consequently the bus would not be a convenient or easy to access option.

Given these factors a car is likely to be used for most journeys, including to destinations within Seaton. This weighs heavily against the proposal as it gives rise to conflict with Strategy 5B and Policy TC2 of the Local Plan and paragraphs 92, 104 and 112 of the NPPF.

Whilst it is acknowledged that a field to the east of Barnards Hill Lane is one of the preferred sites for housing development in the emerging Local Plan (site Seat\_02), the site assessment concludes that the safety of the access via Barnards Hill Lane could possibly be addressed with the development of the site. The dwellings in that case would also be closer to the amenities, especially as development on the northern part of the site is likely to be restricted to avoid disturbance of bats associated with the Beer Quarry and Caves SAC.

### Character and appearance

The site is accessed from Barnards Hill Lane but borders Harepath Hill which is characterised by loose knit residential development, farms and, at the top of the hill, a chalet park. The site itself is situated between the host dwelling, Barnards and a row of three dwellings to the west.

Although there was another dwelling between the site and Barnards for around 40 years up to 1985, the two dwellings that existed in that period were closer together and most likely more modest in scale than the present Barnards and the proposed dwelling. Consequently the original dwellings would have had a more modest landscape and visual impact.

Adding to the built form in this location would erode the open spaces which characterise the loose-knit pattern of development in this area and would contribute to ribbon development along Harepath Hill. In terms of levels, the ground floor of the dwelling would be about 4.3m higher than Barnards and its ridge would be about 3.3m higher thereby giving the proposed dwelling a somewhat commanding position. Indeed, it appears that ground levels would be raised by at least 1m at the eastern end of the building rather than the building being cut into the slope. (It should be noted that the survey plan provided is out of date and does not show the recent changes to Barnards). Although the site is not in an AONB and is outside the Green Wedge, the additional dwelling would have a detrimental effect on the character and appearance of the area, resulting in conflict with Strategy 7 and Policy D1 of the Local Plan.

In terms of design, the proposal would echo some of the characteristics of Barnards itself, which has been altered and extended in recent years. The large areas of glazing, balcony, roof design and materials would be similar to Barnards whilst the overall design would be distinct. Its siting and scale would also be compatible with the established pattern of development. Notwithstanding the adverse landscape impact of developing the land, the design itself is acceptable and revised levels could be sought by condition.

### Highway safety

The site would share an access with Barnards, splitting within a few metres of the entrance. The shared entrance has a suitable gradient and visibility for day-to-day residential traffic. Within the site there would be adequate parking and turning space but it appears that there would be an excessive gradient from the driveway to the garage (30% compared to the recommended maximum of 10%). Further details of levels could be sought by condition.

On exiting the site all traffic must turn right as the section of the road running north to Harepath Hill is one way to prevent traffic joining Harepath Hill at a substandard junction. The lane to the south of the site is narrow with limited opportunities to pass but traffic is light and the distance to a wider road is only about 285m. The additional traffic generated by the development could be accommodated on this road without detriment to highway safety.

With regard to the construction phase, some concern has been raised about access for larger vehicles but there is nothing to suggest that this cannot be done safely or without damaging verges and hedgerows.

As mentioned above however there is no footpath along Barnards Hill Lane and as such there is no safe pedestrian route to access local services.

### Beer Quarry and Caves SAC

The site is within the consultation area for the Beer Quarry and Caves SAC and this means that consideration needs to be given to the effects of the proposed development on the particular bat species associated with the protected site. The main effect to consider is the effect of lighting on commuting routes and foraging habitats used by bats. A screening assessment has been undertaken which concludes that owing to the current undeveloped nature of the site, its setting in a sparsely developed area and the large amount of glazing, a significant effect on the SAC cannot be ruled out.

To address this potential impact a sensitive lighting scheme has been produced which would secure the following measures:

- Recessed downlight luminaires to be provided to all rooms throughout the dwelling.
- External lighting limited to building mounted lighting and recessed downlighters only, as shown on the Mitigation Plan (The Lighting Bee, 2023).
- All external lighting will operate by PIR (movement) detectors on short timers (< 1 minute).
- All external building mounted luminaires and recessed luminaires will be downward directional. These luminaires will utilise LED lamps and will therefore emit no UV light, and will have a warm white colour temperature of 3000K.

The above would be secured through planning conditions, along with conditions to remove permitted development rights for new external lighting and new or enlarged windows.

These details have been sent to Natural England as part of an Appropriate Assessment. In response, Natural England have advised that they agree with the conclusion of the Appropriate Assessment which is that subject to the lighting details and removal of permitted development rights, the proposal would not affect the conservation status of the protected bats.

## Other matters

In addition to addressing the particular issues associated with the Beer Quarry and Caves SAC, the wildlife report covers the broader wildlife considerations. No protected habitats have been identified and no further surveys have been necessary. The main recommendations of the report are therefore to provide enhancements in the form of bat and bird boxes as well as new hedge planting. This can be secured by condition.

In the absence of a main sewer nearby, foul drainage would be via a non-mains solution. Both the application form and the Foul Drainage Assessment indicate that an existing septic tank would be used that serves Barnards and the property to the west of the site, Downside. Whilst the applicant believes that the septic tank has enough capacity to serve a third dwelling, a package treatment plant should be considered first, according to the drainage hierarchy. The agent has clarified that the existing septic tank could be changed to a package treatment plant but as that is outside the application site and the details of the system needed to serve three properties have not been considered as part of this application, such a solution would require a separate planning application (and could not be left to a condition on this application). Notwithstanding the lack of an appropriate foul drainage solution, there is sufficient space within the application site to deliver a package treatment plant serving the proposed dwelling. Although percolation tests have not been carried out, it is reasonable to conclude that soil conditions are suitable given that the septic tank serving Barnards and Downside drains to a drainage field. Further details of a foul drainage system within the application site can therefore be sought by condition.

The application form indicates that surface water would drain to a main sewer but as there are no surface water or combined sewers nearby that is not a viable option. The applicant has clarified that onsite solutions would be provided and details of a SUDS solution can be secured by condition, including measures to prevent run-off reaching the road and the dwelling opposite the driveway.

The proposed dwelling would be elevated relative to Barnards and unless screening is provided there would be clear views from the proposed balcony into the some of Barnards' windows and garden at close range. This would create unacceptable levels of intrusion and therefore a condition securing details of a screen on the eastern side of the balcony is necessary.

The site is close to two scheduled monuments in a landscape where there is evidence of prehistoric and Roman settlement. The Historic Environment Service has recommended that a programme of archaeological investigation is undertaken and that details of any findings are recorded. These measures are necessary to comply with policies EN6 and EN7 and can be secured by conditions.

The proposal would deliver a self-build dwelling thereby contributing towards the mix of housing provided in the district. However, sufficient self-build plots are already being delivered within the district to meet the identified need and therefore this issue is neutral in the overall balance.

## **CONCLUSION AND PLANNING BALANCE**

On the first main issue it has been concluded that owing to the lack of lighting and pavements in Barnards Hill Lane, as well the distance to amenities and the gradient, occupants of the dwelling are likely to rely on travel by car even for short journeys. On the second main issue it has been concluded that the proposal would add to sporadic development in the countryside contributing to a ribbon effect along Harepath Hill and whilst the design is broadly acceptable (subject to further details of levels) there would be a detrimental effect on the character and appearance of the area overall. In respect of the third and fourth main issues the proposal is satisfactory and in respect of other matters there are no concerns that cannot be addressed by way of conditions.

Returning to the 'tilted balance', paragraph 11 of the NPPF indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The proposal would deliver a small contribution towards the supply of homes and some economic benefits through the construction phase and longer term through additional spend generated by new residents, who would also help to sustain local services. However, these benefits would be small as the proposal is only for one dwelling.

Weighed against these benefits is the significant harm arising from the location of the site resulting in a car-dependent development that would also add to sporadic development in the countryside outside and beyond the edge of the town. Overall, it is concluded that the boost to housing supply and the economic benefits are not sufficient to overcome the significant and demonstrable harm identified. The proposal is therefore recommended for refusal.

## **RECOMMENDATION**

Adopt the Appropriate Assessment

and

REFUSE for the following reasons:

1. The site falls outside of the Built-up Area Boundary for Seaton and is therefore within the open countryside where residential development is restricted. The proposed development, by reason of the lack of pedestrian footpaths along Barnards Hill Lane, the distance to local services and facilities required for daily living and the gradient of the roads, would result in an unsustainable form of development with occupants of the dwelling reliant upon the use of the motor vehicle for most journeys. In addition the development would add to sporadic development in the countryside contributing to a ribbon effect along Harepath Hill which would be detrimental to the character and appearance of the area. As such the proposal would be contrary to the provisions of Strategy 5B - Sustainable Transport, Strategy 7 - Development in the Countryside, Strategy 8

- Development in Green Wedges, Policy D1 - Design and Local Distinctiveness and Policy TC2 - Accessibility of New Development of the East Devon Local Plan 2013-2031 and those parts of the National Planning Policy Framework which concern actively managing patterns of growth in support of the promotion of opportunities for walking, cycling and use of public transport and the environmental dimension of sustainable development. Furthermore the adverse impacts of the development would significantly and demonstrably outweigh the small benefits arising from the provision of one dwelling.

## 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 proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

### Plans relating to this application:

|   |                         |          |
|---|-------------------------|----------|
|   | Location Plan           | 21.11.22 |
| 1805  | Proposed Elevation      | 21.11.22 |
| 1806  | Proposed Floor Plans    | 21.11.22 |
| 1807  | Proposed Combined Plans | 21.11.22 |
| Topographic Survey<br>BS2394/11.16/01<br>/JRR D | Other Plans             | 21.11.22 |

## 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.

#### List of Background Papers

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

|  |  |                                    |
|--|--|------------------------------------|
| 0.16 ha <b>The Conservation of Habitats and Species Regulations 2017</b>                 |  | <b>East Devon District Council</b> |
| <b>Regulation 63 – Habitats Regulations Assessment</b>                                   |  |                                    |
| <b>Stage 1: Screening for Likely Significant Effect on the Beer Quarry and Caves SAC</b> |  |                                    |
| <b>Part A: The proposal</b>  |  |                                    |
| <b>1. Type of permission/activity:</b>   | Application for full planning permission for construction of one dwelling, means of access and associated works.   |                                    |
| <b>2. Application reference no:</b>  | 22/2582/FUL  |                                    |
| <b>3. Site address:<br/>Grid reference:</b>  | Barnards, Harepath Hill, Seaton, Devon, EX12 2TF<br>SY 23811 91646   |                                    |
| <b>4. Brief description of proposal:</b>   | <ul style="list-style-type: none"> <li>• <b>Type of development</b><br/>Construction of a detached dwelling within a field and associated works.</li> <li>• <b>Distance to the European site</b><br/>2.88 km</li> <li>• <b>Is the proposal site within a consultation zone (landscape connectivity, core sustenance, pinch point, hibernation sustenance zone)</b><br/>Yes – refer to section 9.</li> <li>• <b>Size</b><br/>0.16 ha</li> <li>• <b>Current land use (habitat type and immediately adjacent habitat types)</b><br/>The site consisted of approximately 0.16 ha of neutral grassland, with an unmetalled dirt track forming the eastern and southern boundaries. The northern boundary of the site comprised a 1.8 m high wooden panel fence on a 1.5 m high vegetated bank. The western boundary was open grassland with no physical barrier present.<br/><br/>The wider landscape comprised agricultural fields, urban development associated with the town of Seaton, a caravan park, and woodland, with an interconnected network of hedgerows and treelines.</li> <li>• <b>Timescale</b><br/>Commencement soon after granting of consent and within 3 years of granting of consent.</li> <li>• <b>Working methods</b><br/>Construction using typical housebuilding construction methods. No night working is proposed, and therefore no additional illumination of adjacent habitats or physical disturbance to bats during construction.</li> </ul> |                                    |
| <b>5. European site name</b>   | Beer Quarry and Caves SAC (BQ&CSAC) – SAC EU Code UK0012585  |                                    |

|  |  |
|--|--|
| <p><b>6. Qualifying Features and Conservation Objectives:</b></p> <p>Ecological characteristics associated with the features (including those associated with the site, and information on general trends, issues or sensitivities associated with the features if available).</p> | <p><b>Annex II species that are a primary reason for selection of this site</b></p> <ul style="list-style-type: none"> <li>• 1323 – Bechsteins bat (<i>Myotis bechsteinii</i>). This complex of abandoned mines in south-west England is regularly used as a hibernation site by small numbers of Bechstein's bat <i>Myotis bechsteinii</i> as well as an important assemblage of other bat species.)</li> </ul> <p><b>Annex II species present as a qualifying feature, but not a primary reason for site selection</b></p> <ul style="list-style-type: none"> <li>• 1303 – Lesser horseshoe bat (<i>Rhinolophus hipposideros</i>)</li> <li>• 1304 – Greater horseshoe bat (<i>Rhinolophus Ferrumequinum</i>)</li> </ul> <p><b>Conservation Objectives</b> (Natural England 27/11/2018):<br/> <i>"With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;</i></p> <p><i>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</i></p> <ul style="list-style-type: none"> <li>• <i>The extent and distribution of qualifying natural habitats and habitats of qualifying species</i></li> <li>• <i>The structure and function (including typical species) of qualifying natural habitats</i></li> <li>• <i>The structure and function of the habitats of qualifying species</i></li> <li>• <i>The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely</i></li> <li>• <i>The populations of qualifying species, and,</i></li> <li>• <i>The distribution of qualifying species within the site.</i></li> </ul> <p><i>These Conservation Objectives should be read in conjunction with the accompanying Supplementary Advice document (where available), which provides more detailed advice and information to enable the application and achievement of the Objectives set out above."</i></p> <p>The designated area of the SAC is relatively small and comprises the quarry and caves and the immediately surrounding areas. However, the qualifying features (the bat populations) are dependent upon a much wider area outside the SAC boundary which provides foraging habitat and commuting routes and supports other critical roosts. Protection of key areas of habitat in the area is therefore essential in order to maintain and enhance the favourable conservation status of the qualifying features.</p> |
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| 7. Ecological survey<br>Summary of effort and findings  | <b>Name of documents containing ecological survey information:</b><br>Richard Green Ecology (2023). Preliminary Ecological Appraisal: Land adjacent to Barnards, Seaton.<br><br><b>Summary of survey effort (no. transects, static detector deployments and bat emergence surveys, if applicable):</b><br>Walkover assessment of the site. No bat activity or emergence surveys.<br><br><b>Summary of relevant findings and Bat Activity Index (number of bat passes from greater and lesser horseshoe bats – note that Bechstein passes are unlikely due to low amplitude, flight patterns and cryptic call parameters):</b><br>N/A<br><br><b>Relevant figure excerpts from document (maps, tables, if relevant/concise):</b><br>N/A |   |
| Part B: Screening assessment for Likely Significant Effect – In absence of proposed mitigation  |   |   |
| 8. Is this application necessary to the management of the site for nature conservation?   | No  |   |
| 9. What BQ&CSAC consultation zones is the proposal within (insert “X”)?<br><br><i>Refer to the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document and online mapping</i> | 10 km GHB Landscape connectivity zone   | X   |
|   | 4 km GHB Sustenance zone  | X   |
|   | 2 km GHB Hibernation sustenance zone  |   |
|   | 11.2 km LHB Landscape connectivity zone   | X   |
|   | 2.5 km LHB Sustenance zone  | X   |
|   | 1.2 km LHB Hibernation sustenance zone  |   |
|   | 10.25 km Bechstein’s Landscape connectivity zone  | X   |
|   | 2.5 km Bechstein’s sustenance zone  | X   |
|   | Pinch point   |   |
| 10. Summary assessment of potential impacts to Qualifying Features of the European site, in the <u>absence</u> of mitigation measures.  | A – Landscape (large) scale connectivity impacts  | None predicted – The development area and zone of potential impact is small. The proposals are therefore not considered to result in large landscape scale impacts. |
|   | B - Direct impacts on the SAC roost or other key roost(s)   | None  |

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| <p>Consider scale, extent, timing, duration, reversibility and likelihood of the potential effects.</p> <p><i>Impacts of these types are considered to result in result in a Likely Significant Effect (LSE) on the SAC. Refer to the flow chart on page 19 of the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i></p> <p><b>If the proposal is located in a Landscape Connectivity Zone (LCZ) ONLY</b>, then the only impact to result in an LSE is “A – Landscape scale connectivity impacts”.</p> <p><i>Consider construction phase and operational phase. For some proposals, it may also be necessary to consider de-commissioning and after-use.</i></p> | <p><i>C - Change in habitat quality and composition (loss or change in quality of foraging habitat)</i></p> | <p>The proposal is not considered to cause the loss, damage or disturbance of any bat roost, potential foraging habitat, commuting route/s, pinch point or existing mitigation feature.</p> <p>It is considered that the new dwelling will include an extent of lighting, including external light/s and light spill that may disturb bats commuting along the treeline and hedgerow along the north and south boundaries.</p> <p>The site comprised well-managed, poor quality neutral grassland, which is of negligible foraging value for bats, and therefore its loss is considered to have negligible impact.</p>  |
|  | <p><i>D - Severance or disturbance of linear features used for navigating or commuting</i></p>              | <p>No direct severance/disturbance except for potential lighting impacts.</p>   |
|  | <p><i>E - Disturbance from new illumination causing bats to change their use of an area/habitat</i></p>     | <p>New external and internal lighting could result in increased illumination of the immediate area, including the treeline and hedgerow to the north and south of the site.</p> <p>The potential illumination of the site and surrounding habitat above the current baseline in absence of mitigation could also deter the relevant bat species from commuting along the site boundaries to nearby foraging areas. The proposal could therefore result in a Likely Significant Effect (LSE) on greater horseshoe bats (GHB), lesser horseshoe bats (LHB) and Bechstein’s bats (Bech), which are a qualifying bat species of the Beer Quarry &amp; Caves SAC, as the proposal could result in degradation of commuting habitats within the sustenance zone of GHB, LHB and Bech.</p> <p>This could be a permanent effect, which could potentially be operational all year round throughout the entire night.</p> <p>The likelihood of this impact is considered to be moderate to high in absence of mitigation. The installation of external light sources may be reversible (through removal), but the installation of windows and inappropriate internal luminaires is less reversible.</p> |

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|   | <i>F - Disturbance to or loss of land or features secured as mitigation for BQ&amp;CSAC bats from previous planning applications or projects</i>   | None |
|   | <i>G – Loss, damage, restriction or disturbance of a pinch point</i>   | None |
|   | <i>E - Other impacts – e.g. physical injury by wind turbines or vehicles</i>   | None |
| <b>11.</b> Potential for in-combination effects ( <i>other permissions granted and proposals in the area that could result in impacts when assessed in combination – review planning permissions in the vicinity with similar impacts</i> ) | <p>Application 22/2781/MOUT for up to 130 dwellings, community football pitch, parking and welfare facilities is currently under consideration. This development would be approximately 385 m east of the application site and could affect foraging habitats, commuting routes and the pinch point.</p> <p>However, owing to the small scale of the current proposal (one dwelling) it is unlikely to have a significant in-combination effect with the much larger development proposed to the south.</p>  |      |
| <b>12.</b> Natural England consultation comments (if available)   | <p>NE Ref 415359</p> <p>“SUMMARY OF NATURAL ENGLAND’S ADVICE</p> <p>FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES</p> <p>Your authority will need to determine whether the proposal is likely to have a significant effect on the Beer Quarry and Caves Special Area of Conservation (SAC) bat populations by undertaking a Habitats Regulations Assessment, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.</p> <p>Natural England is a statutory consultee at the Appropriate Assessment stage.</p> <p>Further advice is provided below.”</p> <p>EDDC subsequently confirmed to the applicant that LSE were considered likely and that an Appropriate Assessment was required. A lighting plan was requested, with professional ecological input suggested to ensure no LSE and no adverse effect on the integrity of the SAC.</p> |      |

## Part C: Conclusion of Screening

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| <p><b>13.</b> Is the proposal likely to have a significant effect 'alone' or 'in combination' on a European site?</p> <p><i>Refer to the flow chart in the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i></p> | <p>We conclude that, in the absence of mitigation measures, a Significant Effect on the Beer Quarry and Caves SAC <b>is likely</b>, either 'alone' or 'in-combination' with other plans and projects.</p> <p>An <b>Appropriate Assessment</b> of the proposal <b>will therefore be necessary</b>.</p> |
| <p>Name</p> <p>Date</p>  | <p>Andrew Digby</p> <p>06/06/2023</p>   |

*Complete Section 2 if it is considered that a full Appropriate Assessment is required*

# The Conservation of Habitats and Species Regulations 2017

## Regulation 63 – Habitats Regulations Assessment

### Stage 2: Full Appropriate Assessment of effects on the qualifying features of the Beer Quarry and Caves SAC

#### Part D: Assessment of Impacts with Mitigation Measures

**NB:** In undertaking the Appropriate Assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain, the Authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.

#### 14. Assessment of impacts taking account of mitigation measures included in the proposal and possible additional restrictions

**Applicant's proposed mitigation – Provide document reference numbers and titles below:**

Richard Green Ecology (2023). Preliminary Ecological Appraisal: Land adjacent to Barnards, Seaton.

The Lighting Bee (2023). Barnards Seaton Lighting Impact Assessment.

The Lighting Bee (2023). Drawing 1105-LB-EX-XX-DR-E-7080-31: External Lighting Strategy Levels of Horizontal Illuminance Shown at Ground Level from External Lighting Only Full Output Shown (MF=1)

| Potential LSE (as identified in section 10. A-H)        | Avoidance/Mitigation/Compensation measures proposed<br><i>Consider both Construction and Operational Phases, and monitoring requirements.</i> | Conclusion regarding effectiveness of mitigation and residual LSE<br><i>Consider how measures would be implemented, how certain you are that measures will remove LSE, how long it will take for measures to take effect, monitoring requirements and changes that would be made if monitoring shows failure of measures.</i> | Secured by |
|---|---|---|------------|
| 14. A -<br>Landscape (large) scale connectivity impacts | N/A   |   |            |
| 14.B -<br>Direct impacts on                             | N/A   |   |            |

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| <i>the SAC roost or other key roost(s)</i>  |  |   |   |
| <b>14.C -</b><br><i>Change in habitat quality and composition (loss or change in quality of foraging habitat)</i> | N/A  |   |   |
| <b>14.D -</b><br><i>Severance or disturbance of linear features used for navigating or commuting</i>              | N/A  |   |   |
| <b>14.E –</b><br><i>Disturbance from new illumination causing bats to change their use of an area/habitat</i>     | <p>Mitigation measures proposed include:</p> <ul style="list-style-type: none"> <li>• Recessed downlight luminaires to be provided to all rooms throughout the dwelling. (Typically, downlight luminaires used, and sold for use, in residential properties will have beam angles of 30-40 degrees. The recessed nature of downlights, and smaller beam angles reduces light spill, compared with pendant luminaires.)</li> <li>• External lighting will be minimal and limited to building mounted lighting and recessed downlighter's only, as shown on the Mitigation Plan (The Lighting</li> </ul> | <p>A Lighting Impact Assessment (LIA) has concluded that lighting impacts from the development with the proposed mitigation applied, are not predicted to be significant. The potential bat flight lines along the north and south boundaries will remain sufficiently dark (&lt;0.5 lux) for greater horseshoe, lesser horseshoe and Bechstein's bats to continue using them without disturbance (The Lighting Bee, 2023). The lighting levels are in line with the bats and artificial lighting guidance (BCT &amp; ILP, 2018). The LIA does not account for curtains being drawn during the hours of darkness or the planting of</p> | <p>Planning conditions will be used to secure the mitigation measures identified in this document and</p> |

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|  | <p>Bee, 2023). All external lighting will operate by PIR (movement) detectors on a short timer (&lt; 1 minute).</p> <ul style="list-style-type: none"> <li>• All external building mounted luminaires and recessed luminaires will be downward directional. These luminaires will utilise LED lamps and will therefore emit no UV light, and will have a warm white colour temperature of 3000K.</li> <li>• No external lighting is proposed to the private drives or parking areas within the site.</li> <li>• To ensure that no additional external lighting is installed, conditions will need to be put in place to prevent the external lighting being added or altered in the future.</li> </ul> | <p>hedgerow along the southern boundary that should be allowed to attain a height of 2 m, further minimising any light spill from the dwelling.</p> <p>Therefore, provided that the external and internal lighting complies with specifications detailed within the LIA (Lighting Bee, 2023), there is considered to be no significant adverse impact on the qualifying bat species of Beer Quarry and Caves SAC, compared to the existing baseline.</p> <p><b>EDDC is confident beyond reasonable scientific doubt that the mitigation measures proposed would be sufficient to avoid and mitigate against LSEs and ensure no adverse effect on the integrity of the SAC.</b></p> | <p>supporting documents, including a requirement to submit details of luminaires and details of any replacement luminaires in future.</p> <p>Conditions preventing the installation of any other external lighting and any new or enlarged windows will also be used.</p> |
| <p><b>14.F -</b><br/><i>Disturbance to or loss of land or features secured as mitigation for BQ&amp;CSAC bats from</i></p> | N/A  |  |   |

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| <i>previous planning applications or projects</i>   |     |  |  |
| <b>14.G –</b><br><i>Loss, damage, restriction or disturbance of a pinch point</i>         | N/A |  |  |
| <b>14.H -</b><br><i>Other impacts – e.g. physical injury by wind turbines or vehicles</i> | N/A |  |  |

| Part E. In-combination impacts  |   |
|---|---|
| 15. List of plans or projects with potential cumulative in-combination impacts  | Application 22/2781/MOUT for up to 130 dwellings, community football pitch, parking and welfare facilities is currently under consideration. This development would be approximately 385 m east of the application site and could affect foraging habitats, commuting routes and the pinch point.   |
| 16. How impacts of current proposal combine with other plans or projects individually or in combination   | Owing to the small scale of the current proposal (one dwelling) it is unlikely to have a significant in-combination effect with the much larger development proposed to the south.  |
| Part F: Further Information   |   |
| 17. Compliance with current East Devon Local Plan<br><br><i>List relevant environmental policies/ strategies and how this proposal achieves or opposes these policies/ strategies</i> | The proposals are in accordance with relevant EDDC local plan (2013 to 2031) Policy EN5 and Strategy 47. The proposal is not considered to oppose any biodiversity elements of the current local plan.  |
| 18. Does the proposal take into account measures agreed at outline or pre-app stages (if applicable)  | N/A – no pre-app or outline   |
| 19. Does the proposal take into account Natural England consultation responses, and include suitable measures as identified in the Natural England consultation? (if applicable)      | N/A – Only generic NE consultation response received to date.   |
| Part G. Conclusion of Appropriate Assessment - The Integrity Test   |   |
| 20. List of avoidance/mitigation/compensation measures and safeguards to be covered by  | List of avoidance, mitigation and compensation measures, as per section 14: <ul style="list-style-type: none"> <li>• Recessed downlight luminaires to be provided to all rooms throughout the dwelling.</li> <li>• External lighting limited to building mounted lighting and recessed downlighter's only, as shown on the Mitigation Plan (The Lighting Bee, 2023).</li> </ul> |

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| condition or planning obligations (Unilateral Undertaking or S106) | <ul style="list-style-type: none"> <li>• All external lighting will operate by PIR (movement) detectors on short timers (&lt; 1 minute).</li> <li>• All external building mounted luminaires and recessed luminaires will be downward directional. These luminaires will utilise LED lamps and will therefore emit no UV light, and will have a warm white colour temperature of 3000K.</li> </ul> <p>The above will be secured through planning conditions, along with conditions to remove permitted development rights for new external lighting and new or enlarged windows.</p> |
| 21. Conclusion of integrity test.                                  | <p>EDDC concludes that <b>Adverse Effects on the Integrity</b> of Beer Quarry and Caves SAC qualifying features <b>can be ruled out</b>, providing that the avoidance, mitigation and compensation measures detailed in section 20 are carried out in full and secured by the proposed appropriate conditions/obligations.</p> <p>These mitigation measures are considered to remove potential Likely Significant Effects and provide certainty beyond reasonable scientific doubt that the proposals would have no impact on the Integrity of the SAC.</p>                          |
| 22. Completed by:<br>Date:   | <p>Andrew Digby<br/>06/06/2023</p>   |

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| <p><b>23. Natural England comments on this Appropriate Assessment:</b></p> <p>Your AA concludes that East Devon District Council is able to ascertain that the proposal will not result in adverse effects on the integrity of the Beer Quarry and Caves Special Area of Conservation (SAC). Having considered the revised assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures specified in the AA are appropriately secured by conditions in any planning permission given.</p> |  |
| 24. Natural England Officer:<br>Date:  | <p>Sarah Dyke, Lead Advisor – Sustainable Development<br/>20/06/2023</p> |

## Appendix 1: Mitigation proposals



A1: DO NOT SCALE



# Notes

- This design is intended for general guidance to inform the lighting design process. It is not a final design and should be developed in consultation with the client and the relevant authorities.
- Lighting design is a multi-disciplinary process and should involve the client, the design team, and the relevant authorities.
- The design team has undertaken a preliminary assessment of the site and the proposed lighting scheme. This assessment has identified the key areas for lighting and the potential impacts of the scheme.
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## Legend

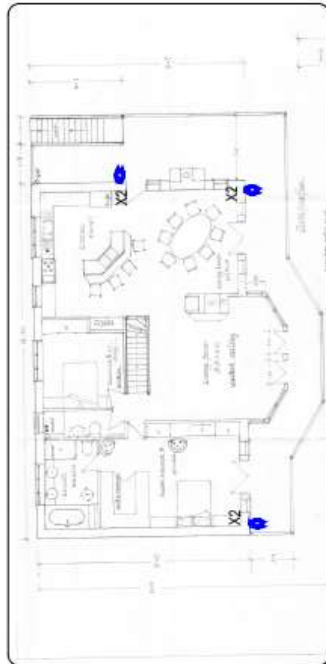
- 0.1 lux
- 0.2 lux
- 0.5 lux
- 1 lux
- 2 lux
- 5 lux
- 10 lux
- 20 lux
- 50 lux
- 100 lux
- 200 lux
- 500 lux
- 1000 lux
- 2000 lux
- 5000 lux
- 10000 lux
- 20000 lux
- 50000 lux
- 100000 lux
- 200000 lux
- 500000 lux
- 1000000 lux

| Footcandle | 0.1 | 0.2 | 0.5 | 1 | 2 | 5 | 10 | 20 | 50 | 100 | 200 | 500 | 1000 | 2000 | 5000 | 10000 | 20000 | 50000 | 100000 | 200000 | 500000 | 1000000 |
|------------|-----|-----|-----|---|---|---|----|----|----|-----|-----|-----|------|------|------|-------|-------|-------|--------|--------|--------|---------|
| Lux        | 0.1 | 0.2 | 0.5 | 1 | 2 | 5 | 10 | 20 | 50 | 100 | 200 | 500 | 1000 | 2000 | 5000 | 10000 | 20000 | 50000 | 100000 | 200000 | 500000 | 1000000 |

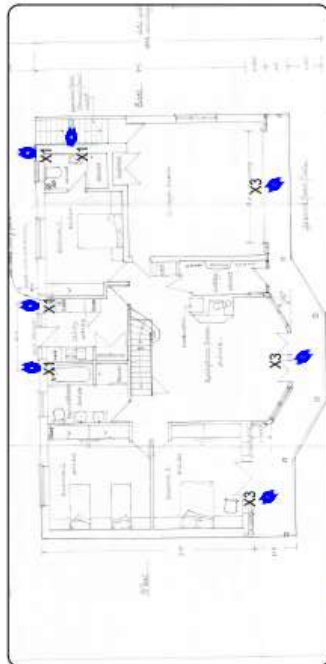


Client: J Webb Property  
 Project: Beer Quarry and Caves SAC  
 Location: Beer, Devon  
 Date: 10/10/2023

Project: Beer Quarry and Caves SAC  
 Location: Beer, Devon  
 Date: 10/10/2023  
 Project: Beer Quarry and Caves SAC  
 Location: Beer, Devon  
 Date: 10/10/2023



2 First Floor Luminaire Positions  
 Scale: 1:100



1 Ground Floor Luminaire Positions  
 Scale: 1:100