



		Committee Date: 26.09.2023
Woodbury And Lympstone (Lympstone)	23/0847/FUL	Target Date: 07.07.2023
Applicant:	Mr Morris	
Location:	Meadowgate Church Road	
Proposal:	Proposed dwelling and off road parking and double garage within the garden.	

RECOMMENDATION: APPROVE subject a Grampian style condition to ensure the improvements to the surfacing of the public footpath are undertaken, and conditions

EXECUTIVE SUMMARY

This application is before the Development Management Committee as the proposal is a departure from the Local Plan and the Officer recommendation is at odds with that of the Ward Member.

Planning permission is sought for the construction of a detached dwelling and garage/store within land the curtilage of a property known as Meadowgate, Church Road, Lympstone.

The site lies outside, but adjacent to, the Built-up Area Boundary of Lympstone and within an area identified as Green Wedge in the Local Plan. It also lies within the Lympstone Conservation Area.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7 and the tilted balance in favour of sustainable development must be applied. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development, and the ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. .

The proposal is considered to result in a less than substantial harm to heritage assets and that the public benefit arising from improvements to the neighbouring public footpath are considered to result in a positive contribution to the conservation area within which the site is located.

On balance it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, and the up to date policies of the Development Plan. Accordingly, and subject to an appropriate legal agreement to ensure that the improvements to the public footpath are undertaken, it is recommended that the application is approved.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung
23/0847/FUL

I have viewed the further documents for the planning application for 23/0847/FUL for a proposed dwelling and off-road parking and double garage within the garden of Meadowgate Church Road Lympstone.

The application site is complicated being partly within the protected area known as the Green Wedge, partly is in the Lympstone Conservation Area and the proposal straddles the designated Lympstone Built Up Area Boundary.

The lower section of the site beyond the proposed building leads down to the Wotton Brook but the location of the proposed buildings is not within the Flood Zone 3.

My opinion remains that I cannot support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung
23/0847/FUL

I have viewed the planning application for 23/0847/FUL a proposed dwelling and off-road parking and double garage within the garden of Meadowgate Church Road Lympstone.

The application site is complicated being partly within the protected area known as the Green Wedge, partly is in the Lympstone Conservation Area and the proposal straddles the designated Lympstone Built Up Area Boundary.

The lower section of the site beyond the proposed building leads down to the Wotton Brook but the location of the proposed buildings is not within the Flood Zone 3.

A previous application for 2 dwellings was proposed which I did not support, and I note a previous application in 2018 (18/2932/FUL) was recommended for refusal.

I therefore cannot support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Parish/Town Council

Recommendation: Object

Lympstone Parish Council strongly object to this planning application due to the following reasons:

' Serious issues with the access to the site.

- ' Visibility and safety issues of the public footpath being increasingly used as a driveway to enter and exit the Highway.
- ' The safety of the pedestrians using the footpath and their right of way to vehicles also using the footpath.
- ' In the conservation area.
- ' The site is not included in the BUAB.
- ' The scale of the proposed garage/workshop is over development and shades neighbouring property.
- ' Would set a precedent for adjacent landowners to develop their back gardens along the valley.
- ' The design is out of keeping for the area.

Technical Consultations

County Highway Authority

15/08/23 - The County Highway Authority has (CHA) has visited the site in question and reviewed the planning documents.

The Design and Access statement, together with the Highways Technical Note highlights that the private drive has already been in use for neighbouring properties and this planning application, will formalise this parking arrangement, which is accepted by the CHA as a net safety gain and that this application will be very similar trip generation to what is existing and in material less than the previously submitted application, 22/1583/FUL.

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. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

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

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

Conservation

14/9/2023

ADDRESS: Meadowgate, Church Road, Lymptone

GRADE: Adj II **APPLICATION NO:** 23/0847/FUL

Amended plans received 7th September 2023:

The reduction in the height/size of the garage is an improvement, reducing the size of what was originally shown as a very large and prominent structure within the site. The garage has also been re-located further away from the boundary.

This has reduced the prominence of the garage/workshop structure adjacent to the proposed new dwelling, making it more subservient and altering the overall visual impact, particularly from the west and east and also lessening the impact on the rear of the listed buildings. Against the backdrop of the immediate surroundings including the development of the Nursery site, the changes to the context of the site is noted.

It is considered that the less than substantial harm has been minimised further. However, any harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposals.

If approved, any solar panels (PV slates or inline panels or attached panel) should be conditioned, along with materials etc.

Previous Conservation comment:

CONSULTATION REPLY TO PLANNING WEST TEAM
PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION
AREA

ADDRESS: Meadowgate, Church Road, Lympstone

GRADE: Adj II APPLICATION NO: 23/0847/FUL

CONSERVATION AREA: Lympstone

PROPOSAL: Proposed dwelling and off road parking and double garage
within the garden.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The site lies within the conservation area and to the rear of a terrace of five listed properties. The site is open and views across from Church Road to the wooded areas around Wotton Brook are now screened by the new development on the Nursery site. The remaining openness of the land to the south of the church contributes to the significance of the conservation area. In historic terms Lympstone has evolved as a ribbon village with buildings tight along Church Road and eventually Longmeadow Road to the East.

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

An application for five dwellings under 13/0047/FUL was submitted and subsequently withdrawn in 2013 following concerns over the principle, form and design. A further application 13/2660/FUL for the construction of 1no. dwelling was also then submitted and withdrawn. Both applications were submitted by the same applicants as the current application. A further application for the construction of a single storey detached house with a mezzanine to the southern part of the dwelling under 18/2932/FUL was refused (See previous reason for refusal). A further application under 22/1583/FUL for the construction of two new dwellings has not yet been determined.

Since that time it is noted that some change to the immediate surroundings and context of the site has occurred, most importantly the development of the Nursey site. However, the site is still important to the setting and therefore the significance of the surrounding heritage assets. It is still considered that any development no matter what form and design would have some impact upon the significance of heritage assets.

This current application is now for 1no. contemporary dwelling constructed in a mix of timber and stone cladding, slate roof and metal windows. The proposal also includes a large 2 storey garage/workshop to the north of the site, closest to the group of listed buildings on Church Road. This large structure will be prominent within the site and consideration should be given to minimising its size and impact. It is appreciated that the context of the site has altered since the original applications submitted on this site. However, the proposed dwelling will still have an impact on the setting of the listed buildings and the wider Lympstone Conservation Area (the remaining access to the open landscape, between the parish church and Wotton Brook and to the north of the Mill) resulting in some harm. This less than substantial harm should therefore be weighed against the public benefits of the scheme.

DATE: 21/06/23

INITIALS: KBH

Devon County Archaeologist

Application No. 23/0847/FUL

Meadowgate Church Road, Lympstone Devon, EX8 5JU - proposed dwelling and off road parking and double garage within the garden: Historic Environment

My ref: ARCH/DM/ED/38743a

I refer to the above application and your recent consultation. Archaeological investigations on the proposed development site to the west has demonstrated the presence of previously unrecorded medieval archaeological deposits as well as artefactual evidence for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. 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 the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be 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 the archaeological supervision of all 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/>.

DC Footpath Officer

Dear Sir,

This application for development has a direct effect on a Public Right of Way. Public Footpath Lypstone No. 1. The footpath is the whole width and length of the lane, and the public must have access to the route 24 hours a day.

If works are being carried out on the public footpath, a temporary closure must be obtained from DCC before the works commence, and after the path must be reinstated to the approved DCC standard . We will need to know what material/ process for the reinstatement.

Attached a link to the application for a temporary closure.

Apply for a temporary closure - Public Rights of Way (devon.gov.uk)
Please keep us informed of this application.

Other Representations

6 representations have been received, 5 raising objections and 1 neutral, summarised below:

- Access is along a public footpath
- Dangerous access onto Church Road
- Intensification in the use of the public footpath by vehicles
- Conflict between pedestrians and vehicles
- Impact on listed buildings
- Impact on the Lypstone Conservation Area
- Outside of the Built-up Area Boundary
- Application site is in the Green Wedge
- Design of the dwelling out of character
- Proposed garage/workshop too large
- Increased flood risk
- Will set a precedent for other building in the Green Wedge

Neutral

- No flood risk assessment submitted

PLANNING HISTORY

Reference	Description	Decision	Date
22/1583/ FUL	Construction of two new dwellings and off road parking	Withdrawn	
18/2932/FUL	Construction of detached dwelling	Refuse	22.12.2018

13/2660/FUL	Construction of detached dwelling	Withdrawn	22.01.2014
13/0047/FUL	Construction of 5 no. dwellings and associated provision of 14 no. parking spaces, demolition of existing garage and construction of new garage for Meadowgate to facilitate creation of vehicular access from Church Road and provision of village amenity area.	Withdrawn	09.04.2013

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

Strategy 27 (Development at the Small Towns and Larger Villages)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

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

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN21 (River and Coastal Flooding)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Lympstone Neighbourhood Plan

Policy 2 – New Isolated Homes in the Countryside

Policy 3 – Development in Green Wedge or Coastal Preservation Area

Policy 4 – Range of Housing

Policy 5 – Density of Housing

Policy 6 – Quality of Design

Policy 8 – Energy Efficient Development

Policy 11 – Parking

Policy 14 – Flood Risk

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The application site comprises part of the extended garden area of a property known as Meadowgate. It is currently laid to grass and housing outbuildings and a free standing solar array. It is located outside of, but adjacent on two sides to the built-up area boundary of the village of Lympstone as defined in the Local Plan and Lympstone Neighbourhood Plan. It is also located within the Lympstone Conservation Area, and within the Green Wedge in the Local Plan.

To the north are properties fronting Church Road, a number of which are Grade II listed cottages, the eastern boundary is formed by a substantial hedge and tree boundary and the large garden of the neighbouring property, Hares Cottage, whilst to the south is Wooten Brook. Adjacent to the western boundary is a public footpath and right of way which also provides access to the site, beyond which, on the former nursery site, a new housing development of 'executive' dwellings have been built.

Proposed Development

Planning permission is sought for the construction of a 3 bedroom detached dwelling with garage and store, together with parking and amenity areas.

The dwelling is arranged as two linked blocks, with the main living accommodation in the single storey building, and linked to the two storey block comprising a home office and snug on the ground floor with three bedrooms and bathrooms above.

The design of the building, whilst quite contemporary is intended to reflect a more vernacular form with the single storey element constructed in stone under a slate roof, and the two storey element having vertical timber cladding under a pitched slate roof.

The originally proposed two storey building housing a garage and store at ground floor level, with workshop on the first floor, has been reduced in scale, with the first floor workshop omitted. This building, sited in the north eastern corner of the site, is now single storey.

Issues and Assessment

The main issues to be considered in the determination of this application relate to:

- Policy context and principle of the development
- Design, scale and siting
- Green Wedge
- Character and appearance of the Lympstone Conservation Area and Heritage Impact
- Highway safety and parking
- Relationship with neighbouring properties and residential amenity
- Arboricultural impact
- Archaeology
- Wildlife impact and habitat mitigation

- Flooding and drainage

Policy Context and Principle of the Development

Policy Context

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined and carry full weight. The Lympstone Neighbourhood Plan (NP) has been 'made' and also carries full weight.

Principle

Planning law requires that applications for planning permission must be determined in accordance with the development plan (foot note 2 states this includes local and neighbourhood plans that have been brought into force) unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the presumption in favour of development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up to date development plan where there are material considerations in a particular case which indicate that the plan should not be followed

The site lies outside the built up area boundary of Lympstone and is not in an area allocated for development in any neighbourhood plan. Whilst adjacent to the built up area boundary, the site lies, in policy terms, in the open countryside. As such the proposed development falls to be considered under Strategy 7 of the EDDC Local Plan which seeks to protect the character and appearance of the surroundings from development that would have a detrimental impact, though it does not represent a bar on all development as it supports the principle of development if in accordance with other policies contained in the development plan.

There are no policies within the Local Plan which support applications for residential development in the countryside unless there is a proven agricultural, forestry or rural worker need and therefore this application is considered to be a departure from the Local Plan and has been advertised as such.

Strategy 8 (Development in Green Wedges) of the Local Plan states that development will not be permitted if it would add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

The Lympstone Neighbourhood Plan (LNP) is 'made' and therefore its policies are a material consideration and should be afforded full weight. The site lies outside of the identified built-up area boundary of the village.

Policy 2 of the LNP states that isolated homes in the countryside will generally be resisted, with the supporting text referring to new housing being as close to facilities and services as possible. In this respect the application site is adjacent to existing built development adjacent to a public footpath with access to both Church Road to the north, and wider footpath network to the south. It is not considered that in terms the Neighbourhood plan it could be described as isolated in the countryside.

Policy 3 relates to development in the Green Wedge or Coastal Preservation Areas. This states that:

Development will not normally be permitted in the Green Wedge or Coastal Preservation areas unless it can be demonstrated that no harm to the character or purpose of these areas will occur and development is:

- *Justified on agricultural, horticultural or forestry grounds; or*
- *Within a residential or employment site curtilage; or*
- *Justified on sustainability grounds; or*
- *Will provide a community facility or recreation route.*

The impact of the development on the character and purpose of the Green Wedge is further considered below, however the application site lies within a residential curtilage, and is considered to be sustainably located within the village, opposite the church and within an easy walking distance of the main services and facilities which the village has to offer, including the school, shops, railway station and pubs. In this respect, and subject to an assessment of other issues, there is considered to be some support found within this policy for the principle of the development in this location.

Tilted Balance

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

Paragraph 11 of the NPPF states that:

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

*For **decision-taking** this means:*

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

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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

It is important to note that the fact that the site is located in the countryside and outside of a BUAB as defined by the East Devon Local Plan cannot on its own be a reason to refuse planning permission and that policies within the Local Plan which relate to spatial strategy and the distribution of housing in the District and built-up area boundaries, in the absence of a 5 year housing land supply, carry limited weight. The main test in determining this application relates to whether this proposal is a sustainable form of development and whether the adverse impacts of granting planning permission for residential development of the site would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Design, Scale and Siting

The design of the building, whilst having contemporary elements, is intended to be reflective of a more vernacular form of development, with the single storey element having a simple linear form with a natural stone finish. The two storey part of the dwelling is clad in timber, again intended to be more akin to a rural building.

The dwelling occupies a central area of the site, in line with the rear of the newly built housing to the west, with the patio and garden area extending to the south beyond this.

The garage and storage building proposed in the north eastern corner of the site has been reduced in scale and is now a single storey building clad in timber with a slate pitched roof. It has also been moved off the northern boundary of the site. The amended building and materials scale and form of this is now considered to be appropriate within this context, and is considered to comply with Policy D1 (Design and Local Distinctiveness) of the Local Plan, and Policy 7 of the Lympstone Neighbourhood Plan.

Green Wedge

The site is part of the Green Wedge which separates Lympstone from Exmouth. The explanatory text in the Local and Neighbourhood Plan state that one of the potential results of 'creeping development could be the coalescence of adjacent or neighbouring settlements, villages or towns, and that it is important to retain open land between them to help retain their separate identities, their landscape settings and to avoid the creation of unrelieved development.

The policy does not permit development where it would add to sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

The application site has existing residential development to the north and west, and a further residential garden to the east. In this respect, and whilst outside of the built up area, it is not considered that the siting of a dwelling could be regarded as either sporadic or isolated development.

Whilst located outside of the identified boundary of the village it would not extend beyond the built form to the west. It would be visible from the public footpath forming the western boundary, but would be largely screened from the public footpaths to the south of the site, beyond Wotton Brook. In this respect the design and positioning of the proposed dwelling would have less presence than the substantial new dwellings to the west of the site. Whilst there would inevitably be some alteration to the current situation, whereby the site forms part of a domestic garden, it is not considered that the development could reasonably be seen to be damaging to the individual identity of the settlement.

As stated above the proposal would comply with 2 of the identified criteria of Policy 2 for the LNP as it is sustainably located, being accessible by both the main road, and public footpaths to the village, and forming part of a residential curtilage.

Character and Appearance of the Lympstone Conservation Area and Heritage Impact

The site lies within the Lympstone Conservation area and to the rear of a terrace of listed properties.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Local Planning Authority is also required to give considerable weight and importance to the duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a Conservation Area and to the special attention to be paid to the desirability of preserving or enhancing the character and appearance of that area. This is reflected in the National Planning Policy Framework and within the Council's Local Plan policies in relation to development affecting the setting of Conservation Areas and buildings of special architectural and historic interest (Policies EN9 Development Affecting a Designated Heritage Asset and EN10 Conservation Areas).

The immediate setting of the application site, and this part of the conservation area has been changed in recent years, and particularly since the previous application on the site was considered, with the construction of the new development and houses at Charles Court to the west of the site. The previously open aspect across the site from Church Road over the former nursery towards Wotton Brook has been removed. Views from the footpath have also been considerably altered with the development of the housing creating a continuous built form to this aspect.

The development of the site in the form proposed whilst increasing the built form on the site, would not extend the built form beyond that which exists to the west and it is considered that whilst there would be some localised impact on the conservation area due to the change in character arising from this, the scale, form and layout of the proposed dwelling is more sympathetic, both in design and materials to that previously found to be unacceptable on this site.

In terms of setting of the heritage assets, the listed buildings fronting onto Church Road, the main impact is considered to be in respect of the siting and scale of the proposed garage and store. This building has been significantly reduced in height and bulk, with the first floor workshop having been removed and is now a single storey building.

The proposed dwelling will still have an impact on the setting of the listed buildings and the wider Lympstone Conservation Area (the remaining access to the open landscape, between the parish church and Wotton Brook and to the north of the Mill) resulting in some harm. This less than substantial harm, reduced further due to the reduced scale of the garage building, should therefore be weighed against the public benefits of the scheme.

Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefit of the proposal including, where appropriate, securing its optimum viable use. In this case public benefit would arise from improvements to the adjacent public footpath which is within the ownership of the applicant and which is well used by local residents, providing a link between Church Road and the church to the footpaths and other development to the south adjacent to, and beyond, Wotton Brook. The southern half of the footpath is narrow and often muddy and difficult to negotiate. It is considered that improvements to the surfacing would be of wider public benefit and would weigh in favour of the proposal. The details of the proposed means of surfacing, proposed works programme and any diversions during the course of such works would have to be agreed with DCC Public Rights of Way Officer, but it is considered that this will result in a positive benefit to users of the footpath, and make it a more attractive route for pedestrians.

The whole of the footpath is within the ownership of the applicant, although it does not form part of the application site. As such and in order to ensure that the improvements to the surfacing are realised it will be necessary to appropriately condition the works to secure the wider public benefits that weigh in favour of the proposal. As the footpath is within the ownership of the applicants, this can be achieved through the imposition of a 'Grampian' condition requiring the works to be undertaken and completed prior to the occupation of the dwelling.

There would also be some modest public benefits arising from the provision of an additional dwelling in the village and construction jobs during the course of the build.

Highway Safety and Parking

There is an existing access to the site from the public footpath which currently serves Meadowgate which also has a further parking space adjacent to Church Road.

Parking for two vehicles plus a garage capable of accommodating a further 2 vehicles is proposed within the site, together with an area for turning. This is considered to be acceptable for a three bedroom dwelling. The siting of an additional dwelling is not considered to result in a material increase in traffic using the site as it is already used by the occupiers of the frontage property.

Some concern has been raised regarding the visibility of the access junction with Church Road, which is narrow, with no footpaths, little parking and limited opportunities for passing other vehicles, however details of the available visibility has been provided to the satisfaction of the Highway Authority and no highway safety concerns have been raised.

Further due to the restricted single width of the carriageway and lack of footpaths, vehicle speeds are very low in this location, and motorists expect pedestrians to be in the road. An additional dwelling will not significantly alter either the nature or intensity of vehicle movements in this location.

Further concern has been raised regarding the potential conflict between pedestrians using the footpath and the occupiers of the proposed dwelling, however given that there is already a vehicular right of way, and the site is currently in use for parking, there is not considered to be any material change in the nature of the traffic or very low volumes of vehicle movements such as to make the proposal unacceptable.

The proposal is considered to comply with Policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031.

Relationship with Neighbouring Properties and Residential Amenity

The site is considered to be of a sufficient size to be able to accommodate a single dwelling without having a detrimental impact on the amenity of the occupiers of neighbouring properties. The single storey element has been sited on the eastern side of the site to maintain the outlook from the garden of the neighbouring property.

The property has been designed such that the main aspect from the dwelling will be to the south to take advantage of views over the garden and ensuring that the closest residential properties would not be overlooked.

The reduction in the height of the garage building, and moving it away from the norther boundary of the site is considered to have overcome concerns raised regarding the position and visual impact of a very tall structure adjacent to the boundary of the neighbouring property. In this respect the proposal will not result in any loss of residential amenity and is considered to comply with Policy D1 (Design and Local Distinctiveness) of the Local Plan

Arboricultural Impact

The application is submitted with a tree survey originally undertaken in respect of an application for two dwellings on the site, and updated to reflect the current application.

The eastern boundary of the site comprises a number of mature and semi mature Sycamore trees, together with Scotts Pine, Field Maple and Willow trees. These are to be retained and protected during any construction works. In addition there are a number of modest fruit trees within the northern part of the site, three of which are indicated for removal.

A further Sycamore, identified as a poor quality ornamental specimen is located more centrally within the site and which would be removed.

The siting and design of the dwelling is such it is considered that level of built form arising from a single dwelling could be accommodated without detriment to the health and long term growth of the existing trees on the site, such that the proposal will comply with Policy D3 of the Local Plan

Further hedge planting is proposed on the western boundary of the site, with the intention of removing the existing fence boundary when this has become established providing a more natural boundary to the public footpath, and the

Archaeology

The County Council's Archaeologist has advised that recent archaeological investigations on the proposed development site to the west has demonstrated the presence of previously unrecorded medieval archaeological deposits as well as artefactual evidence for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed new dwelling have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. 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 and archaeological interest. The Historic Environment Team has advised that if a Written Scheme of Investigation is not submitted prior to determination that a condition should be imposed securing the implementation of a programme of archaeological works in accordance with a written scheme of investigation 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.

Wildlife Impact and Habitat Mitigation

Policy EN5- Wildlife Habitats and Features of the Local Plan states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link

between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

A preliminary ecological appraisal and an extended phase 1 habitat survey have been undertaken by Richard Green Ecology Ltd which concludes that the site is of limited ecological value. The removal of the existing buildings on the site would have no impact on bats. It is likely that bats forage and commute along the brook to the south of the site and the east and western boundaries of the site, with a new dwelling having the potential to have an adverse impact on foraging and commuting bats due to an increase in lighting, which should be appropriately controlled.

A number of mitigation and enhancement measures are proposed including the native planting of gaps in the western hedgerow; sensitive lighting design; integrated bat tubes or bat boxes; bird boxes be installed.

Without mitigation, the proposed development could affect commuting and foraging bats, nesting birds, common reptiles, common amphibians, and commuting hedgehogs if present. However by providing appropriate mitigation and enhancement measures as recommended by the ecology report it is considered that the impacts on habitats and protected species can be appropriately managed and mitigated and a positive biodiversity impact can be achieved. The application is therefore considered to comply with the provisions of policy EN5 (Wildlife Habitats and Features) of the Local Plan.

Habitat Regulations Assessment:

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

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47 (Nature Conservation and Geology) of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per dwelling which has been secured as part of this application.

Flooding and drainage

Land to the south of the site is designated as flood zone 2 and 3 although the proposed dwelling would be located in flood zone 1. The application is submitted with a site specific flood risk assessment which demonstrates that an appropriate drainage strategy will be put in place such that the proposed development can be

accommodated on the site, without any increased risk of flooding. Surface water runoff will be attenuated with storage provided by an attenuation basin offering treatment to the water before discharge to Wotton Brook to the south of the site.

Foul sewage is proposed to be disposed of through the existing mains drainage system to which there is no objection.

From a development and flood risk perspective no objections have been raised to the proposal.

Planning Balance and Conclusions

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development which is located outside of a Built Up Area Boundary, the site is considered to be in a sustainable location within the core of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7 and the tilted balance in favour of sustainable development must be applied. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development, and the ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. .

The proposal is considered to result in a less than substantial harm to heritage assets and that the public benefit arising from improvements to the neighbouring public footpath are considered to result in a positive contribution to the conservation area within which the site is located.

On balance it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, and the up to date policies of the Development Plan. Accordingly, it is recommended that the application is approved.

RECOMMENDATION

APPROVE subject to an appropriate Grampian condition to ensure the improvements to the surfacing of the public footpath are undertaken, and the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
3. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Development shall take place in accordance with the approved CMP

(Reason - To ameliorate and mitigate against the impact of the development on the local community and to ensure that any impact on the highway network is kept to a minimum in accordance with policies TC7 - Adequacy of Road Network and Site Access and EN15 (Control of Pollution) of the East Devon Local Plan. This needs to be a pre-commencement condition to mitigate impacts of the development from the outset.)

4. 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.

5. Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the Arboricultural Report, submitted by Advanced Arboriculture on 18 April 2023, as amended by further report dated 18 May 2023 and the Tree Protection Plan ref. TH/B293/0422Rev.1.0 and Arboricultural Method Statement Plan ref. TH/B293/0422Rev 1.0 and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority
In any event, the following restrictions shall be strictly observed:
 - (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
 - (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
 - (c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.
 - (d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason – A pre-commencement condition is required to ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area

in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

6. No development above foundation level shall take place until a schedule of materials, and where so required, samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

7. No development above foundation level shall take place until details of any proposed solar installation on the roofs of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

8. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

9. No other development shall commence until works to improve the surfacing of the adjacent public footpath (Lymptone Footpath 1) have been undertaken in accordance with details and a schedule of works previously submitted to and approved in writing by the Local Planning Authority.

(Reason – In the interests of amenity of all users of the public footpath in accordance with Policies D1 (Design and Local Distinctiveness) and TC4 (Footpaths, Bridleways and Cycleways) of the East Devon Local Plan 2013-2031.

10. The development hereby approved shall be undertaken in accordance with the approved mitigation and ecological enhancement measures detailed within the Preliminary Ecological Appraisal prepared by Richard Green Ecology dated March 2022.

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

11. The development shall not be occupied until the post investigation assessment of archaeology has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be 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.)

12. The development hereby approved shall be undertaken in accordance with the Flood Risk Assessment (Report Ref: 1966w0001_P3 and surface water drainage details indicated on drawing no. 0500 Rev. P5 (Drainage Layout) prepared by JRC Consulting Engineers, and dated 9 June 2023.

(Reason – To ensure that surface water from the development is discharged as high up the drainage hierarchy and managed in accordance with the principles of sustainable drainage systems in accordance with Policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013-2031, and the guidance contained within the National Planning Policy Framework.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within the Schedule 2 Part 1 Classes A, B, C, D or E for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool, [other than any enclosure approved as part of the landscape management scheme]

(Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031 and in the interest of flood risk management in accordance with policy EN22 of the Local Plan.)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

REV A PP_SP	Proposed Site Plan	18.04.23
REV A PP_RP	Proposed roof plans	18.04.23
REV A PP_21	Sections	18.04.23
REV A PP_20	Sections	18.04.23
REV A PP_11	Proposed Elevation	18.04.23
REV A PP_10	Proposed Elevation	18.04.23
REV A PP_00	Proposed Combined Plans	18.04.23
REV A PP_00	Proposed Floor Plans	18.04.23
PE_SLP REV B	Location Plan	04.05.23

List of Background Papers

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

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