

		Committee Date: 24.09.2024
Woodbury And Lympstone (Woodbury)	23/1600/MOUT	Target Date: 31.10.2023
Applicant:	Mr Gary Salter	
Location:	Land Off Globe Hill Woodbury	
Proposal:	Outline application for construction of up to 28 residential units (including affordable housing), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access)	

RECOMMENDATION:

- 1. Adopt the appropriate assessment**
- 2. Secure financial contributions and other matters through a Section 106 Legal Agreement**
- 3. Approve with conditions**

EXECUTIVE SUMMARY

This application is before Members because it represents a departure from the adopted Development Plan and a contrary view has been adopted by the Ward Member.

The proposal is not in accordance with the Local Plan, with Strategy 7 stating that new development in the countryside, and outside Built Up Area Boundaries should be strictly controlled. As planning applications must be determined in accordance with the development plan this would suggest that planning permission ought to be refused, unless material considerations indicate otherwise.

The site is located adjacent to the western edge of the built-up area boundary for Woodbury and is within the Woodbury Conservation Area.

The application has been submitted in outline form for the construction of 28 residential dwellings with public open space, SuDs systems, landscaping and associated infrastructure. The proposal includes the provision of affordable housing at 50% (35% on-site and 15% off-site contribution). Access is to be considered at this stage, with a new access road being created at the point of an existing access onto Globe Hill. The proposed access has been found to be acceptable from a highway safety perspective and whilst off-site highway works and traffic calming measures on Globe Hill are also proposed, they are not

required to make the application acceptable in highway safety terms. The reserved matter of access, which is sought under this application is therefore considered to be acceptable.

The site lies outside of, but adjacent to the currently identified BuAB and within the Woodbury Conservation Area. It is well related to the centre of the village with a pedestrian link to The Arch where there are a number of facilities and services, and public transport links. As such the proposal would have some policy support from Strategy 3 (Sustainable Development) of the Local Plan and would contribute to the achievement of sustainable development required by the NPPF23.

The delivery of additional housing is a material consideration in the determination of this application and significant weight should be given to the need to bolster the council's housing land supply position, and in particular the provision of affordable housing.

This development would provide 28 new dwellings with 50% affordable, comprising 35% on site with a 15% off-site contribution). This would meet the requirements of Strategy 34 (District Wide Affordable Housing Provision Targets) of the Local Plan and will be secured by a S106 Legal Agreement.

The character and appearance of the site would change quite significantly from its current parkland setting to a more urban built form, although it is proposed to retain the majority of trees, and to create large areas of landscaping within the site. The landscape and visual effects are generally localised, with limited views in and from the site.

The provision of a Parish Council building is proposed on site, with off-site works including traffic calming measures and other highway improvement works which will be of benefit to local residents although they are not required as part of the wider development under any policy and therefore cannot be secured in any legal agreement with the council.

Subject to appropriate conditions, the indicative layout is acceptable in terms of flood risk, surface water management and safeguarding the watercourse located in the southern part of the site. It is also acceptable in terms of highway safety and access.

The site lies near to a number of heritage assets including listed buildings and non-designated heritage assets. Any harm identified by the conservation officer and Historic England is considered to be at the lower end of less than substantial and concerns their setting rather than any direct effect to those buildings. In this respect it is necessary to consider the public benefits of granting permission over any harm. The benefits identified above, particularly in terms of the delivery of additional dwellings and the provision of affordable housing, are considered, on balance, to outweigh any such harm.

Whilst it is noted that the Council can, at present demonstrate the necessary 4 year housing land supply this is considered to be a short term position and that

in order to be able to meet longer term housing requirements new housing development, and particularly affordable housing is necessary.

In applying the planning balance there is a need to weigh any harm caused by development outside of any defined development boundary, and consequently contrary to Strategy 1 (Spatial Strategy for Development in East Devon), 7 (Development in the Countryside) and 27 (Development at the Small Towns and Larger Villages), against the need for housing within the district. In this case the development is sustainably located adjacent to the centre of the village and consequently supported by Strategy 3 (Sustainable Development) and the provisions of the NPPF23. The application is supported by the Parish Council although it has also attracted a number of objections from neighbouring residents, and the Ward Member.

In conclusion, having regard to all planning issues and material considerations, the need for new and affordable dwellings to boost the future housing supply of the district is considered to justify a departure from the Local Plan.

It is recommended therefore that the appropriate assessment be adopted, and that outline permission (with access approved) is granted subject to the completion of a S106 agreement and the conditions set out below.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung

25.03.24

I have viewed the further documents for planning application 23/1600/MOUT for outline application for construction of up to 28 residential units (including affordable housing), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access) at land Off Globe Hill Woodbury.

I note that most of the objections from strategic consultees have reviewed their comments following various changes and proposals from the applicant. Therefore, I withdraw my comments of objection to the Flood, Highway, and the site being in the conservation area.

Following changes to Government Planning policy in Dec 2023 the local planning policy can now demonstrate a 4-year land supply and therefore the current local plan can demonstrate that there is a 4-year land supply and therefore the EDDC Local Plan is at present current and active and not considered 'out of date'.

Therefore, as this application does not comply to the Current Local Plan, I am unable to support this Application.

If this application is proposed to be recommended for approval, I would want to see some clarification to the continuing management of the open spaces for this site along with the proposed other assets as it is normal practice for these site-specific proposals would be managed by a site management company in perpetuity. However, these open spaces would seem to be accessed and able to be used by the general public.

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

16.10.23

23/1600/MOUT

I have viewed the further documents and visited this site for this planning application 23/1600/MOUT for an outline application for construction of up to 28 residential units (up to 7 affordable), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access) on land off Globe Hill Woodbury. The extra information provided by the Environment Agency further confirms that the plan at presently presented should not be supported. Therefore, I cannot support the application, but 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

25.08.23

23/1600/MOUT

I have viewed the documents and visited this site for this planning application 23/1600/MOUT for an outline application for construction of up to 28 residential units (up to 7 affordable), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access) on land off Globe Hill Woodbury.

This is an imaginative and thoughtful application in a sensitive location as the site is in the Woodbury Conservation area. It provides a number of community assets with public access to the proposed open areas, and improved highway measures that will hopefully be complimented by a village 20MPH speed limit which is a key road safety requirement for this village included in the head of terms for this proposal through a proposed financial contribution.

At the present time the Local Authority, cannot demonstrate a 5-year land supply and therefore Government Natural Planning Policy requires the East Devon Local Plan to be considered out of date. Therefore, there is a presumption in favour of sustainable development which applies to all developments for residential dwellings unless the application is within a protected area. The list of protected areas includes Heritage assets and areas at risk of flooding. Part of this site is in the flood zone 3 and is in the Woodbury conservation area.

Regarding the issue of the area within the Flood Zone the EA has submitted their observations and I support their view. Regarding the site being in a conservation area, Historic England (a government body) has submitted their comments and I again support their views.

Because two government bodies do not support this application and the National Policy excludes this from automatic presumption for development it is my view it therefore has to be considered against the present Local Plan strategies.

The development fails on a substantial number of Local Plan Strategies including Strategy 1 and 2. As the community can demonstrate that they have oversupplied on their spatial requirement for small towns and villages already. Regarding Strategy 3 the assessment by the applicants that development contributes towards the short-term

short fall in housing numbers does not comply to section e, which requires a long-term view rather than a short-term view which in this case is a temporary failure in housing numbers. It also fails in Strategy 5 section 7 as it fails to protect areas vulnerable to surface water runoff and flooding according to the EA.

Regarding Strategy 6 regarding BUABs its clear that this application is outside this village boundary and therefore it must be considered as a development within the open countryside which then means it is not compliant to Strategy 7 as well.

Strategy 27 relates to small towns and larger villages and lists Woodbury being assigned 35 dwellings which was covered in Strategy 1 and 2 so therefore fails.

The final Strategy this application fails on is possibly the largest issue which is Strategy 34 relating to affordable housing. The local plan requires 50% of the development to be affordable housing subject to viability considerations. Unfortunately, this application fails to provide this quota and fails to provide a valid reason for this shortfall.

In view of the reasons given I am unable to support what I consider a well thought out and designed application with a number of community benefits but unfortunately not in the right location nor does it comply to National and Local policy.

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

06.02.23

Woodbury Parish Council would like to reiterate our support for the planning application 23/1600/MOUT. It is our understanding this is soon to be considered by East Devon District Council (EDDC) Planning Committee and in view of EDDC recent discussions and decision made relating to land supply we ask that the following is considered by this Committee.

Woodbury Parish Council at our Full Council meeting on Monday 22nd January 2024 considered whether to review its declared support for this application as well as decisions made towards other major applications in the Parish due to the current land supply situation.

The Parish Council decided to maintain its position and, in this case, to support the application specifically in view of the benefits it will bring to Woodbury in the short term and in the longer term in view of traffic pressures from inevitable developments near the Parish.

The Parish Council set out desired benefits in the form of the conditions listed in its submission to East Devon District Council on 21st September 2023. Despite the apparent short-term adjustment in land supply targets, there is no real change to the longer-term housing need requirement, including an orientation towards achieving a better balance of affordable properties in the housing mix. The application will support necessary traffic measures and provide additional and valuable public space for the enjoyment of residents which has not been generally available.

Woodbury Parish Council continues to support this application subject to the following conditions, as previously submitted;

1. Fountain feature is fully maintained and kept clear of vegetation;
2. Affordable housing in the region of 35% dependent on funding towards additional public amenities (in line with EDDC specialist officer's recommendations in Jan 2024)
3. Effective traffic calming measures are being guaranteed which incorporates a good layout with safety for pedestrians as a priority. Vehicle activation enforcement on Globe Hill to be implemented, if possible;
4. Funding for a 20mph scheme across the village to be provided;
5. Funding towards improvements to the Arch including pedestrian safety and additional parking for as many as possible to be included within the lower part of the site, but ideally in the region of 20 spaces;
6. Additional public amenity facilities around the community building and open space adjacent to the existing stream to provide a social area with seating.
7. Lower part of the site not to be so compact, maybe several proposed dwellings to be moved to the upper part of the site to allow for social amenity space and more of an open vista.
8. Oak trees to be protected and as much of the surrounding hedging.
9. Only one pedestrian access suitable for all users from the site to The Arch (not near the junction).

We, additionally have a major concern with any future development in the Parish and within the surrounding parishes and town with regards to sewage discharges. The number of sewage spills and discharges into the river Exe and tributaries, a SSSI and RAMSAR site and out to sea is not acceptable. The damage to public health, wildlife and related tourism businesses is completely deplorable.

East Devon District Council should, prior to any further development being approved be insisting that South West Water resolves this matter with demonstrable proof of how it is stopping future discharges and spills.

Parish/Town Council

11.10.23

Woodbury Parish Council does not have any further comment to make from our response submitted on Thu 21 September 2023.

Parish/Town Council

21.09.23

Woodbury Parish Council supports this application subject to the following;

1. Fountain feature is fully maintained and kept clear of vegetation;

2. Affordable housing in the region of 35% dependent on funding towards additional public amenities;
3. Effective traffic calming measures being guaranteed which incorporates a good layout with safety for pedestrians as a priority. Electric enforcement on Globe Hill to be implemented, if possible;
4. Funding for a 20mph scheme across the village to be provided;
5. Funding towards improvements to the Arch including pedestrian safety and additional parking for as many as possible to be included within the lower part of the site, but ideally in the region of 20 spaces;
6. Additional public amenity facilities around the community building and open space adjacent to the existing stream to provide a social area with seating. (i.e. Pickleball Court / French Boules)
7. Lower part of the site not to be so compact, maybe several proposed dwellings to be moved to the upper part of the site to allow for social amenity space and more of an open vista.
8. Oak trees to be protected and as much of the surrounding hedging.
9. Only one pedestrian access suitable for all users from the site to The Arch (not near the junction).

We would ask that East Devon District Council deducts any additional housing approved in the Parish from the number of dwellings in the new Local Plan to be allocated for Woodbury Parish.

We have a general concern with any future development in the Parish and within the surrounding parishes and town with regards to sewage. The number of sewage spills and discharges in to the River Exe; a SSSI site and out to sea is not acceptable. Wildlife and Tourism are major assets to this area and sewage discharge and spills is a fundamental disaster. EDDC as a priority should prior to any further development being approved be insisting that South West Water resolves this matter and stops future discharges and spills or at least mitigates it so it is a rare event.

Summary of Technical Consultations (Full Responses in Appendix 1)

County Highway Authority 18.12.23

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

Housing Strategy/Enabling Officer - Cassandra Harrison 22.01.24

I can confirm that I support the application with 35% affordable housing, which equates to 9 units. These 9 units can all be provided as a Rent to Buy product such as Rent Plus.

I do not support these 9 units as age restricted, because to meet housing need the district council provides for all age groups. I would suggest you make your open market units age restricted.

Environment Agency 13.03.24

We withdraw our previous objection subject to inclusion of conditions relating to flood risk management. The suggested wording for these conditions and the reason for our position is provided below. The illustrative design, whilst not a confirmation of the proposed layout identifies that acceptable principles of flood risk management (including the easement of the flood alleviation channel) can be achieved on site with the quantum of development proposed. Therefore, we are satisfied at this stage that based on the information submitted, the proposal now complies in the broadest terms with the National Planning Policy Framework and the associated Planning Practice Guidance. If the following conditions are not included, we would maintain our objection.

DCC Flood Risk SuDS Consultation 05.01.24

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming pre-commencement planning conditions are imposed on any approved permission:

South West Water 08.12.23

SWWL does not object to the principle of the proposed Outline application; however, if the Local Planning Authority is minded to approve the application, SWWL request suitable conditions are attached.

Foul Water Flows

In summary, SWWL would support the inclusion of two conditions relating to Foul Water. A Grampian condition restricting occupation as described above, and a condition requesting further detail within a subsequent Reserved Matters application, in the event the LPA are minded to approve.

Potable Water Supply

It is anticipated that suitable provision can be made within the existing network for the supply of potable water to the proposed development.

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

Devon County Archaeologist 29.11.23

The results of the archaeological field evaluation have shown that the application area has a low potential for containing heritage assets with archaeological significance. The features that were exposed related to the drainage of the site as well as areas disturbed by the removal of tree. The drainage features on the site are likely to be associated with feeding water to the fountainhead built, in the late 19th century, into

the wall on the western boundary of the site and facing onto the carriageway of the B3179.

Given the demonstrated low potential of the proposed development site I do not consider that any further archaeological work is required in mitigation for the impact of the proposed development and, as such, would like to withdraw the Historic Environment Team's previous objection and instead offer no comments on this planning application.

Historic England 19.12.23

Historic England has concern regarding the proposed development on the site, Land off Globe Hill. The introduction of housing will erode a positive green open space within the conservation area. It will also have an urbanising affect on the parkland character currently experienced from the grade II listed Oakhayes House (Para 206 and 202). The impact on the church is less harmful but would still have a degree of adverse impact.

Conservation 19,12.23

The concerns as raised in the previous comments will result in harm to the character and appearance of the Conservation Area and in addition result in harm to the setting of both Oakhayes and the Church. This harm is considered to be less than substantial.

EDDC Trees

Therefore based on the above comments, in principle I would have no objection to the proposal but recommend the following condition be put in place to ensure the retained trees are afforded protection during construction.

EDDC Landscape Architect 16.11.23

Although the proposals would have a major impact on the character of the site itself landscape and visual impacts beyond its boundaries are likely to be very localised. The principle of housing development on the site is therefore considered acceptable in terms of overall landscape and visual impact subject to design and density.

District Ecologist 01.12.23

The submitted ecological survey information including ecological avoidance, mitigation, and enhancement measures are generally considered acceptable subject to appropriate conditions are imposed and the successful implementation of the mitigation and enhancement measures.

Natural England 24.01.24

DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

Environmental Health 09.08.23

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site and shall be implemented and remain in place throughout the development.

Police Architectural Liaison Officer 14.08.23

Detailed comments provided on illustrative layout

DCC Education

Regarding the proposal for a development of 24 family-type dwellings, Devon County Council would need to request an education contribution to mitigate its impact. 24 family-type dwellings will generate an additional 6.00 primary pupils and 3.60 secondary pupils which would have a direct impact on Woodbury primary school and Exmouth Community College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested.

Other Representations

58 representations have been received, with 57 raising the concerns (summarised below)

- The infrastructure of the village cannot cope with more dwellings
- Site is outside the Built-up Area Boundary
- There is no need for more dwellings in the village
- Detrimental to highway safety
- Inadequate sewage facilities
- Loss of wildlife habitat
- Additional traffic on roads
- Impact and loss of trees
- New housing has already been approved in the village
- Amendments to NPPF mean that there is no longer a shortfall of housing
- Impact on Woodbury Conservation Area
- Detrimental to setting of nearby listed buildings
- New access through historic wall not acceptable
- Loss of outlook and privacy
- The Parish Council office should not be included in the application
- Archaeological damage
- Additional noise and pollution
- Increased risk of flooding from surface water run-off
- Lack of employment in Woodbury for future residents
- Poor public transport links to the village
- Loss of a valuable green space

PLANNING HISTORY

The application site has no planning history

The following applications are considered relevant to this site:

22/1761/FUL | Conversion and extension of existing buildings to create two residential dwellings, construction of 6no. dwellings with associated landscaping, infrastructure and works and demolition of existing buildings. | Land At Venmore Barn Woodbury | APPROVED (15 Jan 2024)

22/2838/MOUT Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) | Land To South Broadway Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT

23/1258/MOUT | Outline application (with details of access to be considered and all other matters reserved) for the residential development of up to 35 no. dwellings (12 affordable); vehicular and pedestrian access from Globe Hill, pedestrian access only from public right of way; demolition of existing wooden structure to be replaced with Parish Council building; community parking area; public open space, landscaping, wildflower meadow and orchard and other associated infrastructure. | Land To The Rear Of Orchard House Globe Hill Woodbury | PENDING CONSIDERATION

23/2166/MOUT Outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance and landscaping reserved for future consideration. | Land South of Gilbrook House, Woodbury | PENDING CONSIDERATION

POLICIES

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

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

Strategy 31 (Future Job and Employment Land Provision)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 49 (The Historic Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)
EN8 (Significance of Heritage Assets and their Setting)
EN9 (Development Affecting a Designated Heritage Asset)
EN10 (Conservation Areas)
EN14 (Control of Pollution)
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems)
EN21 (River and Coastal Flooding)
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

NPPF23 (National Planning Policy Framework 2023)
National Planning Practice Guidance

Site Location and Description

The application site lies on the western side of the village of Woodbury, to the east of Globe Hill which is the main arterial route into the village and is outside, but adjacent to the identified built-up area boundary. It is within the Woodbury Conservation Area.

The site comprises green field land, formerly part of the extended parkland associated with Oakhayes, a Grade II listed building, extending to around 2.12ha in area, with an approximately rectangular form. The southern boundary is formed by The Arch with the garden boundary of Oakhayes, to the north. To the west the site is bounded by the gardens of dwellings in Broadmead, with the eastern boundary adjacent to Globe Hill (B3179).

The site falls from the north (c.55m AOD) to south (c44m AOD), with the lowest part of the site being the flood relief channel which crosses the site from east to west. The channel separates the northern part of the site from the relatively level southern area, adjacent to The Arch in the centre of the village.

A blanket Tree Preservation Order covers the whole of the site.

The East Devon National Landscape is approximately 1.2km to the east.

The site is located within 10km of the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and SPA.

The wider village of Woodbury is home to a number of services including a convenience shop, doctors surgery, church, village hall, primary school, hairdressers, playing fields, public house and the village is served by a number of bus routes including the T, 58/58A, and 358. Exton Train Station is located around 2.8km from the site. The city of Exeter City Centre is around 7 miles to the northwest (20-25 minutes by car) and Exmouth is around 4.5 miles to the south (10-15 minutes by car).

Proposed Development

This application seeks outline planning permission, with all matters reserved except access, for the development of up to 28 dwellings including 9 affordable units. The indicative layout indicates a central, linear public open space area with most of the dwellings to the south and east of this.

A new access is proposed from Globe Hill on the western side of the site, with a spine road, extending to the south where it is proposed that a new pedestrian access onto The Arch is also created. The proposal also includes off-site highway works including traffic calming measures, the creation of a footpath along part of Globe Hill, linking to three formalised parking spaces, and a central refuge pedestrian crossing point on Globe Hill.

The indicative layout provides most of the dwellings towards the eastern side of the site, with further properties, parking and a new parish council building and disabled toilet with community square indicated to the south of the flood relief channel.

ANALYSIS

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

- Policy Position and The Principle of Development
- Housing Land Supply Position
- Affordable Housing
- Transport and Access
- Design and Layout
- Heritage Impact
- Archaeology
- Landscape and Visual Impact
- Residential Amenity
- Arboricultural Impact
- Drainage and Flood Risk
- Ecology/Biodiversity
- Open Space
- Planning Obligations
- Planning Balance and Conclusions

Policy Position and Principle of Development

Strategies 1 and 2 of the Local Plan set out the scale and distribution of residential development in the district for the period 2013-2031. The main focus is on the West End and the seven main towns. Development in the smaller towns, villages and other rural areas is geared to meet local needs and represents a much smaller proportion of the planned housing development.

Strategy 3 (Sustainable Development) of the adopted EDLP (2016) states that the objective of ensuring sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following issues and their

inter-relationships are taken fully into account when considering development: a) Conserving and Enhancing the Environment - which includes ensuring development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape. This includes reducing the risk of flooding by incorporating measures such as sustainable drainage systems. Developers should maximise the proportion of their developments that take place on previously developed land b) Prudent natural resource use - which includes minimising fossil fuel use therefore reducing carbon dioxide emissions. It also includes minimising resource consumption, reusing materials and recycling. Renewable energy development will be encouraged c) Promoting social wellbeing - which includes providing facilities to meet people's needs such as health care, affordable housing, recreation space and village halls. d) Encouraging sustainable economic development - which includes securing jobs. e) Taking a long term view of our actions - Ensuring that future generations live in a high quality environment where jobs, facilities, education and training are readily available.

Strategy 7 (Development in the Countryside) of the adopted EDLP (2016) states that the countryside is defined as all those parts of the plan area that are outside the Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map. Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement.
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings.
3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of Woodbury, thereby conflicting with Strategy 7 of the local plan. Consequently, the site would not offer an appropriate location for the development proposed having regard to the development plan's overall settlement strategy and expectation for such development to be contained within a designated built up area boundary.

Strategy 27 (Development at the Small Towns and Larger Villages) of the adopted EDLP (2016) states that the following settlements vary in size and character but all offer a range of accessible services and facilities to meet many of the everyday needs of local residents and they have reasonable public transport.

As stated above, the site in this case is located outside of the BuAB of Woodbury as defined in Strategy 27 (Development at the Small Towns and Larger Villages) of the adopted Local Plan and developed through the Villages Plan. In strategic policy terms therefore, the site is within the 'countryside' as defined in Local Plan Strategy 7 (Development in the Countryside), the provisions of which would not ordinarily facilitate new build housing in the absence of any other local or neighbourhood plan policy that would permit such development.

The application site lies outside of the built-up area boundary for Woodbury as defined under the currently adopted Local Plan (as defined by the Villages Plan 2018) meaning that this site is located in open countryside as set out in Strategy 7. Strategy 7 also sets out that development in the countryside is resisted except where it is explicitly supported by a specific Local or Neighbourhood Plan policies and where that development would not harm the distinctive landscape, amenity, and environmental qualities of the area in which it is located. Under the adopted Local Plan, the site is not allocated for development and is not considered to be an exception site. At the time of determination, Woodbury has not adopted a Neighbourhood Plan meaning that there are no local or neighbourhood plan policies which explicitly supports the development. The proposal would therefore be in conflict with Strategies 1, 7 and 27.

Given the above residential development of this nature and in this location conflicts with the spatial approach to development as expressed within the development plan. This conflict is considered to be attributed significant weight given that this is one of the main objectives of the local plan.

The application has some support from Strategy 3 of the EDLP which encourages sustainable development. This is also supported by the NPPF (2023) which sets out a presumption in favour of sustainable development which involves meeting three overarching objectives (economic, social and environmental) which includes building a strong and competitive economy, support strong and healthy communities and protecting and enhancing our built and natural environment. The proposed development would provide housing and much needed affordable housing in Woodbury with associated economic benefits, the proposal would be located in close proximity to the existing village and would be within walking and cycling distance from day-to-day services, community facilities and open space. It is considered that the proposal would appear to accord with the overarching principles of delivering sustainable development which is given weight in the planning balance.

Section 38 (6) of the Planning and Compulsory Purchase Act 2008 states that development must be made in accordance with the development plan unless material considerations indicate otherwise. This is also echoed in Paragraph 12 of the NPPF (2023) which states that the presumption in favour of sustainable 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, but only if material considerations in a particular case indicate that the plan should not be followed.

This paragraph of the NPPF allows for Local Planning Authority's to make decisions which depart from the local plan if the material considerations of the development outweigh the harm.

The National Planning Policy Framework (December 2023) (NPPF) states, at paragraph 77, that "local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years'

worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply."

Paragraph 226 states: "From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need."

The draft local plan consultation undertaken by East Devon District Council in November 2022 to January 2023 was carried out under Regulation 18. The emerging new Local Plan is therefore sufficiently progressed to benefit from this provision.

On this basis, and as the Council can demonstrate a 4.5 year housing land supply, policies within the adopted Local Plan most important for determining the application remain up to date and the presumption in favour of sustainable development (the 'tilted balance') set out at paragraph 11d) of the NPPF need not be applied.

(It is noted that the current government is consulting on a revised version of the NPPF which proposes to delete paragraph 226 from the NPPF, reverting to the standard requirement for all Council's to demonstrate a 5-year housing land supply, but the consultation document carries little weight at present.)

Housing Land Supply Position

The need for housing over the next five years is a crucial consideration in planning decisions and should be given significant weight. Paragraph 69 of the NPPF (2023) states that Local Planning Authority's must identify specific sites for housing for the next five years and broader areas for growth for the subsequent 10-15 years. This means that a responsible and proactive council should be looking beyond the mere 4 and 5 year timescales, recognise the implications of present actions and should take action now with regard to the impact of these longer time scales.

If the Council cannot demonstrate a five-year housing supply when adopting a new local plan, it would conflict with paragraph 69(a) of the NPPF. Without an adequate supply of housing an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of Paragraph 35 of the NPPF. Therefore, on this basis alone the Council should not rely solely on a short-term, four-year housing supply, as providing robust reason enough for resisting further housing as a matter of principle, especially if the development would accord with the principles of sustainable development.

Appeal decisions have shown that even if a site is not allocated in the current plan or is outside development boundaries, it can still nevertheless be considered for 'sustainable development' if there is no identified contextual conflict and is within reasonable reach of an appropriate level of services and facilities. This is especially relevant given the Council's current and future housing supply challenges, regardless of the 'tilted balance'.

The NPPF, prior to December 2023 required a continuous five-year housing supply and a number of other authorities have struggled to maintain this, leading to weaker positions when subject to appeals against planning decisions. These decisions often relied on overly optimistic policy assessments (purposely or otherwise), resulting in a compounded effect on future planning. The experience of these authorities shows that it takes time to recover (so to claw back an appropriate supply of housing) so as to successfully defend against appeals for sites deemed unacceptable.

The Council's Housing Monitoring Update shows that the forthcoming five-year housing trajectory will fall below the required numbers and it is notable that affordable housing delivery has also been below the required levels. Currently, about 6,000 households are on the Council's housing register. The district's identified affordable housing need is 272 dwellings per year, totalling 4,896 dwellings over the 18-year plan period. Delivery in recent years has fallen well short of this annual target

This issue was considered by Strategic Planning Committee on 15/7/2024 following the receipt of advice from Kings Counsel. The committee resolved to advise Planning Committee that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position. This is in order to ensure that the council has a robust housing land supply and as a result a sound local plan in respect of housing land supply for examination of the Local Plan.

There is a clear need for more housing, both market and affordable, within the district. The current and projected levels of housing delivery do not meet this need in the long term under the current policy climate. This unmet need is a significant factor for decision-makers in planning applications and appeals, particularly pertinent for otherwise sustainable sites outside current settlement boundaries.

To be in a strong position now, and remain so in the future, the Council must boost its supply of market and affordable housing and develop a local plan that ensures the realistic delivery of sufficient homes over the plan period. A robust approach in this regard would mean the adoption of a local plan which both expresses and reflects the needs of the district, provides the ability to defend unsustainable sites for development at appeal, prevent speculative planning applications afflicting local communities and meet the social elements at a national scale by delivering the right type of housing at the right time. Accordingly, the need to boost the supply of housing is a material consideration that can be attributed great weight given the strategic importance that maintaining a healthy supply of housing means to the council and its ability to retain control over key planning decisions.

Affordable Housing

Lack of affordable housing is a critical issue in East Devon and in order to retain younger people in our neighbourhoods and communities, as well as housing others in need, we need more affordable homes.

Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted EDLP (2016) states that affordable housing will be required on residential developments in East Devon. Areas to which higher (50%) affordable housing targets apply: Outside of the areas listed above (i.e. all other parts of East Devon including all settlements not listed, coastal and rural areas and Budleigh Salterton and Sidmouth) 50% of the dwellings shall be affordable subject to viability considerations. The 50% figure applies to all areas that do not come under the 25% classification and which are permitted under Strategy 35 'Exceptions' policy. Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership.

As the site lies outside the BUAB for Woodbury and in accordance with Strategy 34 the development should provide 50% affordable housing. Full weight can be given the Local Plan policies on housing as the Council has the requisite housing land supply as noted above. This would equate to 14 dwellings (based on 28 dwelling total). At the time of the submission of the planning application (when the Council did not have the requisite housing land supply and therefore our housing policies were out of date) the requirement would have been 25%, as originally submitted. Since the publication of the new NPPF, to reflect the new position the Council now finds itself in with regard to having an up to date set of housing policies, the developer has confirmed it will propose 50% affordable housing, 32.1% on site and 17.9% (£145,137.50) off-site contribution which would accord with Strategy 34

This level of affordable housing has received support from the Housing Enabling Officer, who has stated that they can be provided as a Rent to Buy product, such as Rent Plus. On a smaller scheme such as this a wider range of tenure types would be hard to achieve and a product such as RentPlus would add variety to the affordable housing provision coming forward within this area.

In order to secure the level of affordable housing proposed, a S106 legal agreement would be required should an approval be forthcoming. Officers would expect a mix of houses to meet the local requirement in Woodbury.

Whilst providing some of the affordable housing in the form of a contribution which would not be fully compliant with Strategy 34 as it is not wholly being provided on site, nine dwellings on site, plus a contribution to equate to 50% affordable provision must be seen as beneficial and afforded significant weight in the planning balance.

In line with Strategy 36, all of the affordable housing and around 20% of market units must meet part M4(2) of the Building Regulations. This could be secured via S106 legal agreement and reviewed as part of any reserved matters application.

Having regard to the above, the development could accord with Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes), and would accord with Strategy 34 (District Wide Affordable Housing Provision Targets), and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing SPD (November 2020).

Transport and Access

Strategy 5B (Sustainable Transport) of the EDLP (2016) states that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

Policy TC2 (Accessibility of New Development) of the EDLP (2016) states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.

Policy TC4 (Footpaths, Bridleways and Cycleways) of the EDLP (2016) states that development proposals will be required to include measures to provide, improve and extend facilities for pedestrians and cyclists commensurate with the scale of the proposal.

Policy TC7 (Adequacy of Road Network and Site Access) of the EDLP (2016) states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Policy TC9 (Parking Provision in New Development) of the EDLP (2016) states that spaces will need to be provided for parking of cars and bicycles in new developments. All small scale and large scale major developments should include charging points for electric cars.

The application is submitted in outline with the only detailed matter for consideration relating to access to the site. Access to the site is proposed from Globe Hill (B1379) with a new junction being created slightly to the south of an existing field entrance. The new entrance will have a carriageway width of 4.8m with a 2m wide footpath on its southern side. The footpath will extend around the entrance onto the eastern side of Globe Hill to a new pedestrian crossing with the formation of a pedestrian refuge in the centre of the road, subject to finalised agreement with the County Highway Authority, who are supportive of the suggested scheme in principle. The footpath on the eastern side of the road would then extend to the existing informal parking area which it is proposed to be widened to allow cars to park safely in this area.

The submitted draft Heads of Terms proposes contributions towards further off-site traffic calming measures on Globe Hill. These include enhancement of the village gateway, various visual only speed bumps and markings, the provision of the pedestrian crossing and potentially the introduction of a reduced 20mph speed limit to this part of Globe Hill (although this element would require the approval of a Traffic Regulation Order)

Visibility splays would be achieved by the removal of part of the boundary hedging to the south of the junction and reduction in height of the vegetation to the north.

The highway safety measures, traffic calming and crossing point are necessary to afford safe access to the proposed development from Globe Hill and would meet the statutory tests for Planning Obligations set out in Regulation 122 of the CIL regulations to make the development in planning terms and are directly related to the development. They would also be of wider public benefit in terms of improving highway safety for the community.

Notwithstanding the suggested off-site highway improvement works on Globe Hill, a direct pedestrian access is proposed from the site to the centre of the village by the creation of a new entrance on The Arch. This will enable residents to access the facilities within the centre of the village, including shops, public houses, church and school without having to negotiate crossing Globe Hill.

The indicative masterplan shows the internal main spine road extending through the site with from north to south, crossing the flood channel and providing access to the development in the southern area, with a new pedestrian access onto The Arch.

The development will inevitably generate some additional vehicular activity on the local road network however the Highway Authority are of the opinion that this would not be significant and whilst the off-site works would need to be subject to a Traffic Regulation Order, it is considered that the suggested measures will result in a safety net gain. On this basis it is considered the proposal would comply with the provisions of Policy TC7 (Adequacy of Road Network and Site Access) of the Local Plan.

In terms of wider accessibility, Policy TC2 and the NPPF seek residential development that is in positions where there are viable alternatives to the private car allowing pedestrian, cycle and public transport access to jobs, services, and amenities. The application site is accessible to a range of services including bus services, shops, schools, medical services, and jobs (predominantly in further afield settlements by bus). There are suitable and safe walking routes into the village centre. The site is accessible and future residents would have viable and sustainable alternatives to using the private car.

The submitted Transport Assessment is considered acceptable by Devon County Highway Authority and the overall the scheme considered to accord with Policies TC2 and TC7 of the EDDC Local Plan and the guidance in the NPPF.

Design and Layout

Policy D1 (Design and Local Distinctiveness) of the Local Plan sets out detailed criteria to ensure that new development is of a high quality design and is locally distinctive. In particular, development should respect the key characteristics and special qualities of the area and ensure the scale, massing, density, height, fenestration and materials of buildings relate well to their context. In addition, development should not adversely affect the urban form in terms of significant street patterns, groups of buildings and open spaces.

Section 12 of the NPPF, 2023 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development (para 126). In addition, development should function well and add to the overall quality of the area; be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and be sympathetic to local character and history, including the surrounding built environment and landscape setting (para 130). Development that is not well designed should be refused (para 134)

The application has been submitted in outline, with matters of design, appearance, layout and scale forming reserved matters to be considered in detail should an outline consent be forthcoming. Nevertheless, an illustrative masterplan layout has been submitted which identifies, and seeks to address, the constraints of the site, both in physical terms and heritage impact. In this respect the majority of development is proposed on the eastern side of the site, and to the south of the drainage channel, seeking to maintain an open vista through the site from the Grade II listed building, Oakhayes, to the south down towards Globe Hill. The suggested layout also maintains a view of the tower of the Grade I listed St Swithun's Church through the development and above the existing properties on the eastern boundary of the site.

The illustrative masterplan shows the indicative road layout, location of public open spaces, suggested position of dwellings and private gardens; and connections to the southern part of the site, with proposed parish building, parking and community square, together with proposed pedestrian access onto The Arch to the south of the site.

However, as the application is submitted in outline it is subject to amendments in terms of design and layout which would be considered as part of any reserved matters application. Any reserved matters application would need to address specific concerns raised regarding layout and form as well as design and appearance of the built form.

Overall, it is considered that the level of development being proposed could be accommodated on the site without resulting in a cramped form of development that would be at odds with the grain of development within the village or surrounding built form. It is considered that the proposals would therefore comply with the provisions of Policies D1 (Design and Local Distinctiveness) of the Local Plan, and the advice contained within the NPPF23.

Heritage Impact

The statutory duty contained in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving listed buildings or their setting, or any features of special architectural or historic interest which they possess. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its

alteration or destruction, or from development within its setting), should require clear and convincing justification.

Section 72 requires the decision maker pay special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development proposals should not adversely affect the distinctive historic or architectural character of the area.

Policy EN9 (Development Affecting a Designated Heritage Asset) of the Local Plan states that the Council will not grant permission for developments involving substantial harm or total loss of significance of a designated heritage asset unless it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site.
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.
- c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible.
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance should be wholly exceptional.

Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy EN10 (Conservation Areas) states that proposals for development, including alterations, extensions and changes of use, or the display of advertisements within a Conservation Area, or outside the area, but which would affect its setting or views in or out of the area, will only be permitted where it would preserve or enhance the appearance and character of the area.

Policies EN9 and EN10 reflect the guidance set out in paras 199 to 208 of the NPPF, 2023

Paragraph 201 of the NPPF requires that Local Planning Authorities identify and assess the particular significance of any heritage asset. Paragraph 205 requires that great weight is given to the conservation of designated heritage assets and this position is further supported by EDLP Strategy 49 (The Historic Environment) and Policies EN8 (Significance Of Heritage Assets and Their Setting) and EN9 (Development Affecting A Designated Heritage Asset).

It is considered that whilst there is currently no public access to the site, and restricted visibility into it from its immediate surroundings, it is visible from further afield, and that

from the northernmost part of the site, extensive views of the open countryside beyond the village can be afforded.

The site makes a positive contribution to the wider setting of the grade II Oakhayes House because it formed part of the designed landscape and had an historic relationship with the house. Whilst there are views from within the site towards the grade I listed church, only the tower is visible, with existing modern housing located adjacent to the eastern boundary and obscuring any views of the main body of the church. From the church there are very limited views into the site, with only the boundary vegetation being visible due to the presence of the dwellings in Broadmead.

It is considered that the main heritage impact would be that affecting the setting of Oakhayes, the Grade II listed building to the north of the site, and the Woodbury Conservation Area. The housing would have an urbanising effect on the parkland character of site experienced from Oakhayes and would erode a green space within the conservation area.

Paragraphs 205-208 of the National Planning Policy Framework deal with the assessment of harm to designated heritage assets and which advises that great weight should be given to an asset's conservation, and this should be proportionate to the importance of the asset. This approach is echoed in policy EN9- Development Affecting a Designated Heritage Asset of the Local Plan.

The application site is within the Woodbury Conservation Area, and to the south of a Grade II listed building.

The setting of the Church is also compromised, but due to the location/distance and existing development, this harm is considered to be on a slightly lower scale of less than substantial harm.

It is acknowledged that the proposal would result in less than substantial harm to the setting of Oakhayes and to the Woodbury Conservation Area through the introduction of new residential development, and the relationship between the heritage assets and change in the way the heritage assets are experienced. However, the final layout including landscaping and position of buildings would be a reserved matters application and it is expected that buffers are provided between heritage assets and built development to reduce the harm. Planting is proposed within and around the site which will help integrate and screen the development into the landscape but this will only go so far.

Where harm is identified, clear and convincing justification needs to be provided for any harm to, or loss of, the significance of a designated heritage asset including development within its setting (NPPF, Para 200).

In cases where the scheme will affect an element that positively contributes to a conservation area or within the setting of affected assets, it should be considered as harmful. In the consideration of the application, any harm needs to be shown to be demonstrably outweighed by the public benefits offered by the scheme (NPPF, 206 and 202).

This identified harm to heritage assets needs to be weighed against any public benefits. The proposal would result in additional dwellings adjacent to the centre of Woodbury which would help support employment and services in the local area and 35% of the on-site dwellings would be affordable. The proposal would result in public open space and play space as well as pedestrian connections and of-site highway works, including traffic calming measures which would benefit the wider village and improve highway safety. There are also employment opportunities associated with the construction of the development.

It is considered that whilst the proposed development would result in some visual harm to the site which makes a positive contribution to the green space within the wider Conservation Area, this harm is considered to be at the lower end of less than substantial and the positive benefits of the development, in terms of providing new housing and much needed affordable housing, and creating public access to the site and new vistas of the heritage assets are considered to weigh heavily in favour of the development such that it would overall comply with the requirements of policy EN9 (Development Affecting a Designated Heritage Asset) of the Local Plan and paragraph 208 of the NPPF23.

It has been suggested that there may be potential for the historic fountain head located within the boundary wall adjacent to Globe Hill be relocated either to within or on the edge of the development to better reveal its significance, although this is not proposed as part of the application the suggestion is not supported by Conservation Officers who consider that there is no justification for its relocation.

Archaeology

The application was accompanied by a geophysical survey which identified anomalies indicative of below-ground archaeological features, which it was not possible to determine the significant of and as such further intrusive field evaluation was required. An archaeological field evaluation of the site has been undertaken and completed with the results indicating that application site has a low potential for containing heritage assets with archaeological significance. The features that were exposed related to drainage features likely to be associated with feeding water to the fountain head built, in the late 19th Century, into the wall on the western side for the boundary facing onto Globe Hill, as well as areas disturbed by the removal of trees.

Given the findings of the field evaluation any archaeological concerns have been allayed and the Historic Environment Team objection withdrawn.

However, with regard to the fountain head on the B3179, the development of this site as proposed will effectively remove the drainage system that once fed the fountain and the potential for it to flow again will be lost. The fountainhead is located within the Conservation Area facing directly onto the southbound carriageway of the B3179 and is not accessible by any footpath. The wall into which the fountainhead is built appears to have some cracks in its fabric and is leaning and bowed. Given the removal of its water supply, the inaccessibility of this heritage asset and the potential need to repair this wall to make it secure as part of the development of the site would the applicant consider the removal and relocation of this non-designated heritage asset within or on the edge of the development site to better reveal the significance of this heritage asset

as required by para 206 of the NPPF (2023). Any relocation would need to be sympathetic to the fountainhead itself, publicly accessible and accompanied by appropriate public information and interpretation.

Landscape and Visual Impact

Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the Local Plan requires that development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty (now known as National Landscapes (NLs)).

When considering development in or affecting AONBs, great weight will be given to conserving and enhancing their landscape and scenic beauty. This is reinforced by para 176 of the NPPF, 2023

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development proposals should not adversely affect important landscape characteristics or prominent topographical features.

Para 174 of the NPPF, 2023 states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, should recognise the intrinsic character and beauty of the countryside and should maintain the character of the undeveloped coast.

The site comprises parkland, originally associated with Oakhayes, but which is now separated from the garden area associate with the property which has been sub-divided into a number of apartments. There is an open fence separating the site from the curtilage of Oakhayes, trees and hedgerow planting to the majority of the boundary with Globe Hill to the west and a stone boundary wall and further planting to its southern boundary adjacent to The Arch. The eastern boundary is formed by trees and hedging, and domestic fencing to the rear gardens of the properties in Broadmead, and the properties accessed from The Arch.

Within the site there are a number of large and attractive trees, with the whole site covered by a blanket tree preservation order. There is no public access to the site. Views out of the site are limited due to the presence of boundary vegetation, Oakhayes and the properties adjacent to the eastern boundary. However, at the top of the site, adjacent to the Oakhayes boundary, there are views to the open countryside beyond the village towards Woodbury Common and the Pebble Bed Heaths.

The proposals will have a major impact within the site, however beyond the boundaries the wider landscape impact is likely to be very localised, generally being limited to glimpsed views from Globe Hill and from the proposed pedestrian access onto The Arch. The indicative layout suggests two dwellings close to the entrance to the site, and these, together with the formation of a new estate access onto Globe Hill will have an urbanising impact on this immediate vicinity. Existing development on the western side of Globe Hill, is already somewhat urban in form, with buildings and boundary walls located adjacent to the back edge of the narrow pavement.

The introduction of traffic calming measures at the entrance to the village, together with the formation of the new estate access and creation of a pedestrian refuge in the centre of the carriageway and introduction of pedestrian footway will also have an urbanising impact on this part of Globe Hill, and the approach to the village from the west.

The residential development of the site would, inevitably, have a visual impact on the character of the site itself and would result in some loss of views of the church tower and the listed building to the north. Alterations to the access could be constructed without adverse impact on the boundary trees to Globe Hill and any wider landscape impacts are likely to be very localised.

Whilst there remains some concern regarding the illustrative layout, the application is submitted in outline form and the principle of housing development on the site is considered to be acceptable in terms of overall landscape and visual impact subject to detailed design and density such that it would comply with Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031.

Residential Amenity

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development should not adversely affect the amenity of occupiers of adjoining residential properties.

Policy EN14 (Control of Pollution) of the Local Plan states that permission will not be granted for development which results in unacceptable levels of pollution including smell, fumes and dust; pollution of surface or underground waters; noise; vibration; light intrusion and fly nuisance

Para 130 of the NPPF, 2023 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

There are a number of residential properties whose gardens border the eastern side of the site, and a further property to the south east of the site which fronts onto the eastern boundary. The indicative layout suggests that most of the proposed dwellings would be located towards the eastern side of the site to maintain the open vistas from and of Oakhayes to the north of the site.

Concerns have been raised that the proposed siting and proximity of dwellings to the boundary of the site will have an unacceptable impact on residential and other amenity, however the proposals are in outline and do not include detailed plans for the housing proposed. The exact location and design of residential dwellings would be determined at the reserved matters stage. However based on the illustrative masterplan submitted, it is considered that the number of dwellings and other development being proposed could be accommodated on the site without having an unacceptable impact on the residential amenities of those living adjacent to the site in terms of overlooking, loss of privacy or nuisance.

In terms of Environmental Health, the District Council's Environmental Health Officer reviewed the application and recommended a Construction and Environment Management Plan (CEMP) condition to any approval.

The proposed dwellings would be expected to comply with the Nationally Described Space Standards (NDSS). Whilst these are not adopted planning policy within the Local Plan, they are nevertheless a useful guide and Policy D1 seeks to ensure that development does not adversely affect the living conditions of occupants of proposed future residential properties and that development includes features that maintain good levels of daylight and sunlight into buildings. These requirements also accord with the P.135 (f) of the NPPF's requirement for a high standard of amenity for existing and future occupiers.

The proposed development at outline stage is therefore considered to be acceptable and would comply with Policy D1 and Policy EN14.

Arboricultural Impact

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that development should not adversely affect trees worthy of retention.

Policy D3 (Trees and Development Sites) states that permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees. The recommendations of British Standard 5837:2012 (or the current revision) will be taken fully into account in addressing development proposals.

Para 136 of the NPPF23 states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change; opportunities should be taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures should be in place to secure the long-term maintenance of newly-planted trees, and that existing trees should be retained wherever possible.

The whole of the application site is covered by a blanket tree preservation order, and there are large specimen trees within both the main body of the site and towards the boundaries. The illustrative layout suggests that some trees would be removed, although revisions to the layout have resulted in the retention of a number of those which were previously at risk. Amendments to the access onto Globe Hill have also resulted in the retention of a number of trees in this location. Whilst the loss of any trees is regrettable, the amended indicative layout, subject to conditions is now considered to be acceptable in principle, such that the development would comply with Policy D3 (Trees and Development Sites) of the Local Plan.

Drainage and Flood Risk

Policy EN21 (River and Coastal Flooding) of the EDLP (2016) states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use will be permitted in areas subject to river and coastal flooding. Wherever possible, developments should be sited in Flood Zone 1. The policy sets out a sequential approach whereby if there is no reasonably available site in Flood Zone 1, only then will locating the development in Flood Zone 2 and Flood Zone 3 be considered.

Policy EN22 (Surface Run-Off Implications of New Development) of the adopted Local Plan (2016) states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.
3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.
5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

The NPPF (2023) states at Paragraph 168 that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The majority of the site is within Flood Zone 1 where there is a very low risk of flooding however, part of the site adjacent to the flood alleviation channel in the south lies within an area identified as Flood Zones 2 and 3. The illustrative masterplan indicates that the built development will avoid these areas.

In relation to surface water run-off, a Flood Risk Assessment (FRA) has been submitted as part of the application including a Surface Water Management Plan developed in accordance with DCC's 'SuDS Guidance for Devon' with an additional allowance of 45% additional capacity made for climate change.

The applicant has proposed to manage surface water drainage back to the existing green field rates, using under drained permeable paving, attenuation pond, a detention basin and cellular tank before discharge into the alleviation channel. Other features such as raingardens and tree pits are also to be explored.

The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who initially objected to the application and requested further information. Following

the submission of an amended surface water drainage strategy, DCC Flood Risk removed their objection and requested a further detail condition is attached to any approval. The condition would seek a detailed drainage design, management of the surface water drainage system as well as information on the existing surface water drainage systems. The proposal is considered to be acceptable at this stage in relation to surface water subject to conditions.

As part of the site is located within the Flood Zone, the Environment Agency (EA) were consulted on the application. The EA raised no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. The EA also advised the LPA that the flood risk Sequential Test must be satisfied in accordance with the National Planning Policy Framework (NPPF) and the failure of the Sequential Test is sufficient justification to refuse a planning application.

The Flood Risk Assessment submitted by the applicant indicates that the site layout and levels and associated finished floor levels will be wholly in Flood Zone 1, therefore the Sequential Test is deemed to be met.

However, The R (Mead and Redrow) v SoS LUHC [2024] EWHC 279 High Court judgement indicated that as parts of the site (albeit not parts intended to be built on) were within flood zones 2 and 3, a sequential test was required in relation to flood risk. This judgement indicates that for this application, a more detailed sequential test would be required to consider whether there are any sites where all development and associated open spaces and accesses lie wholly outside flood zones 2 and 3, rather than just the built development.

The reason for the sequential test is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding. There is some limited national guidance (NPPG) on what information is required to inform the Sequential Test.

The guidance states that for individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration.

The NPPG does state that local factors can be considered when deciding the area of search to draw up. However, there is no up to date housing needs assessment identifying a specific need for the housing in the local area or any other factors that would limit the area of search to a smaller area, so for the purposes of this application the area of search is considered to be the district of East Devon.

An important factor to take into account is the current local plan review that is being undertaken by the Council, in particular its allocation of housing sites to meet the needs of the district to cover the plan period. A strategic review of available sites across the district has been undertaken and culminated in a Regulation 18 plan being consulted upon which included first and second choice housing sites together with a new community. Even if all proposed allocations are carried forward to Regulation 19 stage the amount of sites would fall short of the number of houses required to meet the needs of the district going forward. The draft local plan includes this application site as a proposed housing allocation. Given that there is only a finite amount of available housing land in sustainable locations in the district it is considered that the sequential test has been passed.

Where the sequential test has been passed paragraph 169 of the NPPF requires that the LPA undertakes an exceptions test, to pass the exception test it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall

In this instance the proposal would provide much needed open market and affordable housing where there is a district wide need, but more importantly it would be in a sustainable location where there is good access to a range of services including shops, primary school, public houses, places of worship together with convenient public transport links to further afield settlements.

It would remain safe for the lifetime of its use given that none of the built form would be close to areas of flooding vulnerability and surface water run off from the site would be controlled in an appropriate manner (once improvements are made to the local sewerage pumping station to deal with flows from the combined surface and foul water drainage) which is a benefit over the current situation of green field run off. As such it is considered that the exceptions test would be passed.

In relation to Foul Sewage, South West Water were consulted on the application and do not object to the principle of the proposed outline application subject to conditions. They requested conditions in relation to Surface Water Management and a Water Conservation Strategy. They have also recommended a condition requiring written confirmation prior to the occupation of any dwelling, from South West Water that improvement works at Woodbury Waste Water Treatment Works have been completed, or until 1st December 2025. Officers have concerns in relation to the wording of this condition in so far as it suggests occupation could occur in December 2025 even if the improvements have not taken place. The officer view is that no occupation should take place until the works have been completed. This could be secured via a Grampian condition if there is a reasonable prospect of the works taking place within the lifetime of the permission. South West Water have confirmed some of the works have been completed and they are on track to complete by December 2025. This would be within the lifetime of the permission and therefore the application of a Grampian condition would be reasonable and necessary.

Having regard to the above the proposal is considered to comply with Paragraph 168 of the NPPF23 and Policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the Local Plan.

Ecology/Biodiversity

Strategy 47 (Nature Conservation and Geology) of the Local Plan states that all development proposals will need to conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats; maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features. The aims of this Strategy are reinforced in paras 180 to 182 of the NPPF, 2023.

Policy EN5 (Wildlife Habitats and Features) of the adopted Local Plan (2016) 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. Where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

The closest designated site is the East Devon Pebblebed Heaths SPA/SAC/SSSI, located about 1.8 km east of the site. The Exe Estuary SPA/SAC/RAMSAR is located around 2.8km from the site. There are also a number of non-statutory designated sites within 2 km of the site, the nearest being the Backhill County Wildlife Site (CWS) which is 1.9km from the site. Higher Mallocks Unconfirmed Wildlife Site (UWS) is 1.4km south east of the site and Rushmoor Wood Other Site of Wildlife Interest (OSWI) is 1.9km north east of the site.

The application is supported by a Preliminary Ecological Appraisal, including an Extended Phase 1 Habitat Survey with additional ecological surveys for bats, nesting birds, and reptiles. These surveys have demonstrated that the site is used by foraging and commuting bats, including greater horseshoe, barbastelle and lesser horseshoe, nesting birds including Red listed, house sparrow and Amber listed, and by slow worms. The margins of the site could potentially offer habitat for dormice, but found that they were unlikely to be present, although this could not be ruled out.

The development of the site would result in the permanent loss of approximately 0.8ha of neutral grassland, 50m of species-poor hedgerow and some trees. Without mitigation this would result in a minor adverse ecological impact.

The District Council's Ecologist reviewed the application and stated that the proposed ecological avoidance, mitigation, and enhancement measures are generally considered acceptable subject to conditions.

The mitigation proposed as part of this application as well as a CEMP and LEMP will need to be secured and this can reasonably be achieved through a suitably worded condition in the form of the requirement for the approval of an Ecological Mitigation Strategy based on the proposed mitigation in the Environmental Report.

Biodiversity Net Gain

As part of this planning application, a biodiversity net gain of at least 10% is expected based on the most up to date metric. A Draft Biodiversity Gain Plan has been submitted, demonstrating a 15.38% positive change for habitat, with 0.47km of hedgerow, providing a hedgerow gain of 53.77% will be provided.

Whilst the final landscaping scheme would be secured as part of a reserved matters application and the BNG needs to be secured via a condition and then be evidenced in the subsequent reserved matters, it is considered that the application site would result in a BNG of at least 10%.

Open Space

Strategy 43 (Open Space Standards) of the adopted EDLP (2016) states that developments proposing net new dwellings will be expected to provide for open space on-site where there is a demonstrable need for such open space in the vicinity. Developments will be assessed against existing provision in the parish in which they are proposed. Where existing provision of specific typologies exceeds quantity standards, on-site provision will only be required where the existing open space typology is of poor quality or is in some other manner deficient such as not matching up to the accessibility standard. Developments will be expected to provide open space on-site through a Section 106 Agreement in line with the following thresholds:

- 9 dwellings or less will not be required to provide any specific open space typologies onsite, however developers may choose to make such provision.
- 10 - 49 dwellings will be required to provide amenity open space on-site.
- 50 - 199 dwellings will be required to provide amenity open space, and children's and youth play space on-site.
- 200+ dwellings will be required to provide for all open space typologies on-site.

The application would include up to 28 residential dwellings meaning that amenity open space is required on site by Strategy 43. Strategy 43 sets out that in rural locations developments should include 3.0m² per person of amenity open space

As detailed layouts are not known it is considered that the application could include up to 70 residents. The requirement for up to 70 residents would be for 210m² of amenity open space. Whilst the detailed site layout would be reviewed as part of the reserved matters the illustrative layout indicates that around 1.28ha of landscaped open space would be provided, including an informal Local Area of Play (LAP) consisting of natural play equipment. Whilst the level of development would not require the provision of a LAP, this is considered to be of benefit to the proposal.

The proposal is considered to be acceptable in accordance with Strategy 43.

Habitat Regulations Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of the designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. The mitigation contribution would be secured through a S106, currently at £367.62 per dwelling.

Natural England were consulted on the AA and have advised that on the basis of the appropriate financial contributions being secured to the South-east Devon European Sites Mitigation Strategy, they would concur with this authority's conclusion in the AA that the proposed development will not have an adverse effect on the integrity of the European Sites. It is for the LPA to adopt the AA and accordingly there is a further recommendation on this at the end of the report.

Health Care

A request for a financial contribution towards healthcare services provided by the Royal Devon and Exeter NHS Foundation Trust has been made.

However, the amount requested is yet to be qualified with the complexities in the funding gap unclear. Recent court judgements have to be taken into account, and this, like other ongoing requests from the NHS have to be scrutinised in detail. In this case insufficient justification has been provided to support this request.

Education

Devon County Council Education Department has indicated that the local primary school's capacity would be breached by the school aged children which this development would produce and have asked for contributions towards extending the school. Such matters fall under the CIL regime where public bodies are required to bid for appropriate funding towards infrastructure projects including the extension of local schools. As this proposal would contribute a CIL amount from each dwelling, an education contribution cannot be secured.

Planning Obligations

Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) states that the Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies

schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. The failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

As set out throughout this report, the following obligations are sought for this development via a S106 legal agreement:

- Provision of affordable housing (32.1% on site and an off-site contribution of 17.9% - £145,137.50)
- Habitats Mitigation contribution of £367.62 per dwelling
- Provision and maintenance of public open space and drainage attenuation
- Provision of access through wall onto The Arch
- Agreement to secure alterations to the public highway to accommodate the access works
- Off-site Highways Infrastructure
- Travel Plan
- Secure and maintain BNG
- Monitoring Fees

At the time of writing a S106 legal agreement securing the above requirements has not been secured. Accordingly, the recommendation to Members is that of a resolution to approve, subject to the completion of the S106 and the conditions at the end of this report. Completion of the above mitigation measures are required to accord with Strategy 50 (Infrastructure Delivery) of the Local Plan.

Other Matters

The proposed parish council building and parking (which would be gifted to the parish council at nil cost) would be of benefit to the community, as would the proposed off-site traffic calming and improvements to Globe Hill and the area around The Arch, and it is noted that there is Parish Council support for these elements of the application which would also be of wider public benefit. However there is no evidenced demand for these works and there is no policy requirement to lend support to these elements of the proposals.

At the time of determination, there are also a number of other planning applications for residential development in Woodbury and consideration must be given to whether the village can support the level of growth proposed. At present application 22/2838/MOUT has a resolution for approval (subject to the completion of a legal agreement) for 70 residential dwellings and applications 23/1258/MOUT and 21/2166/MOUT are pending consideration for 35 and 60 dwellings respectively. In total and including this application, up to 193 additional dwellings are proposed at Woodbury, all of which are unallocated in the local plan. This increase, if all were approved would result in a 26.4% increase in the number of dwellings in Woodbury and it is acknowledged that this would be a large increase for the village.

Planning Balance

The NPPF seeks to significantly boost the supply of housing across England. The proposal would provide for a not insignificant amount of dwellings, required to bolster the much needed supply of housing in the district. Notwithstanding the recent changes to the NPPF this Council will need to demonstrate a five year housing land supply in order to successfully bring forward a new, updated Local Plan. Housing delivery therefore remains a significant material consideration.

However as set out earlier in this report, this development proposes development in the countryside outside of a built-up area boundary. There has thus been an identified conflict with Strategy 7 (Development in the Countryside) of the Local Plan.

Whilst it is currently possible to identify a sufficient housing land supply to satisfy the amended NPPF23 such that the 'tilted balance' is not engaged, the lack of current and future delivery of homes, and particularly affordable homes is of significance such that a 'flat balance' is considered to be an appropriate assessment of the proposed development.

The site is considered to occupy a sustainable location within the village and is in close proximity to the range of services and facilities on offer within Woodbury.

This application has been submitted in outline form for up to 28 residential units seeking approval for access only. Matters of layout, appearance, scale and landscaping have been reserved for future consideration, however the submitted indicative layout, as amended is considered to be appropriate to demonstrate that it would be possible to accommodate up to 28 residential units whilst respecting the constraints of the site.

The application has a number of associated benefits including housing delivery and the provision of affordable homes, highway works and public open space which are given weight in the decision. The sustainable location and access to services and infrastructure is also a benefit. The proposal would include economic benefits from construction to operation and benefits to local businesses and services as well as CIL payments of which a proportion would go to the parish council. These are all considered to be benefits of the development which align with the NPPF's three overarching objectives (economic, social and environmental). Some less than substantial harm to the landscape and heritage assets is acknowledged which weighs negatively in the planning balance. The application has been assessed in relation to design, amenity, ecology, sustainability, contamination and transport and is considered to be acceptable in these regards subject to conditions.

When taking all of the above into account the conflict with residential development beyond the built up area boundary, and visual impact on the character of the immediate area and less than substantial harm to heritage assets, this not considered to significantly and demonstrable outweigh the benefits (noted above), when assessed against the policies of the framework as a whole.

Furthermore, the proposed development would provide economic opportunities for the District including direct and indirect employment and spending in the local area. The proposal would provide for play and open space which is beyond the requirements of the Local Plan and would include public access to what is currently private amenity

land. The proposed houses would also be liable for CIL and Council Tax, with a proportion of CIL being allocated to the Parish Council to spend in the local area.

In summary, whilst the proposal would sit outside of the built-up area boundary and would not align with the spatial strategy for development in East Devon, the proposal has some support from Strategy 3 and the principles of the NPPF and would benefit from day-to-day services within Woodbury. Furthermore, the need for housing, especially affordable housing within the district is a material consideration and is given significant weight in the decision-making process. The balance between unregulated development in the countryside and supply of homes is finely balanced however given the need to bolster supply for the longer term, the proximity to the centre of the village, level of affordable housing proposed and other proposed highway improvements, the material considerations in this instance would on balance justify a departure from the Adopted Local Plan subject to the satisfactory resolution of all planning issues. Every planning application is determined on its own merits and the precise context of every site is different, in this case the approval of this application does not set any precedence for development in the countryside.

This proposal is considered to benefit from the presumption in favour of sustainable development which, as a material consideration, outweighs the limited conflict with the development plan. As such a recommendation of approval is made, subject to completion of a Section 106 Agreement and appropriate conditions.

RECOMMENDATION

- a) ADOPT the Appropriate Assessment
 - b) APPROVE the application subject to the completion of a S106 Agreement securing the items listed in the planning obligations section of this report and the following conditions.
1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).

2. Approval of the details of the layout, scale and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(Reason - The application is in outline with one or more matters reserved.)

3. 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.)

4. Prior to any works commencing on site, a Construction and Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented and remain in place throughout the construction period. The CEMP shall include at least the following matters:

- 1) Air Quality
- 2) Dust control
- 3) Lighting
- 4) Noise and vibration
- 5) Pollution Prevention and Control, including an emergency plan
- 6) Monitoring Arrangements
- 7) Site compound and parking - location and size
- 8) Construction traffic management
- 9) Waste Management
- 10) Airport safeguarding
- 11) A detailed soil resources management plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009.

Construction working shall not take place outside the hours of 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays, Christmas Day or Boxing Day. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

(Reason - A pre-commencement condition is required to ensure that the details are agreed before the start of works to protect the amenities of nearby occupiers and to protect the ecology/protected species in the locality to accord with Policy EN14 (Control of Pollution) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031. The CEMP needs to be approved and implemented prior to the start of development operations as risks to the environment, amenity and ecology will be present from this point.)

5. Construction Traffic Management Plan (CTMP)

No development shall take place until a detailed Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall detail:

- a) the timetable of the works;
- b) daily hours of construction;
- c) any road closure required (and a time table for this);
- 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 6:00pm 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 in writing by the Local 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;

The development shall be carried out in accordance with the approved details and any subsequent amendments as shall be agreed in writing with the Local Planning Authority.

(Reason - A pre-commencement condition is required to ensure that the details are agreed before the start of works to ensure that adequate measures are put in place to manage construction traffic during the development in accordance with Policy D1 (Design and Local Distinctiveness) and E14 (Control of Pollution in New Development) of the adopted East Devon Local Plan.)

6. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full tree survey based on BS5837:2012, including a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement for the protection of retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)

7. No external lighting shall be installed until a Lighting Design including lux contours, based on the detailed site design, most recent guidelines (currently GN08/23 and DCC 2022), and the proposed lighting strategy has been submitted and approved in writing by the Local Planning Authority. The design should clearly demonstrate where dark corridors (<0.5 lux) are provided without the attenuation of habitat features which long-term management cannot be guaranteed. All lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

(Reason - To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

8. A Landscape and Ecological Management Plan (LEMP) for a minimum period of 30 years shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development based on the submitted Phase 1 Habitat Survey & Preliminary Ecological Appraisal (Sunflower International April 2023), supporting Biodiversity Net Gain Plan (Colmer Ecology 11 June 2024) and comments made from the District Ecologist. It should include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, permeable fencing, and other features to be shown clearly on submitted plans.

The content of the LEMP shall also include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a minimum 30-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and

objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

(Reason - This is pre-commencement to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

10. The reserved matters application for layout and/or landscaping submitted pursuant to this, permission shall include details of a scheme for the provision of surface water management. The details shall include:

- A description of the surface water drainage systems operation;
- Details of the final drainage schemes including ground investigations and testing results, calculations and layout;
- Confirmation of the viability of, and secured arrangements for, discharging surface water to the watercourse, if a SuDS solution is demonstrably evidenced to be unviable as sole discharge method;
- A construction Surface Water Management Plan;
- A Construction Quality Control Plan;
- Confirmation of details pertaining to the intended maintenance/adoption arrangements of the final drainage scheme, including responsibilities for the drainage systems and overland flow routes. The plan must include a drawing which clearly delineates the management responsibility for each drainage element and schedule of maintenance; and
- A timetable of construction.

The developments shall be implemented in accordance with the approved details.

(Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface and ground waters by ensuring the provision of a satisfactory means of surface water control and disposal, and in accordance with the aims and intentions of national (PPG: 7-056-20220825), county (Sustainable Drainage System - Guidance for Devon, Paragraph 6.3) and local policy (Strategy 3 & EN22).)

11. No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of foul water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the foul water drainage systems operation;
- Confirmation from South West Water Ltd that they will accept the flows from the development into their network;

- Details of the final drainage scheme including estimated volume of waste water from the development at full occupation;
- A Construction Quality Control Plan;
- A timetable of construction;

The development shall be implemented in accordance with the approved details.

(Reason: This is required as a pre-commencement condition to minimise the risk of pollution by ensuring the provision of a satisfactory means of foul water disposal and in accordance with policy EN19 of the East Devon Local Plan.)

12. No development shall take place until details of the construction of the access, the internal roads, turning and parking areas have been submitted to and approved in writing by the Local Planning Authority. Prior to the start of any other development on the site, the first 5 metres of the access road, measured from the nearside edge of the carriageway, shall be constructed and surfaced in accordance with the approved details, and any other access to the site shall be permanently closed.

(Reason - A pre-commencement condition is required to ensure that the road works are planned and provided in good time in the interests of highway safety for construction and other vehicles and to ensure that mud and loose material is not deposited on the highway in accordance with the requirements of Policy TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)

13. No development shall commence until a Biodiversity Management Plan to ensure that there is a quantifiable net gain in biodiversity of at least 10% within a 30-year period as a result of the development has been submitted to, and approved in writing by, the Local Planning Authority.

The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time, and the Biodiversity Management Plan shall include:

1. Proposals for on-site biodiversity net gain (full details of which will be provided in relation to each phase of development (where applicable) and/or for off-site offsetting);
2. A management and monitoring plan for any on-site and off-site biodiversity net gain, including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2, 5, 10, 15, 20, 25 and 30 from commencement of development, demonstrating how the biodiversity net gain is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
3. A methodology for the identification of any site(s) to be used for offsetting measures and the identification of any such offsetting site(s); and/or
4. Details of any payments for offsetting measures including the biodiversity unit cost and the agreed payment mechanism.

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan and shall be retained as such thereafter.

(Reason: This is prior to development commencing to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

14. No dwelling hereby approved shall be occupied until written confirmation is received by the Local Planning Authority from South West Water that improvement works at Woodbury Waste Water Treatment Works to ensure there is capacity to deal with foul sewage from this development have been completed unless alternative means of adequately dealing with foul drainage have been previously agreed in writing by the Local Planning Authority and implemented in full.

(Reason: To enable required improvement works to take place at Woodbury Waste Water Treatment Works to suitably receive and accommodate the increase in flows expected as a result of the proposed development in accordance with Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the East Devon Local Plan. Allowing flows above acceptable volumes from the occupation of dwellings prior to these works being completed would have unacceptable impact on existing infrastructure, with unacceptable risk of potential pollution events occurring.)

15. The development shall not be occupied until the Local Planning Authority has been provided with evidence, including photographs and completed toolbox talk sheets, that all ecological mitigation and enhancement features, including bat boxes, bird boxes (at least 1 per dwelling), and other features that relate to that part of the development to be occupied have been installed/constructed, and compliance with any protected species licences, and ecological method statements detailed with the submitted LEMP and CEcoMP.

(Reason - To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.)

16. Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or the development, the Local Planning Authority shall be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

(Reason: To ensure that any contamination existing and exposed during the development is identified and remediated in accordance with Policy EN16 (Contaminated Land) of the East Devon Local Plan 2013 to 2031 and with the National Planning Policy Framework.)

17. The landscaping works approved as part of the reserved matters application(s) or as part of an advance planting scheme shall be undertaken in accordance with the approved scheme within either, an agreed timetable or within 12 months of completion of development or during the next planting season following completion whichever is the sooner.

If within a period of 10 years from the date planted any tree, plant, grass area or shrub dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with other(s) of similar size and species by the developer.

If within a period of 10 years of the commencement of development, any part of any retained/translocated hedgerow dies or becomes diseased, it shall be replaced by the developer before the end of the next available planting season in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

(Reason - In the interests of enhancing and preserving the amenity of the area in accordance with Policy D2 (Landscape Requirements) of the East Devon Local Plan.)

18. All reserved matters applications shall be accompanied by Waste Audit Statement to ensure that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance.

Development must be undertaken in accordance with the agreed details.

(Reason: To ensure waste generated by the construction and operational phases is in accordance with Policy W4 of the Devon Waste Plan which requires major development proposals to be accompanied by a Waste Audit Statement.)

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.

Informative:

The Local Planning Authority (LPA) has a statutory duty under Regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions

when dealing with cases where a European Protected Species (EPS) may be affected. The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations. Having regard to the three tests, the LPA considers that the three tests would not be met and that Natural England are unlikely to grant an EPS licence.

Informative - Biodiversity Net Gain:

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 means that this planning permission is deemed to have been granted subject to "the biodiversity gain condition" (BG condition).

The Local Planning Authority cannot add this condition directly to this notice as the condition has already been applied by law. This informative is to explain how the biodiversity condition applies to your development.

The BG conditions states that development may not begin unless:

- (a) a Biodiversity Gain Plan (BG plan) has been submitted to the planning authority, and
- (b) the planning authority has approved the BG plan.

In this case the planning authority you must submit the BG Plan to is East Devon District Council.

There are some exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case exemption 1 from the list below are considered to apply:

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or

(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- (i) the application for planning permission was made before 2 April 2024;
- (ii) planning permission is granted which has effect before 2 April 2024; or
- (iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- (i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- (ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- (i) consists of no more than 9 dwellings;
- (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- (iii) consists exclusively of dwellings which are self-built or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat,

information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Informative - Flood Risk Activity Permit:

We take this opportunity to inform all parties that the watercourse at this location is designated as a 'Main' river. as a such the Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

Plans relating to this application:

1000	Location Plan	21.07.23
	Transport Statement	21.07.23
2035_100 Rev H: Illustrative Master Plan	Proposed Site Plan	21.06.24
01-PHL-101 preliminary access arrangements	E: Other Plans	08.11.23

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, 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.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality 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.

23/1600/MOUT - APPENDIX 1

Technical Consultation Responses in Full

Housing Strategy/Enabling Officer - Cassandra Pressling

22/01/24 - I can confirm that I support the application with 35% affordable housing, which equates to 9 units. These 9 units can all be provided as a Rent to Buy product such as Rent Plus.

I do not support these 9 units as age restricted, because to meet housing need the district council provides for all age groups. I would suggest you make your open market units age restricted.

22/01/24 - Dear Gary

Further to my email of 20th June, I can confirm that I would support your application with 35% on site and 15% as a financial contribution.

35% on-site (9 dwellings)

15% off-site contribution (5 remaining dwellings) totalling £144,790 (4 dwellings x £28,958 due to 50% requirement)

Housing Strategy/Enabling Officer - Cassandra Pressling

22/09/23 - Objection

Percentage of Affordable Housing - Strategy 34 in the adopted East Devon Local Plan 2013 - 2031 requires 50% affordable housing. This application is only offering 25% affordable which is not policy compliant. They have not submitted a viability appraisal to state why they are only offering 25% affordable housing so I object to this application.

Cassandra Harrison

Housing Enabling Officer - East Devon District Council

Devon County Archaeologist

09/10/23 - Application No. 23/1600/MOUT

Land Off Globe Hill Woodbury EX5 1LL - Outline application for construction of up to 28 residential units (up to 7 affordable), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access): Historic Environment

My ref: ARCH/DM/ED/38715c

09/10/23 - I refer to the above planning application, the archaeological field evaluation of this proposed development site has been completed and while a report has yet to be received by the Historic Environment Team I did visit site

and observe the excavated trenches while they were still open. I have also been appraised of the results by the applicant's archaeological contractor - AC Archaeology - and have been informed that the report will be submitted shortly.

The results of the archaeological field evaluation have shown that the application area has a low potential for containing heritage assets with archaeological significance. The features that were exposed related to the drainage of the site as well as areas disturbed by the removal of tree. The drainage features on the site are likely to be associated with feeding water to the fountainhead built, in the late 19th century, into the wall on the western boundary of the site and facing onto the carriageway of the B3179.

Given the demonstrated low potential of the proposed development site I do not consider that any further archaeological work is required in mitigation for the impact of the proposed development and, as such, would like to withdraw the Historic Environment Team's previous objection and instead offer no comments on this planning application.

However, with regard to the fountain head on the B3179, the development of this site as proposed will effectively remove the drainage system that once fed the fountain and the potential for it to flow again will be lost. The fountainhead is located within the Conservation Area facing directly onto the southbound carriageway of the B3179 and is not accessible by any footpath. The wall into which the fountainhead is built appears to have some cracks in its fabric and is leaning and bowed. Given the removal of its water supply, the inaccessibility of this heritage asset and the potential need to repair this wall to make it secure as part of the development of the site would the applicant consider the removal and relocation of this non-designated heritage asset within or on the edge of the development site to better reveal the significance of this heritage asset as required by para 206 of the NPPF (2023). Any relocation would need to be sympathetic to the fountainhead itself, publicly accessible and accompanied by appropriate public information and interpretation.

Please do get back to me if you need any more information or clarification of any of the above. I have copied in the East Devon Conservation Team with regard to my comments on the fountainhead.

09/10/23 - I refer to the above planning application and the submission of the report setting out the results of the geophysical survey.

The geophysical survey has identified anomalies that are indicative of below-ground archaeological features. However, it is just not possible to determine the significance of any heritage assets with archaeological interest within the application area through remote means alone and a programme of intrusive field evaluation is still required to test the anomalies that have been identified as well as the efficacy of the survey itself, i.e. what is the significance of the anomalies identified and are there archaeological features that have not been detected by the survey?

In the absence of the results of a programme of intrusive field evaluation the Historic Environment Team would reiterate its previous objection on the basis of insufficient heritage information and advise that the application should be supported by the results of a programme of intrusive field evaluation. The requirement for such information is in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance - and EN8 - Significance of Heritage Assets and their Setting, and paragraphs 194 and 195 of the National Planning Policy Framework (2021). If this information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application as being contrary to the above policies.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area affected by the proposed development to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

I will be happy to discuss this further with you, the applicant or their agent if this would be helpful.

Devon County Archaeologist

11/08/23 - The proposed development lies in an area of archaeological potential within a landscape contain evidence of prehistoric and Romano-British activity and this potential is highlighted in the archaeological assessment report submitted in support of this planning application, which states:

"There is currently limited evidence for prehistoric and Romano-British occupation within the vicinity of the site, although its position on a south-facing slope and historic agricultural land use indicate that there is a potential, albeit unknown, for archaeological remains to be present, with these, if present, likely to pre-date the medieval period."

In addition, given the proximity to the 13th century parish church there is also the potential for the site to contain archaeological and artefactual deposits associated with the early historic settlement at Woodbury.

However, the information submitted in support of this application is not sufficient to enable an understanding of the significance of any heritage assets with archaeological interest that may lie within the application area or of the impact of the proposed development upon these heritage assets.

Given the unknown potential for survival and significance of any below ground archaeological deposits associated with the historic settlement at Woodbury and the known prehistoric and Romano-British activity in the surrounding landscape and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support

of this application then I would recommend the refusal of the application. The requirement for this information is in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance - and EN8 - Significance of Heritage Assets and their Setting, and paragraphs 194 and 195 of the National Planning Policy Framework (2021).

The additional information required to be provided by the applicant would be the results of:

- i) An archaeological geophysical survey, and
- ii) A programme of intrusive archaeological field evaluation.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area affected by the proposed development to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

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/>.

Conservation

19/12/23 - Please see the additional comments below:

In line with the NPPF, para 200 states that any harm requires clear and convincing justification.

The potential harm to the heritage assets, both the Woodbury Conservation Area and the setting of Oakhayes and St Swithuns Church, as a result of the proposed development works, has been balanced against paras. 202 and 206 of the NPPF23.

The concerns as raised in the previous comments will result in harm to the character and appearance of the Conservation Area and in addition result in harm to the setting of both Oakhayes and the Church. This harm is considered to be less than substantial.

In summary, the proposed development would result in the erosion of and visual harm to the site which currently makes a positive contribution to the green space within the wider Conservation Area and therefore failing to preserve, enhance or better reveal the significance of the conservation area as a heritage asset. In

addition, the impact on the immediate setting of Oakhayes which contributes to its significance resulting in less than substantial harm. The setting of the Church is also compromised, but due the location/distance and existing development, this harm is considered to be on a slightly lower scale of less than substantial harm. This harm therefore needs to be weighed against any public benefits.

The application should therefore be determined in line with the NPPF ensuring that great weight is given to the significance of the affected heritage assets.

19/12/23 - Further to DCC Historic Environment Officer's email, we discussed the last paragraph today at our Conservation Team chat:

"However, with regard to the fountain head on the B3179, the development of this site as proposed will effectively remove the drainage system that once fed the fountain and the potential for it to flow again will be lost. The fountainhead is located within the Conservation Area facing directly onto the southbound carriageway of the B3179 and is not accessible by any footpath. The wall into which the fountainhead is built appears to have some cracks in its fabric and is leaning and bowed. Given the removal of its water supply, the inaccessibility of this heritage asset and the potential need to repair this wall to make it secure as part of the development of the site would the applicant consider the removal and relocation of this non-designated heritage asset within or on the edge of the development site to better reveal the significance of this heritage asset as required by para 206 of the NPPF (2023). Any relocation would need to be sympathetic to the fountainhead itself, publicly accessible and accompanied by appropriate public information and interpretation."

The fountain head is referred to in the Woodbury Conservation Area Appraisal and marked on the Map as an important feature.

Just to say that we do not agree with this suggestion. It is appreciated that the water supply will be lost and that the fountainhead (1867) is in need of some repairs. Repairs to the fountain would of course be welcomed.

However, there is no justification for it to be re-located which will both de-value the fountain as a non- designated heritage asset and alter the context in which is currently seen and experienced.

It is acknowledged that it is not easy to access, but there is a pavement opposite and if an interpretation board is required this could be located opposite the fountainhead.

I hope that these views can be considered in conjunction with the current application, thanks.

Conservation

13/12/23 - ADDRESS: Land Off Globe Hill, Woodbury

GRADE: Setting APPLICATION NO: 23/1600/MOUT

Amended plans received 8th December 2023:

The revisions relate to the Illustrative Masterplan which has been amended.

The changes appear to be minimal and include:

- o Units closest to Oakhayes now has revised layout, more closely arranged with garaging/parking re-located further away from boundary;
- o Other minor layout changes, revisions to parking etc throughout site;
- o Informal footpath at southern end re-located;
- o Pedestrian access at southern end onto The Arch reduced to one.

These appear to address some of the comments raised, but overall the original comments still stand.

KBH

13/12/23

Conservation

08/11/23 - CONSULTATION REPLY TO PLANNING WEST TEAM

PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION AREA

ADDRESS: Land Off Globe Hill, Woodbury

GRADE: Setting APPLICATION NO: 23/1600/MOUT

CONSERVATION AREA: Woodbury

PROPOSAL: Outline application for construction of up to 28 residential units (up to 7 affordable), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access)

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The site is within the Woodbury Conservation Area and is located to the west of the village just outside the original historic core as shown on the historic OS maps dating from 1889/90. The land appears to form part of the original grounds to Oakhayes which is a large, detached house circa 1830, now subdivided, to the north of the site, and a Grade II listed building. As suggested in the listing description, the original owner was an enthusiastic gardener and this has some bearing on the current landscape.

The site is bounded by mature trees and vegetation to the west with an existing gated access opposite Greenfield Cottage and a high (approx 6/7') grey/pinkish stone boundary wall with adjacent trees and shrubs, at the bottom end of the site, including the fountain dated 1867 and turning the corner to the south of the site adjacent to The Arch. At this point there is also a stone bus shelter and a K6 Telephone Kiosk.

Within the site itself the area is open grassland bounded on all sides by mature trees/vegetation with a number of individual trees throughout, including those lining the watercourse running through the south end of the site. The gardens to Oakhayes bound the site to the north and there are a number of 'historic' pathways around the edge of the site. The gardens to Broadmead back onto the land to the east and there are magnificent views of the Grade I St Swithuns Church. The land is identified as an area of local amenity importance. The Woodbury Conservation Area Appraisal also identifies the prominent walls to the south, the red brick bridge, just outside the site and the main hedgerows and trees on Map 2 as being of importance.

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

This outline application relates to the construction of 28 residential units, new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works. It is clear from the submitted plans (outline) that further consideration has been given to the proposed development since the original pre-application under 14/0357/PREAPP (previous developer) and more recently under 21/0020/PREAPP (18 dwellings) and 22/0039/PREAPP (18 dwellings).

In addition, a detailed Heritage Statement has been submitted and in relation to Oakhayes, para 4.21 states that 'The Site therefore makes a positive contribution to the setting and appreciation of the significance of the listed house, because it formed part of the designed landscape and had a historic functional relationship with the house. The Site remains a green space visible in views from the house across the landscape to the south'.

Para 4.29. There is no known historic functional relationship between the Site and the Church, aside from it being located in the parish, and forming part of the land associated with the former vicarage. Trees within the Site can be glimpsed from the churchyard beyond the bungalows in Broadmead. The Site forms an attractive open setting to the Church in the glimpsed view from Globe Hill, where the landscape can be seen in the background, and to this extent makes a positive contribution to the setting and appreciation of the significance of the Church.

Bearing this in mind the key issues are how the site contributes to the character and appearance of the conservation area and the setting of Oakhayes (Grade II) and the Church (Grade I).

The Woodbury Conservation Area Appraisal doesn't specifically identify the land as green open space, but it does identify 'good open space breaks and several mature tree groups closing vistas'. However, there is a clear sense of it being an undeveloped green area, providing an open space between buildings within the village, even though public views into it are limited. Depending on the time of year, there are more than glimpsed views into the site from a number of points along Globe Hill, from which its character as a green space is recognisable, even though it cannot be fully appreciated. The site is divided into two areas, both physically and visually, by the drainage channel which crosses its southern end.

To the north of this channel, the field does have something of an open parkland character, the grass being interspersed with occasional trees. This area of the site has a greater visual relationship with significant buildings in the conservation area such as Oakhayes House and the Church. The southern end of the site is more visually self-contained and lacks that parkland character although the boundary wall separating it from the street is a distinctive feature of it. In terms of the setting of listed buildings, there is clearly a strong relationship with Oakhayes and a strong visual connection between the house and field, to which any development would cause considerable change. The glimpsed views of the church cross the site from Globe Hill are also significant on the approach to the village.

In conclusion, there are still a number of concerns relating to the development of the land for housing, not least the erosion of this green open space within the Woodbury Conservation Area.

1. the setting of Oakhayes and the loss of the historic parkland to the south of the house which forms part of the original landscaped setting to the property: the Heritage assessment within the Statement gives considerable weight to the replacement of the historic grounds with public open space and the heritage benefit of being able to view and appreciate the House itself. However, although the 'Oakhayes vista' is shown on the Masterplan, there do not appear to be any photographs looking south to illustrate this aspect or how the setting may therefore change. It is likely that only a very limited amount of residential development could be accommodated within the site, the predominantly open parkland character of the area to the north of the drainage channel, before its character starts to become eroded.
2. historic paths within the site appear to have been lost, although it is recognised that there are a number of informal pedestrian routes throughout the site linking it to the south. However, these create a much more informal setting and inevitably the 'street' traverses the whole site cutting through the historic open space.
3. alterations to the historic access on Globe Hill, thereby opening up the site, and creating a more visible domestic presence onto the road with considerable visual impact.
4. loss of the area of local amenity space which forms an important buffer between the road and the historic core of Woodbury. However, it is appreciated that the proposals include a level of public open space/access.
5. loss of views of the Church: the Heritage Statement has already stated that the attractive open setting contributes to the significance of the Church. In addition, in the Assessment it suggests that there is likely to be some harm due to the new development in the foreground of views from Globe Hill and within the site itself. Again, the public benefits are weighed in favour against this harm. It is noted that the 'Church vista' is shown on the Masterplan, but it will be funnelled through the development of the site closest to Broadmead. This will minimise the

prominence of the tower and have considerable impact on the setting of the Church.

5. two new pedestrian openings within the prominent stone wall to the south of the site to allow access. The inclusion of a community building/space is noted and the development of this part of the site is considered to be less harmful. However, vehicular access would require driving through the whole of the site to access the parking.

Together these will still have considerable impact on the character and appearance of Woodbury Conservation Area and a more immediate impact on the setting of the Grade II listed building, Oakhayes and the setting of the Church.

It is noted that the development has progressed from 2014 when using the majority of the centre of the field, to the less dominant eastern and southern part of the site. In addition, the potential for development to deliver some enhancement to the conservation area by allowing public access.

In accordance with the NPPF Historic England have also raised concerns relating to the site and the proposed development.

DATE: 08/11/23

INITIALS: KBH

Historic England

19/12/23 - Thank you for your letter of 8 December 2023 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

On the basis of the additional information submitted, the revised information does not change our previous advice. We would refer you back to our response dated the 24 August 2023 for Historic England's extant position.

Recommendation

Consequently, Historic England continues to have serious concerns in respect of this application on heritage grounds.

Our concerns relate to the erosion of the character and appearance of the conservation area as well as impact on parkland character to the grade II listed Oakhayes House.

The council should have regard to the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. As well

as the need to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas (section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990).

The application therefore should be determined in line with National Legislation and policy, ensuring that they give great weight to the significance of the affected heritage assets.

Historic England

16/10/23 - Thank you for your letter of 6 October 2023 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

On the basis of the additional information submitted, we do not wish to offer any comments. However, we would suggest that you seek the views of your archaeological advisers.

The revised information does not change our previous advice and we would refer you back to our response dated the 24 August 2023 for Historic England's extant position.

Recommendation

Consequently, Historic England continues to have serious concerns in respect of this application on heritage grounds.

Our concerns relate to the erosion of the character and appearance of the conservation area as well as impact on parkland character to the grade II listed Oakhayes House.

The council should have regard to the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. As well as the need to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas (section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990).

The application therefore should be determined in line with National Legislation and policy, ensuring that they give great weight to the significance of the affected heritage assets.

Historic England

24/08/23 - T&CP (Development Management Procedure) (England) Order 2015 & Planning (Listed Buildings & Conservation Areas) Regulations 1990

LAND OFF GLOBE HILL , WOODBURY , EX5 1LL

Application No. 23/1600/MOUT

Thank you for your letter of 2 August 2023 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Historic England Advice

Although outline, the scheme looks to establish the principle of development, urbanising the green open space that is identified as a positive feature within the Woodbury Conservation Area. It would also erode the strong relationship the grade II listed Oakhayes House has with the site as well as introducing to a lesser extent, conspicuous development into views of the church tower. The site is not allocated, and we would question whether there is clear and convincingly justification for the identified harm that would be caused (NPPF, Para 200).

Significance of affected heritage assets

Woodbury is a nucleated settlement with early historic origins dating back to the 7th century and is designated a conservation area. The conservation area appraisal for Woodbury recognises the important contribution made by open spaces generally within the village. It refers to them creating "a pleasing informality and spaciousness of layout with good open space breaks and several mature tree groups closing vistas." We would regard this site as relevant to that positive characteristic.

The application site sits to the west of the main historic core, which contains the grade I listed Church of St Swithun, a medieval church situated on elevated ground with a prominent tower. The church is separated from the field by a row of modern houses. However, the site still allows for views across to the tower of the church, which is prominent feature within the village.

The site itself is set behind an established stone boundary wall, with some well-established trees. To the north sits the grade II listed Oakhayes House which had a strong relationship to the application site. Although primarily agricultural, there is a visual connection that provides the house with a parkland type setting.

Although grade II listed buildings would not normally fall within our remit to comment, we advocate a holistic approach to the consideration of the historic environment and the intrinsic relationship between Oakhayes and the site is a key consideration.

Consequently, the application site forms an integral part of the setting of Oakhayes House and therefore contributes to its significance. It also positively contributing to the character and appearance of the conservation area and the appreciation of the church as a prominent feature within the settlement.

Impact of the proposed development

The application is an outline consent, all matters reserved except access, for the development of 27 units within the identified field known as Land off Globe Hill.

An indicative layout plan has been provided to demonstrate how development could be accommodated on the site. The approach has sought to retain the strong tree buffer around the boundary, a green wedge through the site to allow for views out from Oakhayes as well as providing a vista through the development to the church tower.

Although the scheme is outline only, we were surprised that a view from Oakhayes has not been included within the supporting documentation, due to the integral relationship the property has with the application site (NPPF, Para 194).

Notwithstanding this lack of information, the scheme would introduce extensive modern development, eroding a principal green open space. We appreciate there is a tree boundary around the site; however, it is still recognisable and experienced as an undeveloped field within the conservation area. Furthermore, there is a strong likelihood that the development will erode the strong rural connection to Oakhayes, which provides it with a parkland setting. A vista has been provided through to the church, but the development would somewhat curtail the experience of the church within the site.

Policy context

The current site is not identified as being allocated in the extant or emerging local plan. Within the Site Selection Reports for Tier 1- 4 Settlements, the site was rejected due to part to the impact on the historic environment.

In respect of the National Planning Policy Framework (NPPF), Para 194 highlights the need for the level of detail to be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Where harm is identified, clear and convincing justification needs to be provided for any harm to, or loss of, the significance of a designated heritage asset including development within its setting (NPPF, Para 200).

In cases where the scheme will affect an element that positively contributes to a conservation area or within the setting of affected assets, it should be considered as harmful. In the consideration of the application, any harm needs to be shown to be demonstrably outweighed by the public benefits offered by the scheme (NPPF, 206 and 202).

The NPPF is clear that when the council is considering the impact of a proposed development on the significance of a designated heritage asset, should ensure that great weight be given to the asset's conservation (NPPF, Para 199).

Historic England's Position

Historic England has concern regarding the proposed development on the site, Land off Globe Hill. The introduction of housing will erode a positive green open

space within the conservation area. It will also have an urbanising affect on the parkland character currently experienced from the grade II listed Oakhayes House (Para 206 and 202). The impact on the church is less harmful but would still have a degree of adverse impact.

The site is not allocated in the current and extant local plans and the Site Selection Reports for Tier 1- 4 Settlements has rejected the scheme on heritage grounds, identifying alternative sites that could accommodate development within the vicinity but minimise the impact on the historic environment. In light of this, we do not see that there is clear and convincingly justification for the identified harm to the character and appearance of the conservation area or the grade II listed Oakfield House (NPPF, Para 200).

Due to the impact on the historic environment, the council need to ensure they give great weight to the asset's conservation as part of their decision-making process (NPPF, Para 199).

Recommendation

Historic England has serious concerns regarding the application on heritage grounds.

Our concerns relate to the erosion of the character and appearance of the conservation area as well as impact on parkland character to the grade II listed Oakhayes House.

The council should have regard to the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. As well as the need to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas (section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990).

The application therefore should be determined in line with National Legislation and policy, ensuring that they give great weight to the significance of the affected heritage assets.

Rhiannon Rhys

Inspector of Historic Buildings and Areas

Environment Agency

13/03/24 - Thank you for re-consulting us on this application and we apologise for the delay in responding.

Environment Agency position

We have reviewed the revised layout as shown on the submitted drawing 'Illustrative Masterplan' ref.: 1100 Rev G dated 08.02.24, and in light of this and

previous advice, we withdraw our previous objection subject to inclusion of conditions relating to flood risk management. The suggested wording for these conditions and the reason for our position is provided below. The illustrative design, whilst not a confirmation of the proposed layout identifies that acceptable principles of flood risk management (including the easement of the flood alleviation channel) can be achieved on site with the quantum of development proposed. Therefore, we are satisfied at this stage that based on the information submitted, the proposal now complies in the broadest terms with the National Planning Policy Framework and the associated Planning Practice Guidance. If the following conditions are not included, we would maintain our objection.

Condition - Flood Channel Access

No development approved by this permission shall commence until such time that the planning authority has received and approved in writing, details of the access arrangements to the flood channel, and the form and nature of fencing and gates. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority. The features shall be retained for the lifetime of the development.

Reason - To ensure adequate and safe access to the channel will be provided for the flood risk management authority and landowner over the lifetime of the development.

Condition - Finished Floor Levels

No development approved by this permission shall be commenced until such time that the planning authority has received and approved in writing, details of finished floor levels of the proposed buildings, levels of roads and landscaping.

Reason - To ensure the proposed buildings would be free from flood risk in a scenario of the existing channel flood alleviation channel being blocked and thus overflowing.

Condition - Permitted Development Rights

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 structure shall be erected within the 8m buffer either side of the top of bank of the existing flood channel.

Reason - To help safeguard the 8m buffer from development thus ensuring access for future flood risk management thus ensuring that management of the alleviation channel can be sustained for the lifetime of the development.

Reason - Flood Risk

We can report that we are satisfied that the revised layout addresses our previous position regarding safeguarding an 8m unfettered access buffer either side the important flood alleviation channel that is present within the site. We are also satisfied that the 'Illustrative Masterplan' identifies provision of 2.2m wide

gated access either side of the channel both upstream and downstream of the proposed channel crossing, such being required to provide access for grass mowing equipment into the channel. The details of such can be covered by condition as recommended above.

In terms of the form and nature of the proposed channel crossing we note the principles set out in the correspondence from Chris Yalden of AWP titled 'Response to EA comments'. These principles are accepted, although a crossing may ultimately have to take the form of a clear span bridge and not a culvert arrangement. Such would be subject to the obtaining of a flood risk activity environmental permit from the EA as detailed below:

We recommend the following informative is also included on any decision notice because the applicant is required to obtain a flood risk activity permit separate to planning permission.

Informative - Environmental Permitting

We confirm that given the status of the flood relief channel as a 'Main' river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place, including;

on or within 8 metres of a main river on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal) in the floodplain of a main river if the activity could affect flood flow or storage and potential Details can be obtained at Flood risk activities: environmental permits -GOV.UK (www.gov.uk)

Please contact us again if you require any further advice.

Environment Agency

05/02/24 - Thank you for re-consulting us on this application and we apologise for the delay in responding.

Environment Agency position

We have reviewed the revised layout proposed by the applicant, shown within the submitted drawing "Illustrative Masterplan" Rev E dated 24.11.23. We recognise the work undertaken in order to try to address our concerns and this revised layout does go some way to doing so. However, before we can be confident that we can support the development at this outline stage, there are some issues which need to be addressed prior to a determination. As such, we maintain our objection until such time that additional information is provided, as outlined in this letter.

We remind your authority that the flood risk sequential test is applicable to this application. Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already.

The reason for our position and advice for the applicant to overcome the outstanding matters is provided below.

Reason - Flood Risk

We can report that we are satisfied that the revised layout addresses our previous position regarding safeguarding an 8m unfettered access buffer either side the important flood alleviation channel that is present. This is a positive measure we can support.

Since receipt of your last consultation we confirm that we have consulted our internal Field Services Team, who manage the existing flood scheme, on drawing 'Illustrative Masterplan' Rev E dated 24.11.23. Following their feedback we deem that the EA could support, subject to condition, the principle of development following clarification of:

o the form and nature of the proposed access bridge, which we require must provide a minimum 8 ton load capacity.

o that the 'Illustrative Masterplan' be revised to show 2.2m wide gated access either side of the channel both upstream and downstream of the proposed bridge. Such are required to provide access for grass mowing equipment into the channel.

It is essential that these elements are provided prior to a determination.

Way forward

The applicant should provide the above information for our review and we will consult internally with the Field Service Team again as part of that review. For your information, should the above two issues be addressed, we would be comfortable to advise that compliance with the NPPF and PPG could in broadest terms be met subject to:

o finished floor levels of the proposed buildings, levels of roads and landscaping, being set at a level to cater for the very present residual risk associated with a blockage/overflowing of the existing channel. Such is required to ensure the proposed buildings would be free from flood risk.

o permitted development rights being removed for the 8m buffer either side of the top of bank of the existing flood channel.

These two requirements could be addressed by appropriately worded conditions.

As has been previously outlined, we recommend that the following informative is placed on any decision notice and we raise it as a matter for the applicant to consider at this stage also.

Informative - Environmental Permitting

We confirm that given the status of the flood relief channel as a 'Main' river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

oon or within 8 metres of a main river

oon or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)

oin the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission.

The EA, as the regulator, hold the right to withhold a permit should an activity, for example 'interfere with the regulator's access to or along that river'.

Additionally, we advise that any bridge structure should not encroach on the channel. A clear span design is preferable, avoiding the need to build any structures in the channel or on the bank directly adjacent to the watercourse. This is for both flood risk reasons and in regard to preventing encroachment into the channel for the interests of biodiversity and habitats.

We take this opportunity to provide the following advisory comments again. These were placed on our first consultation response:

Advice - Pollution Prevention

We recommend that a Construction Environment Management Plan (CEMP) is produced to pull together and manage the pollution control and waste management requirements during the construction phase. Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and the CEMP should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:

Pollution prevention for businesses - GOV.UK (www.gov.uk)

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

Please contact us again if you require any further advice.

Environment Agency

10/10/23 -

Following receipt of correspondence from Chris Yaldon of AWP Exeter, we provide the following consultation response taking into account the matters raised within the email of 13th September 2023. The email in question was

provided to you on the 26th September 2023. We consider that transparency between all parties will be valuable in communicating the key issues and ensuring a full understanding is gained on these matters.

Environment Agency position

As outlined in our previous consultation response dated 22/08/2023, we object to the proposed development as submitted because development is proposed too close to the existing flood relief channel that passes through the site. This flood relief channel forms part of the Woodbury Flood Alleviation scheme. It is likely that we would not be able to issue a Flood Risk Activity Permit for the layout currently submitted. We recommend that the application is not determined until a revised layout is submitted that shows an 8m unobstructed buffer be provided both sides of the flood relief channel.

Paragraphs within the email from AWP are copied below (in italics) with our response provided below each section.

"We note that the EA have raised an objection on the basis of the proximity of the proposed development to the existing main river channel. Our drainage drawing shows all dwellings outside of the 8m easement and also outside the Q1,000 flood extents, however the below advice suggests that we cannot even include amenity space, footpaths or roads inside the easement - which is a first, and comes as a surprise!

I can appreciate that parking spaces could result in vehicular obstructions, and whilst there are ways of managing this, I'm sure we could update the layout to suit. However, I'm unsure why we are not allowed to identify private amenity space, footpaths and roads inside the easement. These land uses would not prevent access for maintenance activities and this can be controlled within property deeds (i.e. no structures or fencing to be erected etc)."

Access for future flood risk management must be unfettered to avoid a burden and cost to future generations, and to ensure an increase in flood risk doesn't occur over the lifetime of the development. We consider the layout proposed to date fails to cater for such. The layout must also cater for how the Environment Agency currently accesses the land in question. As mentioned previously, we appreciate that this is an outline application however the parameters of acceptable development and principle of an adequate easement need to be established at this stage to ensure that the detailed design is informed by these principles.

"In terms of the road network, this is intended to cross the watercourse, so on approach it must sit within 8m - surely that is acceptable? This approach would also provide an opportunity for access into the 8m maintenance corridor."

We advise that a new road network could feasibly cater for access to the flood channel, and associated unfettered 8metre buffers.

"The root of your advice is referenced as Para 161 from the NPPF, which is extracted below:

"All plans should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

o safeguarding land from development that is required, or likely to be required, for current or future flood management "."

I feel we have already taken a sequential approach; we are only showing water compatible development within areas at risk of flooding or within the 8m easement. We have assessed development against the 1 in 1,000 year event, and have committed to offering freeboard above maximum flood levels for all new properties."

Future flood management includes activities such as reconnecting watercourses to their floodplains, and improving flood storage and/or flow capacity. The layout proposed appears to compromise the delivery of such works.

By comparison to the existing site, the proposals should enhance access to the channel - currently it is fenced, with dense vegetation on both sides (see below photo).

We have reviewed the photograph provided. It is noted that, arguably the EA could advise that the 8m buffer should extend from the trees rather than the fence line. As outlined above, it is essential that the easement is provided and this may only be possible by reevaluating the proposed layout. This position is based on the National Planning Policy Framework and relate to our responsibilities for main river management under the Water Resources Act 1991.

Environment Agency

22/08/23 - Our ref: DC/2023/123479/01-L01

Your ref: 23/1600/MOUT

Date: 22 August 2023

Dear Sir/Madam

OUTLINE APPLICATION FOR CONSTRUCTION OF UP TO 28 RESIDENTIAL UNITS (UP TO 7 AFFORDABLE), NEW VEHICULAR ACCESS ONTO GLOBE HILL, OPEN SPACE, NEW PARISH OFFICE AND GLOBE HILL HIGHWAY WORKS (ALL MATTERS RESERVED EXCEPT FOR ACCESS)

LAND OFF GLOBE HILL WOODBURY EX5 1LL

Thank you for consulting us on this application.

Environment Agency position

We object to the proposed development as submitted because development is proposed too close to the existing flood relief channel that passes through the site which forms part of the Woodbury Flood Alleviation scheme. It is likely that

we would not be able to issue a Flood Risk Activity Permit for the layout currently submitted. We recommend that the application is not determined until a revised layout is submitted that shows an 8m unobstructed buffer be provided both sides of the flood relief channel.

We are mindful that a proposal for dwellings, a community building, parking and public open space is located to the west of this site (ref.: 23/1258/MOUT), and also interacts with the Woodbury Flood Alleviation scheme channel. Our concerns for this proposal are very similar to that of application 23/1258/MOUT and as such, our comments are very similar.

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already.

The reasons for this position are set out below, together with an informative on environmental permitting, and advice on biodiversity and pollution prevention.

Reason - Proximity to Flood Relief Channel

The Environment Agency maintain the flood relief channel within the red line boundary of the site, which is classified as a 'main river'. Adequate access is needed to ensure that the channel can be properly maintained.

Whilst we recognise that this is an Outline application and layout is a reserved matter, the applicant has submitted an illustrative masterplan. The proposed layout indicated on the plan (2035-110 rev E) would prevent/inhibit access to the flood relief channel. The development layout as proposed is therefore contrary to paragraph 161 of the NPPF which states:

"All plans should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

osafeguarding land from development that is required, or likely to be required, for current or future flood management ".

It is important that land adjacent to the flood relief channel is safeguarded for flood risk management purposes and not developed.

Overcoming our objection

We advise that the layout should be revised to show that an 8m unobstructed buffer will be provided both sides of the alleviation channel. This is necessary to allow unfettered access for current or future flood management over the lifetime of the development. Failure to achieve this would result in an increase in flood risk which is contrary to the overriding policy aims of the NPPF. This buffer shall need to be retained through any future reserved matters application and incorporated into the proposed layout of the site at detailed design stage. Your authority may find it appropriate to apply planning conditions to any permission

which secures this. If this is the case, please re-consult us to allow for discussions on the extent of the necessary buffer and other details.

Informative - Environmental Permitting

We confirm that given the status of the flood relief channel as a 'Main' river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

oon or within 8 metres of a main river

oon or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)

oin the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission.

The EA, as the regulator, hold the right to withhold a permit should an activity, for example 'interfere with the regulator's access to or along that river'.

Advice - Biodiversity

If our objection can be overcome through the submission of a revised layout, we would welcome some environmental improvements in the final scheme. For example, we would welcome any proposals to re-meander the straightened watercourse, with a more natural cross sectional and long profile, to reinstate more natural features and provide interest for both biodiversity and people.

Additionally, we advise that any bridge structure should not encroach on the channel. A clear span design is preferable, avoiding the need to build any structures in the channel or on the bank directly adjacent to the watercourse.

Advice - Pollution Prevention

We recommend that a Construction Environment Management Plan (CEMP) is produced to pull together and manage the pollution control and waste management requirements during the construction phase. Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and the CEMP should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:

Pollution prevention for businesses - GOV.UK (www.gov.uk)

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

Advice to the LPA

We will maintain our objection until the applicant has supplied information to demonstrate that the flood risks posed by the development can be satisfactorily addressed. We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation. If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Harriet Fuller

Planning Advisor

South West Water

08/12/23 - South West Water Limited [SWWL] comment on the above application in their function acting as Statutory Water and Sewerage Undertaker for East Devon. SWWL have a duty under the Water Industry Act to protect statutory assets to provide water and sewerage services, as well as upgrade and improve infrastructure to accommodate development where suitable and required. Once a proposal is given planning approval, the Duty to Connect - as described within the Water Industry Act - activates and SWWL are under obligation to provide a public connection, unless specific circumstances deem otherwise. SWWL does not object to the principle of the proposed Outline application <https://eastdevon.gov.uk/planning/planning-applications-and-information/view-planning-applications-enforcements-and-planning-appeals/>tion; however, if the Local Planning Authority is minded to approve the application, SWWL request suitable conditions are attached, as suggested below.

We note we have commented previously. We have undertaken a full network review and below are our updated comments.

Surface Water Flows

It should be noted that our comments refer to SWW duty to accept surface water which covers domestic run off only. It does not cover any Highway drainage. It is noted that the applicant has stated within their Application Form that surface water flows are intended for disposal via SuDS, an existing watercourse, mains sewer and pond/lake. Submitted details within the Preliminary Drainage Layout (01-PDL-1001 Rev B) show an attenuation pond within the southern section of the site, an attenuation tank close to the southern boundary each with an overflow discharge to the watercourse that transects the southern part of the site. The use of SuDS is in line with the established surface water disposal hierarchy, as described in Planning Practice Guidance (Flood risk and coastal change, paragraph 56, ref id: 7-056-20220825). However, it would seem from the

application form that the final method of discharging surface water fowls is still uncertain. If the viability of a SuDS solution for surface water disposal is found at a future date to be unviable, then robust evidence must be submitted to justify moving down the hierarchy; in line with Devon County Council guidance (Para 6.3, Sustainable Drainage System - Guidance for Devon - Flood Risk Management). The disposal method described within the Preliminary Drainage Layout crosses over method 1 and 2 of the Disposal Hierarchy.

SWWL have committed to reducing the use of Combined Sewer Overflows [CSO], also known as Storm Overflows, to an average of 20 per year by 2025 across our operational area. Central Government has also recently published their Storm Overflows Discharge Reduction Plan (September 2023), which further states that by 2050 'no storm overflows will be permitted to operate outside of unusually heavy rainfall or to cause any adverse ecological harm' (page 11). SWWL have planned works to reduce flows into the combined sewer system and reducing spills from all CSOs; in line with national commitments. These works include using the ongoing Waterfit Programme, to provide mitigation to existing conditions through Surface Water Infiltration Removal, and the Surface Water Separation project planned to be undertaken during 2025 to 2030.

To secure our commitments and regulatory targets, as well as to avoid adding stresses on the Combined Sewer Overflow [CSO] at Hams Drive, a Combined Sewer connection will not be supported or accepted. Allowing additional connections into the combined sewer network will negatively impact the planned works noted above. As such, a combined sewer network connection will not be accepted by SWWL, unless as an absolute last resort. No highway drainage will be permitted to connect to the combined sewer.

In the event the LPA is minded to approve, SWWL would suggest the inclusion of a condition securing the required evidenced justification for any subsequent Reserved Matters application demonstrating why disposal cannot viably be achieved via solely SuDS. Draft wording of a supported condition is set out below.

Draft Condition:

No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the surface water drainage systems operation;
- Details of the final drainage schemes including ground investigations and testing results, calculations and layout;
- Confirmation of the viability of, and secured arrangements for, discharging surface water to the watercourse, if a SuDS solution is demonstrably evidenced to be unviable as sole discharge method;

- A construction Surface Water Management Plan;
- A Construction Quality Control Plan;
- Confirmation of details pertaining to the intended maintenance/adoption arrangements of the final drainage scheme, including responsibilities for the drainage systems and overland flow routes. The plan must include a drawing which clearly delineates the management responsibility for each drainage element and schedule of maintenance; and
- A timetable of construction.

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface and ground waters by ensuring the provision of a satisfactory means of surface water control and disposal, and in accordance with the aims and intentions of national (PPG: 7-056-20220825), county (Sustainable Drainage System - Guidance for Devon, Paragraph 6.3) and local policy (Strategy 3 & EN22).

Foul Water Flows

It is noted that the applicant has stated within their Application Form that foul water flows are intended for disposal via mains sewer. The Preliminary Drainage Layout states that foul will discharge from the northern parcel to the sewer within Globe Hill and the southern parcel to discharge into the sewer within The Arch. In principle, SWWL does not currently hold any objection to foul water disposal through a connection to a public Foul Sewer; however, the Woodbury Waste Water Treatment Works [WWTW] requires improvement works and amendments to existing permits prior to accepting an increase in flows. The required improvements at the WWTW, to enable further development to be supported, can only begin in the Spring as dry weather conditions are required. SWWL believe a Grampian condition is required to restrict occupation until the required improvement works have been completed and a permit variation has been approved by the Environment Agency. A suitable connection location will need to be agreed with SWWL once details of the proposal are known, in the event of an Outline approval and subsequent Reserved Matters application.

Additionally, it is noted that an existing foul sewer passes through part of the northern parcel, which is shown diverted from its existing position within the submitted Preliminary Drainage Strategy. If a diversion is required to avoid conflict with proposed development, please continue to engage with SWWL.

To fully assess the potential impacts on SWWL infrastructure posed by the proposed development, SWWL request the following information is submitted within a subsequent Reserved Matters, in the event the LPA is minded to approve the application:

- A description of the foul water drainage systems operation;
- Details of the final drainage scheme including estimated volume of waste water from the development at full occupation;

- A Construction Quality Control Plan;
- A timetable of construction;

In summary, SWWL would support the inclusion of two conditions relating to Foul Water. A Grampian condition restricting occupation as described above, and a condition requesting further detail within a subsequent Reserved Matters application, in the event the LPA are minded to approve. Draft wording is set out below.

Draft Conditions:

The occupation of any dwellings approved by this, or subsequent Reserved Matters pursuant to this, permission shall not be authorised until written confirmation is received by the Local Planning Authority from South West Water that improvement works at Woodbury Waste Water Treatment Works have been completed, or until 1st December 2025, whichever is sooner.

Reason: To enable required improvement works to take place at Woodbury Waste Water Treatment Works to suitably receive and accommodate the increase in flows expected as a result of the proposed development. Allowing flows above acceptable volumes from the occupation of # dwellings prior to these works being completed would have unacceptable impact on existing infrastructure, with unacceptable risk of potential pollution events occurring.

No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of foul water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the foul water drainage systems operation;
- Confirmation from South West Water Ltd that they will accept the flows from the development into their network;
- Details of the final drainage scheme including estimated volume of waste water from the development at full occupation;
- A Construction Quality Control Plan;
- A timetable of construction;

Reason: To minimise the risk of pollution by ensuring the provision of a satisfactory means of foul water disposal and in accordance with policy EN19 of the East Devon Local Plan.

Potable Water Supply

It is anticipated that suitable provision can be made within the existing network for the supply of potable water to the proposed development. The applicant is strongly advised to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by adopted planning policy Strategy 3 and 38. The current average water use in the UK is approx. 142

litres/person/day [l/p/d] (Water UK, 2020), with the South West experiencing a higher-than-average consumption rate than the rest of England. With climate change progressing with trends set to add further stress upon available water resources, SWWL would support the LPA imposing a condition requiring the optional Building Regulations requirement (G2) of 110 l/p/d for the proposed residential development. Draft wording of a condition securing the G2 optional requirement is set out below.

Draft Condition:

Each Reserved Matters applications for a phase of development pursuant to this outline permission which include a residential component shall be accompanied by a Water Conservation Strategy to be submitted for the approval of the Local Planning Authority. The strategy shall include a water efficiency specification for each dwelling type, based on the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition or any future successor) demonstrating that all dwellings (when considered as a whole) are able to achieve a typical water consumption standard of no more than 110 litres per person per day, in line with Building Regulations Optional Requirement G2. The approved strategy for each residential dwelling shall be subsequently implemented in full accordance with the approved details prior to first occupation of that residential dwelling and thereafter shall be retained.

Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction in line with Paragraph 154 of the NPPF and adopted policy Strategy 3 of the East Devon Local Plan (January 2016).

We look forward to sight of your draft Planning Conditions in due course.

Asset Protection:

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

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

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

Further information regarding the options to divert a public sewer can be found on our website via the link below:www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/

South West Water

06/11/23 - South West Water Limited [SWWL] comment on the above application in their function acting as Statutory Water and Sewerage Undertaker for East Devon. SWWL have a duty under the Water Industry Act to protect statutory

assets to provide water and sewerage services, as well as upgrade and improve infrastructure to accommodate development where suitable and required. Once a proposal is given planning approval, the Duty to Connect - as described within the Water Industry Act - activates and SWWL are under obligation to provide a public connection, unless specific circumstances deem otherwise. SWWL does not object to the principle of the proposed Outline application; however, if the Local Planning Authority is minded to approve the application, SWWL request suitable conditions are attached, as suggested below.

We note we have commented previously. We have undertaken a full network review and below are our updated comments.

Surface Water Flows

It should be noted that our comments refer to SWW duty to accept surface water which covers domestic run off only. It does not cover any Highway drainage. It is noted that the applicant has stated within their Application Form that surface water flows are intended for disposal via SuDS, an existing watercourse, mains sewer and pond/lake. Submitted details within the Preliminary Drainage Layout (01-PDL-1001 Rev B) show an attenuation pond within the southern section of the site, an attenuation tank close to the southern boundary each with an overflow discharge to the watercourse that transects the southern part of the site. The use of SuDS is in line with the established surface water disposal hierarchy, as described in Planning Practice Guidance (Flood risk and coastal change, paragraph 56, ref id: 7-056-20220825). However, it would seem from the application form that the final method of discharging surface water fowls is still uncertain. If the viability of a SuDS solution for surface water disposal is found at a future date to be unviable, then robust evidence must be submitted to justify moving down the hierarchy; in line with Devon County Council guidance (Para 6.3, Sustainable Drainage System - Guidance for Devon - Flood Risk Management). The disposal method described within the Preliminary Drainage Layout crosses over method 1 and 2 of the Disposal Hierarchy.

SWWL have committed to reducing the use of Combined Sewer Overflows [CSO], also known as Storm Overflows, to an average of 20 per year by 2025 across our operational area. Central Government has also recently published their Storm Overflows Discharge Reduction Plan (September 2023), which further states that by 2050 'no storm overflows will be permitted to operate outside of unusually heavy rainfall or to cause any adverse ecological harm' (page 11). SWWL have planned works to reduce flows into the combined sewer system and reducing spills from all CSOs; in line with national commitments. These works include using the ongoing Waterfit Programme, to provide mitigation to existing conditions through Surface Water Infiltration Removal, and the Surface Water Separation project planned to be undertaken during 2025 to 2030.

To secure our commitments and regulatory targets, as well as to avoid adding stresses on the Combined Sewer Overflow [CSO] at Hams Drive, a Combined Sewer connection will not be supported or accepted. Allowing additional

connections into the combined sewer network will negatively impact the planned works noted above. As such, a combined sewer network connection will not be accepted by SWWL, unless as an absolute last resort. No highway drainage will be permitted to connect to the combined sewer.

In the event the LPA is minded to approve, SWWL would suggest the inclusion of a condition securing the required evidenced justification for any subsequent Reserved Matters application demonstrating why disposal cannot viably be achieved via solely SuDS. Draft wording of a supported condition is set out below.

Draft Condition:

No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the surface water drainage systems operation;
- Details of the final drainage schemes including ground investigations and testing results, calculations and layout;
- Confirmation of the viability of, and secured arrangements for, discharging surface water to the watercourse, if a SuDS solution is demonstrably evidenced to be unviable as sole discharge method;
- A construction Surface Water Management Plan;
- A Construction Quality Control Plan;
- Confirmation of details pertaining to the intended maintenance/adoption arrangements of the final drainage scheme, including responsibilities for the drainage systems and overland flow routes. The plan must include a drawing which clearly delineates the management responsibility for each drainage element and schedule of maintenance; and
- A timetable of construction.

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface and ground waters by ensuring the provision of a satisfactory means of surface water control and disposal, and in accordance with the aims and intentions of national (PPG: 7-056-20220825), county (Sustainable Drainage System - Guidance for Devon, Paragraph 6.3) and local policy (Strategy 3 & EN22).

Foul Water Flows

It is noted that the applicant has stated within their Application Form that foul water flows are intended for disposal via mains sewer. The Preliminary Drainage Layout states that foul will discharge from the northern parcel to the sewer within Globe Hill and the southern parcel to discharge into the sewer within The Arch.

In principle, SWWL does not currently hold any objection to foul water disposal through a connection to a public Foul Sewer; however, the Woodbury Waste Water Treatment Works [WWTW] requires improvement works and amendments to existing permits prior to accepting an increase in flows. The required improvements at the WWTW, to enable further development to be supported, can only begin in the Spring as dry weather conditions are required. SWWL believe a Grampian condition is required to restrict occupation until the required improvement works have been completed and a permit variation has been approved by the Environment Agency. A suitable connection location will need to be agreed with SWWL once details of the proposal are known, in the event of an Outline approval and subsequent Reserved Matters application.

Additionally, it is noted that an existing foul sewer passes through part of the northern parcel, which is shown diverted from its existing position within the submitted Preliminary Drainage Strategy. If a diversion is required to avoid conflict with proposed development, please continue to engage with SWWL.

To fully assess the potential impacts on SWWL infrastructure posed by the proposed development, SWWL request the following information is submitted within a subsequent Reserved Matters, in the event the LPA is minded to approve the application:

- A description of the foul water drainage systems operation;
- Details of the final drainage scheme including estimated volume of waste water from the development at full occupation;
- A Construction Quality Control Plan;
- A timetable of construction;

In summary, SWWL would support the inclusion of two conditions relating to Foul Water. A Grampian condition restricting occupation as described above, and a condition requesting further detail within a subsequent Reserved Matters application, in the event the LPA are minded to approve. Draft wording is set out below.

Draft Conditions:

The occupation of any dwellings approved by this, or subsequent Reserved Matters pursuant to this, permission shall not be authorised until written confirmation is received by the Local Planning Authority from South West Water that improvement works at Woodbury Waste Water Treatment Works have been completed, or until 1st December 2025, whichever is sooner.

Reason: To enable required improvement works to take place at Woodbury Waste Water Treatment Works to suitably receive and accommodate the increase in flows expected as a result of the proposed development. Allowing flows above acceptable volumes from the occupation of # dwellings prior to these works being completed would have unacceptable impact on existing infrastructure, with unacceptable risk of potential pollution events occurring.

No development approved by this, or subsequent Reserved Matters pursuant to this, permission shall be commenced until details of a scheme for the provision of foul water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A description of the foul water drainage systems operation;
- Confirmation from South West Water Ltd that they will accept the flows from the development into their network;
- Details of the final drainage scheme including estimated volume of waste water from the development at full occupation;
- A Construction Quality Control Plan;
- A timetable of construction;

Reason: To minimise the risk of pollution by ensuring the provision of a satisfactory means of foul water disposal and in accordance with policy EN19 of the East Devon Local Plan.

Potable Water Supply

It is anticipated that suitable provision can be made within the existing network for the supply of potable water to the proposed development. The applicant is strongly advised to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by adopted planning policy Strategy 3 and 38. The current average water use in the UK is approx. 142 litres/person/day [l/p/d] (Water UK, 2020), with the South West experiencing a higher-than-average consumption rate than the rest of England. With climate change progressing with trends set to add further stress upon available water resources, SWWL would support the LPA imposing a condition requiring the optional Building Regulations requirement (G2) of 110 l/p/d for the proposed residential development. Draft wording of a condition securing the G2 optional requirement is set out below.

Draft Condition:

Each Reserved Matters applications for a phase of development pursuant to this outline permission which include a residential component shall be accompanied by a Water Conservation Strategy to be submitted for the approval of the Local Planning Authority. The strategy shall include a water efficiency specification for each dwelling type, based on the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition or any future successor) demonstrating that all dwellings (when considered as a whole) are able to achieve a typical water consumption standard of no more than 110 litres per person per day, in line with Building Regulations Optional Requirement G2. The approved strategy for each residential dwelling shall be subsequently implemented in full accordance with the approved details prior to first occupation of that residential dwelling and thereafter shall be retained.

Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction in line with Paragraph 154 of the NPPF and adopted policy Strategy 3 of the East Devon Local Plan (January 2016).

We look forward to sight of your draft Planning Conditions in due course.

Asset Protection:

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

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

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

Further information regarding the options to divert a public sewer can be found on our website via the link below:www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/

see sww sewer map under document tab

06/11/23 - With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

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

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

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

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

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

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of

connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

Foul Sewerage Services

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

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

www.southwestwater.co.uk/developers

Surface Water Services

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

1. Water re-use (smart water butts/rainwater harvesting etc.)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer.(Subject to Sewerage Undertaker carrying out capacity evaluation)

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

DCC Flood Risk SuDS Consultation

05/01/24 - Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved

permission:

- Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy.

(b) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy and the results of the information submitted in relation to (a) above.

(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(e) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

Following my previous consultation response (FRM/ED/1600/2023; dated 21st Aug. 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has confirmed that upstream features, such as rain gardens, tree pits, swales and permeable paving, must be considered. This is to form a SuDS Management Train.

The applicant has also proposed to lower the levels of the site entrance so that exceedance flows can be routed into the Public Open Space.

The Parish Council might be interested in having an above-ground feature, such as a rain garden or tree pits, to manage surface water from their building. If they are not able to maintain the feature, then perhaps the management company or water authority for the development can take it on.

DCC Flood Risk SuDS Consultation

21/08/23 - Recommendation:

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will

therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has submitted the Flood Risk Assessment (Rev. Initial Issue, dated 7th July 2023) to demonstrate the surface water management proposals for the site.

The applicant has mentioned that soakaways are unlikely to be feasible within the site. However, infiltration test are required. If these cannot be submitted at this stage, then the applicant will need to submit these results at the next stage of planning (should planning permission be granted).

The applicant has split the site into two areas due to the location of the watercourse. The applicant has proposed to manage surface water from the northern parcel within a detention basin. Surface water from the southern parcel will be managed by an attenuation tank. Surface water from both areas will be discharged into the main river flowing through the site.

The applicant should be aware that the area used to calculate greenfield run off rates should not include allowances for urban creep.

Maintenance schedules are required at this stage.

The applicant should confirm the suitability of the exceedance flow routed out of the highway entrance to the site. If it is more suitable to route the potential flow into the Public Open Space, then this should be assessed (green arrows below).

PLAN HERE

Will all of the flows from the southern area be able to drain through the proposed flow control? It looks like some of the area would need to 'backfall' into the drainage system in order to reach the flow control.

The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a

variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

Would the Parish Council be interested in a rain garden within their area of the site?

Any temporary or permanent works within 8 meters of a main river usually require a Flood Risk Activity Permit from the Environment Agency.

Ruilin Jiao

Flood and Coastal Risk Intern

County Highway Authority

18/12/23 - I have reviewed the planning application documents and visited the site.

This application is for outline only therefore I will reserve judgement upon the internal layout.

However in terms of access the proposed access provides a visibility splay which accords to our current best practice guidance, Manual for Streets 1 and 2 of 2.4m by 43m in both directions, utilising the 1m offset clause for traffic of lower speeds., with the proposal of a reduced speed limit to 20mph in this zone, delivered as either part of this development or the

adjacent scheme, this would be achieved. However the 20mph speed zone would be subject to a Traffic Regulation Order (TRO) which sits outside of the planning system.

The proposed footway will also run along Globe Hill, formalising the existing un-official on-street parking with a parallel parking bay along with an island pedestrian crossing and pinch-pointed carriageway width and tactile paving, this will provide a speed calming measure and a sustainable footway connection into Woodbury village centre.

Furthermore, north of the proposed access, a 'village entry-gate' speed calming feature is also proposed. Additionally upon the southern boundary of this proposed development a footway entry onto The Arch, is proposed with the final infrastructure layout for the Arch to be discussed with the County Highway Authority (CHA) as part of a collective aspiration to improve the Arch area under a separate legal agreement..

Whilst it is accepted that this development may produce a slight vehicular trip generation intensification from that of it's existing use, I do not believe this would trigger the severity clause under the National Planning Policy Framework (NPPF) and the highway mitigation measures proposed, will create a safety net gain for all.

This can be further strengthened should the application be approved with secure cycle storage to encourage sustainable travel and help mitigate against shorter vehicular trip generation to the services and facilities of Woodbury.

Additionally, due to the locality of the site, I believe a comprehensive Construction and Environment Management Plan (CEMP) will help mitigate against construction impact on the local highway network.

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.

County Highway Authority

27/09/23 - Observations:

I have reviewed the planning application documents and visited the site.

This application is for outline only therefore I will reserve judgement upon the internal layout.

However in terms of access the proposed access provides a visibility splay which accords with our current best practice guidance, Manual for Streets 1 and 2 of 2.4m by 43m in both directions, this includes a 2m footway into the site.

The proposed footway will also run along Globe Hill, formalising the current un-official on-street parking with a parallel parking bay along with an island pedestrian crossing and pinch-pointed carriageway width and tactile paving, this will provide a speed calming measure and a sustainable footway connection into Woodbury village centre.

Furthermore, north of the proposed access, a 'village entry-gate' speed calming feature is also proposed. Additionally upon the southern boundary of this proposed development a footway entry onto The Arch, is proposed with the final infrastructure layout for the Arch to be discussed with the County Highway Authority (CHA).

The CHA does not require planning applications containing fewer than 40 dwellings to contain a Travel Plan, with a travel plan co-coordinator or car club provision due to the trip generation impact not triggering a set severity level. Whilst it is accepted that this development may produce a slight vehicular trip generation intensification from that of its existing use. I believe that the highway mitigation measures proposed will create a safety net gain for all.

This can be further strengthened should the application be approved with secure cycle storage to encourage sustainable travel and help mitigate against shorter vehicular trip generation to the services and facilities of Woodbury.

Additionally, due to the locality of the site, I believe a comprehensive Construction and Environment Management Plan (CEMP) will help mitigate against construction impact on the local highway network.

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 finished 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.

Officer authorised to

sign on behalf of the County Council

Natural England

12/02/24 - Thank you for your consultation on the above dated 24 January 2024 which was received by Natural England on 24 January 2024

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for one or more European designated sites, such as Exe Estuary Special Area of Conservation (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC). It is anticipated that new residential development within this ZOI is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development. On this basis the development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development.

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation

measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

If the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant, it is your responsibility (as the competent authority) to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Vicky Brown

Consultations Team

Annex A -Natural England general advice

Protected Landscapes

Paragraph 182 of the National Planning Policy Framework (NPPF) requires great weight to be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty (known as National Landscapes), National Parks, and the Broads and states that the scale and extent of development within all these areas should be limited. Paragraph 183 requires exceptional circumstances to be demonstrated to justify major development within a designated landscape and sets out criteria which should be applied in considering relevant development proposals. Section 245 of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities (including local planning authorities) to seek to further the statutory purposes of a National Park, the Broads or an Area of Outstanding Natural Beauty in England in exercising their functions. This duty also applies to proposals outside the designated area but impacting on its natural beauty.

The local planning authority should carefully consider any impacts on the statutory purposes of protected landscapes and their settings in line with the NPPF, relevant development plan policies and the Section 245 duty. The relevant National Landscape Partnership or Conservation Board may be able to offer advice on the impacts of the proposal on the natural beauty of the area and the aims and objectives of the statutory management plan, as well as environmental enhancement opportunities. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to development and its capacity to accommodate proposed development.

Wider landscapes

Paragraph 180 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

Biodiversity duty

The local planning authority has a duty to conserve and enhance biodiversity as part of its decision making. Further information is available [here](#).

Designated nature conservation sites

Paragraphs 186-188 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest (SSSI) and habitats sites. Both the direct and indirect impacts of the development should be considered. A Habitats Regulations Assessment is needed where there is a likely significant effect on a habitats site and Natural England must be consulted on 'appropriate assessments'. Natural England must also be consulted where development is in or likely to affect a SSSI and provides advice on potential impacts on SSSIs either via Impact Risk Zones or as standard or bespoke consultation responses.

Protected Species

Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species licence may be required in certain cases.

Local sites and priority habitats and species

The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 180, 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre,

Annex A -Natural England general advice

wildlife trust, geoconservation groups or recording societies. Emerging Local Nature Recovery Strategies may also provide further useful information.

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on Gov.uk.

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 180(d), 185 and 186. Major development (defined in the NPPF glossary) is required by law to deliver a biodiversity gain of at least 10% from 12 February 2024 and this requirement is expected to be extended to smaller scale development in spring 2024. For nationally significant infrastructure projects (NSIPs), it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on biodiversity net gain, including draft Planning Practice Guidance, can be found [here](#).

The statutory Biodiversity Metric should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites, the Small Sites Metric may be used. This is a simplified version of the Biodiversity Metric and is designed for use where certain criteria are met.

The mitigation hierarchy as set out in paragraph 186 of the NPPF should be followed to firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 74, 108, 124, 180, 181 and 186). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

Natural England's Environmental Benefits from Nature tool may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the Biodiversity Metric and is available as a beta test version.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government Planning Practice Guidance for the natural environment.

Ancient woodland, ancient and veteran trees The local planning authority should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 186 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 180 and 181). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.

Annex A -Natural England general advice

Further information is contained in GOV.UK guidance Agricultural Land Classification information is available on the Magic website and the Data.Gov.uk website

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling, separate guidance on soil protection for site restoration and aftercare is available on Gov.uk website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying Good Practice Guide for Handling Soils in Mineral Workings.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Green Infrastructure

Natural England's Green Infrastructure Framework provides evidence-based advice and tools on how to design, deliver and manage green and blue infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the 15 Green Infrastructure Principles. The GI Standards can be used to inform the quality, quantity and type of GI to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority GI strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths, together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 104 and 180 of the NPPF highlight the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Further information is set out in Planning Practice Guidance on the natural environment

Natural England

02/01/24 - comments received 22/12/2023

Thank you for your consultation on the above dated 18 October 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION FOR RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

Natural England notes that the Habitats Regulations Assessment (HRA) has not been provided with the application. As competent authority, and before deciding to give permission for the project which is likely to have a significant effect on a European Protected Site, you must carry out a HRA and adhere to its conclusions.

For all future applications within the zone of influence identified by your authority, please only consult Natural England once the HRA has been produced.

FURTHER INFORMATION REGARDING RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

Natural England considers that this advice may be used for all applications that fall within the parameters detailed below.

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for one or more European designated sites, such as Exe Estuary Special Area of Conservation (SAC); East Devon Pebblebed Heaths Special Area of Conservation (SAC); and East Devon Heaths Special Protection Area (SPA). It is anticipated that new residential development within this zone is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development and therefore such development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will (in our view) be sufficiently certain and effective in preventing adverse impacts on the integrity of those European Site(s) within the ZOI from the recreational impacts associated with such development.

However, following the People Over Wind ruling by the European Court of Justice, mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment. In the light of this, these measures should be formally checked and confirmed by your authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing adverse effects on the integrity of the relevant European Site(s) from recreational impacts for the duration of the development proposed within the relevant ZOI.

Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Other Protected Sites

European Sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on other statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on other statutorily protected sites and has no objection to the proposed development.

Protected Landscapes - East Devon AONB

The proposed development is for a site within or close to a nationally designated landscape namely East Devon AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise

and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

02/01/24 - Natural England has previously commented on this proposal and made comments to the authority in our response dated 11 August 2023 reference number 444751.

The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess

whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Yours faithfully,

James McGiveron

Operations Delivery, Consultations Team

Natural England

Natural England

11/08/23 - comments dated 11/08/2023

Thank you for your consultation on the above dated and received by Natural England on 02 August 2023.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION FOR RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

Natural England notes that the Habitats Regulations Assessment (HRA) has not been provided with the application. As competent authority, and before deciding to give permission for the project which is likely to have a significant effect on a European Protected Site, you must carry out a HRA and adhere to its conclusions.

For all future applications within the zone of influence identified by your authority, please only consult Natural England once the HRA has been produced.

FURTHER INFORMATION REGARDING RECREATIONAL PRESSURE IMPACTS ON HABITAT SITES (EUROPEAN SITES).

Natural England considers that this advice may be used for all applications that fall within the parameters detailed below.

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for one or more European designated sites, such as East Devon Pebblebed Heaths Special Area of Conservation (SAC), then East Devon Heaths Special Protection Area (SPA), and Exe Estuary Special Protection Area (SPA). It is anticipated that new residential development within this zone is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development and therefore such development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will (in our view) be sufficiently certain and effective in preventing adverse impacts on the integrity of those European Site(s) within the ZOI from the recreational impacts associated with such development.

However, following the People Over Wind ruling by the European Court of Justice, mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment. In the light of this, these measures should be formally checked and confirmed by your authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing adverse effects on the integrity of the relevant European Site(s) from recreational impacts for the duration of the development proposed within the relevant ZOI.

Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Protected Landscapes - East Devon Area of Outstanding Natural Beauty AONB

The proposed development is for a site within or close to a nationally designated landscape namely East Devon AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise

and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A (see document tab)

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

EDDC Ecology response to planning application

Application no. 23/1600/MOUT - 01/12/2023

1. Introduction

This report forms the EDDC's Ecology's response to the outline application for the above site. The report provides a review of ecology related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2. Review of submitted details

1.1. Ecological Impact Assessment (EclA) The application is supported by a Preliminary Ecological Appraisal, including an Extended Phase 1 Habitat Survey. Additional ecological surveys for bats, nesting birds, and reptiles have been undertaken and provided. Surveys have largely been undertaken in accordance with published survey guidelines (refer to reptile section below) and within the last 12 months. Therefore, the ecological survey work is considered suitable to support the planning submission.

1.2. Ecological receptors The surveys have demonstrated the site is used by foraging and commuting bats, including Annex II greater horseshoe, barbastelle and lesser horseshoe (in low numbers), nesting birds, including Red listed house sparrow and Amber listed and Priority Species (NERC, 2006) dunnock, and by slow worms.

Reptiles

The application is supported by a reptile survey which deviates from current guidelines. Supporting statements are made regarding the modified survey method. Given the site has been subject to a previous reptile survey, and the updated survey has identified continued presence of slow worms it is considered sufficient to confirm presence of reptiles.

It is noted however in the reptile survey report that a slow worm found during the survey was relocated to an unknown receptor site. No details regarding the receptor site have been provided, such as an assessment of its carrying capacity. In accordance with .GOV guidance, the translocation of reptiles is a last resort for consented development proposals where it has been demonstrated this would be beneficial to reptiles, not for the purpose of potential double counting reptiles during a survey. Therefore, it is not clear why reptiles are 1 Birds of Conservation Concern 5. Eaton et al. 2021 being moved out of suitable habitat to an unknown area without consent or a justifiable reason.

Dormouse

The submitted report indicates the margins of the site could potentially offer habitat for dormice but considers that dormice are unlikely to be present. The report states there are no records within the data search and habitats are unsuitable. There is a record of a dormouse mitigation licence (on Magic Map) within 1 km of the site and dormice are known to be frequent within East Devon. The tree-lined west boundary species-poor hedge does have potential connectivity to the wider landscape to the west across the B3179 and the north include a densely wooded area in the adjacent property, and the wider landscape. Dormice are known to nest within the central reservation of the A30 in Cornwall so the minor B-road is not considered as a potential barrier to their movement and their present cannot be fully discounted.

Other receptors (not considered within the submitted reports)

It is considered likely due the habitats on the site that it could also be used by other Priority Species including common toad and hedgehogs, as well as common invertebrates.

1.3. Ecological impacts

The development of the site would result in the permanent loss of approximately 0.8 ha of other neutral grassland, 50 m of species-poor hedgerow, and some

trees, considered to result in a minor adverse ecological impact on a local scale, if unmitigated.

There are no predicted impacts on any designated sites for wildlife interest other than an increase in recreational disturbance to the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas (SPA's).

Assuming appropriate mitigation and enhancement measures are implemented, there are no predicted significant impacts or effects on any protected and notable species.

1.4. Ecological mitigation, compensation, and enhancement measures

General recommendations are made within the ecological appraisal report (Sunflower Ecology, 2023), with detailed recommendations for bat mitigation, compensation, and enhancement measures within the bat survey report (Colmer Ecology, 2023).

In addition to the measures proposed, I would also recommend that any hedgerow or scrub clearance be supervised by a suitable experienced Ecological Clerk of Works (ECoW) who holds a Natural England dormouse licence, to undertake a fingertip search of these habitats. Should evidence of nesting dormice be found, then a European protected species licence would need to be obtained to continue with the works.

I would also recommend that the site includes permeable garden fencing and insect bricks (one per dwelling).

The proposed landscaping and amount of green space within the development appears to be proportional. However, it would be preferable to see the application supported by a biodiversity metric calculation to quantify losses and gains based on the emerging requirement for development proposals to demonstrate biodiversity net gain.

A Habitat Mitigation payment, as set out on the EDDC website, would be required to off-set potential impacts from the development on the designated sites.

3. Conclusions and recommendations

1.5. Acceptability of the proposals

The submitted ecological survey information including ecological avoidance, mitigation, and enhancement measures are generally considered acceptable notwithstanding the above comments and assuming the following conditions are imposed and the successful implementation of the mitigation and enhancement measures.

1.5. Conditions

Should this application be approved, the following conditions should be imposed.

- No works shall commence on site until a Lighting Impact Assessment (LIA) including lux contours, based on the detailed site design, most recent guidelines

(currently GN08/23 and DCC 2022), and recommendations within the bat survey report (Colmer Ecology, 2023), has been submitted and approved in writing by the local planning authority. The LIA should clearly demonstrate that dark corridors are achievable without the attenuation of habitat features which long-term management cannot be guaranteed. All lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development based on the submitted Preliminary Ecological Appraisal (Sunflower International, 2023), bat survey report (Colmer Ecology, 2023) and comments made from the District Ecologist. It should include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, permeable fencing, and other features to be shown clearly on submitted plans. The content of the LEMP also include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a minimum 30-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- No development shall take place (including ground works) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall include the following.

- a) Risk assessment of potentially damaging construction activities.

- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication, including reporting compliance of actions to the LPA
- g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEcoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- The development shall not be occupied until the local planning authority has been provided with evidence, including photographs, that all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), have been installed/constructed, and compliance with any ecological method statements in accordance with details within the submitted LEMP and CEcoMP.

1.6. Reason To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013- 2031.

William Dommett MSc MCIEEM District Ecologist East Devon District Council

District Ecologist

11/10/23 - The submitted ecological survey report indicates that surveys for reptiles, bats, and breeding birds are being undertaken.

Therefore, I currently submit an objection to the proposals until all ecological surveys have been completed and the results provided within an amended report that details the results of all ecological surveys, mitigation, compensation, and enhancement measures.

Reason

ODPM Circular 06/2005 states: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise

all relevant material considerations may not have been addressed in making the decision."

BS 42020:2013 Par 6.4.5 states: "... where a PEA contains recommendations that further detailed survey work is necessary in order to inform a planning application, this work should be undertaken before determination of the planning application."

Consideration of impacts on protected species is a material consideration of planning permission. It is not possible to properly consider the impacts of the proposals on priority and protected habitats and species, or designated sites, in absence of adequate survey information and suitable avoidance/mitigation/compensation measures.

In absence of this information, the proposal is not in accordance with Policies EN5, and Strategy 47 of the East Devon Local Plan 2013 to 2031.

EDDC Trees

22/09/23 - As an outline application, in principle I believe the site can be developed if an appropriate design is forthcoming based on a sound BS5837 survey. However, there are significant tree constraints on site which will limit development particularly in the northern and north-eastern section of the site. A number of trees on site are considered to be either veteran or future veterans. In regards to the present plans as shown within the AIA I have significant concerns due to the loss of important trees and the pressure to prune or fell retained trees. As discussed with the project arboriculturalist on site (and latterly with the applicant), I have the following concerns which would need to be rectified before I could support any proposal:

1) Access onto Globe Hill - visibility requirements are likely to result in significant tree loss within W1 (B category). Trees closest to entrance are the larger, more significant specimens. Works proposed to facilitate access at present only suggest crown lifting. However it is likely that to gain the required visibility sights onto Globe Hill will require the removal of a significant number of trees particularly to the north of the junction. The impact of this removal would need to be clearly assessed.

2) Loss of A1. B category trees including 2 Oak's which are considered long-term to be important future trees and potential replacement trees if any of the larger, older specimens were to fail. The design should be based around retaining these trees. Its considered reasonable to remove the understory trees.

3) T27, Fastigate Elm B category described as having 'good future potential'. Like the Oaks within A1, this is a potentially important future tree which should be retained. These semi mature trees help to give character and structure to the development, rather than waiting 30 years for newly planted trees to develop.

- 4) Locating of plot 3 between T7 (A category Copper Beech) and T11 (A category Oak) is not considered a sustainable juxtaposition between the dwelling and nearby trees. This will result in undue pressure to prune or fell the trees due to concerns over safety; especially from T11, a large tree described in the tree survey with 'multiple signs of early veteran status' with decay pockets, fungi, large sections of deadwood. The tree contains numerous heavy limbs with evidence of history of branch drop. The current proposed location of plot 3 will create unnecessary targets. The area between these trees should be kept free of development and retained as 'parkland trees'.
- 5) T12 - move outside of RPA.
- 6) Access path adjacent to T20 (A4) - significant ground level changes likely to result in root damage. Access point appears unnecessary.

EDDC Landscape Architect

16/11/23 - 1 INTRODUCTION

This report forms the EDDC's landscape response to the outline application for the above site.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2 SITE DESCRIPTION & CONTEXT

The site is situated close to the northwestern edge of Woodbury and is currently accessed from a field gate off Globe Hill which runs along the western boundary. The application is for the construction of up to 28 dwellings, public open space, a parish office and associated infrastructure utilising the existing access point which would be enlarged and re-graded to accommodate proposed vehicular and pedestrian access. Two new pedestrian access points are proposed from the Arch which runs adjacent to the southern boundary. A range of traffic calming measures is proposed along Globe Hill as part of the access requirements.

The site comprises parkland associated with Oakhayes House dating from C1880 situated in its garden immediately to the north. The parkland has a gently sloping southerly aspect, levelling towards its southern end. Land cover is predominantly rough grass with some areas of scrub and numerous large and handsome specimen trees which are a prominent and important site feature. A recent engineered flood relief channel runs across the lower end of the site.

A high rubble limestone wall with native hedgerow and trees behind forms the southern boundary with the Arch and extending a short distance along the boundary with Globe Hill. The remainder of the Globe Hill frontage comprises a native hedgebank with a stand of mature trees north of the access gate. On its northern side an open fence separates the parkland from the garden of

Oakhayes. A line of late 20th century bungalows is situated to the east with rear gardens backing on to the site, their boundaries formed by a mix of low fences and hedges. Otherwise, OS 1890 mapping (refer fig. 1 below) shows that the parkland boundaries are much as they were when originally laid out and, notwithstanding the bungalows to the eastern side, the site has a strong sense of time depth and tranquillity.

There is no public access within the site. Views out of the site are limited due to surrounding vegetation and Oakhayes House itself. There are however extensive views afforded from the higher parts of the site to open countryside to the south and southeast extending to Woodbury Common and the Pebble Bed Heaths. The church tower is clearly visible beyond the eastern boundary.

Views into the site from its immediate surroundings are restricted by existing boundary walls and vegetation, the only clear view into it being from the existing field gate on Globe Hill. There are however local glimpse views afforded across the site and the church tower is visible in some views from Globe Hill through or above boundary vegetation. There are also attractive views towards across the site from the church yard and village green to the east. The bungalows beyond the eastern boundary have large living room windows which afford direct views into the site. The south elevation of Oakhayes House directly overlooks the site and dwellings to the west side of Globe Hill are likely to afford partial views over it.

Figure 1 - Extract of OS 1890 map showing Oakhayes House and parkland as originally laid out

Oakhayes House is grade II listed and St Swithen's Church is grade I. The site and surrounding roads lie within the Woodbury conservation area. There is a blanket TPO across the site. The East Dorset AONB boundary lies 1.6km to the east/ southeast.

3 REVIEW OF SUBMITTED DETAILS

3.1 Landscape and visual impact

Generally, the LVIA findings that landscape and visual impacts of the development would be largely limited to the site itself and its immediate surroundings, and that there would be no adverse impacts on the AONB are accepted.

The sensitivity of the parkland itself to development should be considered high rather than medium-high as stated in the LVIA due to its relationship with the grade II Oakhayes House, its intactness and the presence of numerous important trees within it.

The proposals would have a major adverse impact on the historic parkland character of the site due to the introduction of buildings, access roads, lighting etc and vegetation clearance including some trees, although the provision for public access would be beneficial.

The proposals would alter the character of Globe Hill introducing a range of traffic calming features, removal of 35m boundary hedgerow and construction of two new houses backing on to its undeveloped eastern edge with associated on street parking. Further development within the interior of the site would be visible in partial and filtered views from Globe Hill. These changes would have a locally urbanising effect.

The visual impact of development on The Arch is likely to be negligible due to the proposed retention of the existing high boundary wall and mature trees behind.

The proposals would result in the loss of some glimpse views of the church tower from Globe Hill and a slight loss of openness in near views across the site from other directions to the east and southeast.

3.2 Scheme Drawings

Access proposals (dwg. no. 01-PHL-101 rev. E)

It appears that the proposed access could be constructed without adverse impact on the RPA of trees to the north but the RPA extent immediately to the north of the site access is incorrectly plotted and should be amended on the arboricultural and access plans as per the plan extract below.

Illustrative site layout

Although the submitted layout plan is illustrative only, layout being a reserved matter, the following comments are noted:

The layout of plots 3-17 appears well considered providing a wide buffer separating them from the existing bungalows to the east, maintaining a view to the church tower as a focus of the site access road and an open vista from Oakhayes House, while providing natural surveillance over the open space to the west (except where obstructed by plots 18-20).

The location of plots 1 and 2 backing onto Globe Hill with associated car parking will have an adverse urbanising effect on the rural edge character of Globe Hill.

Plots 1-2 together with plots 18-20 impinge excessively on the parkland resulting in a high adverse impact on its character and constricting its width to 23-36m which reduces its potential as active community and recreational space. By comparison the open space provision for the recently constructed housing scheme at Lymphstone nursery site (application ref 18/2589/MFUL) for 11 houses provided more than double the recreational space of this scheme. Additionally, while the location of proposed dwellings has sought to retain an open vista from Oakhayes House across the parkland to wider countryside beyond the proposed dwellings will impinge on this especially plots 1-2 and 18-20.

The omission of units 1-2 and 18-20 would result in a much more sympathetic development retaining a stronger sense of the original parkland and the setting of Oakhayes House and providing greater recreational opportunity.

At its southern end the site is weakly connected with The Arch. This is partly due to the existing trees and high boundary wall which form the boundary but is exacerbated by the layout which provides poor pedestrian connectivity with the parkland open space beyond. Reconfiguring the layout so that there is a clear pedestrian corridor connecting directly to the open space with housing fronting this and carparking tucked to the rear as indicated in the overmarked plan extract below would help considerably to improve this connection and draw people into the site.

Parameter plans

The submitted parameter plans comprising scale, land-use, density and open space provision are considered unacceptable for reasons noted above.

4 CONCLUSION AND RECOMMENDATIONS

4.1 Acceptability of proposals

Although the proposals would have a major impact on the character of the site itself landscape and visual impacts beyond its boundaries are likely to be very localised. The principle of housing development on the site is therefore considered acceptable in terms of overall landscape and visual impact subject to design and density.

The proposed access could be constructed without adverse impact on existing boundary trees and with minimal cutting back of existing hedgerow.

The proposals will have an urbanising effect on the character of Globe Hill due to the siting of plots 1 and 2 with associated car parking and the introduction of traffic calming measures.

The proposals as indicated on the illustrative layout plan appear to be an overdevelopment of the site resulting in excessive harm to the parkland character of the site and a reduction of units is recommended as noted above to retain parkland character and provide a larger community space less dominated by built form and free of development along its western rural edge.

4.2 Conditions

Notwithstanding the above comments should the application be approved the following conditions should be imposed:

1) No development work shall commence on site until the following information has been submitted and approved:

a) A full set of hard landscape details for proposed walls, fencing, retaining structures, hedgebanks, pavings and edgings, site furniture, play equipment and signage.

b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation including lux levels plan.

External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.

c) A site levels plan indicating existing and proposed levels and showing the extent of earthworks and any retaining walls at 1:250 scale or greater. This shall be accompanied by a minimum of 4 sections through the site at a scale of 1:200 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings.

d) A landscape and green infrastructure strategy plan showing existing trees, hedgerow and habitat to be retained and removed; proposed tree and structure planting and new habitat to be created;

existing and proposed watercourses, ponds and wetland areas; pedestrian and cycle routes through the site and how they connect to the existing network beyond

d) Surface water drainage strategy incorporating an appropriate SuDS treatment train and details of SuDS features including proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc. The SuDS scheme shall be designed to enhance bio-diversity value and engineered elements should have a positive or neutral impact on visual amenity.

f) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- o a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.

- o methods for stripping, stockpiling, re-spreading and ameliorating the soils.

- o location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).

- o schedules of volumes for each material.

- o expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.

- o identification of person responsible for supervising soil management.

g) A full set of soft landscape details including:

- i) Planting plan(s) showing locations, species and number of new tree, shrub and herbaceous planting, type and extent of new amenity/ species rich grass areas, existing vegetation to be retained and removed.

- ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.

iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.

iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

h) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

3) No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 30 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:

- o Extent, ownership and responsibilities for management and maintenance accompanied by a plan showing areas to be adopted, maintained by management company or other defined body and areas to be privately owned/ maintained.

- o Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.

- o A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.

- o Landscape and ecological aims and objectives for the site.

- o Condition survey of existing trees, hedgerow and other habitat to be retained as a baseline for future monitoring and to identify any initial works required to address defects/ issues identified and bring them into good condition.

- o Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:

- o Existing trees, woodland and hedgerows/banks. Hedgerow management shall be carried out in accordance with the Hedge Management Cycle as set out in Hedgeline guidance.

- o New trees, woodland areas, hedges and amenity planting areas.

- o Grass and wildflower areas.

- o Biodiversity features - hibernaculae, bat/ bird boxes etc.

- o Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.

- o Arrangements for Inspection and monitoring of the site and maintenance practices.

o Arrangements for periodic review and update of the plan that may be required to meet the objectives of the plan and reflect any relevant changes to site, legislation and best practice guidance.

Management, maintenance and monitoring shall be carried out in accordance with the approved plan.

4) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first occupation.

5) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

SEE FULL REPORT WITH IMAGES UNDER DOCUMENT TAB

Environmental Health

09/08/23 - A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

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

Police Architectural Liaison Officer - Kris Calderhead

14/08/23 - Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application.

I appreciate that the layout of the site is only illustrative at this stage however, I would like to make the following comments and recommendations for consideration. They relate to the principles of Crime Prevention Through Environmental Design (CPTED) and should be embedded into the detailed design of the scheme to reduce the opportunity for crime and anti-social behaviour (ASB).

- o Should the application progress, it would be beneficial if designing out crime is referenced in any future Design and Access Statement (DAS) or any addendum to the existing one, in order to detail how the scheme has embedded designing out crime principles into its design and thus considered both local and national guidance relating to safety and security.

- o The Habitat corridor with new planting to form a future linear woodland / landscape buffer / informal open space running along the east of the development is somewhat of a concern if it is expected that this space will be freely accessible and promoted to use, as it provides legitimate access to the rear boundaries of numerous plots. The space will lack surveillance opportunities and it is recommended that such a layout is avoided as it can increase the risk of crime and ASB, unless the landscape is sufficiently robust and substantial, so as to prevent access.

- o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets with accessible space to the rear of plots avoided. Should the rear boundaries of plots abut public space they should be afforded a buffer to prevent easy access.

- o Any existing or new hedgerow that is likely to comprise new rear garden boundaries must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

- o Boundary treatments to the front of dwellings and around apartment blocks are important to create defensible space to prevent conflict between public and private areas and clearly define ownership of space. The use of low-level railings, walls, hedging for example would be appropriate.

- o Treatments for the side and rear boundaries of plots should be adequately secure (min 1.8m height) with access to the rear of properties restricted via lockable gates. Defensible space should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.

- o Pedestrian routes throughout the development must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided as shrubs and trees have a tendency to grow over the path creating pinch points, places of concealment and unnecessary maintenance.

o Presumably the site will be adopted and lit as per normal guidelines (BS 5489). Appropriate lighting for pathways, gates, parking areas and the community square must be considered. This will promote the safe use of such areas, reduce the fear of crime and increase surveillance opportunities.

o Vehicle parking will clearly be through a mixture of solutions although from a crime prevention point of view, parking in locked garages or on a hard standing within the dwelling boundary is preferable. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms.

Rear parking courts are discouraged as they provide legitimate access to the rear of plots and are often left unlit with little surveillance.

o POS such as 'Pollinator Park' and the 'Sensory Garden' should be afforded an appropriate boundary treatment to prevent vehicle access.

o Detailed design of the community square, public council office and disable toilet should also consider designing out crime principles with effective management and maintenance, good surveillance opportunities and physical protection measures.

Should the application progress, please don't hesitate to contact me again to review any updated plans and designs.

DCC Education

Regarding the proposal for a development of 24 family-type dwellings, Devon County Council would need to request an education contribution to mitigate its impact. 24 family-type dwellings will generate an additional 6.00 primary pupils and 3.60 secondary pupils which would have a direct impact on Woodbury primary school and Exmouth Community College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

In accordance with the Education Infrastructure Plan 2016-2033, DCC will consider the adopted Local Plan allocations in addition to the forecast spare capacity and already approved but not yet implemented developments. We will share the forecast spare capacity of an area proportionately between all outstanding development sites allocated in the Local Plan.

The local Primary School is forecast to not have capacity for the pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the number of pupils generated directly towards additional primary education infrastructure. The contribution sought towards primary is £102,582 (based on the DfE extension rate of £17,097 per pupil). This would relate directly to providing primary education facilities for those living in the development.

The local Secondary Schools are also not forecast to have capacity for the pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the number of pupils generated directly towards additional secondary education infrastructure. The contribution sought towards secondary is £84,744 (based on the DfE extension rate of £23,540 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

DCC would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Exmouth Community College. The current costs required are as follows: -

3.60 secondary pupils

$\text{£}2.65 \text{ per day} \times 3.60 \text{ pupils} \times 190 \text{ academic days} \times 5 \text{ years} = \text{£}9,063$

All education infrastructure contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates and any indexation applied to these contributions should be applied from this date. All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.