

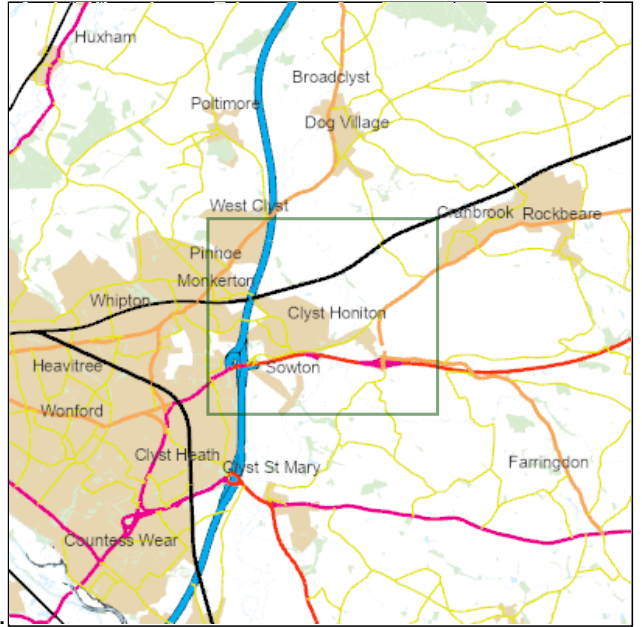
Ward Broadclyst

Reference 24/1154/VAR

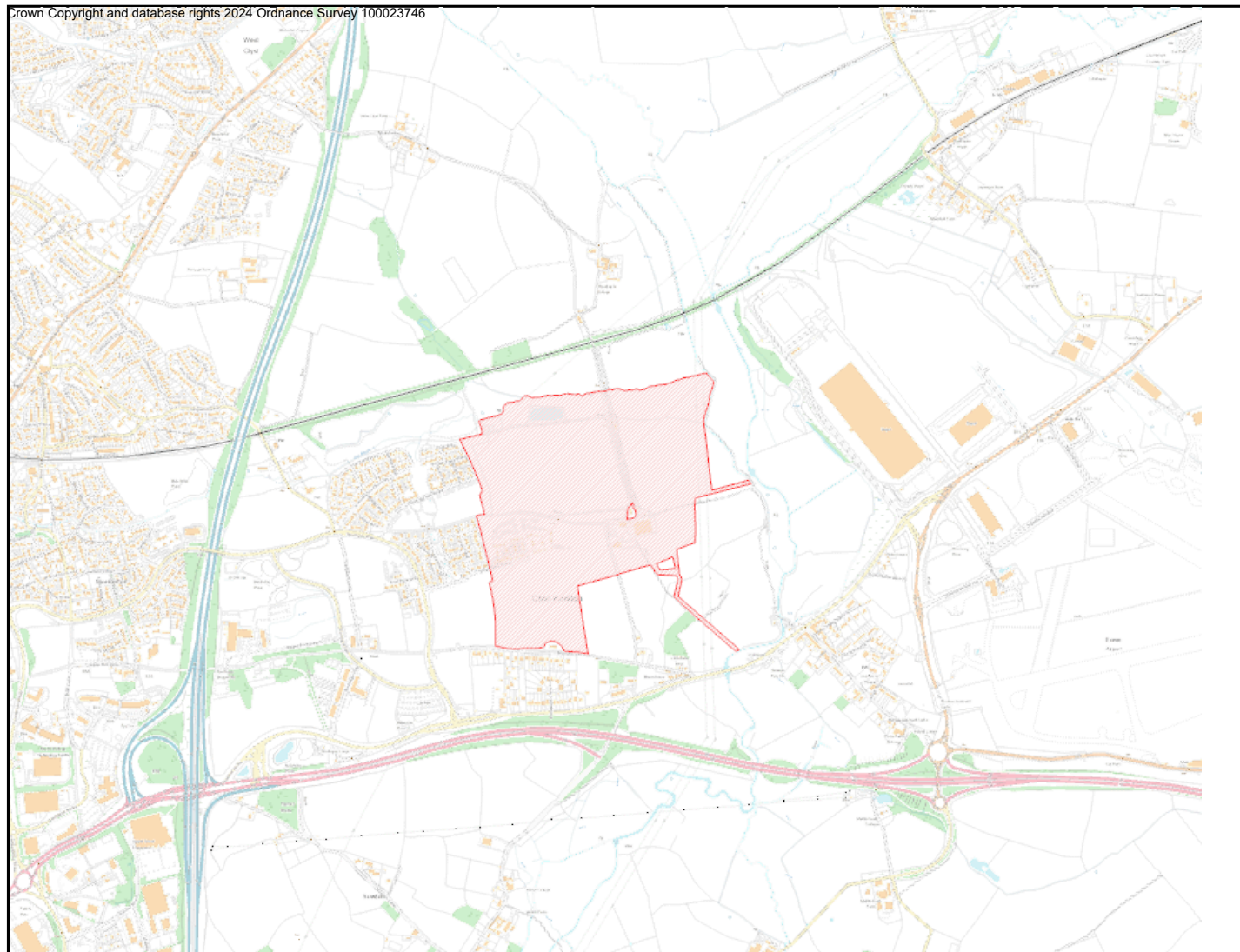
Applicant Mr Stevenson (Persimmon Homes Ltd)

Location Mosshayne Land North Of Tithebarn Lane Clyst Honiton

Proposal Variation of Condition No. 13 (Construction and Environment Management Plan) of planning permission ref: 17/1019/MOUT for the demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) which was accompanied by an Environmental Statement. Amendment to construction hours on Saturdays.



RECOMMENDATION: Approve subject to conditions and Section 106 Deed of Variation.



		Committee Date: 22.10.2024
Broadclyst (Broadclyst)	24/1154/VAR	Target Date: 08.10.2024
Applicant:	Mr Stevenson (Persimmon Homes Ltd)	
Location:	Mosshayne (Land North Of Tithebarn Lane Clyst Honiton)	
Proposal:	Variation of Condition No. 13 (Construction and Environment Management Plan) of planning permission ref: 17/1019/MOUT for the demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) which was accompanied by an Environmental Statement. Amendment to construction hours on Saturdays.	

RECOMMENDATION: Approve subject to conditions and Section 106 Deed of Variation.

EXECUTIVE SUMMARY

This application is before members as the recommendation to approve is contrary to views expressed by Broadclyst Parish Council.

This application seeks to vary Condition 13 (Construction and Environment Management Plan) (CEMP) of application 17/1019/MOUT which granted permission for the demolition of existing buildings and development of the site to provide up to 900 dwellings. The condition requires the submission and approval of a CEMP for each phase of development as well as a number of restrictions including restriction b) which sets out that "No construction works shall be carried out, outside of the following hours: 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays".

The application seeks to extend the working hours on a Saturday from 13:00 to 16:30. From 13:00 to 14:00, internal and external works are proposed and from 14:00 to 16:30, works would be internal dwelling works only and there would be no use of power tools. The increase in working hours would also be a temporary measure from the decision date of this permission to 31 December 2024. From 1 January 2025, the working hours would revert to the previously approved hours of between 08:00 to 13:00 on Saturdays.

The justification for the change in hours is due to several unforeseen circumstances such as weather, archaeology and personnel which has resulted

in the build programme being behind schedule. The additional time granted would allow for dwellings to be completed internally and free up contractors to progress on the build programme and infrastructure delivery and to avoid further setbacks.

The Parish Council, Residents Association and neighbouring properties have raised concerns with noise, traffic, and deliveries. The application has been reviewed by Devon County Council Highway Authority, National Highways and EDDC Environmental Health and no concerns have been raised. It is acknowledged that the additional hours would result in noise and disturbance to neighbouring residents however from 14:00 to 16:30, works would be internal only and no power tools are to be used. The delivery hours are controlled by each CEMP and are not proposed to be amended and staff and contractors are likely to already be on site rather than changing over. Furthermore, the extended hours are a temporary measure from the decision date of this permission to 31 December 2024.

Officers acknowledge concerns from the Parish Council and residents however, in weighing up the harm and the additional hours, and subject to the restrictions in the proposed condition, officers consider that the temporary extension to working hours would not result in any significant harm to neighbouring properties in terms of noise, traffic and disturbance.

The application is recommended for approval subject to conditions and S106 deed of variation to carry across all S106 provisions.

CONSULTATIONS

Local Consultations

Parish/Town Council

Thank you for consulting Broadclyst Parish Council.

The Committee supported an amendment to the existing condition of working until 2pm on a Saturday but DID NOT support the condition of working 2-4 pm inside, due to the vehicle movements, deliveries, and the low-level noise likely to be associated with this type of work.

Ward Member(s)

Cllr Paula Fernley (4/10/24)

The variation is for such a short period of time, I'm not going to object.

Technical Consultations

Environmental Health

Application 24/1154/VAR seeks to extend permitted working hours on Saturdays to 0800 to 1400 (1400-1630 internal dwelling works only). Where internal dwelling works involves noisy operations i.e., the use of repetitive actions (hammer gun) the CEMP should be amended to show that these operations will not take place during these extended hours in properties that border Noise Sensitive Dwellings on the edge of the development.

Reason: To protect the amenities of local residents from odour.

Contaminated Land Officer

I have considered the application and do not anticipate any concerns in relation to contaminated land.

National Highways

Thank you for consulting National Highways on the above S73 application which seeks to vary condition 13 of permission 17/1019/MOUT to extend permitted working hours on Saturdays. Application 17/1019/MOUT (all matters reserved) for the demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing was granted in November 2017. The site is located approximately 250m north of the A30 trunk road and 800m east of the M5 motorway which form part of the strategic road network (SRN) for which we are responsible.

Condition 13 currently restricts construction works on Saturdays to between 0800-1300. Application 24/1154/VAR seeks to extend permitted working hours on Saturdays to 0800 to 1400 (1400-1630 internal dwelling works only).

National Highways is satisfied the proposal will not result in an unacceptable impact on the safe operation of the strategic road network and therefore offers no objection to application 24/1154/VAR.

County Highway Authority

I have visited the site and reviewed the planning documents, it is usually our standard for works to finish by 1pm on Saturdays to avoid a collision of Saturday tourist and leisure traffic, however given the location, we do not feel the additional hour of works will create a great disruption to the local highway network.

Therefore, the County Highway Authority (CHA) has no objection to this planning application.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

D1 (Design and Local Distinctiveness)
EN14 (Control of Pollution)

Government Planning Documents

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

OFFICER REPORT

SITE LOCATION

The application site extends around 43.3ha in area and comprises of a mix of residential development in accordance with 17/1019/MOUT and agricultural land separated into the remaining three parcels/fields. The site is known as Mosshayne and forms part of the strategic mixed used development at Redhayes/North of Blackhorse Lane. Within the site at present there are also a series of farm buildings which are to be removed and a small dwelling to be retained which is outside of the application site.

The site lies approximately 800m east of the M5 motorway and approximately 240m north of the A30 dual carriageway. The northern boundary is formed by the Pinn Brook which is around 100m south of the Exeter St David's to London Waterloo railway line. To the east is open land running down to the River Clyst but the dominant feature on this boundary is a double row of overhead power lines. Further to the east is the Lidl Distribution Centre and Exeter Logistics Park. To the south of the eastern part of the site is open agricultural land and to the south of the western part of the site is Blackhorse Lane and associated dwellings. To the west is a mixed-use development known as Tithebarn Green comprising of residential dwellings, open and play space and a local centre in construction. Further to the west is the Exeter Science Park.

PLANNING HISTORY

The site has the following relevant planning history:

- o 17/1019/MOUT | Demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) | GRANTED (16 November 2017)
- o 19/0464/MRES | Reserved matters application (access, appearance, landscaping, layout and scale) for the construction of 265 dwellings including affordable housing, landscaping, allotments and associated site infrastructure pursuant to outline application permission 17/1019/MOUT (phase 1). The discharge (partial or full) of conditions 6, 7, 12 and 30 of outline permission 17/1019/MOUT | GRANTED (31 May 2019)
- o 21/2490/MRES | Reserved matters application (access, appearance, landscaping, layout and scale) for construction of 150 dwellings including affordable housing, landscaping, allotments, NEAP and associated site infrastructure; pursuant to outline planning permission reference 17/1019/MOUT. The proposal includes the discharge of conditions 6, 7, 9, 11, 12, 13, 14, 15, 16, 17, 23, 24, 25, 28, 34, 36 and 37 of outline planning permission reference 17/1019/MOUT | GRANTED (10 March 2022)

- o 22/2000/MRES | Reserved matters application (access, appearance, landscaping, layout and scale) for the construction of 135 dwellings including affordable housing, landscaping and associated site infrastructure. Subsequent application to Outline permission 17/1019/MOUT which was accompanied by an Environmental Statement. The proposal seeks the discharge of conditions 6, 7, 9, 11, 12, 13, 20, 21, 23, 24, 25, 28, 36 and 37 of the Outline planning permission. | GRANTED (8 September 2023)
- o 23/0085/MRES | Reserved matters application (access, appearance, landscaping, layout and scale) for the construction of a spine road including drainage and associated infrastructure. Subsequent application to outline permission 17/1019/MOUT which was accompanied by an Environmental Statement | GRANTED (2 February 2024)
- o 24/1387/V106 | Application to vary the S106 agreement to transfer obligations to a S73 application | PENDING CONSIDERATION

APPLICATION

The application seeks to vary condition No. 13 (Construction and Environment Management Plan) of planning permission ref: 17/1019/MOUT for the demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) which was accompanied by an Environmental Statement.

The amendment seeks to extend construction hours on Saturdays afternoons from the time of determination to 31 December 2024. From 1 January 2025, the working hours would revert to the previously approved hours.

The Existing Condition is as follows:

No development on an approved phase shall take place until a Construction and Environment Management Plan (CEMP) relating to that phase has been submitted to and approved in writing by the Local Planning Authority. 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. The following restrictions shall be adhered to:

- a) There shall be no burning on site during construction or site preparation works;
- b) No construction works shall be carried out, outside of the following hours: 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;
- c) There shall be no high frequency audible reversing alarms used on site.

The approved Plan shall be adhered to throughout the construction period.

The Proposed Condition (Now Condition 11) is as follows, with the changes shown in italics:

No development on a remaining phase or phases shall take place until a Construction and Environment Management Plan (CEMP) relating to that phase has been submitted to and approved in writing by the Local Planning Authority. 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. The following restrictions shall be adhered to:

- a) There shall be no burning on site during construction or site preparation works;
- b) *Between the decision date of this permission and 31 December 2024, no construction works shall be carried out, outside of the following hours: 08:00 to 18:00 Monday to Friday, 08:00 to 16:30 on Saturdays (Internal dwelling works only and no use of power tools between 14:00-16:30), and not at all on Sundays and Public Holidays;*
- c) *From 1 January 2025 onwards, no construction works shall be carried out, outside of the following hours: 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, and not at all on Sundays and Public Holidays;*
- d) There shall be no high frequency audible reversing alarms used on site.

The approved Plan shall be adhered to throughout the construction period.

A separate application (24/1387/V106) has also been submitted to vary the S106 agreement to transfer the planning obligations to S73 applications.

NEIGHBOUR CONSULTATION

Two letters of objection have been received. These are summarised below:

- Application does not state why the variation is required.
- Justification should be provided for the variation.
- The need for the extension must outweigh the potential noise impact.
- Concerns with compliance with existing hours of operation.
- EDDC's Construction Sites Code of Practice states that variations will only be granted under exceptional circumstances.
- Proposal would set a precedence for works.
- Impact of noise, traffic, dust on residents.

The Tithebarn Residents Association objected to the application:

I am Chair of the Tithebarn Residents Association. We discussed this application at our most recent meeting, and these comments are submitted on behalf of people across the area.

Tithebarn Residents Association would like to object to the above variation of condition to extend construction hours on Saturdays.

The applicant has not provided any justification for the extended construction hours nor any mitigating measures to be put in place to avoid impacts on the quality of life of the considerable number of people living nearby. As far as we can establish, the

extension of work is not on an urgent or emergency basis, nor is the nature of work such that it is impossible for it be undertaken during the already permitted hours.

East Devon District Council has a long-established practice in line with other local planning authorities that limits construction to no later than 1300 on Saturdays (c.f. the adopted Construction Sites Code of Practice). We would not expect the quiet period that follows to be eroded without exceptional circumstances being presented by the applicant to avoid setting a wider precedent across the district.

The two primary access routes to this development are via Hutchings Drive and Stone Barton Road, both of which are now heavily inhabited. The extension of construction noise and traffic generation for much of Saturday leaves only one day of respite for residents. With several remaining phases of development within the outline planning area, erosion of this quiet period for an indefinite period undermines the balance between sustainable construction and residential amenity.

Regarding the limitation of construction noise to internal dwelling works between 1400- 1630, this does not specify the nature of the works which could still be equal in noise generation to residents in occupied buildings nearby. In any event, it does not reduce the impact of construction traffic that will be accessing the site, nor the mud/dust generation that already impacts a wider part of Tithebarn.

ASSESSMENT

A) WOULD THE PROPOSED AMENDMENT BE ACCEPTABLE?

Policy D1 (Design and Local Distinctiveness) of the adopted Local Plan (2016) states that proposals will only be permitted where they: 7. Mitigate potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction.

Policy EN14 (Control of Pollution) of the adopted Local Plan (2016) states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of: 1. Pollution of the atmosphere by gas or particulates, including. smell, fumes, dust, grit, smoke and soot. 2. Pollution of surface or underground waters including: a) Rivers, other watercourses, water bodies and wetlands. b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas. c) Harbours, estuaries or the sea. 3. Noise and/or vibration. 4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value. 5. Fly nuisance. 6. Pollution of sites of wildlife value, especially European designated sites or species. 7. Odour

East Devon District Council's Construction Sites Code of Practice (2014) states that where residential occupiers are likely to be affected by noise, the hours of work will normally be restricted to the following: Monday - Friday 8am - 6pm, Saturday 8am - 1pm, Sunday and Bank Holidays No work where noise is audible at the site boundary. These times may be varied according to local circumstances. Any works outside of these hours require prior approval from the Environmental Protection Team, Environmental Health. It should be

noted that approval will only be granted under exceptional circumstances and the contractor will be encouraged to inform local residents in advance of the proposed activity.

This application seeks to vary Condition 13 (Construction and Environment Management Plan) of application 17/1019/MOUT which requires the submission and approval of a CEMP for each phase of development as well as a number of restrictions. This includes restriction b) which sets out that "No construction works shall be carried out, outside of the following hours: 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays". A restriction on construction hours was applied to the development to protect the amenity of existing and future residents and in accordance with the Council's Construction Sites Code of Practice.

The application seeks to increase working hours on a Saturday from 13:00 to 16:30 but from 14:00 to 16:30, works would be internal dwelling works only and there would be no use of power tools. The increase in working hours would also be a temporary measure from the date of decision to 31 December 2024. From 1 January 2025, the working hours would revert to the previously approved hours of between 0800 to 1300 on Saturdays.

The applicant has set out the reasons why the temporary extension to the working hours is required. The applicants are currently developing Phase 2 of the development which was expected to be fully occupied by the end of 2024 as per the Phasing Plan. As of the end of August 2024, 56 out of 150 dwellings have been occupied.

Due to several unforeseen circumstances which includes adverse weather conditions, archaeological discoveries on site and personnel shortages, the build programme is behind schedule. In relation to the archaeological discoveries, a Romano-British enclosure and sunken feature outside the enclosure including pottery and metal work were discovered and which was excavated and reported to Devon County Council. During the excavation which lasted around 4 months, no works on site were permitted. Furthermore, the opportunities for the district heat network connections are limited and directed by E-ON and missing an opportunity could result in delays of up to 6 months. The additional time granted would allow for additional external works and dwellings to be completed internally to release contractors to progress on the build programme and infrastructure delivery and avoid further setbacks.

The proposed works would include an additional hour of internal and external works (from 13:00 to 14:00) followed by an additional 2.5 hours of internal dwelling works (from 14:00 to 16:30). The internal works could include decorating, flooring, fitting of kitchens and bathrooms, electrical installations and plumbing however, due to the location of existing and proposed dwellings, it is necessary to include a restriction on the use of power tools between 14:00-16:30.

In relation to traffic impacts, it is envisaged that staff members and contractors would already be on site and the proposal to extend the hours would result in staff and contractors remaining on site rather than additional staff leaving and entering the site beyond 13:00. The additional works undertaken as a result of the extension of hours is likely to result in additional deliveries to the site, however delivery hours are controlled via the approved CEMPs of which the applicant has not sought to amend. The delivery hours at this stage will remain as previously approved. Furthermore, the applicant is willing to implement internal traffic management strategies to minimise disruption to residents. The applicants

would still be required to manage air quality, dust, water quality, lighting, noise and vibration, pollution prevention and control, and monitoring arrangements as per the requirement of the condition.

The application was reviewed by National Highways, who is satisfied the proposal will not result in an unacceptable impact on the safe operation of the strategic road network and Devon County Council Highway Authority (CHA) who has no objection to the application.

Officers note that residents and the Parish Council have raised concerns regarding the additional hours and impact on traffic, noise, dust etc. The restriction on internal works only between 14:00 and 16:30 to the dwellings and use of power tools would reduce the level of noise and vibrations to existing and proposed residents and it is also noted that these hours are a temporary measure till the end of 2024. The additional hour of external and internal works would result in noise and disturbance however the Parish Council support an additional hour of work from 13:00 to 14:00. It is also noted that this will take effect in autumn/winter where outdoor amenity areas tend to be less used, and windows are more likely to be closed.

The application has been reviewed by the District Council's Environmental Health Officer who indicated that where internal dwelling works involve noisy operations i.e., the use of repetitive actions (hammer gun), the CEMP should be amended. However, officers have taken the view to restrict the use of power tools from 14:00 to 16:30 to protect the amenities of local residents.

It is recognised that Construction Sites Code of Practice does allow for working hours to be varied under exceptional circumstances and whilst there is a recognised need for a temporary change to working hours, the extent to which they are exceptional is not clear. However, the Construction Sites Code of Practice is not an adopted planning policy document and the District Council's Environmental Health Officer has not raised any conflict in relation to the application and compliance with Policies D1 and EN14.

In weighing up the harm and the additional hours, and subject to the restrictions in the proposed condition, officers consider that the temporary extension to working hours would not result in any significant harm to neighbouring properties in terms of noise, traffic and disturbance. A benefit of the proposal would arise from the completion of additional housing on a strategic development site in a timelier fashion.

The conditions attached to the previous outline approval would be transferred to this application. 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 a precedence to extend construction hours.

CONCLUSION

In conclusion, the variation of Condition 13 is considered to be acceptable in this instance. Due to the circumstances of this application and subject to the restrictions in the proposed condition, officers consider that the extension to working hours to the end of 2024 would on balance not result in any significant harm to neighbouring properties in terms of noise, traffic and disturbance.

The application is therefore recommended for approval subject to conditions.

The S106 agreement for 17/1019/MOUT does not allow for the S106 to be carried over to any S73 applications meaning a deed of variation is required. This may be dealt with as a single DOV (ref: 24/1387/V106) alongside the determination of this application.

The previous approval included several conditions and approved plans. The list of recommended conditions below reflects that some conditions have been discharged or partially discharged and the fact that development has begun, to ensure they remain relevant, in accordance with the Planning Practice Guidance.

RECOMMENDATION

APPROVE subject to a Deed of variation to the S 106 Agreement and to the following conditions:

1. Reserved Matters

Approval of the details of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") for each approved phase or phases shall be obtained from the Local Planning Authority in writing before any development is commenced within that phase.

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

2. Reserved Matters Time Limit

Application for the approval of all reserved matters shall be made to the local planning authority before the expiration of 7 years from the date of the original permission (17/1019/MOUT; approved 16 November 2017). The development hereby permitted for each of the subsequent approved phases shall be begun before the expiration of 2 years from the date of the approval of the reserved matters for that relevant phase.

(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.)

3. Neighbourhood Plan

The development shall be carried out in strict accordance with the details and accompanying documents discharged as part of the Neighbourhood Plan on 26 November 2018 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents discharged as part of the Framework Plan and Appearance Palette associated with Phase 1 on 27 February 2019 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents discharged as part of the Framework Plan and Appearance Palette associated with Phase 2 (known as Phase 3 at the time) on 6 September 2021 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents discharged as part of the Framework Plan and Appearance Palette associated with Phase 3 on 15 May 2023 (under reference 17/1019/MOUT).

The development shall take place in accordance with the following parameter plans together with the design principles and parameters established in the approved Design and Access Statement:

Land Use - drwg no. 1034-SK10-C
Plot ratio plan - drwg no. 1034-SK13-A
Maximum building heights - drwg no. 1034-SK12-B
Access and Movement - drwg no. 1034-SK11-B
Green Infrastructure - drwg no. 1034-SK14-C

Prior to the submission of any reserved matters application(s) for the remaining phase or phases the development, a Framework Plan and Statement on the Appearance Palette for the relevant phase or phases of the development shall be submitted to and approved in writing by the local planning authority. The Framework Plan(s) (1:1000) shall follow the principles established in the approved Neighbourhood Plan and shall be in accordance with the approved parameter plans above. The Framework Plan(s) shall show the indicative location of buildings and their type, public and private open spaces and parking (including cycle parking) typologies, together with how the design principles in the approved Design and Access Statement will be applied at the more detailed level.

The Appearance Palette shall be provided in the form of a statement providing information and guidance on building design and character, constructional materials and detailing, surface materials and their finishes, street furniture and street tree species.

The reserved matters application or applications shall adhere to the approved framework plan(s) and accompanying palette relevant to that part of the site.

(Reason - To define the permission and ensure compliance with the approved plans and principles of the development.)

4. Landscaping Strategy

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 1 (19/0464/MRES), Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

The landscaping schemes to be submitted as part of the remaining reserved matters applications specified within the outline planning permission shall follow the landscape design principles within the approved Landscape Strategy (Section 5.7) of the Design

and Access Statement and the Green Infrastructure Parameter Plan. The details to be submitted for the landscape scheme shall include an implementation schedule and maintenance scheme for the approved details of landscaping. The landscaping shall be provided and maintained in accordance with the approved details.

(Reason - To define the permission and ensure that the development proceeds in accordance with the landscape strategy in the interests of the appearance of the development and to comply with Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013 to 2031).

5. Landscaping

The development shall be carried out with the details submitted under the following reserved matters approvals: Phase 1 (19/0464/MRES), Phase 2 (21/2490/MRES and 22/2072/VAR), Phase 3 (22/2000/MRES) and Infrastructure (23/0085/MRES).

The landscaping proposals to be submitted as part of the remaining reserved matters application(s), shall clearly show all the hedgerows to be retained, removed and created within that phase and how these hedgerows link into the adjacent phase(s). For those hedgerows proposed to be retained in accordance with the approved Green Infrastructure Parameter plan, details shall include how the hedgerows will be protected during construction, future maintenance and, where they form part of the boundary to a private property, how that will be managed and protected from damage. Proposals for existing hedgerows to be removed shall be accompanied by a written justification in terms of species/habitat impact which shall be approved in writing by the Local Planning Authority. New hedgerows to be planted shall be included within the landscape proposals and shall show full details, including implementation, and shall provide a statement to be approved in writing by the Local Planning Authority as to how they contribute to the enhancement of foraging, breeding, commuting and dispersal habitat on the site and the links to other habitats around the site.

(Reason - In the interests of the long term visual amenity of the site and the landscape setting together with the need to conserve and enhance biodiversity on and around the site in accordance with Strategy 7 (Development in the Countryside), Policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements), EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2031 and policy contained within the NPPF.)

6. Countryside/Community Park

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Countryside/Community Park discharged on 18 October 2023 (under reference 17/1019/MOUT).

(Reason: In the interests of the long term visual amenity of the site and the landscape setting together with the need to conserve and enhance biodiversity on and around the site in accordance with Strategy 7 (Development in the Countryside), policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements), EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites) and EN5

(Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2031 and policy contained within the NPPF.)

7. Bird Boxes

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 1 (Condition 11 of 19/0464/MRES), Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

No dwelling shall be commenced on a remaining phase or phases until a scheme for the provision of swallow boxes and house martin boxes on the buildings comprised in the remaining phase or phases have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the physical details of the artificial nests, the location of the buildings which would be fitted and their position on the buildings. No building approved to have an artificial nest shall be occupied until the artificial nest has been provided on that building in accordance with the approved details and it shall thereafter be maintained. The development shall provide a minimum of ten swallow boxes and ten house martin boxes around the perimeter of the development.

(Reason - To ensure that the development mitigates against habitat loss and enhances biodiversity in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2031 and policy contained within the NPPF. The details are required prior to construction of any dwellings on a particular phase as the design and provision of bird boxes may be required at the start of the development.)

8. Barn Owl Mitigation

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Barn Owl Mitigation discharged on 22 April 2021 (under reference 17/1019/MOUT).

(Reason - To ensure that the development mitigates against habitat loss and enhances biodiversity in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2030 and policy contained within the NPPF).

9. External Lighting

The development shall be carried out in strict accordance with the details and accompanying documents associated with External Lighting discharged as part of Condition 11 on 1 October 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR).

No development shall be commenced on a remaining phase or phases until a scheme for an External Lighting and Management Plan relating to the relevant phase or phases has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide details of the design, hours of use, locations and management of any temporary or permanent exterior lighting within any public area, including

signage, floodlighting and road lighting. The lighting for the relevant phase or phases shall then be installed and operated in accordance with the approved details.

(Reason: To safeguard the amenities of the area, to protect future occupiers and protected species from excessive light levels and in the interests of airport safety in accordance with Strategy 7 (Development in the Countryside), policies D1 (Design and Local Distinctiveness), EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) and of the East Devon Local Plan 2013 to 2031 and policy contained within the NPPF. The details are required at an early stage for the relevant phase as exterior lighting, in some form, is likely to be needed early on in the development process.)

10. Internal Noise Levels

The development shall be carried out with the details submitted under the following reserved matters approvals: Phase 1 (19/0464/MRES), Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES) and all mitigation measures shall be retained thereafter.

As part of any future reserved matters application, which includes residential development, a scheme shall be submitted to demonstrate that the internal noise levels within all residential units comprised in the relevant reserved matters application will conform to the "good" design range identified by BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' and to the recommendations in the Noise Impact Assessment prepared by Clarke Saunders Acoustics dated November 2014 and the Noise and Vibration chapter of the submitted Environmental Statement dated March 2017. The development of the relevant phase shall thereafter be carried out in accordance with the approved details and be retained thereafter.

(Reason - To protect the amenities of future residents from road, rail and airport noise, in accordance with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013 to 2031.)

11. Construction and Environment Management Plan (CEMP)

The development shall be carried out in strict accordance with the details and accompanying documents associated with the CEMP for Phase 1 discharged as part of Condition 13 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents associated with the CEMP for: Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

The development shall be carried out in strict accordance with the details and accompanying documents associated with the CEMP for Infrastructure discharged as part of Condition 13 on 25 September 2024 (under reference 24/1779/DOC).

No development on a remaining phase or phases shall take place until a Construction and Environment Management Plan (CEMP) relating to that phase has been submitted to and approved in writing by the Local Planning Authority. 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. The following restrictions shall be adhered to:

- a) There shall be no burning on site during construction or site preparation works;
- b) Between the decision date of this permission and 31 December 2024, no construction works shall be carried out, outside of the following hours: 08:00 to 18:00 Monday to Friday, 08:00 to 16:30 on Saturdays (Internal dwelling works only and no use of power tools between 14:00-16:30), and not at all on Sundays and Public Holidays;
- c) From 1 January 2025 onwards, no construction works shall be carried out, outside of the following hours: 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, and not at all on Sundays and Public Holidays;
- d) There shall be no high frequency audible reversing alarms used on site.

The approved plan shall be adhered to throughout the construction period.

(Reason - To protect the amenities of existing and future residents and having regard to the special circumstances present between the date of this permission and 31 December 2024 and to comply with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013 to 2031. The CEMP details are required at an early stage as it is applicable on commencement of development.)

12. Percolation Testing

The development shall be carried out in strict accordance with the details and accompanying documents associated with Percolation Testing discharged as part of Condition 14 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 2 (21/2490/MRES and 22/2072/VAR).

(Reason- To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible to accord with policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013 to 2031 and policy contained within the National Planning Policy Framework. The tests need to be completed at an early stage before construction starts).

13. Surface Water Drainage Management Plan

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Surface Water Drainage Management Plan discharged as part of Condition 15 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 2 (21/2490/MRES and 22/2072/VAR).

(Reason - To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the

principles of sustainable drainage systems to accord with policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013 to 2031 and policy contained within the National Planning Policy Framework. The details are required at an early stage as the drainage system will need to be provided and managed near to the start of the development).

14. Surface Water Drainage Adoption and Management

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Surface Water Drainage Adoption and Management Arrangements discharged as part of Condition 16 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 2 (21/2490/MRES and 22/2072/VAR).

(Reason - To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible, and is managed and maintained in accordance with the principles of sustainable drainage systems to accord with policy EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013 to 2031 and policy contained within the National Planning Policy Framework. The details will be required at an early stage of the development as management arrangements will be required near the start of the development).

15. Construction Surface Water Drainage Management Plan

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Construction Surface Water Drainage Management Plan discharged as part of Condition 17 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 2 (21/2490/MRES and 22/2072/VAR).

(Reason - To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area to accord with policies EN18 (Maintenance of Water Quality and Quantity) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2013 to 2031 and policy contained within the National Planning Policy Framework. The details are required at the start of the development as these drainage measures will be needed early on in the construction).

16. Contamination

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. Written Scheme of Investigation

All archaeological investigations shall be carried out in accordance with the approved Written Scheme of Investigation for a Programme of Archaeological Works (dated December 2016) by CgMs Consulting and completed in accordance with the approved scheme on a phased basis, unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan 2013 to 2031. The investigations are required at an early stage of the development or phases as archaeological remains will be disturbed when development commences.)

18. Arboriculture

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Protection of Trees/Hedges discharged as part of Condition 20 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Protection of Trees/Hedges discharged as part of Condition 20 on 13 December 2022 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 3 (22/2000/MRES) and Infrastructure (23/0085/MRES).

Prior to commencement of any works comprised in a remaining phase or phases (including demolition and site clearance or tree works), a tree survey and report to include a Tree Protection Plan (TPP) and Arboricultural Method Statements (AMS) for the protection of all retained trees, hedges and shrubs on or adjacent to the relevant phase, shall be submitted to and approved in writing by the Local Planning Authority.

The layout and design of each remaining phase of the development shall be informed by and take account of the constraints identified in the surveys and reports.

The tree survey and report 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. The development shall be carried out in accordance with the approved details.

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 of each phase, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Local Planning Authority for approval in writing and final discharge of the condition for that particular phase.

(Reason - To ensure retention and protection of trees on the site 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), D2 (Landscape Requirements) and D3 (Trees and Development Sites) of the East Devon Local Plan 2013 to 2031. The details are required at an early stage as trees are at risk from construction works at the commencement of the development.)

19. Services and Infrastructure

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Services/Drainage in relation to Trees/Hedgerows discharged as part of Condition 21 on 15 March 2021 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 3 (22/2000/MRES) and Infrastructure (23/0085/MRES).

Prior to the commencement of any works on a remaining phase (including demolition and site clearance or tree works), a detailed plan showing layout of the above and below ground services, foul and surface water drainage and other infrastructure comprised in that phase shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals which may be required under any other Legislation). Such layout shall provide for the long term retention of the trees and hedgerows with the relevant works to be undertaken in accordance with the approved service/drainage/infrastructure layout.

(Reason - To ensure the retention and protection of trees on the site in the interests of amenity and to reserve and enhance the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) and D3 (Trees and Development Sites) of the East Devon Local Plan 2013 to 2030. The details are required at an early stage as trees are at risk from construction work at the start of the development.)

20. Fowl Sewage

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Fowl Sewer discharged as part of Condition 22 on 12 July 2018 (under reference 17/1019/MOUT).

(Reason - To ensure that the proposed development does not overload the existing sewerage network causing flooding to other properties in accordance with policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the East Devon Local Plan 2013 to 2031 and policy contained within the National Planning Policy framework. The details are required pre-commencement to allow sufficient time to carry out any required improvements as these will be required at first occupation.)

21. Site and Floor Levels

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Site and Floor Levels discharged as part of Condition 23 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR), Phase 3 (22/2000/MRES) and Infrastructure (23/0085/MRES).

Before any development commences on a remaining phase, details of finished floor levels and finished ground levels in relation to a fixed datum for that phase shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that adequate details of the levels are available in the interests of the appearance of the locality and the amenity of adjoining occupiers, in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 to 2031. The details of levels are required at this stage as these will be set at an early stage of the construction).

22. Walls and/or Fences

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Walls/Fences discharged as part of Condition 24 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

Before the development hereby permitted is commenced on a remaining phase, details of the walls and/or fences to be erected within the curtilage of the dwellinghouses comprised in that phase shall be submitted to and approved in writing by the Local Planning Authority.

Any walls and/or fences shall be erected in accordance with the approved details within the curtilage of the dwellinghouse before it is first occupied. 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), these walls and/or fences shall not thereafter be altered, removed or replaced without the prior written approval of the Local Planning Authority.

(Reason - In the interests of preserving and enhancing the appearance of the area and/or protecting the privacy of local residents, in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 to 2031. The details of boundary treatment are required at this stage as they will start to be erected at an early stage of the development)

23. External Materials

The development shall be carried out in strict accordance with the details and accompanying documents associated with the External Materials discharged as part of Condition 25 on 20 October 2020 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents associated with the External Materials discharged as part of Condition 25 on 20 December 2022 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

Prior to the commencement of a remaining phase, details of materials to be used externally in that phase shall be submitted to, and approved in writing by the Local Planning Authority. The development shall be built in the materials approved.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 to 2031. The materials are required to be agreed prior to commencement of a particular phase because construction using these materials occurs at the start of the development).

24. Phasing Plan

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Phasing Plan discharged as part of Condition 26 on 9 September 2024 (under reference 24/1767/DOC).

(Reason - To ensure that the development proceeds in accordance with an agreed programme of delivery, those areas closest to existing transport services are developed first, and that would be in individual phases, the open space associated with the development is co-ordinated with the construction of the houses which it will serve).

25. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice and all plans and details approved pursuant to the discharge of conditions relating to this permission and 17/1019/MOUT.

(Reason - For the avoidance of doubt.)

26. District Heat Connections

The development shall be carried out in strict accordance with the details and accompanying documents associated with the DHN Connections discharged as part of Condition 28 on 15 March 2021 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

The buildings comprised in the development hereby approved shall be constructed so that their internal systems for space and water heating are capable of being connected to the proposed decentralised energy network. Prior to the occupation of a remaining phase the necessary on site infrastructure for that phase shall be put in place for connection to those systems to the network at points on the site boundary agreed in writing by the Local Planning Authority.

(Reason - In the interests of sustainable development and to support the opportunities for decentralised energy supply systems to accord with Strategy 40 (Decentralised Energy Networks) of the East Devon Local Plan 2013 to 2031 and policy contained within the National Planning Policy Framework).

27. Soil Resources Plan

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Soil Resource Plan discharged as part of Condition 29 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Soil Resource Plan discharged as part of Condition 29 on 10 March 2023 (under reference 17/1019/MOUT).

(Reason - To ensure that the high-quality soil resources at the site are conserved and re-used having regard to the site being identified as high quality agricultural land and government policy contained in the National Planning Policy Framework).

28. Green Infrastructure Delivery Plan

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Phase 1 (19/0464/MRES).

(Reason - In the interests of the comprehensive and integrated provision of all landscape, biodiversity and open space to ensure the development contributes to and enhances the natural and local environment to comply with Strategy 10 (Green Infrastructure in East Devon's West End) and policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2031 and government policy contained within the National Planning Policy Framework).

29. Sustainable Transport Access Strategy

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Sustainable Transport Access Strategy discharged as part of Condition 33 on 1 October 2020 (under reference 17/1019/MOUT).

(Reason: To ensure safe and suitable access secure for sustainable transport modes and promote sustainable transport, in accordance with policies TC2 (Accessibility of New Development) and TC4 (Footpaths, Bridleways and Cycleways) of the East Devon Local Plan 2013 to 2031 and with paragraph 34 of the National Planning Policy Framework).

30. Cycle and Vehicular Parking

The development relating to cycle and vehicular parking shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 1 (19/0464/MRES) and Phase 2 (21/2490/MRES and 22/2072/VAR).

No part of the development hereby approved shall be brought into its intended use until the on-site cycle and vehicular parking facilities for the relevant phase have been provided and maintained in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority and retained for that purpose at all times.

(Reason: To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policies TC4 (Footpaths, Bridleways and Cycleways) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013 to 2031 and the National Planning Policy Framework).

31. Highway Details

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Highway Details discharged as part of Condition 35 on 23 July 2020 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approval: Infrastructure (23/0085/MRES).

Prior to their construction or laying out, the details of the proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture for the remaining phases shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed and laid out in accordance with the details approved by the Local Planning Authority. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

(Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013 to 2030).

32. Construction Method Statement

The development shall be carried out with the construction method details submitted and approved under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Construction Method Statement discharged as part of Condition 35 on 25 September 2024 (under reference 24/1779/DOC)

No development shall take place on a remaining phase, including any works of demolition, until a Construction Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of access arrangements and timings and management of arrivals and departures of vehicles. The approved Statement shall be adhered to throughout the construction period.

(Reason: In the interests of highway safety and public amenity in accordance with policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013 to 2031. The details are required before development takes place as this is to control the construction phase).

33. Waste Audit Statement

The development shall be carried out in strict accordance with the details and accompanying documents associated with the Waste Audit Statement discharged as part of Condition 37 on 17 February 2021 (under reference 17/1019/MOUT).

The development shall be carried out with the details submitted and approved under the following reserved matters approvals: Phase 2 (21/2490/MRES and 22/2072/VAR) and Phase 3 (22/2000/MRES).

Prior to the commencement of a remaining phase, a detailed Waste Audit Statement relating to that phase or phases shall be submitted to and approved in writing by the Local Planning Authority. The Waste Audit Statement shall include the wastes arising from the construction and operational stages of the phase or phases and shall be specific to the development hereby permitted. The approved Waste Audit Statement shall be implemented prior to any waste being generated on site for each relevant phase and it shall thereafter be maintained.

(Reason - The details are required before development takes place to ensure a sufficient and integrated provision on the development for dealing with waste and to maximise reuse and recovery of waste in accordance with the Devon Waste Plan policy W4 and government policy in the National Planning Policy for Waste).

NOTE FOR APPLICANT

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.

This planning permission is accompanied by a S106 Planning Obligation which must be read in conjunction with the decision notice.

The planning application was accompanied by an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. In accordance with Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the Local Planning Authority confirms that they have taken the environmental information contained within the Environmental Statement into consideration.

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 3 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-build 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.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Plans relating to this application:

MOSS24-001 Location Plan 09.07.24

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.