

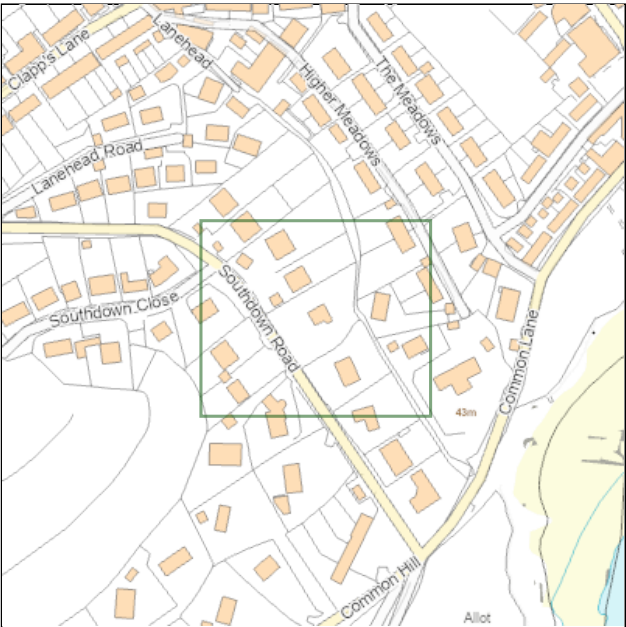
**Ward** Beer And Branscombe

**Reference** 24/0632/FUL

**Applicant** Mr Leighton Chumbley

**Location** Sea Chimneys Southdown Road Beer Devon EX12 3AE

**Proposal** Demolition and replacement dwelling and garage with associated landscaping.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 19.11.2024</b>
<b>Beer And Branscombe (Beer)</b>	<b>24/0632/FUL</b>	<b>Target Date: 23.05.2024</b>
<b>Applicant:</b>	<b>Mr Leighton Chumbley</b>	
<b>Location:</b>	<b>Sea Chimneys Southdown Road, Beer. EX12 3AE</b>	
<b>Proposal:</b>	<b>Demolition and replacement dwelling and garage with associated landscaping.</b>	

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#### **EXECUTIVE SUMMARY**

The application is before committee as the recommendation to approve conflicts with the views of the Ward Member.

The site is within the East Devon National Landscape which at the location of the site is built up in character. The site of the proposal is located within the Built-Up Area Boundary of Beer with the proposal being to demolish an existing traditional bungalow dwelling and erect a replacement 3 storey dwelling within its plot. The site is on a sloping hillside and the basement storey of the proposed dwelling would be partly cut into the slope of the site, such that only 2 storeys would be fully above ground level. The replacement dwelling would differ in form, design, height and location from the existing dwelling.

Objectors, including the Ward Member, raise concerns in relation to the proposal having a harmful impact on neighbouring dwellings through being overbearing, impacting on daylight and sunlight and impacting on privacy. Objections also raise concerns that the development would be excessive in terms of its mass and scale and incongruous within its context, both within the street view and more distant views.

The replacement of a dwelling is acceptable in principle within a built-up area in accordance with LP Strategy 6 (Development within Built-Up Area Boundaries), provided that the requirements of design policies are met.

During the course of the determination a corrected daylight/sunlight assessment has been provided, taking account of revisions made to the proposal to reduce those impacts. The proposal has also been amended to reduce officers' identified impacts on the privacy of neighbouring dwellings. Following revisions to the proposal it is considered that the potential impacts on privacy and sunlight/daylight have been satisfactorily addressed such that no harmful

impacts on amenity would arise. The Environmental Health Officer has considered potential noise impacts from the air Source Heat Pump, which was raised as a concern by an objector, and raises no concerns. From an assessment of the context of the site and the many plans submitted to depict the proposal (including section drawings), it is considered that it would not be excessive in scale or mass and that the design is acceptable, such that the proposal would assimilate acceptably within its surroundings. The requirements of LP Policy D1 Design and Local Distinctiveness and NP Policy HBE2 (High Quality Design) are therefore considered to be met.

With conditions imposed as recommended it is considered that the proposal would also be acceptable in relation to impacts on trees and biodiversity, with the development providing a slight biodiversity gain. With conditions also imposed to secure measures to ensure privacy the proposal is considered to be acceptable in all relevant respects, as such the recommendation is for approval.

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

10/4/24

Beer Parish Council object to this planning application due to:

Overdevelopment

Concerns over drainage

Out of keeping with the surrounding area

#### Beer And Branscombe - Cllr John Heath

Comments were received on 23/9/24, 15/7/24 and 24/6/24 The points made are summarised below:

- No concern with redesigning the property but must be sympathetic to other properties on Southdown Road, including in relation to their height;
- The dwelling is too close to the boundary with adjacent properties;
- Neighbour objections are supported, there would be an impact on Bera Watch's privacy and space;
- The proposal would result in a dwelling too large in terms of footprint and height (it should be no more than 2 storeys, not 3 as proposed) with the building boundary no closer to neighbour than the existing garage;
- The proposal would overlook the village;
- Proposal is out of keeping with neighbourhood plan;
- Sea Chimneys is in the catchment of Beer Quarry Caves and on a bat flight path with the proposed tall dwelling being likely to affect bat's natural line of travel;
- The proposed chimney is an eyesore.

### **Technical Consultations**

#### South West Water

Responses received 4/4/24 and 31/5/24

Advice is provided in relation to the protection of South West Water's asset and the availability of potable water supply and sewerage services. Following the receipt of

further information, the proposed method of surface water discharge via re use in conjunction with discharge into the ground (infiltration) is acceptable. If infiltration proves unviable applicant to advise SWW so alternatives can be assessed.

#### Environmental Health

Comments were received 5/7/24 and 9/9/24

Following the receipt of further information relating to the technical specifications and location of the Air Source Heat Pump no concerns arise in relation to the noise impact of that equipment. Informatives are suggested in relation to potential pollution impacts arising from demolition and it is recommended that the applicant's attention be drawn to the Council's recommended construction code of practice. A condition is also recommended in relation to control of construction hours and prevention of burning on site during site clearance, demolition and construction.

#### EDDC District Ecologist

10/7/24

The development has the potential to adversely affect several species however by implementing the measures recommended within the submitted ecological impact assessment the proposal would have a slight positive impact on biodiversity at local scale in the long term. If the lighting design is successfully implemented there would be no impact on the qualifying features of Beer Quarry and Caves Special Area of Conservation (SAC). Conditions are recommended to secure implementation.

#### EDDC Trees

8/4/24

No concerns raised.

#### Natural England

17/7/21

The proposed development will not have significant adverse impacts on designated sites, including Beer Quarries and Caves SAC, no objection. Advice is provided that all environmental impacts/opportunities be considered and relevant bodies consulted.

#### Other Representations

4 objectors raise the following concerns:

- Size and scale of proposed 3-storey development is excessive in relation to the plot size, the scale of the existing dwelling that would be replaced and in relation to the surrounding buildings (which are 2 storey or chalet bungalows) such that it would consequently have an adverse impact on the street scene;
- Due to the size and proximity of the proposed development to Bera Watch, the proposal being closer to it than the existing Sea Chimneys dwelling, together with its design (including a chimney), it will be obtrusive and overbearing to Bera Watch and it would adversely impact its amenity in relation to privacy and loss of sunlight and daylight;
- The proximity of the proposed development to Bera Watch is such that the two properties will appear awkwardly off-set from each other with the skyline viewed from Beer beach being adversely affected;
- Although the ridge height of the proposed dwelling would be in line with that of a neighbouring property, as the proposed dwelling would be set at a lower

ground level the resulting building it would be substantially taller than the existing dwelling and other buildings on Southdown Road, which would be a catalyst for other properties on Southdown road to be increased in size, affecting the character of Beer in turn;

- The potential noise impact of the air source heat pump on neighbours needs to be addressed;
- The 2-storey gym/bedroom building and its chimney and the proposed roof materials are not in keeping with the area;
- The proposed development would look like a business premises is on the property;
- The revised daylight/sunlight assessment is incorrect (details are provided as to alleged errors).

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
92/P1407	Conservatory	Approved	28/9/1992

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies (LP)

Strategy 6 (Development within Built-up Area Boundaries)

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

Strategy 38 (Sustainable Design and Construction)

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

D6 (Locations without Access to Natural Gas)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

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

EN22 (Surface Run-Off Implications of New Development)

### Beer Neighbourhood Plan (NP)

Policies NE1 (Development and the Natural Environment)

Policy NE5 (Rights of Way and Other Access (footpaths, bridleways and cycleways)

Policy HBE2 (High Quality Design)

Policy HBE4 (Renewable and Low Carbon Energy)

Policy TP2 (Car Parking)

Policy TP4 (Accessibility)

### Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

### Other Documents

Beer Quarry & Caves Special Area of Conservation (SAC) Habitats Regulations Assessment Guidance

BRE Guide (Building Research Establishment) 'Site layout planning for daylight and sunlight – a guide to good practice' (2022/3rd edition)

### Site Location and Description

The site is within the Built Up Area Boundary of Beer and within the East Devon National Landscape. It comprises an existing detached bungalow dwelling set within a generous, approximately rectangular plot on the eastern side of Southdown Road, which runs through a residential area in the southern part of Beer. The site is in a prominent hillside position, close to the skyline when viewed from the centre of Beer but it is not located in one of the four designated prominent skylines around Beer Village (as designated in the Beer Neighbourhood Plan). Similarly to Sea Chimneys, the immediately surrounding properties are also set within large gardens with the properties on Southdown Road comprising mainly 2 storey dwellings, chalet bungalows and bungalows. The land within and around the site slopes down gently towards the east/southeast. Beer footpath 17 runs alongside the eastern boundary of the site, running approximately north-south. There are hedges and trees within and bounding the site.

The closest neighbouring dwellings to the site include Bera Watch to the north, which is sited approximately 2.6 m from the boundary with Sea Chimneys, and Southdown to the south, which lies approximately 7.7m from the southern boundary of the site. To the east Upalong is approximately 7 m from the eastern boundary of sea Chimneys whilst to the west lies Southdown Road from which the site derives its vehicular and pedestrian access.

The site is within the bat consultation area of the Beer Quarries and Caves Special Area of Conservation (SAC) and whilst it is not near bat roosts associated with that SAC it overlaps the Landscape Connectivity Zone of Bechstein's, Greater and Lesser Horseshoe bats, the Sustenance Zones of Bechstein's, Greater and Lesser Horseshoe bats, the Hibernation Sustenance Zones of Greater and Lesser Horseshoe Bats and a key Sustenance Zone for Lesser Horseshoe bats.

### **Proposal**

It is proposed to demolish the existing detached bungalow at the site and erect a new dwelling within its plot. The new dwelling would have a larger and different footprint to the dwelling which it replaces and it would also be taller. The dwelling would consist of 3 duo pitched roof buildings, one large and two small. The 3 building elements would be joined by smaller flat roofed glazed links to form an approximately L-shaped built form overall. The largest building of the 3 would contain 3 storeys, with the main living area being on the ground floor level and bedrooms at the basement and first floor level. Given that the site is sloping and that the basement would be partly cut in to the ground on its western side, only two of the 3 stories would be fully above ground level. One of the two smaller building elements would be a single storey double garage whilst the other would be 2 storeys, with accommodation at basement level and a gym at the ground floor. Externally, a terrace with a pergola above would be located to the eastern side of the building, its floor level matching the floor level of the internal ground floor. The building is proposed to be served by renewable technologies including an air source heat pump and solar panels.

### **ANALYSIS**

The main issues for consideration are the principle of the development, its visual impact, amenity impacts, impact on biodiversity and trees, drainage, access and highway safety and parking.

#### **Principle**

Given that the site is located within the Built-Up Area Boundary of Beer the development is acceptable in principle, in accordance with LP Strategy 6 (Development within Built Up Area Boundaries).

The proposed building incorporates solar panels on the roofs of the smaller building blocks and the development also includes an air source heat pump. The installation and use of these renewable technologies is supported in principle through LP Strategy 39 (Renewable and Low Carbon Energy Projects). Overall, the proposal is considered to be acceptable in principle.

## **Visual Impact**

The site is on a hillside which is visible from many viewpoints. It is also within the East Devon National landscape, although the part of that landscape occupied by the site and its surroundings has a built up character.

Objectors, the Ward Member and the Parish Council, consider that the new dwelling would not be in keeping with the character of the area due to being excessively large. However, there is no specific policy, applicable within a built up area, restricting the size of a replacement dwelling. Any such development must be assessed on its merits considering relevant LP and NP design policies and that assessment follows below.

The proposed dwelling is undoubtedly different in many ways to the dwelling which it is intended to replace i.e. it is of a different design, has a larger footprint, is taller and it is located in a slightly different position within the site. Information submitted with the application indicates that the proposed dwelling has been designed and orientated within the site so as to respond to the natural contouring and to reflect the northeast-facing gable forms of neighbouring dwellings. The building has been designed with separate blocks and glazed links so as to break up its visual mass. The relationship of the proposed dwelling within the context of neighbouring dwellings is shown through a number of differently orientated section drawings. Illustrations have also been provided to indicate how the dwelling is likely to appear on the hillside in more distant views.

With regard mass and scale, it is noted that the ridge height of the proposed dwelling would match the lower ridge of Bera Watch to the north and higher than that of Southdown to the south. Whilst the roof ridge lines of properties along Southdown Road generally step down following the slight slope of that road towards the southeast and the ridge height of the proposed dwelling would be similar to that of Bera Watch to the north, rather than stepping down from it, the section drawings and illustrations indicate that the proposal would sit comfortably amongst surrounding buildings and that it would not appear overly tall or massive within its context.

The design of the proposed dwelling is contemporary which differs from the traditional design of the bungalow to be replaced and that of several other dwellings in the area. Contemporary design is not, however, unusual within the area, noting in particular the contemporary design of Lyme Bay House, a short distance south of the site, which is located in a very prominent location on a street corner. Unlike that dwelling, which has a flat roof, each of the blocks forming the proposed Sea Chimneys dwelling and its garage would have a duo pitched roof. In this regard the proposal would blend better with the existing built forms either side of Southdown Road than Lyme Bay House. The external materials to be used on the replacement dwelling include clay tiles for the roof and natural stone for much of the walls, which accords with the preferences set out in the Beer Village Design Statement. The proposed timber cladding on the eastern façade of the largest building block and the metal roof material (including that which would have integrated solar panels) proposed to be used on the roofs of the smaller eastern blocks are not preferred materials listed in the Beer Village Design Statement. Given that the timber cladding would be used at basement level only, however, and that it would cover a limited area, it is not considered that it would appear prominent from outside of the property



boundary. The proposed metal roof for the eastern blocks and the integrated solar panels (details of which have been supplied to the Local Planning Authority) are considered to cover a small area of the overall building form and to be reasonably visually recessive. It is noted that the Ward Member objects to one of the chimneys however it is not considered that either of the proposed chimneys are at odd with the overall building design. Full height external chimneys (i.e. ground to roof) feature within the design of neighbouring dwellings, namely Bera Watch and Stafford House to the north of the site, so it is considered difficult to object to these features, particularly as the proposed northern chimney of the proposed dwelling has now been lowered to address potential daylighting impacts. The materials and design of the proposed dwelling are therefore considered to be acceptable.

Taking into account all the above it is therefore considered the mass and scale of the proposed dwelling would not be excessive and that its design would be acceptable, such that the building would assimilate acceptably within the street scene. Similarly it is not considered that the proposed dwelling would appear unduly prominent or incongruous within more distant views.

### **Residential Amenity**

The proposed dwelling would be taller, larger in plan area and in a different position relative to neighbouring dwellings compared to the existing dwelling. The proposal would potentially have an impact on daylight and sunlight reaching Bera Watch due to it lying broadly to the south of that dwelling, which is raised as a concern by an objector. A daylight and sunlight assessment was provided with the application when it was first submitted, however it was noted that there were errors in the methodology used in that assessment (which was also raised as a concern by an objector), such that its conclusions were not considered reliable. A corrected assessment was provided, however, this too contained errors in its methodology, which were again highlighted by an objector. Revisions were subsequently made to the proposed development to try to reduce the potential impact on daylight and sunlight through (i) reducing the width of the southernmost of the 2 eastern blocks, (ii) lowering the roof ridge of that building, (iii) slightly repositioning that block so that its northern elevation is slightly further away from Bera Watch and (iv) lowering the height of the chimney attached to that block. A third daylight and sunlight assessment taking into account the revised proposal was provided on 16 August 2024. This concludes that the revised proposal would be unlikely to have a significant impact on daylight and sunlight. Following re-consultation, no adverse comments on that report were received. Having considered that report officers accept its conclusion. It is therefore not considered that the proposal would conflict with LP Policy D1 in relation to impact on daylight/sunlight reaching neighbouring properties.

The proposed dwelling potentially generates new overlooking into neighbouring properties and their gardens as it introduces new windows and a terrace at locations and heights which differ from the windows and terrace of the existing bungalow. It is noted that there is only one window of the proposed dwelling that would face Bera Watch and that this is proposed to be obscure glazed (which could be secured by condition). The rear terrace of the proposed dwelling potentially allows overlooking towards Upalong to the east and Westerley to the northeast of the site. The views towards these properties from the existing terrace (which provides extensive views to

the north through to the east, south and southwest) are, however, a material consideration. Whilst the proposed terrace is 0.17 cm higher than the existing terrace at Sea Chimneys and both Westerley and Upalong and are set at a lower contour than that proposed terrace, the distance to these dwellings from the edge of the terrace is greater than 20 metres and almost all of the garden of Westerley and most of the garden of Upalong would be more than 20 m away from the edge of the terrace. There is an approximately 2m high thick high hedge at the eastern boundary of Sea Chimneys which would provide some screening of these properties, but even discounting that potential positive screening effect, it is not considered that any harmful overlooking of these properties from the proposed terrace would be likely to arise. The proposed first floor balcony, which would be at a higher level than the terrace, would allow views approximately north-eastwards, potentially also impacting on the privacy of these two properties, however due to the thickness of the eastern balcony wall together with the fact that the balcony would be cut back in to the roof, the direction of the views from it would be constrained to a east-northeast direction. As a result, views from the balcony would be unlikely to adversely affect Westerley, which lies slightly north of the available sightlines, whilst the views towards Upalong from the edge of the balcony would exceed a distance of 20 meters just to reach the end of its garden, due to the fact that the edge of the balcony lies slightly west of the edge of the terrace below. Harmful overlooking from the balcony is therefore considered unlikely to arise. Officers did however identify potential new overlooking towards a significant proportion of the rear garden areas of both Bera Watch and Southdown, from the ground floor east facing gym window and the ground floor eastern terrace respectively. The agent was subsequently invited to revise the proposal to reduce these impacts to an acceptable level/avoid them. In response, the following revisions were made to the proposal: the size of the gym window was reduced (in terms of both its height and width), a louvred projecting screen was added to the northern side of the gym window and a 1.8 m high obscure glazed screen was added along part of the southern edge of the terrace. It is considered that the changes relating to the gym window would serve to restrict viewing angles from the gym such that only the southeast corner of the rear garden on Bera Watch, occupying a relatively small area of the rear garden, would be likely to be overlooked. The addition of the obscure glazed screen to the southern edge of the terrace would reduce overlooked areas of the rear garden of Southdown to the northeastern corner, again with the overlooked area being a relatively small proportion of Southdown's rear garden. At the same time it is noted that the demolition of the existing Sea Chimneys bungalow would reduce the existing overlooking from a dormer window towards the rear garden of Bera Watch. With planning conditions in place to ensure that the development adheres to the revised plans and that the louvres, obscured glazed screen and window be retained in perpetuity, it is considered that the proposal would not have an adverse impact on amenity in relation to privacy.

The Ward Member and an objector raise a concern that the proposed development would have an overbearing impact on Bera Watch however an examination of the plans indicates that there would be sufficient space between the buildings such that an overbearing impact would be unlikely to arise.

With regard to outlook, the proposed dwelling is broadly to the south of Bera Watch, the main outlook from which is towards the northeast and southwest, therefore no

adverse impact on the outlook of Bera Watch is considered likely to arise. Neither is it considered that the proposal would impact on the outlook of neighbouring dwellings Bali Hai and Crabtree to the west, as these dwellings are set on a higher contour than the proposed dwelling with their eastwards outlook towards the site being towards trees and a hedge within the front garden of Sea Chimneys and with the mass of the proposed dwelling being largely below the top of this vegetation. The outlook of other neighbouring dwellings, Upalong and Southdown would be unaffected due to the distance between the proposal and those dwellings, Upalong being on a lower contour and the main outlook from both dwellings being away from the site.

The proposed Air Source Heat Pump (ASHP) has the potential to harm amenity in relation to noise, as indicated by an objector. Having considered technical details of that equipment and its location, the Environmental Health Officer (EHO) has withdrawn his initial concern in relation to potential noise impacts from this equipment. The EHO has also considered the potential noise impact from construction works at the site and recommends that a condition be imposed to restrict working hours. He also recommends informative notes be included on any permission granted to encourage the applicant to follow good construction practice.

Due to its scale, form and orientation the proposed dwelling is considered to have adequate internal living space and outlook. Cycle space would be available within the double garage and bin storage is included in the proposals. The garden is large enough such that occupants would have adequate access to open space. Overall, the amenity of the proposed dwelling is considered to be acceptable.

Given the conclusions above and that the proposal is not considered to significantly affect the sunlight and daylight available to neighbouring dwellings, that it is unlikely to be overbearing to them or to have an adverse impact on their privacy or outlook it is considered that with the recommended conditions imposed, the proposal would accord with the requirements of LP Policy D1 (Design and Local Distinctiveness), LP Strategy 39 (Renewable and Low Carbon Energy Projects) and NP Policy HBE2 (High Quality Design) and HBE4 (Renewable and Low Carbon Energy).

### **Biodiversity and Trees**

Statutory Biodiversity Net Gain (BNG) does not apply to this development due to the date the application was submitted. The submitted Ecological Impact Assessment nevertheless considers the proposal in the light of BNG.

The Council's Ecologist indicates that development has potential to adversely impact bats, nesting birds, reptiles, badgers, and hedgehogs but that by implementing the mitigation and enhancement measures recommended within the Ecological Impact Assessment, the proposal would have a slight positive ecological effect at the local scale in the long term. The ecologist also notes that the application is supported by an Ecological Impact Assessment (EclA), shadow Habitats Regulation Assessment (sHRA), a detailed lighting design with lux contours and a luminaire schedule. The sHRA and detailed lighting design demonstrates that if successfully implemented there is unlikely to be a significant effect on the qualifying features of Beer Quarry and Caves Special Area of Conservation (SAC). Accordingly, the ecologist

recommends the imposition of a condition to ensure that lighting accords with the specified lighting design and that recommendation is accepted.

Natural England consider that the proposed development will not have significant adverse impacts on designated sites, including Beer Quarries and Caves SAC and they raise no objection. It is therefore considered that the proposal would accord with LP Strategy 47 (Nature Conservation and Geology), Policy EN5 (Wildlife Habitats and Features) and NP Policy EN1 (Development and the Natural Environment).

An arboricultural report was submitted in support of the application and this states that there would be a negligible loss of arboricultural features, with all key trees being retained. A landscape scheme to secure new tree planting is nevertheless recommended within the report. The Council's tree officer has considered the proposal and this supporting information and raises no objection. It is recommended that the Tree Protection Plan and Arboricultural Method Statement be secured by a planning condition and that a landscape scheme be requested, as suggested in the arboricultural report.

#### **Access, Highway safety and Parking**

The access to the public highway would be in the same position as it is currently and no objections have been raised by the highway authority in relation to the access or traffic generation. The proposal is therefore considered to accord with the requirements of LP Policy TC7 (Adequacy of Road Network and Site Access).

The site is conveniently located close to the centre of Beer such that occupiers of the proposed dwelling would be able to access the types of goods and services required for daily living within a short walking or cycling distance of the proposed dwelling, via lit roads with pedestrian pavements. Within Beer, public transport connections to larger settlements elsewhere are also available. It is therefore considered that the proposed dwelling is sustainably located and that it would accord with the requirements of LP Policy TC2 (Accessibility of Development). The proposal would provide for parking demand within the site by providing at least 2 parking spaces in accordance with LP Policy TC9 (Parking Provision in New Development) and it would also accord with NP TP2 (Car Parking).

#### **Drainage**

Following initial consultation, South West Water (SWW) requested that the applicant demonstrate that surface water would be discharged as high up the drainage hierarchy as practicable. The applicant subsequently submitted a drainage statement and following reconsultation SWW indicated that the proposed method of discharge would be acceptable. SWW also provided advice relating to asset protection and available water and sewerage infrastructure. They recommend that should infiltration for surface water drainage prove unviable, they be contacted by the applicant/agent so that their alternatives can be assessed.

It is recommended that a condition be imposed to ensure that surface water drainage be carried out in accordance with the Drainage Statement. With the condition in place the proposal would accord with LP Policy EN22 (Surface Run-Off Implications of New Development).

## **Other issues**

### **Rights Of Way**

The proposal does not overlap Beer public Footpath 17 to the east of the site and the Highway Authority have made no comment in relation to any impact on this path.

The proposal is therefore considered to accord with LP Policy TC4 (Footpaths Bridleways and Cycleways) and NP Policy NE5 (Rights of Way and Other Access).

### **Use**

An objector raises a concern that the proposed development looks like it is to accommodate a business however the permission sought is for a dwelling and if permission for a dwelling were to be granted it could only be lawfully used as such. It is not considered necessary to control the use to a dwelling because if any material change of use from a dwelling were to be made without planning permission (for all or part of the building) this would be a breach of planning control and enforcement action could be taken against that breach.

### **Conclusion**

The proposal would be of a different design to the existing dwelling which it would replace and its location, height and footprint would also be different. Taking all relevant information into account, however, including that a condition could be imposed to control external materials, it is not considered that the proposed dwelling would be at odds within its context, either in terms of impact on the street scene or on distant views. The proposal is considered unlikely to be overbearing and the changes made to the proposal during course of the application ensure that the it would not generate harmful impacts on neighbouring residential amenity in terms of overlooking or loss of daylight or sunlight. The amenity of the proposed dwelling is acceptable and with conditional controls in place, no unacceptable impact on amenity would arise in relation to the construction phase of the development. With conditions imposed to secure tree protection, the provision of a landscape scheme and mitigation and biodiversity enhancement measures no harmful impact on trees or biodiversity is likely to arise. The proposal being acceptable in all other relevant respects it is considered to be sustainable development.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. 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.)
3. Construction shall not take place except during the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays. There shall be no

working on Sundays or Bank Holidays. There shall be no burning on site in relation to site clearance, demolition and construction works.

(Reason: In the interests of the amenity of the occupants of neighbouring dwellings in relation to noise and smoke and in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan).

4. Prior to the occupation of the dwelling hereby permitted:
  - (i) The glazing used in the window in the northern elevation of the northeastern block of the dwelling, indicted as being obscure glazed on the approved plans, shall have been fitted with obscure glazing to Pilkington level 4 or equivalent standard and the window shall be fixed shut;
  - (ii) The louvered screen adjacent to the window of the ground floor gym shall have been installed as shown on the approved plans:
  - (iii) The obscure glazed panel at the southern edge of the terrace indicted on the approved plans, which shall be to Pilkington level 4 or equivalent standard and 1.8 in height from the finished floor level of the terrace shall have been erected.

Measures (i) to (iii) inclusive, listed above, shall be maintained and retained as stipulated above for the lifetime of the development.

(Reason: In the interest of protecting the amenity of neighbouring dwellings and in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan).

5. The Drainage Statement referenced 2364\_C\_DS\_P2\_0001 Sea Chimneys, Beer, received on 28/5/24, together with the associated plans received on that same date shall be adhered to. All drainage infrastructure shall be installed prior to first occupation of the dwelling and shall be retained and maintained for the lifetime of the development.

(Reason: In the interests of ensuring that surface water drainage is managed acceptably and in accordance with Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan).

6. Prior to their installation, details of external materials including: the timber cladding to be used externally on the walls, the tiles for the roof, the stone to be used for external walling (including retaining walling) and the metal to be used to surface the roof of the two eastern blocks (in locations where integrated PV panels would not be used) shall have been submitted to the Local Planning Authority for their approval in writing. Those details shall include a manufacturer's or supplier's reference and digital images of the proposed materials. A sample panel of the stonework, measuring a minimum of 2m x 2m shall be constructed on site for approval by the local planning authority and approved by them prior to further stonework being installed. The integrated PV panels shall accord with the photograph submitted to the

Local Planning Authority on 21 June 2024. The development shall be carried out in accordance with the materials details so approved.

(Reason: In the interests of ensuring that the visual impact of the external materials of the buildings are acceptable and in accordance with Policy D1 (Design and Distinctiveness) of the East Devon Local Plan.)

7. The works shall be carried out in strict accordance with the Ecological Impact Assessment (EclA) (Richard Green Ecology, March 2024). Prior to the occupation of the dwelling a written record shall be submitted to the local planning authority to include photographs of the installed ecological mitigation and enhancement measures including the integrated bat tube, bird brick, and the new scrub, hedge, and tree planting.

(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), Strategy 5 (Wildlife Habitats and Features), Policy EN5 (Wildlife Habitats and Features), and EN14 (Control of Pollution) of the East Devon Local Plan).

8. All internal and external lighting shall be installed strictly in accordance with the submitted lighting plans (Drawings 24022.2-00-01-BLS, 24022-01-02, 24022-02-01, 24022-01-01, 24022-00-01, and 24022-01-01-ISO) and Luminaire schedule P24022. Prior to occupation a written record shall be submitted to the local planning authority detailing compliance with these plans. Under no circumstances shall any other lighting design or external lightning be used without written consent from the local planning authority confirming that any amended design is unlikely to have an adverse effect on the qualifying features of Beer Quarry and Caves SAC.

(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), Strategy 5 (Wildlife Habitats and Features), Policy EN5 (Wildlife Habitats and Features), and EN14 (Control of Pollution) of East Devon Local Plan).

9. The Tree Protection Plan and Arboricultural Method Statement contained within the Arboricultural Report produced by Advanced Arboriculture dated 11 January 2024 shall be adhered to throughout the development hereby approved.

Reason – in the interest of protecting arboricultural features at the site and in accordance with Policy D3 (Trees and Development Sites) of the East Devon Local Plan.)

10. Prior to the occupation of the development hereby approved a scheme of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall contain details of materials to

be used for hard landscaping, details of where those materials will be used, details of the species to be planted, planting sizes and planting locations or spacings. Following the approval of that scheme planting shall be carried out within the next available planting season. Any planting which dies or becomes diseased within a period of 5 years shall be replaced by planting of a similar size and species within the next available planting season.

(Reason: In the interests of the visual softening of the site and the provision of arboricultural features to compensate for those removed, as recommended in the Arboricultural Impact Assessment and in accordance with Policy D2 (Landscaping Requirements) of the East Devon Local Plan).

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within Schedule 2 Part 1 Class A, AA, B or D for the enlargement of the dwellinghouse or Class E for buildings etc. incidental to the enjoyment of a dwellinghouse or Class F for the provision of a hard surface shall be undertaken. (Reason – To protect the character and appearance of the area, the amenities of occupiers of the dwelling and adjoining occupiers, and surface water drainage arrangements, in accordance with Policies D1 - Design and Local Distinctiveness and EN22 - Surface Run-Off Implications of New Development of the Adopted East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

##### Informative

We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

##### Informative

Where there's a risk of pollution/contamination being caused by the demolition of structures from the development site the developer must undertake a risk assessment identifying the potential risks for airborne nuisance, additional land/water contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors. The demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

Informatives – South West Water's advice:

##### Drainage



If infiltration proves unviable applicant to advise SWW so alternatives can be assessed.

#### Run off from highway

For Highway run off please contact the Highway Authority to agree disposal method.

#### 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.

#### Asset Protection

Please see South West Water's letter (available on East Devon District Council's website under consultee responses) enclosing a plan showing the approximate location of a public 150mm combined 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 the link in the letter 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:

<https://www.southwestwater.co.uk/building-and-development/services/sewer-services-connections/diversion-of-public-sewers>

#### BNG 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 exemptions 4.1 (i) 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.

#### Plans relating to this application:

222.34.20300.G      Proposed Floor Plans      27.08.24  
A REV P2 : first

222.34.31000.EL      Proposed Elevation      27.08.24  
E REV P2 :  
north/south

222.34.20400.G A REV P2	Proposed roof plans	27.08.24
222.34.20200.G A REV P2 : ground	Proposed Floor Plans	27.08.24
222.34.20100.G A REV P2 : basement	Proposed Floor Plans	27.08.24
222.34.12000 REV P2	Proposed Site Plan	27.08.24
222.34.31003.EL E REV P2 : proposed/existin g east/West	Combined Plans	27.08.24
222.34.31002.EL E REV P2 : proposed/existin g south/north	Combined Plans	27.08.24
222.34.31001.EL E REV P2 : east/west	Proposed Elevation	27.08.24
222.34.41000.SE C P2	Sections	14.08.24
222.34.41001.SE C P2	Sections	14.08.24
222.34.41002.SE C P2	Sections	14.08.24
222.34.41003.SE C P2	Sections	14.08.24
222.34.41004.SE C P2	Sections	14.08.24
222.34.41005.SE C P2	Sections	14.08.24
222.34.41006.SE C P2	Sections	14.08.24

222.34.41007.SE Sections  
C P2

14.08.24

Location Plan

28.03.24

### 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.

Extra conditions

Notwithstanding the provisions of the Town and Country