

**Ward** Woodbury And Lympstone

**Reference** 23/2166/MOUT

**Applicant** Mr Nick Yeo (3West Group, BE Giles, DJC Dyball & CGS Dybal)

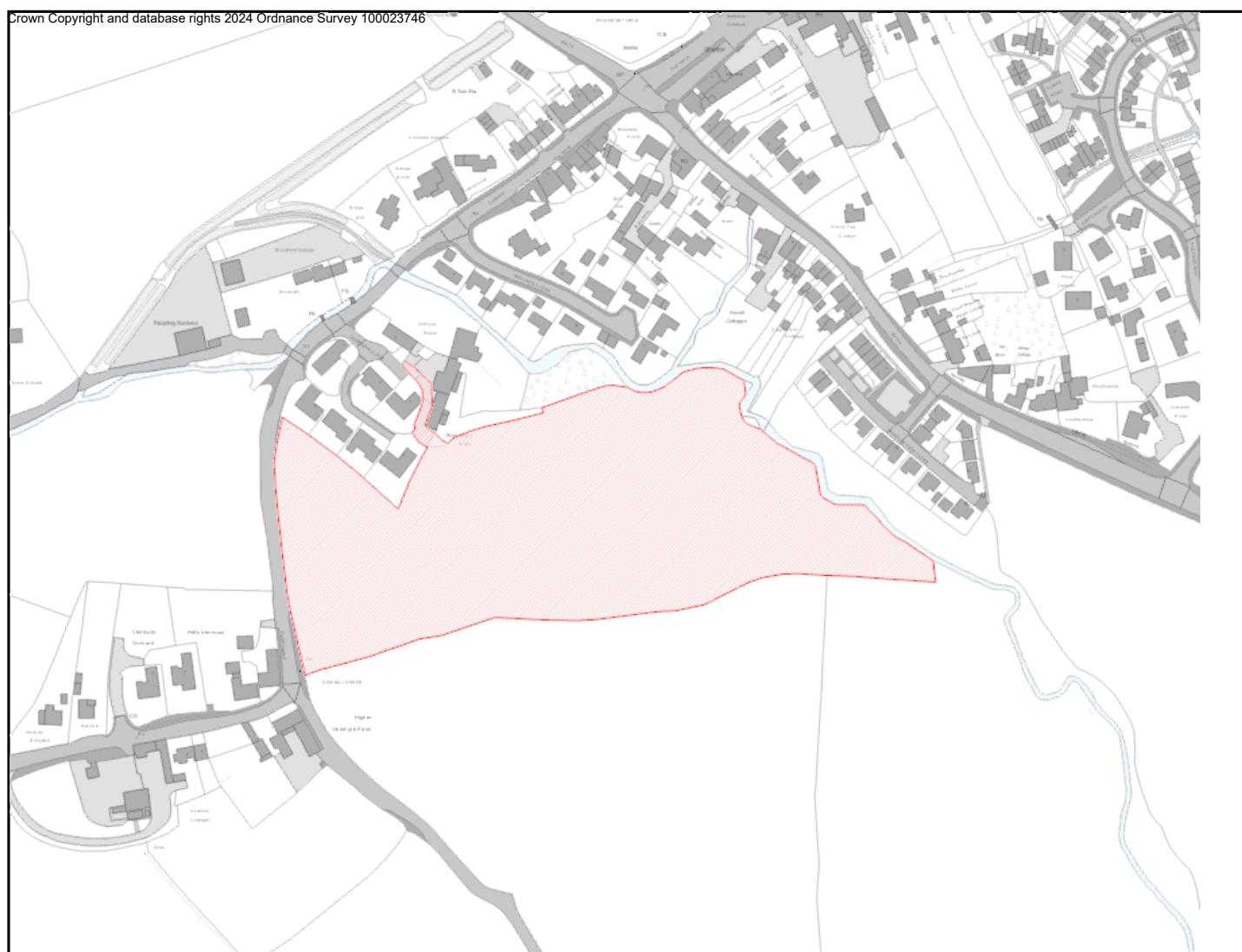
**Location** Land South Of Gilbrook House Woodbury

**Proposal** Outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance and landscaping reserved for future consideration.



**RECOMMENDATION:**

- a) ADOPT the Appropriate Assessment.**
- b) APPROVE the application subject to a S106 legal agreement and conditions.**



		Committee Date: 19.11.2024
Woodbury And Lympstone (Woodbury)	23/2166/MOUT	Target Date: 12.01.2024
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#### RECOMMENDATION:

- a) ADOPT the Appropriate Assessment.
- b) APPROVE the application subject to a S106 legal agreement and conditions.

#### EXECUTIVE SUMMARY

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

The application site is located to the south west of the village of Woodbury within East Devon. The site comprises of a 3.02ha parcel of agricultural land which is bounded by Gilbrook (Road) to the west, Gilbrook (River) to the east, agricultural fields to the south and the village of Woodbury to the north and north east. The application site is adjacent to Gilbrook Close which is home to 8 dwellings and Gilbrook House (Grade II Listed) to the north. The application site is also adjacent to the Woodbury Conservation Area, is around 20m from Higher Venmore Farmhouse (Grade II Listed) and 1.3km from the East Devon National Landscape.

The application seeks outline planning permission with all matters reserved except access for the construction of up to 60 residential dwellings. The proposal would include affordable housing at 50% (35% on-site and 15% off-site contribution), public open space, play space and an attenuation feature.

The application seeks approval for a new vehicular access and a new pedestrian access. The proposed vehicular access would be via Gilbrook (Road) and would include an uncontrolled crossing to the south to provide a pedestrian connection to the existing pavement adjacent to existing dwellings at Venmore. The new pedestrian access would be via an existing adopted highway at Gilbrook Close and includes a dedicated 2m wide pathway alongside Gilbrook House and adjoining barns. The proposal would also include off-site highway works at Gilbrook Bridge to include a

dedicated 1.2m to 2m pedestrian connection. The Highway Authority have recommended approval of the application and stated that the in-formal priority flow situation over Gilbrook Bridge will be further strengthened with the adjacent footway proposal and the pedestrian and bridge works proposed would provide a safety betterment. The visibility splays from the proposed vehicular access are also suitable and accords with best practice guidance. A separate public footpath and bridge to connect to PROW 3 would also be secured to provide an additional connection to the village.

Section 38 (6) of the Planning and Compulsory Purchase Act 2008 states that development must be made in accordance with the development plan unless material considerations indicate otherwise. The site is not allocated for development and is located in open countryside meaning that the proposal would be contrary to Strategy 1, 7 and 27 of the adopted Local Plan (2016) and Villages Plan (2018) which sets the spatial strategy for development and seeks to restrict development in the countryside unless explicitly supported by other local or neighbourhood plan policies.

Whilst the site lies outside any Built-up Area Boundary (BUAB), it adjoins the village of Woodbury and would be within walking and cycling distance of day-to-day services, public transport links and community facilities. The proposal would therefore have some support from Strategy 3 which supports sustainable development, and the proposed development in relation to its proximity to Woodbury would appear to accord with the overarching principles of delivering sustainable development as set out in the NPPF.

A material consideration in the decision of this application is the need to bolster housing supply especially affordable housing to ensure the emerging local plan can be found sound and the proposal would result in additional housing adjacent to Woodbury which should be given significant weight in the decision.

The proposal would include affordable housing at 50% with 35% on-site (21 dwellings) and a 15% off-site contribution of £260,622. This would meet the requirements of Strategy 34 and will be secured via a S106 legal agreement.

The proposed development would result in less than substantial harm to the Woodbury Conservation Area and less than substantial harm albeit at the lower end to Gilbrook House (Grade II Listed) and Higher Venmore Farmhouse (Grade II Listed). However, the public benefits of the proposal including affordable housing are considered to outweigh the harm and the final layout and appearance will be reviewed as part of any reserved matters application.

In relation to flood risk and drainage, the proposal has been reviewed by the EA, DCC LLFA and South West Water with no objections raised to the proposal subject to a number of conditions relating to further details as well as a condition restricting the occupation of the development to ensure the required improvement works have been completed at the Woodbury Waste Water Treatment Works as well as improvements to the potable water supply.

The proposal has been assessed in relation to design, highways, trees, ecology, contamination, sustainability and amenity and officers have concluded that the

**proposal would not result in significant harm. There are improvements to walking and cycling opportunities within the west of the village and the proposal would also result in a Biodiversity Net Gain and the provision of public open and play space.**

**The application does have associated benefits including housing delivery including affordable homes, highway works and public and open space which are given weight in the decision. It is acknowledged that the proximity to Woodbury and access to services and infrastructure is also a benefit. The proposal would include economic benefits from construction to operation and benefits to local businesses and services as well as CIL payments of which a proportion would go to the Parish Council. These are all considered to be benefits of the development which align with the NPPF's three overarching sustainability objectives (economic, social and environmental).**

**There is clearly a need to balance development within the countryside against the need for housing within the District and to justify a departure from the adopted local plan, the material considerations must clearly indicate otherwise and outweigh the harm.**

**In this instance and having regard to all planning issues, given the need to bolster housing supply for the longer term, the sustainable location of the site with access to local services in Woodbury and level of affordable housing proposed, officers considered that the material considerations in this case would on balance justify a departure from the adopted Local Plan and that the proposed development would overall align with the principles of sustainable development.**

**It is recommended that the appropriate assessment is adopted, and that the application be approved subject to a S106 legal agreement and conditions.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council - 09/11/23**

1. Cllr. K. Perry proposed and Cllr. Ms. H. Morrell seconded that the application not be supported.

Even though East Devon District Council do not have a 5-year land supply and with the tilted balance we do not support this application due to road safety, pedestrian safety especially with the proposed footpath over the bridge in Gilbrook. Inadequate sewage and drainage infrastructure, also local infrastructure insufficient provision for the doctors' surgery and schools.

However, if EDDC are mindful of approving this application we would want to see the following conditions.

- ' Provision for the extension of the existing cemetery.
- ' Provision additional allotments.
- ' Improved street lighting for Gilbrook.
- ' Additional pedestrian road crossings in Gilbrook.
- ' Link bridge to footpath 3 by Meadow View and a pedestrian controlled crossing across Broadway.
- ' Contribution offsite of £150k towards the Woodbury Playing Fields Community Hub replacement building ' The Hive.
- ' S106 contributions of 20mph speed limit within the relevant village centre.

' S106 contributions for effective speed calming measures, to include village gateways, tabletops, road marking, signage, narrowing of road and other calming measures.

We would ask that prior to the Planning Committee considering this application that they conduct a site visit to look at the access to the potential site, the proposed pedestrian access into Gilbrook and connectivity via a pathway across the existing bridge and to see and witness the potential dangers.

If this development is approved, we want this housing figure to be deducted off any specific allocation to Woodbury in the new Local Plan.

RESOLVED that this not be supported.

Woodbury And Lympstone - Cllr Geoff Jung - 06/11/23

I have viewed the documents for the planning application for 23/2166/MOUT. Which is in an outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance, and landscaping reserved for future consideration at land south of Gilbrook House Woodbury.

I note than Devon CC as the Flood Authority have objected to this application on a number of points. Like the rest of Woodbury, the brook, the highway and neighbouring fields and properties suffer from surface water flooding. The requirement within the Governments National Planning policy is the surface water run off from the site should not be increased from a new development. However, that is a ridiculous requirement if this community already suffers from surface water flooding and therefore it requires a careful joined up approach to water drainage management. Therefore, I would suggest that developers and landowner work constructively with the EA and Devon CC and the Parish Council to provide a betterment to relieving the flooding in this location especially in view of climate change increases predictions.

Regarding the pedestrian and cycle access to the site and their links to the community assets such as playing fields, surgery, doctors, village hall, shops, and public houses. The proposals are adequate to comply to the required planning minimum, but I believe there would be a community benefit to provide a multi-use trial/path through the site linking up the proposed Broadway site and Fulford Way and towards Woodbury Business Park which will greatly improve the green travel connections for the whole village.

Regarding the concerns of Educational and Health provisions I would expect the NHS and DCC education authority would be requesting funding from the provision of CIL funds that will be provided from the developer. However, it is reported that the funds available for these Community Infrastructure projects has a substantial shortfall for whole area of East Devon.

There is also highway concerns within the wider village area and elsewhere which this site would contribute to adding further cumulative problems But Devon CC as the highways consultants are limited to considering the access and egress from the site, which I understand is considered adequate.

Last year the District Council carried out a consultation for sites coming forward for the proposed East Devon new local plan based on the Government requirement for new dwelling to be built each year in East Devon. This site was considered appropriate for development from the various sites put forward for Woodbury. However, the feedback provided by the Parish Council showed that this site was not popular with the Parish Council nor residents.

My view is this application should be determined on the current local plan policy which would consider the application outside the built-up area boundary and therefore not compliant to the existing local plan.

However, if this application is agreed by the planning authority, I would hope some or all of the community benefits could be added to this proposal.

Therefore, I do not support this application. However, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

### **Summary of Technical Consultations (Full Responses in Appendix 1)**

#### County Highway Authority - 15/12/23

Recommendation: THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION.

#### National Highways - 21/11/23

National Highways has no objection to application 23/2166/MOUT.

#### Historic England - 28/11/23

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

#### Conservation - 28/11/23

The principal of development to the proposed scale would result in some visual harm to the setting of the conservation area and how this is experienced, failing to preserve, enhance or better reveal the significance of the conservation area as a heritage asset resulting in less than substantial harm with no heritage public benefits. As such it fails to satisfy paras. 202 and 206 of the NPPF 23 and the New East Devon Local Plan (2013-2031).

Officer Note: The assessment by the conservation officer has only looked at public benefit in the context of heritage matters leaving the overall public benefit of the scheme to be weighed in the planning balance by the planning officer. Paragraph numbers relate to the NPPF published in September 2023 and these have been updated to paragraphs 206 and 208 of the December 2023 NPPF.

#### DCC Historic Environment Officer - 20/10/23

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

#### EDDC District Ecologist – 18/01/2024

I have reviewed the dormouse survey and report which is fine. A European protected species licence will be required for woody habitat removal, i.e., creating the site access.

#### EDDC District Ecologist - 04/12/23

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

Prior to determination the results of the dormouse nest tube survey must be submitted. The presence or otherwise of a protected species is a material consideration and a decision should not be made until all surveys are completed.

Police Architectural Liaison Officer - Kris Calderhead - 31/10/23

I appreciate that the layout of the site is only illustrative at this stage however, I would like to make comments and recommendations for consideration.

Environment Agency - 07/11/23

We have no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. Suggested wording for the recommended condition, the reason for our position and other related advice is provided.

DCC Flood Risk SuDS Consultation - 17/01/24

Following my previous consultation response, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

DCC Flood Risk SuDS Consultation - 06/11/23

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

South West Water – 24/09/2024

Potable Water Supply - A developer evaluation has highlighted the need for network reinforcement to supply this site. This will be achieved through the reinforcement of the water mains network upstream of the village. The scale of the scheme will depend on other growth in the village. The work will take 18 months to complete from receipt of outline planning permission.

Foul Water Flows - There is no change to our approach for this site. We have carried out a developer evaluation and we will deliver a scheme to negate the impact of the growth on the storm overflows in the village. This will likely be done through a Surface Water Separation scheme or another solution which achieves the necessary outputs. The work will take a 18 months to complete from receipt of outline planning permission.

SWWL previous comments highlighted investment that was needed at the WWTW. This has now been completed and we are monitoring performance at the WWTW as we maintain a focus upon the potential of future strategic growth that EDDC may want to promote.

Consequently, we would request the following draft conditions for potable and foul water connections - The occupation of any dwellings approved by this permission shall not be authorised until written confirmation is received by the Local Planning Authority from SWWL that improvement works have been completed, or 18 months from receiving outline planning permission, whichever is sooner. SWWL has requested a similar condition on other sites in Woodbury and the first site to get planning permission will trigger the need.

South West Water - 04/12/23

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

- Provision of Surface Water Management
- Provision of Foul Water Management
- Further Information Relating to the Foul Water Drainage Systems Operation, The Estimated Volume Of Waste Water, A Construction Quality Control Plan and A Timetable of Construction
- A Water Conservation Strategy
- Occupation Restriction of Any Dwelling

Contaminated Land Officer - 01/11/23

Recommended condition.

Environmental Health - 01/11/23

Recommended condition.

Housing Strategy/Enabling Officer - Cassandra Harrison – 19/12/23

I would support this application if they changed the percentage of Affordable Housing to 35%. The rented units would need to be Social Rent tenure as that is more affordable to households in East Devon.

Housing Strategy/Enabling Officer - Cassandra Harrison - 27/10/23

This application is only offering 25% affordable which is not policy compliant. They have not submitted a viability appraisal to state why they are only offering 25% affordable housing, so I object to this application.

EDDC Trees - 05/12/23

In principle I would have no objection to the proposal but recommend conditions be put in place to ensure the retained trees are afforded protection during construction.

EDDC Landscape Architect - 21/12/23

The site is situated to the southwestern edge of the existing settlement. It is relatively low lying, level and generally well screened. There are no landscape designations covering the site or its immediate environs. The East Devon AONB is situated 1.3km to the east.

The submitted details are considered acceptable in terms of landscape and visual impact.

Natural England - 30/01/2024

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

Natural England- 08/11/23

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

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

Economic Development Officer - 03/11/23

#### JOINT PLANNING RESPONSE FOR 23/2166/MOUT & 22/2838/MOUT

The critical and worsening lack of employment land in East Devon and the absence of any employment uses within the two proposed applications is a significant concern to be given weight by planning colleagues and which we hope will be acknowledged by members of our Development Management Committee.

Our recommendation is that these applications should be rejected in their current form. We would welcome any amended schemes to include the scale of employment provision identified in the emerging Local Plan (0.24 and 0.27ha respectively) and are willing to work with the applicants to highlight the scale of local demand for this employment space.

Devon County Council Education Dept - 09/01/24

The secondary contribution sought is £211,860 (based on the DfE secondary extension rate of £23,540 per pupil). DCC would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Exmouth Community College. The costs required are as follows: £4.41 per day x 190 academic days x 5 years X 9 secondary pupils = £37,705.

Woodbury Church of England primary school is forecast to have capacity for the pupils expected to be generated from this development and therefore DCC will not seek a contribution towards primary education.

DCC Planning - 22/11/23

This application is not supported by a Waste Audit Statement, it is therefore recommended that a condition is attached to any consent granted.

## **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

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

Strategy 31 (Future Job and Employment Land Provision)

Strategy 34 (District Wide Affordable Housing Provision Targets)

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

Strategy 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
Strategy 47 (Nature Conservation and Geology)  
Strategy 48 (Local Distinctiveness in the Built Environment)  
Strategy 49 (The Historic Environment)  
Strategy 50 (Infrastructure Delivery)  
D1 (Design and Local Distinctiveness)  
D2 (Landscape Requirements)  
D3 (Trees and Development Sites)  
EN5 (Wildlife Habitats and Features)  
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)  
EN8 (Significance of Heritage Assets and their setting)  
EN9 (Development Affecting a Designated Heritage Asset)  
EN13 (Development on High Quality Agricultural Land)  
EN14 (Control of Pollution)  
EN16 (Contaminated Land)  
EN21 (River and Coastal Flooding)  
EN22 (Surface Run-Off Implications of New Development)  
TC2 (Accessibility of New Development)  
TC4 (Footpaths, Bridleways and Cycleways)  
TC7 (Adequacy of Road Network and Site Access)  
TC9 (Parking Provision in New Development)

#### East Devon Villages Plan (2018)

16 Woodbury

#### Government Planning Documents

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

### **OFFICER REPORT**

#### **SITE LOCATION**

The application site is located to the south west of the village of Woodbury within East Devon. The site comprises of a 3.02ha parcel of agricultural land which is bounded by Gilbrook (Road) to the west, Gilbrook (River) to the east, agricultural fields to the south and the village of Woodbury to the north and north east. The application site is adjacent to Gilbrook Close which is home to 8 dwellings and Gilbrook House to the north. The land levels of the application site fall from the southern boundary (45.05 AOD) towards the northeast corner of the site (37.17 AOD).

The application site is adjacent to the Woodbury Conservation Area and is adjacent to Gilbrook House and adjoining barn (Grade II Listed). The site would also be around 20m from Higher Venmore Farmhouse Grade II Listed and within 180m of Ballymans Cottage, Broadway House, Gilbrook Cottages, Bixley Haven and Rosemary Cottage all of which are Grade II Listed. The Church of St Swithun (Grade I Listed) is located around 320m north of the site.

The site is home to a number of TPO protected trees which are predominately along the southern and eastern boundaries.

The East Devon National Landscape is approximately 1.3km to the east.

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

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

## PLANNING HISTORY

The application site has the following relevant planning history:

- o 23/0005/EIA | Screening opinion for residential development of 60 dwellings | CLOSED NOT EIA (28 June 2023)

The following applications are considered relevant to this site:

- o 22/1761/FUL | Conversion and extension of existing buildings to create two residential dwellings, construction of 6no. dwellings with associated landscaping, infrastructure and works and demolition of existing buildings. | Land At Venmore Barn Woodbury | APPROVED (15 Jan 2024)
- o 23/1258/MOUT | Outline application (with details of access to be considered and all other matters reserved) for the residential development of up to 35 no. dwellings (12 affordable); vehicular and pedestrian access from Globe Hill, pedestrian access only from public right of way; demolition of existing wooden structure to be replaced with Parish Council building; community parking area; public open space, landscaping, wildflower meadow and orchard and other associated infrastructure. | Land To The Rear Of Orchard House Globe Hill Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT
- o 23/1600/MOUT | Outline application for construction of up to 28 residential units (including affordable housing), new vehicular access onto Globe Hill, open space, new parish office and Globe Hill highway works (all matters reserved except for access) | Land Off Globe Hill Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT
- o 22/2838/MOUT | Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) | Land To South Broadway Woodbury | RESOLUTION TO APPROVE SUBJECT TO LEGAL AGREEMENT

## APPLICATION

The application seeks outline planning permission with all matters reserved except access for the construction of up to 60 residential dwellings. The proposal would include affordable housing at 50% (35% on-site and 15% off-site contribution), public open space, play space and a surface water drainage attenuation feature.

The application seeks approval for a new vehicular access and a new pedestrian access. The proposed vehicular access would be via Gilbrook (Road) and would include an uncontrolled crossing to the south to provide a pedestrian connection to dwellings at Venmore. The new pedestrian access would be via adopted highway at Gilbrook Close and includes a dedicated 2m wide pathway alongside Gilbrook House and adjoining barns. The proposal would also include off-

site highway works at Gilbrook Bridge to include a 1.2m to 2m wide dedicated pedestrian connection to the village.

The application was supported by a Framework Plan and Illustrative Masterplan as well as site access and highway plans:

- o Proposed Site Access ref. 226836/PD03 D
- o Proposed Off-site Footway Scheme ref. 226836/PD04 C
- o Proposed Northern Pedestrian Access ref. 226836/PD05 D

The application was subject to an Environmental Impact Assessment (EIA) screening which determined that the proposal was not EIA development (ref. 23/0005/EIA).

## NEIGHBOUR CONSULTATION

The application has received 54 objections. These are summarised below:

- o Loss of prime agricultural land
- o Impact on traffic and demand on roads
- o Impact on highway safety
- o No safe access to the road for pedestrians and vehicles
- o New crossing is not safe
- o Concerns with the pedestrian works to the bridge and width of highway
- o Poor public transport
- o Cumulative impact of new development in Woodbury
- o Lack of amenities in the village
- o Lack of infrastructure for new homes
- o Increase in noise and pollution
- o Harm to wildlife
- o Impact on Bats
- o Secretary of State has announced housing targets are advisory
- o Increase in flooding and impact on flood zone 2 and 3
- o Increase surface water flooding
- o Lack of mitigation for flooding impacts
- o Loss of greenfield site/land
- o Concerns with sewage and increased discharge into River Exe
- o Impact on the health of the village
- o Any building must be sensitive to the locality
- o Increases in development in Woodbury
- o Climate emergency and new development
- o Leader of EDDC concerns with house building
- o Outside of the built up boundary
- o Single dwellings have been refused at Venmore
- o Lack of evidence that Woodbury needs more housing
- o Lack of local jobs
- o Impact of construction traffic
- o Harm to character and appearance of the area
- o Loss of views over green fields
- o Impact on Grade II Listed Gilbrook House

The application has received 2 comments. These are summarised below:

- o Information included within flood risk assessment incomplete and poor quality
- o Impact on potential for erosion ignored
- o Risk to 9, 10 and 11 Beeches Close

- o Reinforcing to the south bank
- o Some of the EA/flooding maps are the mirror image and not useable
- o Trail pit logs are incomplete
- o No LVIA recommendations for the stream
- o Missing information in Appendices B1, B2 and C1 and Pages 2 and 3
- o Need for more affordable homes in Woodbury
- o Should incorporate office or business space
- o Layout would need revising

## **ASSESSMENT**

The main considerations in the determination of this application relate to:

- A. The Principle of Development
- B. Affordable Housing
- C. Design and Layout
- D. Archaeology and Heritage
- E. Landscape and Visual Impact
- F. Residential Amenity
- G. Open Space Provision
- H. Transport and Access
- I. Arboricultural Impact
- J. Sustainability and Climate Change
- K. Agricultural Land and Soils
- L. Drainage and Flood Risk
- M. Nature Conservation and Biodiversity
- N. Planning Obligations

### **A) THE PRINCIPLE OF DEVELOPMENT**

Strategy 1 (Spatial Strategy for Development in East Devon) of the adopted East Devon Local Plan (EDLP) (2016) sets out the planned provision (including existing commitments) will be made in East Devon for:

1. A minimum of 17,100 new homes in the 2013 to 2031 period; and 2. Development on around 150 hectares of land for employment purposes. The overall spatial development approach is as set out below: 1. East Devon's West End will accommodate significant residential development and major employment development to attract strategic inward investment along with supporting infrastructure and community facilities.
2. The seven main towns of East Devon will form focal points for development to serve their own needs and the needs of surrounding rural areas.
3. The Local Plan will set out how development in smaller towns, villages and rural areas will be geared to meeting local needs.

Strategy 3 (Sustainable Development) of the adopted EDLP (2016) states that the objective of ensuring sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following issues and their inter-relationships are taken fully into account when considering development:

- a) Conserving and Enhancing the Environment - which includes ensuring development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape. This includes reducing the risk of flooding by incorporating measures such as sustainable drainage systems. Developers should maximise the proportion of their developments that take place on previously developed land

- b) Prudent natural resource use - which includes minimising fossil fuel use therefore reducing carbon dioxide emissions. It also includes minimising resource consumption, reusing materials and recycling. Renewable energy development will be encouraged
- c) Promoting social wellbeing - which includes providing facilities to meet people's needs such as health care, affordable housing, recreation space and village halls.
- d) Encouraging sustainable economic development - which includes securing jobs.
- e) Taking a long term view of our actions - Ensuring that future generations live in a high quality environment where jobs, facilities, education and training are readily available.

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

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

Strategy 27 (Development at the Small Towns and Larger Villages) of the adopted EDLP (2016) states that the following settlements vary in size and character but all offer a range of accessible services and facilities to meet many of the everyday needs of local residents and they have reasonable public transport. They will have a Built-up Area Boundary that will be designated in the East Devon Villages DPD though they will not have land specifically allocated for development.

- o Woodbury

Strategy 31 (Future Job and Employment Land Provision) of the adopted EDLP (2016) states that in order to secure local job provision we will promote mixed use developments and provision of employment uses close to where people live. Appropriate, sustainable, mixed use schemes of all scales incorporating housing and employment will be encouraged across the district. On development between 50-199 units, applicants will be encouraged to make provision of 'live/work' units at 10% of the total units to be constructed and we will encourage the 'work' element to be appropriately secured by condition or S106 Agreement. In the villages we may allocate mixed use development sites and encourage the provision of a range of employment types.

Strategic Policy 25 (Development at Local Centres) set out within the Regulation 18 Draft Local Plan (Autumn 2022) states that the sites/areas listed below are considered to be potential sites for allocation for development in/at East Devon's Local Centres:

- Wood\_10 - Land at Gilbrook is allocated for around 60 dwellings and 0.24 hectares of employment land.

## HOUSING LAND SUPPLY

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

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of Woodbury, as set out in the Local Plan (2016) and Villages Plans (2018), thereby conflicting with Strategy 7 and 27 of the Local Plan. Consequently, the site would not offer an appropriate location for the development proposed having regard to the adopted

development plan's overall settlement strategy and expectation for such development to be contained within designated built-up area boundaries.

In strategic policy terms therefore, the site is within the 'countryside' as defined in Local Plan Strategy 7 (Development in the Countryside), the provisions of which would not ordinarily facilitate new build housing in the absence of any other local or neighbourhood plan policy that would explicitly permit such development. At present, Woodbury Parish Council are currently consulting on the pre-submission version of their neighbourhood plan (Reg 14).

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

Section 38 (6) of the Planning and Compulsory Purchase Act 2008 is clear that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. One such consideration is the National Planning Policy Framework (NPPF) and the NPPF states that plans and decisions should apply a presumption in favour of sustainable development.

The National Planning Policy Framework (December 2023) (NPPF) states, at Paragraph 77, that "local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply."

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

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

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

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

### The Need to Maintain a Healthy Housing Supply and Trajectory Going Forward

The "tilted balance" in the NPPF is not the only basis for planning decisions, it is a material consideration but does not displace the development plan nor the requisite planning balance established under section 38(6) of the Planning and Compulsory Purchase Act 2004.

The need for housing over the next five years is a crucial consideration in planning decisions. According to Paragraph 69 of the NPPF, local planning authorities must identify specific sites for housing for the next five years and broader areas for growth for the subsequent 10-15 years. This means that a responsible and proactive council should be looking beyond the mere 4- and 5-year timescales and should instead recognise the implications of decision making on both medium- and longer-term housing delivery.

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

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

National policy, prior to December 2023 required a continuous five-year housing supply. Some other authorities have struggled to maintain this, leading to weaker positions when trying to defend planning appeals. These decisions often relied on overly optimistic policy assessments, resulting in a compounded effect on future planning. The experience of these authorities shows that it takes time to recover (so to claw back an appropriate supply of housing) making it very hard to successfully defend against appeals for sites deemed by the Council to be wholly unacceptable.

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

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

### Summary

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

To be in a strong position now, and remain so in the future, the Council must boost its supply of market and affordable housing and develop a local plan that ensures the realistic delivery of sufficient homes over the plan period. A robust approach in this regard would mean the adoption of a local plan which both expresses and reflects the needs of the district, provides the ability to defend unsustainable sites for development at appeal, prevent speculative planning applications afflicting local communities and meet the social elements at a national scale by delivering the right

type of housing at the right time. Accordingly, the need to boost the supply of housing is a material consideration that can be attributed significant weight given the strategic importance maintaining a healthy supply of housing means to the council and its ability to retain control over key planning decisions.

## DEVELOPMENT PROPOSALS

The proposal seeks permission for up to 60 dwellings as well as play and open space and access points. The site is 3.02ha in size however the developable area is approximately 2.6ha due to the location of the flood zone to the north and east. This would mean that the proposed density would be around 23 dwellings per hectare which is reasonably low for a new development however this would be similar to the existing density of Woodbury which is approximately 19 dwellings per hectare. The existing village of Woodbury is home to approximately 730 dwellings (within the defined Built-Up Area Boundary) and the addition of 60 homes would be an increase of approximately 8.2%. This increase alone is acceptable and represents a modest extension to the village.

At the time of determination, several other planning applications for residential development in Woodbury have a resolution to grant and consideration must be given to whether the village can support the level of growth proposed. At present, applications 22/2838/MOUT (70 dwellings), 23/1258/MOUT (35 dwellings) and 23/1600/MOUT (28 dwellings) have a resolution to grant subject to legal agreements. There is also a preferred emerging local plan choice at Town Lane (Wood\_20) for 28 dwellings. In total and including this application, up to 221 additional dwellings are proposed and/or planned at Woodbury. This increase, if all were approved would result in a 30% increase in the number of dwellings in Woodbury and it is acknowledged that this would be a large increase for the village. However, the increase in dwellings would be across several years and each would include mitigations measures to make each development acceptable.

It is also understood that whilst Woodbury Salterton and Woodbury Primary Schools have some capacity to support the proposed developments, they do not have the capacity to support all developments should all planning applications where to be approved. It is noted that DCC Education have requested financial contributions however this type of funding is part of Community Infrastructure Levy (CIL) that would be applied to any of these residential schemes if approved. As such it would not be appropriate to separately require further education contributions. The cumulative increase has been raised as a concern by local residents who have highlighted the impact on infrastructure, health care and services and lack of jobs. In terms of this application alone, the level of development proposed is acceptable and infrastructure contributions would be collected through CIL to mitigate any significant harm if approved. A S106 legal agreement would also secure the obligations to make the development acceptable as set out in the Heads of Terms below.

The application proposes residential development only and concerns have been raised relating to the lack of jobs in Woodbury. The current job to worker ratio for Woodbury is around 0.39 meaning that most people must commute elsewhere to work. Strategy 31 supports mixed use developments and jobs close to where people live and states that appropriate, sustainable, mixed-use schemes of all scales incorporating housing and employment will be encouraged across the district. The Strategy only **encourages** mixed use schemes meaning that there is no **requirement** for applicants to include a mix of uses. EDDC Economic Development have objected to the application and officers have raised this with the applicant and requested that a small portion of the site was provided as employment alongside residential dwellings however the applicant declined to include employment. Overall, the opportunity for a mixed-use scheme has been missed in this case.

The application has some support from Strategy 3 of the EDLP which encourages sustainable development. This is also supported by the NPPF (2023) which sets out a presumption in favour of sustainable development which involves meeting three overarching objectives (economic, social and environmental) which includes building a strong and competitive economy, support strong and

healthy communities and protecting and enhancing our built and natural environment. The proposed development would provide housing and much needed affordable housing in Woodbury with associated economic benefits, the proposal would be located in close proximity to the existing village and would be within walking and cycling distance from day-to-day services, community facilities and open space. It is considered that the proposal would appear to accord with the overarching principles of delivering sustainable development which is given weight in the planning balance.

Under the emerging Local Plan which seeks to find additional land for housing growth, the site has been included and consulted upon as a preferred allocation and a site which could support an acceptable extension of Woodbury. Strategic Planning Committee on 29 October 2024 voted to allocate the site for development however this document carries no weight at present.

Furthermore, the proposed development would provide economic opportunities for the District including direct and indirect employment and spending in the local area. The proposal would provide for play and open space which is beyond the requirements of the Local Plan and would include walking improvements to residents in the western part of Woodbury. The proposed houses would also be liable for CIL and Council Tax, with a proportion of CIL being allocated to the Parish Council to spend in the local area.

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

## **B) AFFORDABLE HOUSING**

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

Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes) of the adopted EDLP (2016) states that on residential development schemes for 10 dwellings or more developers should demonstrate that all of the affordable housing and around 20% of market units will meet part M4(2) of the Building Regulations, Category 2: accessible and adaptable dwellings (or any comparable updated nationally set standards) unless viability evidence indicates it is not possible.

The Affordable Housing Supplementary Planning Document (SPD) (adopted 25 November 2020) states that for residential developments located in the Rest of East Devon, the affordable housing target is 50%.

Under Strategy 34, the proposed development is required to include 50% affordable housing due to its location outside of a Built-Up Area Boundary. The application was submitted with an offer of 25% affordable housing. Given the current policy position and lack of viability appraisal, this resulted in an objection from the District's Housing Enabling Officer.

Following discussions between officers and the applicant, the level of affordable housing was increased to 35% and then increased again to 50% of which 35% will be delivered on site (21 dwellings) and 15% would be via an off-site contribution of £260,622 (remaining 9 dwellings x £28,958 due to 50% requirement). This level of affordable housing has received support from the Housing Enabling Officer, and they requested social rented dwellings are included in the tenure mix.

The level of affordable housing would meet the 50% requirement and the provision of 21 additional affordable homes plus the off-site contribution is given significant weight in the decision.

In order to secure the level of affordable housing proposed, a S106 legal agreement would be required if an approval was forthcoming. Offices would expect the tenure split to include Social Rent and Affordable Home Ownership as well as a mix of houses to meet the local requirement in Woodbury. The final tenure mix will be negotiated as part of the S106.

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

In summary, the proposed level of affordable housing would be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets) and the East Devon Affordable Housing SPD (November 2020) subject to a S.106 agreement to deliver the proposed affordable housing and secure the off-site contribution.

## C) DESIGN AND LAYOUT

Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) (2023) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Development should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and develop that is not well designed should be refused.

Strategy 48 (Local Distinctiveness in the Built Environment) of the adopted EDLP (2016) states that local distinctiveness and the importance of local design standards in the development process will be of critical importance to ensure that East Devon's towns and villages retain their intrinsic physical built qualities. Where towns or villages are or have been despoiled, we will seek to have qualities reinstated through good design. Use of local materials and local forms and styles will be essential to this distinctiveness.

Policy D1 (Design and Local Distinctiveness) of the adopted EDLP (2016) states that in order to ensure that new development, including the refurbishment of existing buildings to include renewable energy, is of a high-quality design and locally distinctive, a formal Design and Access Statement should accompany applications setting out the design principles to be adopted should accompany proposals for new development. Proposals should have regard to Village and Design Statements and other local policy proposals, including Neighbourhood Plans, whether adopted as Supplementary Planning Guidance or promoted through other means.

Proposals will only be permitted where they:

- 1) Respect the key characteristics and special qualities of the area in which the development is proposed.
- 2) Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
- 3) Do not adversely affect:
  - a) The distinctive historic or architectural character of the area.
  - b) The urban form, in terms of significant street patterns, groups of buildings and open spaces.
  - c) Important landscape characteristics, prominent topographical features and important ecological features.
  - d) Trees worthy of retention.
  - e) The amenity of occupiers of adjoining residential properties.
  - f) The amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; these considerations can be especially important in respect of proposals for conversions into flats.
- 4) Have due regard for important aspects of detail and quality and should incorporate:
  - a) Secure and attractive layouts with safe and convenient access for the whole community, including disabled users.
  - b) Measures to create a safe environment for the community and reduce the potential for crime.
  - c) Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO2 reduction.
  - d) Necessary and appropriate street lighting and furniture and, subject to negotiation with developers, public art integral to the design.
  - e) Features that maintain good levels of daylight and sunlight into and between buildings to minimise the need for powered lighting.
  - f) Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.
- 5) Incorporate measures to reduce carbon emissions and minimise the risks associated with climate change. Measures to secure management of waste in accordance with the waste hierarchy (reduce, reuse, recycle, recovery, disposal) should also feature in proposals during the construction and operational phases.
- 6) Green Infrastructure and open spaces should be designed and located in a way that will minimise any potential security concerns for users.
- 7) Mitigate potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction.

In terms of design, the appearance, layout and scale of the buildings would be a reserved matter to be considered in detail at a later stage. However, to be able to properly assess the principle of the development and whether the proposal would result in any harm to the character and appearance of the area, some detail is required at the outline stage either in terms of indicative detail or through more mandatory elements such as parameter plans and details in the Design and Access Statement.

The application was submitted with an Illustrative Masterplan and Framework Plan showing the indicate road layout, location of public open space, drainage basins and the locations of dwellings and private gardens. The proposal includes a central area of public open space and play space with additional open space along the Gilbrook (River) and a pedestrian access to the north. A proposed connection to the permissive footpath approved under application 22/1761/FUL at Venmore Barn Woodbury is also proposed.

The Design and Assess Statement submitted makes reference to the existing architecture in Woodbury and design features such as chimneys, porches, boundary walls which are expected to be reflected in the detailed design of dwellings.

The layout of the plan submitted is rather geometric in design and would not relate well to the form and layout of the existing village and adjacent conservation area however these are illustrative plans only. The plans help to demonstrate the capacity of the site but is not a layout officers would be encouraging at reserved matters stage. The plans help to demonstrate the capacity of the site but is not a layout officers would be encouraging at reserved matters stage. It is also considered that in places the built development footprint appears to impinge on boundary hedge banks and the layout should ensure a suitable undeveloped margin is maintained around the site perimeter.

In summary, notwithstanding the unacceptable illustrative layout and acknowledging that the application is an outline application, officers are of the view that the design and layout which would be reviewed as part of the reserved matters application could result in an acceptable development. The proposal could therefore accord with Strategy 48 and Policies D1 and D2 of the adopted Local Plan.

#### **D) ARCHAEOLOGY AND HERITAGE**

The Authority is required under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving or enhancing the character or appearance of the area.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty of the decision-maker where a proposed development would affect a listed building or its setting, stating: "In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The case of *R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)* ("Forge Field") has made it clear where there is harm to a listed building or a conservation area the decision maker "must give that harm considerable importance and weight."

Paragraph 201 of the NPPF (2023) requires that Local Planning Authorities identify and assess the particular significance of any heritage asset. Paragraph 205 requires that great weight is given to the conservation of designated heritage assets and this position is further supported by EDLP Strategy 49 (The Historic Environment) and Policies EN7 (Proposals Affecting Sites Which May Potentially Be of Archaeological Importance), EN8 (Significance Of Heritage Assets and Their Setting) and EN9 (Development Affecting A Designated Heritage Asset).

In terms of archaeology, a geophysical survey was undertaken across the application site in June 2023. This survey did not identify any archaeological features that are indicative of widespread archaeological features across the development site however it has identified two anomalies that may be indicative of archaeological features (Anomaly Group 1 and Anomaly Group 2). The Historical Environment Team at Devon County Council reviewed the survey and highlighted that similar features identified elsewhere in the county have been shown to be associated with prehistoric or Romano-British activities. As such, groundworks for the construction of the proposed development will impact upon these potential heritage assets and that the impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development. The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a

programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be conditioned to any approval. In light of the above and subject to conditions, the proposal is considered to be acceptable in terms of archaeology.

In terms of designated heritage assets, the site is located adjacent to Woodbury Conservation Area and Gilbrook House and adjoining Barn. Furthermore, the site is located approximately 20m from Higher Venmore Farmhouse Grade II Listed and within 180m of Ballymans Cottage, Broadway House, Gilbrook Cottages, Bixley Haven and Rosemary Cottage all of which are Grade II Listed. The Church of St Swithun (Grade I Listed) is located around 320m north of the site.

- a) Woodbury Conservation Area - The site is directly adjacent to the conservation area which was first designated in January 1986 and contains 43 listed buildings. The conservation area is an irregular shape and is surrounded by countryside on several fronts. The development would result in a change from agricultural field to residential dwellings which would result in less than substantial harm to the setting of the Conservation Area with regard to how it relates to the countryside and how the conservation area is experienced. The proposal would also harm views into the Conservation Area from the Gilbrook (Road) although this is not an important or protected view. The proposal would result in 60 additional dwellings adjacent to the conservation area which would result in the erosion of the rural approach as experienced when travelling towards Woodbury and the increase in density of the urban grain in this part of the village. As the built development would be outside of the conservation area, the proposal is considered to result in less than substantial harm to the setting of the Conservation Area.
- b) Gilbrook House and Adjoining Barn (Grade II Listed) - The site is directly adjacent to Gilbrook House and Barn and the proposed pedestrian footpath to Gilbrook Close would be around 1.1m from the adjoining Barn. The change from agricultural field to residential development would result in some harm to the setting of this listed building albeit at the lower end of less than substantial harm and would obscure views to the listed building from the south. However, the development would not alter the house or barn and views to the building and barn could be retained as part of the final layout. The proposed footpath from the development to Gilbrook Close to connect the site to the village would be in close proximity to the barn however it is not considered to harm its setting.
- c) Higher Venmore Farmhouse (Grade II Listed) - This site is located approximately 20m from this listed building and would be separated by the Gilbrook (Road) and Eye View Lane and existing hedgerows. The change from agricultural field to residential development would result in limited harm to the setting of this listed building albeit at the lower end of less than substantial harm and would result in this farmhouse and wider hamlet becoming connected to the village of Woodbury. As part of any reserved matters application, built form must be set back from this building to retain some separation.
- d) Ballymans Cottage, Broadway House, Gilbrook Cottages, Bixley Haven and Rosemary Cottage (All Grade II Listed) - The site is located within around 180m of these listed buildings however there is existing development between the site and these listed buildings. Given the separation distance and existing development, the development is not considered to result in harm to these listed buildings.
- e) The Church of St Swithun (Grade I Listed) - The church is located around 320m from the site and is a dominant landmark both from within the village and other vantage points and glimpses the church tower is visible from within the site. The church is located within the village and is surrounded by existing development. Given the separation distance and existing development, the development is not considered to result in harm to this listed buildings.

The proposed development has been reviewed by Historic England and EDDC Conservation. Historic England did not provide any comments and EDDC Conservation have objected to the

application due to the harm to the setting of the conservation area and how this is experienced, and they have noted there are no public heritage benefits. EDDC Conservation stated that the impact on the setting of the listed buildings would be minimal.

The setting of a designated heritage asset is an important element in the significance of these assets and accordingly the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special regard to the desirability of preserving the setting of conservation areas and listed buildings. Therefore, considerable importance and weight should be given to the preservation of setting when carrying out the balancing exercise in decision making. The NPPF identifies that where a development will have less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. However, even if the harm is less than substantial, the balancing exercise should not ignore the overarching statutory duty and the emphasis should be on avoiding harm either by designing it out or suitable mitigation.

In summary, officers find that there would be a loss of significance to several designated assets resulting in less than substantial harm to the Woodbury Conservation Area and less than substantial harm albeit at the lower end to Gilbrook House and Higher Venmore Farmhouse and potential conflict with Strategy 49 and Policies EN8 and EN9. This needs to be weighed in the planning balance.

## **E) LANDSCAPE AND VISUAL IMPACT**

Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the EDLP (2016) states that development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty. Development will only be permitted where it:

1. conserves and enhances the landscape character of the area;
2. does not undermine landscape quality; and
3. is appropriate to the economic, social and wellbeing of the area.

Policy D2 (Landscape Requirement) of the EDLP (2016) states that existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. Measures to ensure safe and convenient public access for all should be incorporated. Measures to ensure routine maintenance and long term management should be included. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

The application has been supported by a Landscape and Visual Impact Assessment (LVIA) by Clifton Emery Design.

The application site is a mix of 3B Lower Rolling Farmed and Settled Valley Slopes and 3E Lowland Plains Landscape Characters and is also a mix of Pebble Bed Heaths and Farmland and Clyst Lowlands Farmlands Devon Character Areas. The site itself is relatively flat with the highest part of the site is along the southern boundary (45.05m AOD) with the lowest parts of the site on the north western corner (37.18m AOD) and north eastern corner (38.33m AOD). The boundary of the site alongside the Gilbrook (River) is lower than the majority of the site.

The East Devon National Landscape (formerly known as the Area of Outstanding Natural Beauty) is approximately 1.3km to the east and Woodbury Common is the most prominent landform in the local area to the east of the site.

The application site is currently an agricultural green field on the edge of Woodbury and is home to boundary trees and hedges. The development would be located in the defined countryside where one of the principal policy aims is to protect the distinctive landscape, amenity and environmental qualities of our rural areas. The site is adjoined by agricultural fields to the south and is bounded by the Gilbrook (Road) to the west, Woodbury to the north and Gilbrook (River) and Woodbury to the east. Whilst the site is in the countryside, the surrounding area is home to some built development including the village of Woodbury and dwellings and Venmore.

The development of the site as proposed would result in the loss of an open and relatively prominent field to built-form but its sensitivity is reduced by the presence of existing residential development to the north. The location of the proposed access would result in the loss of hedgerow however it is considered that additional planting would be proposed to mitigate the loss. The proposed highway works and access would retain a semi-rural feel to Gilbrook (Road).

The submitted LVIA includes a number of viewpoints including from within Woodbury and from Woodbury Common and was based on a maximum height of 2 storeys. The District Council's Landscape Officer reviewed the submitted LVIA and concluded that the application site is considered appropriate in principle for housing development and the findings of the submitted Landscape and Visual Impact Assessment are broadly accepted. The Council's Landscape Officer recommended a number of conditions in the event of any approval.

The LVIA sets out that the site is well enclosed due to the existing topography and landscaping and views onto the site are only readily possible within 0.5km of the site except for Woodbury Common where the development would be read in context with the existing village. In most cases, the development would be viewed as infill development to Woodbury and Venmore and would not result in significant harm to the landscape.

The LVIA also includes a number of mitigation measures to reduce harm to the wider landscape, these include enhancing the existing hedgerows and boundaries, internal tree planting and improving pedestrian access. These measures are considered to be appropriate and would be reviewed as part of any reserved matters application.

The landscape and visual impacts of the proposals are likely to be limited to the site and local area and while the change in character along Gilbrook would result in changes to the landscape, the site is well contained, and it is considered that the development could be accommodated without a significant adverse impact to the landscape character.

In recognising the assessment against landscape and visual impacts, it is considered that the scheme at this stage has the ability to be a success in marrying built form within the landscape in this location and the proposed development in this instance and subject to conditions, would not result in any unacceptable long-term harm on landscape character and visual amenity.

## **F) RESIDENTIAL AMENITY**

Section 12 (Achieving Well-Designed Places) of the NPPF (2023) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for existing users.

Policy D1 (Design and Local Distinctiveness) of the adopted EDLP (2016) states that proposals will only be permitted where they do not adversely affect the amenity of occupiers of adjoining residential properties.

Policy EN14 (Control of Pollution) of the adopted EDLP (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

The proposals are in outline and do not include detailed plans for the housing proposed however the application site would be located adjacent to neighbouring properties on Gilbrook Close such as no. 5, no. 6, no 7 and no. 8. The application site would also be in close proximity to other residential dwellings and would include a pedestrian access path to the rear of no. 3 Gilbrook Close.

The exact location and design of residential dwellings would be determined at the reserved matters stage however based on the illustrative masterplan submitted, the development is not considered to result in significant harm to neighbouring properties in terms of overlooking, overbearing or overshadowing impacts. The reserved matters application would also include mitigation measures for the pedestrian path however the balance between surveillance and overlooking would need to be considered.

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

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

Additionally, all the dwellings must be dual aspect and include private amenity space which can be reviewed at reserved matters.

Furthermore, it is expected that 20% of open market homes and all affordable homes would be M4(2) compliant under Strategy 36.

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

## **G) OPEN SPACE PROVISION**

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

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

The application would include up to 60 residential dwellings meaning that amenity open space and children's and youth play space is required on site by Strategy 43. The application was also supported by an Open Space Assessment. Strategy 43 sets out that in rural locations developments should include 3.0m<sup>2</sup> per person of amenity open space and 0.5m<sup>2</sup> of both children's and youth play space. As detailed layouts are not known it is considered that the application could include up to 150 residents. The requirement for up to 150 residents would be for 450m<sup>2</sup> of amenity open space and 75m<sup>2</sup> of both children's and youth play space.

The detailed site layout would be reviewed as part of the reserved matters application however based on the submitted illustrative framework it is considered that there is sufficient room to include the provision of amenity open space required. The applicant has also agreed to provide 1 x 100m<sup>2</sup> (Local Area of Play) LAP for children which includes a minimum of 3 pieces of equipment and 1 x Activity Trail for youth which includes a minimum of 3 pieces of equipment. The inclusion of a LAP and Activity Trail would provide facilities for both children and youth and the overprovision of equipment would be of benefit to future residents and local children.

The proposal would also include 0.05 ha of allotments (equivalent to 2 full plots or 4 half plots) and/or community orchard/gardens of which the location, final details, delivery and long-term maintenance would be secured a S106 agreement in the event of any approval.

The provision and maintenance/management arrangements for on-site communal open and play space would be secured via a S106 agreement in the event of any approval.

Therefore, the proposal is considered to be acceptable in accordance with Strategy 43.

## **H) TRANSPORT AND ACCESS**

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

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

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

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

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

The application site is located on Gilbrook (Road) which runs from the A376 to Woodbury Business Park to Broadway, Globe Hill and the Arch junction in Woodbury. The Gilbrook (Road) is 30mph within Woodbury and unrestricted elsewhere and includes a number of pedestrian pavements, but these are not continuous. The village is served by a number of bus routes including the T, 58/58A, and 358. Exton Train Station is located around 2.8km from the site. The city of Exeter City Centre is around 7 miles to the north west (20-25 minutes by car) and Exmouth is around 4.5 miles to the south (10-15 minutes by car).

The proposed development would include two new access points. A vehicular and pedestrian access on Gilbrook (Road) and pedestrian/cycle access to Gilbrook Close to the north. The proposed vehicular access would include an uncontrolled crossing to the south to provide a pedestrian connection to dwellings at Venmore by connecting to an existing pavement. The new pedestrian access would be via adopted highway at Gilbrook Close and includes a dedicated 2m wide pathway alongside Gilbrook House and adjoining barns. The proposal would also include off-site highway works at Gilbrook Bridge to include a 1.2m to 2m wide dedicated pedestrian connection to the village.

A separate pedestrian link is to be provided to the south of the site to connect to Venmore Barn and PROW 3 via a new bridge to be delivered by application 22/1761/FUL and would be reviewed as part of any reserved matters application. However, should this connection not be delivered, the connection is required by this development to connect the site to the village and to bus stops on Broadway and to aid permeability between parts of the village. It would therefore be necessary to include a S106 requirement for the delivery of this link.

The Parish Council, Ward Members and Local Residents have raised concerns with the proposed access points and raised concerns with visibility, speed, road widths and pedestrian safety especially over Gilbrook Bridge. In order to understand whether the proposals would result in any harm, it is important to consider the existing conditions and the impact of the proposals.

At present, it is not possible to safely walk from Venmore Barns to Woodbury as there is no dedicated pedestrian pathway. The proposal would include a new uncontrolled crossing to direct pedestrians into the site and into Woodbury. Concerns have been raised regarding pedestrian safety and vehicular speeds due to the road layout and speed limit. DCC Highways have reviewed this crossing and confirmed that the proposal would provide a safer pedestrian passage for pedestrians south of the proposed access and the applicant would be willing to fund a Traffic Regulation Order (TRO) application to amend the speed limit along this stretch of road. It is considered that the pedestrian link would provide an overall betterment than the existing situation.

In relation to the vehicular access on Gilbrook (Road) concerns have been raised regarding surveillance and highway safety as this stretch of road is unrestricted. DCC Highways have reviewed the access and confirmed that the proposed access provides a visibility splay which accords to the current best practice guidance, and this has been verified by the County Highway Authorities (CHA) own speed survey. Concerns have also been raised regarding the impact on traffic which will be discussed later in this section.

In relation to the pedestrian footpath to the north via Gilbrook Close, it is acknowledged that existing pedestrian movement levels are low and the proposal would result in an increase in pedestrian movements. However, this link is crucial for accessibility and permeability given that there is no footway on Gilbrook (Road). Any increases in pedestrian movement will be outweighed by the public safety benefits of the highway improvements and footway into the village which benefit existing and proposed residents. Furthermore, the footpath would connect to an adopted highway and would not conflict with private roads or drives.

In relation to off-site works to Gilbrook Bridge, concerns have been raised in relation to highway and pedestrian safety. The existing bridge does not include a separate and dedicated footway instead it includes a painted white line of which vehicles can drive over. This provides a walkway which in places would be under 1m in width which is not particularly safe for residents especially wheelchair users and those with children. The current safety concerns have been raised by residents and the Parish Council. The existing bridge is approximately 4.55m wide at its narrowest point and currently works well with an in-formal priority flow situation for vehicles passing. As the demarcation for pedestrians is a white painted line, this does allow for larger vehicles to pass over the line and use the full width of the bridge when crossing it. The proposal seeks to include a dedicated pedestrian pavement of between 2m and 1.2m in width and to reduce the width of the highway to 3.35m at its narrowest point.

The inclusion of a dedicated pedestrian pavement is considered a benefit to the village of Woodbury and allows for a safer access for existing and proposed residents in the west of the village. A full height kerb would help to mitigate against striking and an increase in parapet height would improve safety.

The decrease in highway width has raised concerns with residents as due to the curve of the bridge, there is an increased risk that larger vehicles especially for larger tractor and trailers and HGVs would strike the new kerb and harm pedestrian safety. The application was supported by swept paths for a range of vehicle sizes and demonstrate that the width of the highway could accommodate standard cars, vans and tractor trailer units. DCC Highways have reviewed the swept paths and no concerns have been raised. It is acknowledged that swept paths show the typical sizes of tractors and buses and larger vehicles do exist, however it would not be possible to track every single vehicle width and DCC Highways have not raised concerns with the swept paths provided. The decreased width for cars and smaller vehicles is considered to act as a speed calming measure and the proposed width of the road at 3.35m (at its narrowest point) would be similar to the width of standard single lane and narrower carriageway widths have been approved within Woodbury. DCC Highways have reviewed the proposals and support the proposals and the off-site works proposed are considered to be an overall improvement to the existing situation especially for pedestrian safety and any refusal on this issue would not be reasonable.

The applicant has explored alternative proposals with DCC Highways and the LPA for safe and suitable access along Gilbrook however these would either involve third party land and/or demolishing the front boundary wall and landscaping of Gilbrook House which is curtilage listed and adds to the character and appearance of this part of the village. These options were therefore discounted in favour of the proposed scheme however an alternative scheme could come forward as part of a separate application. In any case, a separate pedestrian link is to be provided to the south of the site to connect to Venmore Barn and PROW 3 and as noted above, its delivery would be secured via a S106 legal agreement.

The development would be for 60 homes and the trip generation indicates that the proposals will result in approximately 30 two-way vehicle trips within the AM peak hour and 29 in the PM peak hour. The proposal would result in approximately 288 vehicle trips over a 12-hour period. This would increase the trip generation upon Gilbrook (Road) and the local area however, this is not considered to be harmful to the local area. Improvements to pedestrian accessibility and public transport in Woodbury would also reduce private car travel and DCC Highways have recommend that a Travel Plan be secured to help mitigate trip generation through measures such as sustainable travel information, travel vouchers and car sharing.

In terms of the development's impact on the wider road network where it generates additional vehicular traffic onto the B3179, known locally as Broadway, which is a B class road which runs through the settlement of Woodbury between Exmouth/Woodbury Common as well as junctions with the A376, the Highway Authority have considered the scheme in detail and have no raised any comments. National Highways have also been consulted on the application and have not raised any concerns.

The development will inevitably generate additional vehicular activity on local roads. This traffic will accumulate at pinch points with the new traffic being generated by other recent development in the village such as at Broadway and further afield. The Highway Authority have not raised any concerns relating to the cumulative impact of development in the local area however they have commented on a collective aspiration to improve the Arch area. Therefore, the proposals are considered to accord with Policy TC7.

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

In terms of construction traffic, it is considered necessary to attach a Construction Traffic Management Plan and Construction and Environment Management Plan via a condition to ensure the proposals are acceptable.

In conclusion, the proposed development is considered to be in an accessible location with suitable and safe access. The proposal would include a number of access points and off-site works which are overall considered to improve the existing situation. Vehicular traffic would enter an, at times, busy local road network, but these trips would naturally dissipate onto alternative routes that are safe and appropriate and the cumulative impact of wider development is considered acceptable. There are viable alternatives to the use of the car with pedestrian and cycle links as well as walkable bus stops with regular services in the locality. The overall the scheme considered to accord with Policies TC2 and TC7 of the East Devon Local Plan and the guidance in the NPPF.

## I) ARBORICULTURAL IMPACT

Policy D2 (Landscape Requirement) of the adopted Local Plan (2016) states that landscape schemes should meet all of the following criteria:

- a) Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)

- b) Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
- c) Measures to ensure safe and convenient public access for all should be incorporated.
- d) Measures to ensure routine maintenance and long term management should be included.
- e) Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
- f) The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

Policy D3 (Trees and Development Sites) of the adopted Local Plan (2016) states that permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees. The recommendations of British Standard 5837:2012 (or the current revision) will be taken fully into account in addressing development proposals.

The application site is in agricultural use and includes trees and hedgerows along the boundaries as well as two trees within the site. There are 12 individual trees (2 x Cat A, 5 x Cat B, 4 x Cat C and 1 x Cat U), 4 areas of trees (3 x Cat B and 1 x Cat C), 3 groups of trees (2 x Cat B and 1 x Cat C) and two hedgerows (both Cat C). Within or adjacent to the application site, 7 trees and 1 group of trees are TPO protected. The application was supported by an Initial Tree Constraints Appraisal.

As part of the development all individual trees, areas and groups are to be retained however an area of hedgerow would be removed to facilitate the vehicular access on Gilbrook (Road) and hedgerow cut back to allow for a visibility splay. This area of hedgerow to be removed would be approximately 25m and would be a Category C hedge. The illustrative masterplan includes a landscaped buffer along the boundaries and no development adjacent to protected trees however the detailed layout would be a reserved matter. The proposal is also expected to include additional planting to mitigate the loss of the hedgerow and to provide a biodiversity net gain.

The application was reviewed by EDDC Trees who have no in-principle objections to the proposal subject to a full tree survey including a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement. A tree survey including AIA, TPP and AMS would be secured via a condition. EDDC trees raised comments in relation to the proposed location of the play park and size of the buffer zones which can be reviewed as part of the reserved matters application.

Whilst the loss of hedgerow is regrettable, nevertheless the existing trees and vast majority of hedgerows are to be retained. Therefore, officers consider that the proposal is acceptable in accordance with Policy D3.

## **J) SUSTAINABILITY AND CLIMATE CHANGE**

Strategy 3 (Sustainable Development) of the adopted Local Plan (2016) states that sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following issues and their inter-relationships are taken fully into account when considering development:

- a. Conserving and Enhancing the Environment
- b. Prudent natural resource use
- c. Promoting social wellbeing
- d. Encouraging sustainable economic development
- e. Taking a long term view of our actions.

Strategy 5 (Environment) of the adopted Local Plan (2016) states that all development proposals will contribute to the delivery of sustainable development, ensure conservation and enhancement of natural historic and built environmental assets, promote ecosystem services and green infrastructure and geodiversity. Open spaces and areas of biodiversity importance and interest (including internationally, nationally and locally designated sites and also areas otherwise of value) will be protected from damage, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged through a combination of measures. New development will incorporate open space and high quality landscaping to provide attractive and desirable natural and built environments for new occupants and wildlife.

Strategy 38 (Sustainable Design and Construction) of the adopted Local Plan (2016) states that encouragement is given for proposals for new development and for refurbishment of, conversion or extensions to, existing buildings to demonstrate through a Design and Access Statement how:

- a) Sustainable design and construction methods will be incorporated, specifically, through the re-use of material derived from excavation and demolition, use of renewable energy technology, landform, layout, building orientation, massing, use of local materials and landscaping;
- b) The development will be resilient to the impacts of climate change;
- c) Potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction, are to be mitigated.
- d) Biodiversity improvements are to be incorporated. This could include measures such as integrated bat and owl boxes, native planting or green roofs.

The application has been supported by an Energy and Sustainability Statement which sets out that the development can meet Part L 2021 requirements resulting in a 31% reduction in emissions over Part L 2013. The proposal would include fabric first measures and as well as low carbon and renewable technologies (Air Source Heat Pumps and PV panels). It is expected that all residential dwellings would include heat pumps and PV panels to reduced carbon emissions and further details of renewable and low carbon energy would form part of the reserved matters application. It is necessary to condition compliance with the Energy and Sustainability Statement to ensure the development meets the reduction in emissions set out and in accordance with Strategy 38.

In relation to materials, the proposal would reduce the consumption of materials and reuse materials where possible. In relation to waste, it is considered that waste will be generated during the construction phase which would be controlled through the CEMP to be secured via a condition. It is also expected that residential dwellings would be provided with dedicated areas for waste storage to encourage recycling. These must be in suitable locations to allow for easy access to collection points.

Woodbury can be considered to be a suitable and sustainable location for housing development where there is good infrastructure and services (including convenience shop, doctors surgery, church, village hall, primary school, hairdressers, public house etc...) together with transport links to larger settlements including Exmouth and Exeter. Whilst there are limited employment opportunities in the village, Woodbury Business Park, Greendale Business Park, and Hill Barton Business Park are accessible from the site.

In summary, the proposal is considered to be acceptable in terms of sustainability and climate change.

## **K) AGRICULTURAL LAND AND SOILS**

Paragraph 180 (b) of The NPPF (2023) requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In addition, the planning system should contribute to and enhance the natural and local environment, including protecting and enhancing soils.

Policy EN13 of the adopted Local Plan aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The site is currently an agricultural field, and where the loss of agricultural land is proposed an assessment must be made as to whether it is the best and most versatile agricultural land (Grades 1, 2 and 3a). Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available, or the benefits of development justify the loss of the high-quality land.

The entire site constitutes Grade 3 agricultural land which is the not the highest grade land but one where an onsite survey is required to determine whether it is 3a or 3b. No such classification has been submitted with this application. The field is currently farmed but is constrained by on 3 sides by residential dwellings, Gilbrook (Road) and Gilbrook (River).

The proposed development would result in the permanent loss of this agricultural land starting at the construction stage. Whilst it is considered that the loss of 3.02 hectares of the agricultural land is regrettable, it is considered that the loss would not significantly harm agricultural interests or the national food supply.

Policy EN16 (Contaminated Land) of the adopted Local Plan (2016) states that where it is anticipated that contamination may be present on or near to a development site, a contaminated land assessment will be required. The assessment must be agreed with the Council and must: a) Identify and characterise the contamination; b) Identify the risks; and c) Identify remediation and/or mitigation measures. Where identified as necessary, the agreed measures must be taken to remediate the site prior to or during the development. Development on or in close proximity to active or former waste sites will only be permitted where it can be demonstrated that there will be no harm to future occupiers of the site from leachate or landfill gas or other waste arisings.

The proposed development is sensitive to contamination but is situated on land not thought to have been subject to a potentially contaminating land use. It is not considered that the proposal would result in harm in relation to land contamination. Furthermore, land contamination was reviewed during the outline planning application which covers the site. The District Council's Land Contamination Officer raised no concerns with the proposal subject to an unexpected contamination condition.

## **L) DRAINAGE AND FLOOD RISK**

Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the EDLP (2016) states that new development will not be permitted unless a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the development. Development where private sewage treatment systems are proposed will not be

permitted unless ground conditions are satisfactory, and the plot is of sufficient size to provide an adequate subsoil drainage system or an alternative treatment system.

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

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

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

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

The majority of the site is located within Flood Zone 1 where there is a very low risk of flooding however there are two areas of the site which are located in Flood Zone 2 and Flood Zone 2 and 3. These areas are in the north western corner (Flood Zone 2) and alongside the Gilbrook (River) (Flood Zone 2 and 3). As per the illustrative plans, no development is proposed within the flood zones.

In relation to surface water run-off, there is additional allowance of 45% additional capacity made for climate change and a Flood Risk Assessment (FRA) has been submitted as part of the application.

The applicant has proposed to manage surface water via attenuation tanks and an attenuation pond before discharging to the Gilbrook (River) located at north of the site. Storm water drainage would flow off site will discharge to the storm water sewer network. The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who initially objected to the application and requested further information. Following the submission of an amended surface water drainage strategy, DCC Flood Risk removed their objection and requested a further detail condition is attached to any approval. The condition would seek a detailed drainage design, management of the surface water drainage system as well as information on the existing surface water drainage systems. The proposal is considered to be acceptable at this stage in relation to surface water subject to conditions.

As part of the site is located within the Flood Zone, the Environment Agency (EA) were consulted on the application. The EA raised no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. The EA also

advised the LPA that the flood risk Sequential Test must be satisfied in accordance with the National Planning Policy Framework (NPPF) and the failure of the Sequential Test is sufficient justification to refuse a planning application.

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

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

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

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

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

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

Where the sequential test has been passed paragraph 169 and 170 of the NPPF (2023) requires that the LPA undertakes an exceptions test, to pass the exception test it should be demonstrated that:

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

In this instance the proposal would provide much needed open market and affordable housing where there is a district wide need, but more importantly it would be in a sustainable location where there is good access to a range of services including a convenience shop, doctors surgery, churches, village hall, primary school, hairdressers, playing fields and public houses together with convenient public transport links to further afield settlements. It would remain safe for the lifetime of its use given that none of the built form would be close to areas of flooding vulnerability and surface water run-off from the site would be controlled in an appropriate. As such it is considered that the exceptions test would be passed.

In relation to Fowl Sewage, the proposal would connect into the mains system. South West Water were consulted on the application and do not object to the principle of the proposed outline application subject to conditions. They requested conditions in relation to Surface Water Management and a Water Conservation Strategy. South West Water have also stated that whilst some improvement works have been completed at the Woodbury Waste Water Treatment Works (WWTW), the treatment works require further improvement works to increase the treatment capacity in the area subject to future strategic growth requirements. South West Water have recommended a condition requiring written confirmation prior to the occupation of any dwelling, from South West Water that improvement works at the WWTW have been completed. It is necessary to attach a Grampian condition to any approval as it is crucial that we have confidence that any upgrades to the sewage system are completed in full prior to occupation of any dwelling.

South West Water have also recognised a need to upgrade potable water which will be achieved through the reinforcement of the water mains network upstream of the village. It is necessary to attach a Grampian condition to any approval to ensure any upgrades are completed in full prior to occupation of any dwelling.

Therefore, that the proposal is considered to comply with Section 14 of the NPPF and Policies EN19, EN21 and EN22 of the adopted Local Plan.

## **M) NATURE CONSERVATION AND BIODIVERSITY**

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (2016) states that all development proposals will need to:

1. Conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats.
2. Maximise opportunities for restoration, enhancement and connection of natural habitats.
3. Incorporate beneficial biodiversity conservation features.

Development proposals that would cause a direct or indirect adverse effect upon internationally and nationally designated sites will not be permitted unless:

- a) They cannot be located on alternative sites that would cause less or no harm.
- b) The public benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats.
- c) Prevention, mitigation and compensation measures are provided.
- d) In respect of Internationally designated sites, the integrity of the site will be maintained.

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (2016) states that where development or the occupants of development could lead to adverse biodiversity impacts due to recreational or other disturbance, we will require mitigation measures and contributions to allow for measures to be taken to offset adverse impacts and to create new habitats. All residential development schemes within a straight line 10 kilometres distance of any part of the SAC and/or SAC designated areas of the Exe Estuary or Pebblebed Heaths will be required to provide mitigation. Off-site provision in the form of SANGS should aim for a target level of provision of

around 8 hectares of open space provision for every net new 1,000 residents accommodated through development.

Policy EN5 (Wildlife Habitats and Features) of the adopted Local Plan (2016) states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process. Where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

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

The site is approximately 3ha in area and comprises an arable field, modified grassland margins bound by hedgerows and trees. An Ecological Impact Appraisal and Biodiversity Net Gain Report by Tyler Grange was submitted as part of the application with surveys undertaken between October 2022 and August 2023. The dormouse surveys were completed between April 2023 and October 2023.

Policy EN5 requires that where development is permitted on sites that are host to important wildlife habitats or features, mitigation will be required. In terms of protected species, mitigation is proposed for possible impacts on birds, bats, dormice and badgers to include:

**Birds** - The majority of existing breeding and foraging bird habitat on site is to be retained as part of the proposals. To compensate for any habitat losses that occur, the creation of new habitats will provide further enhancements for birds. All site clearance activities should be undertaken outside the nesting bird season. 30 Vivara Pro Build-in WoodStone Bird Box (or similar) will be provided on the new homes.

**Bats** - Two oak trees identified as having low bat roosting potential. These trees will be retained and buffered by the proposals. New hedgerow planting will create an overall gain in hedgerows across the site creating dark corridors. A sensitive lighting scheme will be implemented to avoid any lighting being directed at the habitats. 30 Vivara Pro Build-in WoodStone Bat Box (or similar) will be provided.

**Dormice** - The dormouse surveys started in April 2023 with checks completed monthly until November 2023 when evidence of dormouse was recorded. The majority of suitable dormouse habitat across the site will be retained by the proposals except for hedgerow removal for access. Prior to any potential dormouse habitat, being removed a Natural England European Protected Species Licence (EPSL) will be required. Two dormouse nest boxes will be provided for additional nesting opportunities. New suitable dormouse habitat will be provided across the site including native hedgerow and native scrub planting to create an overall gain in suitable habitat post development.

**Badgers** - No badger setts have been recorded within the site and no evidence of badger activity has been recorded during any surveys. Any trenches or deep pits will be covered or provided with a

means of escape. The provision of new hedgerow and wildflower grassland will provide continued opportunities for badger and overall, no impact to this species would occur.

Invertebrates - The majority of hedgerows are to be retained and any impacts to invertebrates will be minimal. Additionally new hedgerow, neutral grassland, tree, native shrub planting and the creation of the attenuation features will create an overall gain.

Amphibians - Small areas of potential terrestrial habitat is present within the site for amphibians but these are limited to the hedgerows. The proposals will include hedgerow and new areas which will provide new opportunities across the site for amphibians. Hibernacula and log piles will be provided.

Otter - No evidence of otter has been recorded during any of the site visits, although they could use this feature as a dispersal corridor. The enhancements proposed to the retained land adjacent to the watercourse such as wildflower planting will provide new habitats of importance for otter within the site post-development.

Reptiles - The majority of the hedgerows and grass margins will be retained and enhanced by the proposals creating new opportunities on the site for reptiles.

It is recognised that for Dormice, the proposed works would require a European Protected Species Licence from Natural England. In these circumstances the Local Planning Authority (LPA) has a statutory duty under Regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species (EPS) may be affected. The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations. The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application.

The three tests are:

- i. the activity must be for imperative reasons of overriding public interest or for public health and safety;
- ii. there must be no satisfactory alternative
- iii. favourable conservation status of the species must be maintained

In this case it is considered that there is public interest as the proposal would bolster housing and affordable housing and there are social, economic and environmental benefits.

In considering whether there is a satisfactory alternative, it is noted that the hedgerow providing the dormice habitat is required to be lost to provide a safe and suitable access to the site where there are no other suitable alternatives. Other locations in the field could be used to provide access, but these would also require the removal of hedgerows.

To mitigate for the loss of habitats, significant additional (new) habitat is being created across the site to provide new and enhanced foraging opportunities. The full suite of mitigation measures would be secured via a condition. As part of the scheme a 10% Biodiversity net gain has been demonstrated which can support habitat creation for the protected species and therefore further secure their ecological status on the site.

With appropriate conditions to secure details of the mitigation, it is considered that the ecological status of the protected species can be maintained in a favourable condition. On this basis (and as wildlife moves around) further up to date protected species surveys at subsequent reserved matters

stages will also be required. These can be secured at the validation stage of such application using the validation checklist and there is no need for further conditions on this application.

Having regard to the above assessment, Officers consider that the three tests would be met, and that Natural England are likely to grant an EPS licence.

The District Council's Ecologist reviewed the application and stated that the proposed ecological avoidance, mitigation, and enhancement measures are generally considered acceptable subject to conditions. The District Council's Ecologist also requested that prior to determination the results of the dormouse nest tube survey are submitted to the LPA. The results were submitted on January 3rd, 2024, and the District Council's Ecologist stated that they have reviewed the dormouse survey and report which is suitable, and a European Protected Species Licence will be required for woody habitat removal, i.e., creating the site access.

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

#### **BIODIVERSITY NET GAIN (BNG)**

As this application was submitted in October 2023, the legal requirements under the Environment Act 2021 do not apply to this application however the application is proposing a net gain which can be secured via a condition.

As part of this planning application, a Biodiversity Net Gain Assessment was submitted as part of the application and concluded that a 10% increase in habitat units and 16% increase in hedgerow units can be achieved using Metric 4.0. This would be through the enhancement of hedgerows, and planting of suitable species rich grassland and scrub/shrub areas within the landscape design.

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

#### **HABITAT MITIGATION**

The site is located within 10km of the East Devon Pebblebed Heaths SAC and SPA together with the Exe Estuary SPA and Ramsar sites. During the operational phase, the development is likely to increase recreational pressures on these European sites which will likely have both direct and indirect significant effects when considered alone or in combination. This therefore requires the authority to undertake an Appropriate Assessment (AA) in accordance with the Conservation of Habitats and Species Regulations 2017. This has been undertaken which also concludes that the proposed development, as it is within 10km, is likely to have significant effects on the interest features of these European sites. The joint approach for mitigation by the relevant local authorities relies on a mechanism by which developers can make contributions to mitigation measures delivered by the South East Devon Habitat Regulations Partnership. The mitigation contribution would be secured through a S106, currently at £367.62 per dwelling.

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

## **N) PLANNING OBLIGATIONS**

Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) states that the Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. The failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

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

1. Habitat Mitigation Contribution of £367.62 per dwelling.
2. Delivery of 35% affordable housing comprising of Social Rent and Affordable Home Ownership. All of the affordable housing units will meet part M4(2).
3. 15% Off-site affordable housing contribution of £260,622.
4. Provision and maintenance/management arrangements for on-site communal open space.
5. Delivery of Children and Youth Play Provision including 1 x 100m<sup>2</sup> LAP (minimum of 3 pieces of equipment) and 1 x Activity Trail (minimum of 3 pieces of equipment).
6. Delivery and maintenance/management arrangements for 0.05ha of allotments and/or community garden/orchard.
7. S278 agreement for the delivery of off-site works highway works to Gilbrook Bridge and Pedestrian Crossing on Gilbrook (Road).
8. Contributions for a TRO to relocate 30mph signage on Gilbrook.
9. Delivery of pedestrian footpath connection to (i) PROW 3/Broadway and (ii) into Gilbrook Close.
10. Travel Plan.
11. Monitoring Fees.

The NHS were consulted on this application; however, no request for contributions have been received.

If this application were to be approved a S106 would be required which captured the above. However, if this application is refused the lack of a legal mechanism to secure these contributions should also form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets), Strategy 47 (Nature Conservation and Geology) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing Supplementary Planning Document (November 2020).

## **PLANNING BALANCE AND CONCLUSION**

It is a requirement of planning law that planning decisions are determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The site is not allocated for development and is located in open countryside meaning that the proposal would be contrary to Strategy 1, 7 and 27 of the adopted Local Plan which sets the spatial strategy for development and seeks to restrict development in the countryside unless explicitly supported by other local or neighbourhood plan policies.

Whilst the site lies outside any Built-up Area Boundary (BUAB), it adjoins the village of Woodbury and would be within walking and cycling distance of day-to-day services, public transport links and community facilities. The proposal would therefore have some support from Strategy 3 of the

adopted Local Plan and the NPPF which supports sustainable development, and the development would appear to accord with the overarching principles of delivering sustainable development.

A material consideration in the decision of this application is the need to bolster housing supply especially affordable housing and the proposal would result in additional housing adjacent to Woodbury which should be given significant weight in the decision. Strategic Planning Committee have advised that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position.

The proposal would include 50% affordable housing (35% on site and 15% via an off-site contribution) which meets the requirements of Strategy 34 and should be given significant weight in the determination of this application.

The proposed development would result in less than substantial harm to Woodbury Conservation Area as well as limited harm to the setting of two listed buildings. This weighs negatively in the planning balance and must be outweighed by public benefit.

The proposal has been assessed in relation to design, highways, trees, ecology, contamination, sustainability and amenity and officers have concluded that the proposal would not result in significant harm. There are improvements to walking and cycling opportunities within the west of the village which is supported by DCC Highways. The proposal would also result in a Biodiversity Net Gain and the provision of public and play space exceeds the local plan requirement.

In relation to flood risk and drainage, the proposal has been reviewed by the EA, DCC LLFA and South West Water with no objections in principle raised subject to conditions including an occupancy restriction to enable required improvement works to take place at Woodbury Waste Water Treatment Works. The proposal is considered to have passed the sequential and exceptions test in relation to flood risk.

There is clearly a need to balance development within the countryside against the need for housing within the district. In this case, the proposal has some support from Strategy 3 and the principles of the NPPF and would benefit from day-to-day services within Woodbury. Furthermore, the need for housing, especially affordable housing is given weight in the decision-making process. The proposal would include economic benefits from construction to operation and benefits to local businesses and services as well as CIL. However, the site is not allocated for development and is contrary to Strategy 1, 7 and 27 of the Local Plan. This conflict is attributed significant weight given that this is one of the main objectives of the local plan.

In this instance and having regard to all planning issues, the proposed development is considered to represent sustainable development and given the need to bolster supply for the longer term, the proximity to Woodbury and level of affordable housing proposed, the material considerations would on balance justify a departure from the adopted Local Plan.

It is recommended that the application be approved subject to a S106 and conditions.

## **RECOMMENDATION**

- a) ADOPT the Appropriate Assessment.
- b) APPROVE the application subject to a S106 and conditions:

### 1. Time Period for Submission

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the development comes forward in a timely manner).

## 2. Reserved Matters

Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for the development shall be obtained from the Local Planning Authority in writing before any development is commenced. Development shall be carried out in accordance with the approved details and any subsequent non-material amendments as shall be approved in writing by the Local Planning Authority.

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

## 3. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.

(Reason - For the avoidance of doubt.)

## 4. Construction and Environment Management Plan (CEMP)

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

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

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

(Reason - To protect the amenities of nearby occupiers and to protect the ecology/protected species in the locality to accord with Policy EN14 (Control of Pollution) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031. The CEMP needs to be

approved and implemented prior to the start of development operations as risks to the environment, amenity and ecology will be present from this point.)

## 5. Construction Traffic Management Plan (CTMP)

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

- a) the timetable of the works;
- b) daily hours of construction;
- c) any road closure required (and a time table for this);
- d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6:00pm Mondays to Fridays Inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed in writing by the Local planning Authority in advance;
- e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- h) hours during which no construction traffic will be present at the site;
- i) the means of enclosure of the site during construction works; and
- j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- k) details of wheel washing facilities and obligations
- l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- m) Details of the amount and location of construction worker parking.
- n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

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

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

## 6. Tree Protection Measures

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

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

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

## 7. Lighting Scheme

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

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

## 8. Landscape and Ecological Management Plan (LEMP)

A Landscape and Ecological Management Plan (LEMP) for a minimum period of 30 years shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development based on the submitted Ecological Impact Assessment, supporting Biodiversity Net Gain Assessment (Tyler Grange, 2023) and comments made from the District Ecologist. It should include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, bee bricks, permeable fencing, and other features to be shown clearly on submitted plans.

The content of the LEMP shall also include the following:

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

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

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

#### 9. Construction and Ecological Management Plan (CEcoMP)

No development shall take place (including ground works or vegetation clearance) until a Construction and Ecological Management Plan (CEcoMP) has been submitted to and approved in writing by the Local Planning Suthority based on the details within the submitted ECoA (Tyler Grange, 2023). The CEcoMP shall include the following:

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

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

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

#### 10. Flood Risk and Drainage

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

- (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy (Report Ref. 1788-C300, Rev. C, dated 27th Sept. 2023)
- (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(c) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(d) The additional source control features should be proposed at the detailed design stage.

(e) The applicant should reconsider the site layout before finalising it to ensure they can accommodate above-ground features within the site.

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

(Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.)

## 11. Surface Water Management

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

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

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

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

## 12. Foul Water Management

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

- A description of the foul water drainage systems operation;

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

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

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

#### 13. Flood Risk Further Details

As part of the submission of the first reserved matters application for layout, the applicant shall submit a scheme which:

- Demonstrates that there shall be no built development (including private gardens, and other areas within residential curtilage) within 8 metres of the edge of flood zones 2 unless otherwise agreed in writing by the Environment Agency.
- Demonstrates that unfettered vehicular access to the public open space, river channel and floodplain corridor can be achieved,
- Confirms safe proposed finished floor levels,
- Demonstrates that ground levels within flood zone 2 as shown on plan ref.:C-GA-500 rev P3 shall remain unaltered during both any construction phase and for the lifetime of the development so as to retain the function of the flood corridor.

The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

(Reason - To reduce the risk of flooding to the proposed development and its future users.)

#### 14. Details of Road, Services and Facilities

No development shall take place until the relevant details of the following works have been submitted to and approved by the Local Planning Authority:

- o Details of the proposed estate roads, footways, footpaths, junctions, street lighting, street name plates, sewers, drains, retaining walls, service routes, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture.

The required details shall be provided by way of plans and sections indicating as appropriate the design, layout, levels, gradients, materials and methods of construction.

The works shall thereafter be provided and retained in accordance with the approved details and any subsequent amendments as shall be approved in writing by the Local Planning Authority.

(Reason - This is pre-commencement to ensure adequate information is available for the proper consideration of the detailed proposals, the site is developed in a proper manner, adequate access and associated facilities are available for all traffic attracted to the site, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining and future residents, in accordance with Policy D1 (Design and Local

Distinctiveness) and Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

15. Written Scheme of Investigation

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

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

(Reason: To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.)

16. Biodiversity Net Gain

No development shall commence until a Biodiversity Management Plan to ensure that there is a quantifiable net gain in biodiversity as a result of the development has been submitted to, and approved in writing by, the Local Planning Authority.

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

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

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

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

17. Advance Planting

No development shall take place until a scheme of advance planting together with a timetable for its implementation has been submitted to and approved in writing by the Local planning Authority. Planting shall take place in accordance with the agreed details and timetable set out.

(Reason - Details are required prior to the commencement of development to allow planting in key areas to become established earlier and provide a greater contribution to the setting and landscape mitigation that is proposed within the application in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan.)

18. Treatment Works - Occupation Restriction

No dwelling hereby approved shall be occupied until written confirmation is received by the Local Planning Authority from South West Water confirming that the Woodbury Waste Water Treatment Works has adequate capacity to deal with the foul water from this development and that the water main network reinforcements to potable water supply upstream from Woodbury have been completed such that adequate supply of potable water will be available for the occupiers of the development unless alternative means of adequately dealing with foul drainage and potable water have been agreed in writing by the Local Planning Authority and implemented in full.

(Reason: To enable required improvement works to take place at Woodbury Waste Water Treatment Works to suitably receive and accommodate the increase in flows expected as a result of the proposed development in accordance with Policy EN18 (Maintenance of Water Quality and Quantity) and Policy EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) of the East Devon Local Plan. Allowing flows above acceptable volumes from the occupation of dwellings prior to these works being completed would have unacceptable impact on existing infrastructure, with unacceptable risk of potential pollution events occurring.)

19. Ecological Mitigation

No dwelling shall be occupied until the Local Planning Authority has been provided with evidence, including photographs and completed toolbox talk sheets, that all ecological mitigation and enhancement features, including bat boxes, bird boxes (at least 1 per dwelling), and other features have been installed/constructed on that dwelling, and compliance with any protected species licences, and ecological method statements detailed with the submitted LEMP and CEcoMP.

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

20. Unexpected 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.)

21. Landscaping Replacement

The landscaping works approved as part of the reserved matters application(s) or as part of an advance planting scheme shall be undertaken in accordance with the approved scheme within 12 months of completion of development or during the next planting season following completion whichever is the sooner unless an alternative timetable for delivery has been agreed by the local planning authority.

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

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

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

22. Waste Audit Statement

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

Development must be undertaken in accordance with the agreed details.

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

23. Energy and Sustainability Statement

The development shall be undertaken in accordance with the Energy and Sustainability Statement by AES Sustainability Consultants Ltd dated August 2023. Details of renewable energy shall be submitted to and approved in writing with the Local Planning Authority as part of any reserved matters application for dwellings. The development must be undertaken in accordance with the agreed details and no dwelling shall be occupied until the agreed renewable energy technologies have been installed/constructed on that dwelling.

(Reason: To ensure that the development contributes to mitigating and adapting to climate change and to meeting targets to reduce carbon emissions in accordance with Strategy 38 (Sustainable Design and Construction) of the East Devon Local Plan 2013- 2031).

## 24. Pedestrian Footpath and Bridge

The reserved matters application for layout shall include details of :

- (i) a pedestrian link to the east of the site, including a bridge over the brook, to connect the site to Broadway; and
- (ii) a pedestrian link from the north of the site into Gilbrook Close

The details shall include the design of the bridge, lighting, and surface materials. The footpath(s) and bridge shall be provided in accordance with the approved details.

Reason – To promote active modes of travel and to ensure the development is permeable to ensure assimilation into the village as a whole. To reduce car dependency for travel within and outside of the development in accordance with Policy TC4 (Footpaths, Bridleways and Cycleways) and Policy TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan

### NOTE FOR APPLICANT

Informative:

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

Informative:

The Local Planning Authority (LPA) has a statutory duty under Regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species (EPS) may be affected. The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations. Having regard to the three tests, the LPA considers that the three tests would not be met and that Natural England are unlikely to grant an EPS licence.

Informative - Biodiversity Net Gain:

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

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

The BG conditions states that development may not begin unless:

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

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

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

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

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

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

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or
  - (ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
  - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
    - (i) the application for planning permission was made before 2 April 2024;
    - (ii) planning permission is granted which has effect before 2 April 2024; or
    - (iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).
  - 4.2 Development below the de minimis threshold, meaning development which:
    - (i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
    - (ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
  - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
  - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
  - 4.5 Self and Custom Build Development, meaning development which:
    - (i) consists of no more than 9 dwellings;
    - (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
    - (iii) consists exclusively of dwellings which are self-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.

#### Informative - Flood Risk Activity Permit:

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

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

#### Plans relating to this application:

226836/PD03 D : Other Plans 11.10.23  
proposed site  
access

226836/PD04 C : Other Plans 11.10.23  
proposed offsite  
footway scheme

226836/PD05 D : Other Plans 11.10.23  
proposed northern  
pedestrian access

220404 L 01 01 Location Plan 11.10.23

#### List of Background Papers

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

#### **Statement on Human Rights and Equality Issues**

##### **Human Rights Act:**

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

**Equality Act:**

In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

**APPENDIX 1 - Technical Consultation Responses in full.**

**County Highway Authority - 15/12/23**

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

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

However in terms of access, the proposed access provides a visibility splay which accords to our current best practice guidance, Manual for Streets 1 and 2 of 2.4m by a tailored visibility splay in reference to a weeks speed survey from the applicant which accords to 23m southbound and 43m northbound, this has been verified by the County Highway Authorities (CHA) own speed survey. A 2m footway into the site will also be provided.

A proposed offsite footway project will improve pedestrian access over Gilbrook Bridge. We have made discussions with the applicant party in regards to a separate dedicated pedestrian bridge, however due to the listed status of the curtilage of Gilbrook House, ownership issues regarding the landing foundations of any subsequent structure and the conservation status of this area, this has been ruled out.

However the existing proposal of the bridge includes a raised footway proposed with a full height kerb to help mitigate against striking, as well as a proposed raised Parapet height for safety purposes, discussions with the Environment Agency may be needed to establish the type of parapet extension, an open type nature may be required for flood control purposes.

I am satisfied that the bridge currently works well with an in-formal priority flow situation for vehicle passing as well as acting as a speed calming feature, which will be further strengthened with the adjacent footway proposal.

There is a further betterment proposed with a tactile crossing upon the access and short footway length currently missing from the Venmoor Road, allowing a safer pedestrian passage for pedestrians south of the proposed access. We are satisfied that the access location does allow sufficient visibility upon passing the Venmoor bend, however we have passed on the message from the Parish of the desire to relocate this slightly north.

Though this development would increase the trip generation upon Venmoor Road, I believe the pedestrian and bridge works proposed would provide a safety betterment, furthermore should this application be approved, we would recommend that in detailed design a Travel Plan be secured to help mitigate trip generation through measures such as sustainable travel information, travel vouchers and car sharing. This can be further strengthened should the application be approved with secure cycle storage to encourage sustainable travel and help mitigate against shorter vehicular trip generation to the services and facilities of Woodbury.

Additionally, due to the locality of the site, I believe a comprehensive Construction and Environment Management Plan (CEMP) will help mitigate against construction impact on the local highway network through measures such as 'just in time deliveries', wheel washing, contractor and employee car sharing and routeing plans.

#### Addendum 15/12/2023

The final infrastructure layout for the Arch is to be discussed with the County Highway Authority (CHA) as part of a collective aspiration to improve the Arch area under a separate legal agreement.

**Recommendation: THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION**

#### National Highways - 21/11/23

Referring to the notification of an Outline application referenced above (all matters reserved except access), for the construction of up to 60 dwellings including affordable housing, new vehicular access and pedestrian access, at land south of Gilbrook House, Woodbury, Devon, notice is hereby given that National Highways' formal recommendation is that we:

- a) offer no objection (see reasons at Annex A);

#### Statement of Reasons

The application seeks outline permission (all matters reserved except access), for the construction of up to 60 dwellings including affordable housing, new vehicular access and pedestrian access, at land south of Gilbrook House, Woodbury, Devon. The 3.02ha site is located approximately 6km south east of M5 Junction 30.

The application is supported by a Transport Statement (TS) dated September 2023 prepared by Vectos.

#### Impact on Strategic Road Network

#### Traffic Impact

The TS derives trip rates from the industry standard TRICS database. Based on these rates the development is forecast to generate in the region of 30 two-way trips in both the AM (0800-0900) and PM (1700-1800) network peak hours, or one additional two-way trip every two minutes. Whilst National Highways considers the presented trip rates to be low based on the limited facilities and amenities surrounding the site, based on the scale of development this is not considered likely to result in a material difference to the forecast overall traffic generation.

Based on this and proximity of the site from our network we are satisfied the traffic impact associated with the development is unlikely to result in an adverse impact on the safe operation of the strategic road network.

#### Recommendation

National Highways has no objection to application 23/2155/MOUT.

#### Historic England - 28/11/23

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

#### Conservation - 28/11/23

#### BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

Gilbrook House: Listed Grade II

Higher Venmore Farm: Listed Grade II

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

Heritage assets & Setting: the development site comprises an area of land to the south west of the village and is a relatively level agricultural field adjoining the south western edge of the village. The site is surrounded by hedgerows with some mature trees. There are existing dwellings to the north and west of the site.

The site does not fall within the Woodbury Conservation Area, however, the boundary runs alongside the site's northern edge, where it abuts the grade II listed Gilbrook House and adjoining buildings. There are no listed buildings or structures within the site. There are several listed buildings, within 0.5km of the site. The most notable buildings, in close proximity to the site are:

- o Higher Venmoor Farmhouse and the attached barn (grade II listed), is approximately 20m to the south west of the site, across from the site's existing access gateway.
- o Gilbrook House and adjoining buildings (grade II listed), adjoins the curtilage of the site's northern boundary.

The Conservation Area, like the village is irregular in shape. The pattern of development appears ancient and is pleasingly informal on a gentle mainly south facing slope. Woodbury Common is a large area of heath and pines on a ridge some two miles to the east and the iron age earthwork of Woodbury Castle at one of the highest points overlooks the village. 2.2 The fine 15th century red sandstone tower of St Swithun's parish church is a dominant landmark both from within the village and from certain vantage points in the surrounding mainly pastoral countryside. It should be noted that the Church tower can be seen from within the site.

Surrounded by open countryside, Woodbury benefits from its landscaped setting with much of its later infill bearing little relation to the overall historic or architectural context.

**The Proposed development:** the proposed scheme will comprise an outline application for residential development of up to approximately 60 dwellings with access gained from Gilbrook Road to the west, and with the associated roads, landscaping and attenuation pond. A potential additional access point will be created via Gilbrook Close to the north. Since this is an outline application any assessment can only be generalised.

The potential harm to the heritage asset (conservation area) and identified setting as a result of the proposed development works, has been balanced against paras. 202 and 206 of the NPPF23 and the New East Devon Local Plan (2013-2031), as discussed in the assessment of harm below.

**Assessment:** as previously mentioned the two main listed buildings adjacent to the site are Higher Venmore Farm and Gilbrook House. The former is associated mainly with the farm group and the buildings clustered on the bend of the road at the junction. Views into the site are currently though the field entrance, but the site itself is well screened by mature hedging and vegetation. Gilbrook House is much closer to the western part of the site and new development in Gilbrook Close is noted. There is also an area of mature trees and vegetation to the east of the House which partially screens any inter-visibility. The impact on the setting of the listed buildings is therefore considered to be minimal.

However, the wider setting of the Woodbury Conservation Area and how it is experienced will be affected. Woodbury as a village represents a small community in a rural area, with open countryside surrounding the boundaries of the built form providing the rural context in which it is experienced. Historically the site has been orchards, still showing on the 1947 aerial photograph and the historic OS maps until the early 1950's and is now an open field. Although bounded by mature hedging there are likely to be glimpses of the new development, particularly at its access point onto the highway. This change to the physical environment will completely alter the approach into Woodbury from the south/south west intensifying the built up area outside the village envelope.

Whilst some development has been considered acceptable within Woodbury, the current application is for a significant amount of development, which would result in the erosion of the rural approach as experienced travelling towards Woodbury and the increase in density of the urban grain in this part of the village. Both aspects would result in an adverse impact on the setting and the contribution this makes to the significance of the conservation area resulting in less than substantial harm without any public heritage benefit.

In terms of the indicative site layout, this is very regimented and suburban. In terms of urban grain or the layout of buildings within the conservation area, which gives it, its unique character, there is a general pattern of historic development associated with ancient burgage plots. The value of Woodbury's built character is noted in the Character Appraisal where it states that 'Development that follows suburban layouts or does not appear coherent with the urban grain of the conservation area should be strongly resisted'.

In summary, the principal of development to the proposed scale would result in some visual harm to the setting of the conservation area and how this is experienced, failing to preserve, enhance or better reveal the significance of the conservation area as a heritage asset resulting in less than substantial harm with no heritage public benefits. As such it fails to satisfy paras. 202 and 206 of the NPPF23 and the New East Devon Local Plan (2013-2031).

#### **PROVISIONAL RECOMMENDATION - PROPOSAL UNACCEPTABLE**

#### **REASONS FOR REFUSAL: as above**

Officer Note: The assessment by the conservation officer has only looked at public benefit in the context of heritage matters leaving the overall public benefit of the scheme to be weighed in the planning balance by the planning officer. Paragraph numbers relate to the NPPF published in September 2023 and these have been updated to paragraphs 206 and 208 of the December 2023 NPPF.

DCC Historic Environment Officer - 20/10/23

While the geophysical survey did not identify any archaeological features that are indicative of widespread archaeological features across the development site it has identified two anomalies that may be indicative of archaeological features (anomaly group 1 and 2). Similar features identified elsewhere in the county have been shown to be associated with prehistoric or Romano-British activities such as settlement and land division. As such, groundworks for the construction of the proposed development will impact upon these potential heritage assets and, as such, the Historic Environment Team would advise that the impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2023) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95.

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to investigate anomalies 1 and 2 as identified in the geophysical survey to determine their significance as heritage assets with archaeological interest. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented in advance of construction works. This archaeological mitigation work may take the form of limited area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

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

EDDC District Ecologist – 18/01/2024

I have reviewed the dormouse survey and report which is fine. A European protected species licence will be required for woody habitat removal, i.e., creating the site access.

I have no update to my previous comments/recommended conditions, e.g., as this would pick up issues regarding dormice.

### EDDC District Ecologist - 04/12/23

#### 1. Introduction

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

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

#### 2. Review of submitted details

##### 1.1. Ecological Impact Assessment (EclA)

The application is supported by an Ecological Impact Assessment (EclA) which includes details of additional ecological surveys for badgers, bats, and partially completed dormouse survey. It also includes a biodiversity net gain assessment undertaken using the biodiversity metric 4.0.

Surveys have been undertaken in accordance with published survey guidelines within the last 12 months with any survey limitations explained. Therefore, the ecological survey work is considered suitable to support the planning submission.

##### 1.2. Ecological receptors

The surveys have demonstrated that the site is used by foraging and commuting bats, including Annex II greater horseshoe and lesser horseshoe (in low numbers). There is a record of a brown long-eared bat roost adjacent to the site. Recent information from the Devon Bat Group also includes the presence of a grey long-eared bat roost within c. 100 m of the site, so the occasional presence of grey long-eared and brown long-eared bats cannot be discounted, likely to be associated with foraging and commuting along hedges and the riparian corridor.

Based on the assemblage of bat species found/likely assumed on the site, the site would be valued between of County1 and Regional importance, with hedges and the riparian corridor of highest value to bats.

The site is located partially within a 2 km cirl bunting consultation zone boundary. The report largely scopes out the potential presence of cirl buntings, based on the site being managed as grassland over the winter. The EclA description of hedgerows H1 and H2 (southern boundary) appear to provide suitable habitat for cirl bunting, consisting of dense hedges dominated by hawthorn and blackthorn. The landscape to the south and west comprises of a mix of agricultural/arable landscape but no consideration of the nearby off-site habitats is provided and potential for the southern hedge to support cirl buntings.

The report also considered that the site is of negligible value to nesting birds and no breeding bird survey was undertaken. Farmland bird species have suffered significant decline<sup>2</sup> recently and other Priority Species<sup>3</sup> and Red<sup>4</sup> and Amber listed bird species have been recorded nearby where breeding bird surveys have been undertaken. Therefore, the value of the site, especially regarding hedges, is considered of more than of negligible value for nesting birds.

A dormouse nest tube survey is ongoing. It is known that the dormice are present within 100 m to the east of the site. Therefore, presence is considered likely.

### 1.3. Ecological impacts

The development would result in the loss of approximately 2.75 ha of arable field, 0.22 ha of modified grassland and small loss of hedgerow, considered to result in a minor adverse impact on a local scale.

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

Measures are proposed including supervised habitat removal by an Ecological Clerk of Works (ECoW), creation of new habitats including species-rich grassland, sustainable urban draining feature, new hedgerows, and trees. Measures also propose bat and bird boxes, a sensitive lighting strategy, and implementation of a Landscape and Ecological Management Plan (LEMP) and Construction and Environmental Management Plan (CEMP).

I would also recommend that the site includes permeable garden fencing and insect bricks (one per dwelling). Bird boxes should be provided at a ratio of one per dwelling.

The headline results from the BNG calculation based on the outline landscape plan indicates that it is possible to achieve a gain of 0.95 habitat units (+10.42%) and gain of 1.10 hedgerow units (+16.44%) using the Biodiversity Metric 4.0.

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

## 3. Conclusions and recommendations

### 1.4. Acceptability of the proposals

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

Prior to determination the results of the dormouse nest tube survey must be submitted. The presence or otherwise of a protected species is a material consideration and a decision should not be made until all surveys are completed.

Police Architectural Liaison Officer - Kris Calderhead - 31/10/23

I appreciate that the layout of the site is only illustrative at this stage however, I would like to make the following comments and recommendations for consideration. They relate to the principles of Crime Prevention Through Environmental Design (CPTED) and should be embedded into the detailed design of the scheme to reduce the opportunity for crime and anti-social behaviour (ASB).

o Should the application progress, it would be beneficial if designing out crime is referenced in any future Design and Access Statement (DAS) or any addendum to the existing one, in order to detail how the scheme has embedded designing out crime principles into its design and thus considered both local and national guidance relating to safety and security.

- o Detailed design should include a layout that provides overlooking and active frontages to the new internal streets with accessible space to the rear of plots avoided. Should the rear boundaries of plots abut public space they should be afforded a buffer to prevent easy access.
- o Any existing or new hedgerow that is likely to comprise new rear garden boundaries must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.
- o Boundary treatments to the front of dwellings and around apartment blocks are important to create defensible space to prevent conflict between public and private areas and clearly define ownership of space. The use of low-level railings, walls, hedging for example would be appropriate.
- o Treatments for the side and rear boundaries of plots should be adequately secure (min 1.8m height) with access to the rear of properties restricted via lockable gates. Defensible space should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.
- o Pedestrian routes throughout the development must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided as shrubs and trees have a tendency to grow over the path creating pinch points, places of concealment and unnecessary maintenance.
- o Presumably the site will be adopted and lit as per normal guidelines (BS 5489). Appropriate lighting for pathways, gates, parking areas and the community square must be considered. This will promote the safe use of such areas, reduce the fear of crime and increase surveillance opportunities.
- o Vehicle parking will clearly be through a mixture of solutions although from a crime prevention point of view, parking in locked garages or on a hard standing within the dwelling boundary is preferable. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms.
- Rear parking courts are discouraged as they provide legitimate access to the rear of plots and are often left unlit with little surveillance.
- o The Play Area should be well overlooked and afforded an appropriate boundary treatment to prevent vehicle access.

Should the application progress, please don't hesitate to contact me again to review any updated plans and designs.

Environment Agency - 07/11/23

We have no objection to the proposed development subject to the inclusion of a condition relating to the management of flood risk on any permission granted. Suggested wording for the recommended condition, the reason for our position and other related advice is provided below.

Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application. Further advice on the application of the sequential test is provided at the end of this letter.

The site is located partially in flood zones 2 and 3 which Environment Agency flood maps indicate as having a medium to high probability of flooding respectively. These flood zones are associated with the main river 'Woodbury Brook' to the north and east of the site. In broadest terms, we are confident that the information submitted within this application demonstrates that the proposal reflects the overriding aims of the National Planning Policy Framework. This is because the applicant appears to have taken a sequential approach to the siting of the built development. However, we appreciate that this application is at outline stage and that despite the submission of an indicative masterplan, the layout of the proposal is a reserved matter. It is therefore important

that certain flood risk principles are established at this stage to inform any detailed design forthcoming in a reserved matters application.

Specifically, it is essential that unfettered vehicular access is provided to reach the area of public open space bordering Gilbrook as shown on the Illustrative masterplan to allow for future flood risk management, including the ability to carry out riparian maintenance. Failure to do so risks an increase in flood risks occurring. Similarly, building on the footprint shown within the submission risks encroachment into flood zone 2 and 3 especially when taking climate change into account. Any future applications should reflect this. We are confident that the details regarding layout, and issues regarding site levels, finished floor levels can be addressed at reserved matters subject to there being no departure from the above principles. We have therefore recommended the above condition which requires the submission of specific details no later than the first reserved matters stage.

We add that should the applicant seek to approach the development in phases, we would be open to discussing a different trigger for the condition.

#### DCC Flood Risk SuDS Consultation - 17/01/24

Observations:

Following my previous consultation response (FRM/ED/2166/2023; dated 6th June 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant should proposed tree pits, rain gardens and other source control features at detailed design stage.

Any temporary or permanent works that need to take place within the main watercourse to facilitate the proposed development (such as an access culvert or bridge), the applicant need to apply for consent from the Environment Agency or Devon County Council.

#### DCC Flood Risk SuDS Consultation - 06/11/23

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has submitted the Flood Risk Assessment And Outline Drainage Strategy (Report Ref. 1788-C300, Rev. C, dated 27th September 2023) to demonstrate the surface water management for the site.

The north eastern area of the proposed site falls within Flood 2 & 3. No development was proposed within the floodplain area.

The applicant has proposed to manage surface water via attenuation tanks and an attenuation pond before discharging to the Gilbrook (River) located at north of the site.

The applicant has split the site into two catchments: the proposed western catchment covers 0.571ha with a discharge rate of 3.7l/s, and the proposed eastern catchment covers 0.687ha with a discharge rate of 4.4 l/s. Therefore, the total discharge rate is 8.1l/s. The applicant should also note

that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond).

Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

The applicant should reconsider the site layout before finalising it to ensure they can accommodate above-ground features within the site as the current proposed drainage layout incorporating various underground tanks and only a small area is allocated for the attenuation pond.

The applicant should clarify where the outfall on the west side of the site will be connected to. The capacity of the downstream culvert (if any) shall be assessed in a later stage of the study.

The applicant also need to clarify whether there is a ditch within the development site and how close the attenuation pond is to this ditch.

There are some inconsistencies between the configuration of the Attenuation Pond shown in the Drainage Strategy Drawing (Drawing No. S-GA-100, Rev. P6, dated 28th September 2023) and the model output results.

Any temporary or permanent works that need to take place within the main watercourse to facilitate the proposed development (such as an access culvert or bridge), the applicant need to apply for consent from the Environment Agency or Devon County Council.

#### South West Water – 24/09/2024

#### Woodbury

The replies for the sites are the same in each case which reflects that position that any development of more than 10 dwellings in the area will require reinforcement of both the potable water and foul water networks. Therefore, the upgrades detailed below will require to be completed, and operational, before the occupation of the properties commences.

SWWL would request that a suitable condition is placed upon all the sites to allow us sufficient time to undertake these works before occupation of the properties. It should be noted that once the works have been completed, based upon the trigger of the first site receiving planning permission, we will be able to discharge the condition for each of the other sites.

SWWL has, in previous planning responses, highlighted the need for investment at the Wastewater Treatment Works (WWTW) and I am pleased to confirm that this work has been completed with SWWL now monitoring ongoing performance at the WWTW.

This investment will allow the sites listed in this response to be connected, once the network investment has been completed, but we maintain a focus upon the need to increase treatment capacity in the area subject to future strategic growth requirements. We will continue to liaise with East Devon DC to understand your future growth strategies.

In summary the following networks improvements are required: -

a. Potable water supplies – to support the developments listed there are network improvements required to upgrade the water main upstream of the village. This investment will take 18 months to complete. This timescale will commence once the first of the three sites receives outline planning permission.

- b. Foul water discharge – to enable the foul flows from these sites to be connected to the public sewerage network there is the need to separate surface water from the existing system to create capacity for these sites. This investment will take 18 months to complete. This timescale will commence once the first of the three sites receives outline planning permission.
- c. No surface water from these sites will be permitted to drain into the public combined sewer network and therefore the developers must follow the surface water drainage hierarchy.

23/2166/MOUT – Gilbrook House, Woodbury

Further to our previous response of 19th December 2023, South West Water Limited make the following updated response to this application.

**Portable Water Supply** - A developer evaluation has highlighted the need for network reinforcement to supply this site. This will be achieved through the reinforcement of the water mains network upstream of the village. The scale of the scheme will depend on other growth in the village. The work will take 18 months to complete from receipt of outline planning permission.

**Foul Water Flows** - There is no change to our approach for this site. We have carried out a developer evaluation and we will deliver a scheme to negate the impact of the growth on the storm overflows in the village. This will likely be done through a Surface Water Separation scheme or another solution which achieves the necessary outputs. The work will take a 18 months to complete from receipt of outline planning permission.

SWWL previous comments highlighted investment that was needed at the WWTW. This has now been completed and we are monitoring performance at the WWTW as we maintain a focus upon the potential of future strategic growth that EDDC may want to promote. Consequently, we would request the following draft conditions for potable and foul water connections - The occupation of any dwellings approved by this permission shall not be authorised until written confirmation is received by the Local Planning Authority from SWWL that improvement works have been completed, or 18 months from receiving outline planning permission, whichever is sooner. SWWL has requested a similar condition on other sites in Woodbury and the first site to get planning permission will trigger the need.

SWWL requests for the other conditions requested on this site remain unchanged. The potable water supply condition is supported by the joint statement produced by SWWL and the EA.

#### South West Water - 04/12/23

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

#### Surface Water Flows

It should be noted that our comments refer to SWW duty to accept surface water which covers domestic run off only. It does not cover any Highway drainage. It is noted that the applicant has stated within their Application Form that surface water flows are intended for disposal via Sustainable Drainage Systems, with an attenuation pond shown on the submitted Illustrative Masterplan. The use of SuDS is in line with the established surface water disposal hierarchy, as described in Planning Practice Guidance (Flood risk and coastal change, paragraph 56, ref id: 7-

056-20220825). The submitted Drainage Strategy (Drawing no. S-GA-100 Rev: P6) states, in addition to the illustrative attenuation pond, proposals for multiple discharges to the watercourse as an overflow from the attenuation pond and from a combination of attenuation tanks. The watercourse runs adjacent to the north and east site boundaries.

SWWL endorses strict adherence to the surface water disposal hierarchy. If the viability of a SuDS solution for surface water disposal is found at a future date to be unviable, then robust evidence must be submitted to justify moving down the hierarchy; in line with Devon County Council guidance (Para 6.3, Sustainable Drainage System - Guidance for Devon - Flood Risk Management). The disposal method described above crosses over method 1 and 2 of the Disposal Hierarchy.

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

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

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

#### Foul Water Flows

It is noted that the applicant has stated within their Application Form that foul water flows are intended for disposal via mains sewer. In principle, SWWL does not currently hold any objection to foul water disposal through a connection to a public Foul Sewer; however, the Woodbury Waste Water Treatment Works [WWTW] requires improvement works and amendments to existing permits prior to accepting an increase in flows. The required improvements at the WWTW, to enable further development to be supported, can only begin in the Spring as dry weather conditions are required. SWWL believe a Grampian condition is required to restrict occupation until the required improvement works have been completed and a permit variation has been approved by the Environment Agency.

SWW can confirm that a 150mm Foul Sewer is located to the north west of the site boundary within Gilbrook road. This sewer is acceptable to receive foul flows in the event the site is developed for the proposed use.

To fully assess the potential impacts on SWWL infrastructure posed by the proposed development, SWWL request the following information is submitted within a subsequent

#### Potable Water Supply

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

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

Contaminated Land Officer - 01/11/23

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should 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.

Environmental Health - 01/11/23

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

Housing Strategy/Enabling Officer - Cassandra Harrison – 19/12/23

I would support this application if they changed the percentage of Affordable Housing to 35%. The rented units would need to be Social Rent tenure as that is more affordable to households in East Devon.

Housing Strategy/Enabling Officer - Cassandra Harrison - 27/10/23

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

Devon is experiencing a housing crisis. The Council has over 5000 households on our housing register, Devon Home Choice. The East Devon Local Housing Needs Assessment dated September 2022 projects future arising housing need at 1789 households from 2020 - 2040.

Therefore, current and future affordable housing need in the district is acute and we need to ensure planning applications for new homes meet the policy requirements.

EDDC Trees - 05/12/23

In principle I have no objection to the development of the site based on a full arboricultural survey. An initial tree constraints survey has identified a number of large important trees including a number of veterans or trees with associated veteran features. The trees on site have recently been protected by a tree preservation order. These need particular consideration to how they can be

successfully incorporated into any design which ensures there long-term retention. It is noted that the masterplan suggests a play area to the north of T7; a play area would need to be a good distance from the trees so that no unnecessary targets are created or risk of long-term compaction of the soil. The plan suggests a reasonable buffer zone around the northern and eastern boundaries; it is suggested that this principle should be followed along the southern boundary. A section of hedge along the western boundary will be required to be removed for highway access though it is considered that there is sufficient space for appropriate mitigation planting. Consideration also needs to be given to any future shading of gardens / properties, appropriate long-term replacement planting and future management of trees and hedges around the boundaries of the site.

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

EDDC Landscape Architect - 21/12/23

## 1 INTRODUCTION

This report forms the EDDCs landscape response to the outline application for the above site.

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

The site is situated to the southwestern edge of the existing settlement. It is relatively low lying, level and generally well screened. There are no landscape designations covering the site or its immediate environs. The East Devon AONB is situated 1.3km to the east.

The site is a preferred housing allocation within the draft new Local Plan.

## 2 REVIEW OF SUBMITTED INFORMATION

### 2.1 Landscape and visual impact

The application site is considered appropriate in principle for housing development and the findings of the submitted Landscape and Visual Impact Assessment are broadly accepted.

### 2.2 Layout and access

Proposals for vehicular access utilise the existing field entrance and are considered acceptable in terms of landscape impact. The site layout allows for a pedestrian access to the north to link into Gilbrook Close. A further pedestrian access should be provided from the southeastern corner of the site to connect via a bridge crossing with Woodbury footpath 3.

While only indicative, the site layout shown on the illustrative masterplan is acceptable in principle but is very geometric in form which is somewhat at odds with the pattern and grain of development within the existing settlement. In places the built development footprint appears to impinge on boundary hedgebanks and the layout should be adjusted to ensure a suitable undeveloped margin is maintained around the site perimeter.

## 3 CONCLUSION AND RECOMMENDATIONS

### 3.1 Acceptability of proposals

The submitted details are considered acceptable in terms of landscape and visual impact.

Natural England - 30/01/2024

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

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

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

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

### Natural England- 08/11/23

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

### SUMMARY OF NATURAL ENGLAND'S ADVICE

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

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

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

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

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

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

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

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

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

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

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

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

Economic Development Officer - 03/11/23

ECONOMIC DEVELOPMENT TEAM – JOINT PLANNING RESPONSE FOR 23/2166/MOUT & 22/2838/MOUT

Recommendation: Object

Introduction

The two applications propose the development of a combined 130 residential dwellings in Woodbury. As both sites have been identified as preferred areas for future mixed-use development in the emerging Local Plan, a combined response to these applications has been put forward.

Site Allocations

The Emerging Local Plan allocates both of these sites for housing and employment uses, specifying the following:

- Wood\_10 - Land at Gilbrook (23/2166/MOUT) is allocated for around 60 dwellings and 0.24 hectares of employment land.
- Wood\_16 - Land south of Broadway (22/2838/MOUT) is allocated for around 67 dwellings and 0.27 hectares of employment land.

(East Devon Local Plan 2020 to 2040, Autumn 2022 Draft Plan, p.86)

The Economic Development team are compelled to highlight a fundamental shortcoming of the planning applications submitted, in that only housing is being proposed and no land has been designated to meet the evidenced need for additional employment land in the local area. If both of these sites are approved for housing as proposed, without the required employment, we will be facilitating a net loss of 0.52ha employment land currently allocated in the emerging Local Plan.

### Employment Land Supply and Demand

East Devon is experiencing a serious and protracted market failure in the supply of available employment land and commercial premises across the district. This is constraining inward investment, local business growth and forcing some employers to have to leave the district.

The East Devon Local Economic Review (LER, Sept 2023) was endorsed by Cabinet on the 10 October 2023 and circulated to all members on the 23 October 2023. This work provides an overview of workspace supply and demand based on data provided by commercial agents and specialist consultants. The evidence shows that unmet demand as of November 2022 for employment space stood at 50.8ha, whilst available supply stood at just 1.7ha. This demonstrates a striking lack of available supply to meet existing demand undermining the supply of local employment and economic activity.

The LER also includes figures for the additional demand of employment space expected between 2019 and 2040. These forecasts suggest an additional 79ha of employment land is required to meet future need. These figures include 10ha of demand for logistics space and factor in the reduced demand for office space resulting from the culture-shift to hybrid working. Current and future demand combined equates to around 129.8ha of additional employment space required.

Expected supply of employment land has also been calculated based upon a number of sites in East Devon which could be developable within the 2019-2040 timeframe. Assuming all of these sites can be delivered, this would add up to 85.4ha of additional space. There are significant concerns that some of these sites are financially unviable and/or have no landowner intention to develop. These issues are being explored further by officers. Even if all of the sites identified are developed, there would still be a shortfall of 42.7ha of employment space in East Devon.

From an economic perspective, the scale of both our current and future undersupply of local employment provision provides no justification for the proposed loss of two valuable preferred employment sites allocated within our emerging Local Plan.

### Conclusion

The critical and worsening lack of employment land in East Devon and the absence of any employment uses within the two proposed applications is a significant concern to be given weight by planning colleagues and which we hope will be acknowledged by members of our Development Management Committee.

Our recommendation is that these applications should be rejected in their current form. We would welcome any amended schemes to include the scale of employment provision identified in the emerging Local Plan (0.24 and 0.27ha respectively) and are willing to work with the applicants to highlight the scale of local demand for this employment space.

Devon County Council Education Dept - 09/01/24

Devon County Council has considered the application above and would like to provide an education response.

Regarding the above planning application, Devon County Council has identified that a development up to 60 family type dwellings will generate an additional 15 primary pupils and 9 secondary pupils which would have a direct impact on Woodbury Church of England primary school and Exmouth College.

DCC has forecast that the local secondary schools does not have capacity for the pupils expected to be generated from this development and therefore DCC will seek contribution towards secondary education. The secondary contribution sought is £211,860 (based on the DfE secondary extension rate of £23,540 per pupil). This contribution will relate directly to providing education facilities for those living in the development.

Woodbury Church of England primary school is forecast to have capacity for the pupils expected to be generated from this development and therefore DCC will not seek a contribution towards primary education.

DCC would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Exmouth Community College. The costs required are as follows: -

£4.41 per day x 190 academic days x 5 years X 9 secondary pupils = £37,705

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 prices and any indexation applied to contributions requested should be applied from this date. All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

DCC Planning - 22/11/23

Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement. This ensures that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance. A key part of this will be to consider the potential for on-site reuse of inert material which reduces the generation of waste and subsequent need to export waste off-site for management. It is recommended that these principles are considered by the applicant when finalising the layout, design and levels.

This application is not supported by a Waste Audit Statement, it is therefore recommended that a condition is attached to any consent granted.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at: <https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planning-document>

Please do not hesitate to get in touch should you have any queries in relation to our comments.

## APPENDIX 2 – Appropriate Assessment

Appropriate Assessment  The Conservation of Habitats and Species Regulations 2017, Section (63)	
<b>Application Reference</b>	<b>23/2166/MOUT</b>
<b>Brief description of proposal</b>	<b>Outline application for the construction of up to 60 dwellings including affordable housing seeking approval for new vehicular access and pedestrian access, with matters of layout, scale, appearance and landscaping reserved for future consideration.</b>
<b>Location</b>	<b>Land South Of Gilbrook House, Woodbury</b>

<b>Site is:</b>	<p><b>Within 10km of the Exe Estuary SPA site alone (UK9010081)</b></p> <p><b>Within 10km of the East Devon Heaths SPA (UK9010121)</b></p> <p><b>Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602)</b></p> <p><b>Within 10km of the Exe Estuary Ramsar (UK 542)</b></p> <p><b>(See Appendix 1 for list of interest features of the SPA/SAC)</b></p>	
<b>Step 1</b>	Screening for Likely Significant Effect on the proposed development at Land South Of Gilbrook House, Woodbury	
<b>Risk Assessment</b>		
<b>Could the Qualifying Features of the European site be affected by the proposal?</b>	<b>Yes - additional housing within 10km of the SPA/SAC will increase recreation impacts on the interest features.</b>	
<b>Consider both construction and operational stages.</b>		
<b>Conclusion of Screening</b>		
<b>Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?</b>	<p><b>East Devon District Council concludes that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA.</b></p> <p><b>See evidence documents on impact of development on SPA/SAC at: East Devon District Council - <a href="http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf">http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf</a></b></p> <p><b>An Appropriate Assessment of the plan or proposal</b> is necessary.</p>	
<b>Local Authority Officer</b>	<b>Liam Fisher</b>	Date: 12 January 2024
<b>Step 2</b>		
<b>Appropriate Assessment</b>		
<p><b>NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.</b></p>		
<b>In-combination Effects</b>		

<p><b>Plans or projects with potential cumulative in-combination impacts.</b>  <b>How impacts of current proposal combine with other plans or projects individually or severally.</b></p>	<p><b>Additional housing or tourist accommodation within 10km of the SPA/SAC will add to the existing issues of damage and disturbance arising from recreational use.</b></p> <p>East Devon has an emerging New Local Plan to 2040 which is currently in preparation. This has been out to consultation under Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012 and while further housing is proposed across the District it is considered too early to understand the final distribution of the housing and its relative proximity and therefore access to the environments. A planning application has been approved subject to a legal agreement for up to 70 dwellings at Land South of Broadway (ref. 22/2838/MOUT).</p> <p>The Teignbridge emerging Local Plan 2040 completed three Reg. 18 consultations between 2018 and 2021 and undertook Regulation 19 consultation in January 2023. At present, there is a live consultation of the Local Plan Proposed Submission Addendum under Regulation 19. This Plan proposes to deliver approximately 12,489 houses in the plan period 2020 - 2040.</p> <p>The Exeter Plan looks to deliver to 14,300 homes over the 20 year period to 2040. This Plan completed a Regulation 18 consultation in December 2022. At present, Exeter is consulting on a full draft plan until January 2024.</p>
<p><b>Mitigation of in-combination effects.</b></p>	<p><b>The Joint Approach</b> sets out a mechanism by which developers can make a standard contribution to mitigation measures delivered by the South East Devon Habitat Regulations Partnership.</p> <p>Residential development is also liable for CIL and a proportion of CIL income is spent on Habitats Regulations Infrastructure. A Suitable Alternative Natural Green Space (SANGS) has been delivered at Dawlish and a second at South West Exeter has been partially opened to attract recreational use away from the Exe Estuary and Dawlish Warren and Pebblebed Heaths.</p>
<p><b>Assessment of Impacts with Mitigation Measures</b></p>	
<p><b>Mitigation measures included in the proposal.</b></p>	<p><b>The Joint Approach</b> standard mitigation contribution required for non-infrastructure:  Residential units £367.62 per house x 60 dwellings = £22,057.20</p>
<p><b>Are the proposed mitigation measures sufficient to overcome the likely significant effects?</b></p>	<p><b>Yes</b> - the Joint Approach contribution offered is considered to be sufficient in conjunction with CIL contributions.</p>
<p><b>Conclusion</b></p>	
<p><b>List of mitigation measures and safeguards</b></p>	<p><b>Total Joint Approach contribution of £22,057.20 will be secured through the S106 for this site and CIL contributions.</b></p>
<p><b>The Integrity Test</b></p>	<p><b>Adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA can be ruled out.</b></p>

Conclusion of Appropriate Assessment	East Devon District Council concludes that there would be <b>NO</b> adverse effect on the integrity of the Exe Estuary SPA/Ramsar site and the East Devon Pebblebed Heaths SPA and SAC <b>provided</b> the mitigation measures are secured as above.	
Local Authority Officer	Liam Fisher	Date: 12 January 2024
<b>21 day consultation to be sent to Natural England Hub on completion of this form.</b>		

Appendix 1. List of interest features:

Exe Estuary SPA

Annex 1 Species that are a primary reason for selection of this site (under the Birds Directive):

**Aggregation of non-breeding birds: Avocet *Recurvirostra avosetta***

**Aggregation of non-breeding birds: Grey Plover *Pluvialis squatarola***

Migratory species that are a primary reason for selection of this site

**Aggregation of non-breeding birds: Dunlin *Calidris alpina alpina***

**Aggregation of non-breeding birds: Black-tailed Godwit *Limosa limosa islandica***

**Aggregation of non-breeding birds: Brent Goose (dark-bellied) *Branta bernicla bernicla***

**Wintering populations of Slavonian Grebe *Podiceps auritus***

**Wintering populations of Oystercatcher *Haematopus ostralegus***

Waterfowl Assemblage

**>20,000 waterfowl over winter**

Habitats which are not notified for their specific habitat interest (under the relevant designation), but because they support notified species.

**Sheltered muddy shores (including estuarine muds; intertidal boulder and cobble scars; and seagrass beds)**

**Saltmarsh NVC communities: SM6 *Spartina anglica* saltmarsh**

SPA Conservation Objectives

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

**Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;**

The extent and distribution of the habitats of the qualifying features

The structure and function of the habitats of the qualifying features

The supporting processes on which the habitats of the qualifying features rely

The population of each of the qualifying features, and,

The distribution of the qualifying features within the site.

Dawlish Warren SAC

Annex I habitats that are a primary reason for selection of this site (under the Habitats Directive):

**Annex I habitat: Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes'). (Strandline, embryo and mobile dunes.)**

**SD1 *Rumex crispus-Glaucium flavum* shingle community**

**SD2 *Cakile maritima-Honkenya peploides* strandline community**

**SD6 *Ammophila arenaria* mobile dune community**

**SD7 *Ammophila arenaria-Festuca rubra* semi-fixed dune community**

**Annex I habitat: Fixed dunes with herbaceous vegetation ('grey dunes').**

**SD8 *Festuca rubra-Galium verum* fixed dune grassland**

**SD12 *Carex arenaria-Festuca ovina-Agrostis capillaris* dune grassland**

**SD19 *Phleum arenarium-Arenaria serpyllifolia* dune annual community**

**Annex I habitat: Humid dune slacks.**

**SD15 *Salix repens-Calliergon cuspidatum* dune-slack community**

**SD16 *Salix repens-Holcus lanatus* dune slack community**

**SD17 *Potentilla anserina-Carex nigra* dune-slack community**

Habitats Directive Annex II species that are a primary reason for selection of this site:

**Petalwort (*Petalophyllum ralfsii*)**

**SAC Conservation Objectives**

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring:

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

List of interest features:

**East Devon Heaths SPA:**

A224 *Caprimulgus europaeus*; European nightjar (Breeding) 83 pairs (2.4% of GB population 1992)

A302 *Sylvia undata*; Dartford warbler (Breeding) 128 pairs (6.8% of GB Population in 1994)

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

**East Devon Pebblebed Heaths SAC:**

This is the largest block of lowland heathland in Devon. The site includes extensive areas of dry heath and wet heath associated with various other mire communities. The wet element occupies the lower-lying areas and includes good examples of cross-leaved heath – bog-moss (*Erica tetralix* – *Sphagnum compactum*) wet heath. The dry heaths are characterised by the presence of heather *Calluna vulgaris*, bell heather *Erica cinerea*, western gorse *Ulex gallii*, bristle bent *Agrostis curtisii*, purple moor-grass *Molinia caerulea*, cross-leaved heath *E. tetralix* and tormentil *Potentilla erecta*. The presence of plants such as cross-leaved heath illustrates the more oceanic nature of these heathlands, as this species is typical of wet heath in the more continental parts of the UK. Populations of southern damselfly *Coenagrion mercuriale* occur in wet flushes within the site.

Qualifying habitats: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath  
H4030. European dry heaths

Qualifying species: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

S1044. *Coenagrion mercuriale*; Southern damselfly

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

#### Exe Estuary SPA

Qualifying Features:

A007 *Podiceps auritus*; Slavonian grebe (Non-breeding)  
A046a *Branta bernicla bernicla*; Dark-bellied brent goose (Non-breeding)  
A130 *Haematopus ostralegus*; Eurasian oystercatcher (Non-breeding)  
A132 *Recurvirostra avosetta*; Pied avocet (Non-breeding)  
A141 *Pluvialis squatarola*; Grey plover (Non-breeding)  
A149 *Calidris alpina alpina*; Dunlin (Non-breeding)  
A156 *Limosa limosa islandica*; Black-tailed godwit (Non-breeding)  
Waterbird assemblage

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

#### Exe Estuary Ramsar

Principal Features (updated 1999)

The estuary includes shallow offshore waters, extensive mud and sand flats, and limited areas of saltmarsh. The site boundary also embraces part of Exeter Canal; Exminster Marshes – a complex of marshes and damp pasture towards the head of the estuary; and Dawlish Warren - an extensive recurved sand-dune system which has developed across the mouth of the estuary.

Average peak counts of wintering water birds regularly exceed 20,000 individuals (23,268\*), including internationally important numbers\* of *Branta bernicla bernicla* (2,343). Species wintering in nationally important numbers\* include *Podiceps auritus*, *Haematopus ostralegus*, *Recurvirostra avosetta* (311), *Pluvialis squatarola*, *Calidris alpina* and *Limosa limosa* (594).

Because of its relatively mild climate and sheltered location, the site assumes even greater importance as a refuge during spells of severe weather. Nationally important numbers of *Charadrius hiaticula* and *Tringa nebularia* occur on passage. Parts of the site are managed as nature reserves by the Royal Society for the Protection of Birds and by the local authority. (1a,3a,3b,3c)