

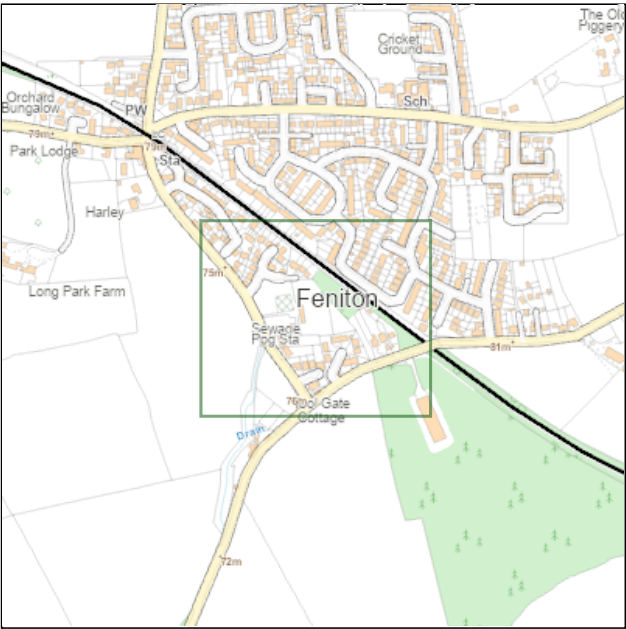
Ward Feniton

Reference 23/0296/MFUL

Applicant Mr Andrew Woods (Cresco Asset Management Limited)

Location Burlands Mead Feniton Devon EX14 3BS

Proposal Construction of development comprising 35 dwellings and associated landscaping and infrastructure



RECOMMENDATION: Resolution to approve subject to conditions and completion of a s106 agreement. To adopt the Appropriate Assessment.



		Committee Date: 25.02.2025
Feniton (Feniton)	23/0296/MFUL	Target Date: 12.06.2023
Applicant:	Mr Andrew Woods (Cresco Asset Management Limited)	
Location:	Burlands Mead Feniton	
Proposal:	Construction of development comprising 35 dwellings and associated landscaping and infrastructure	

RECOMMENDATION: Resolution to approve subject to conditions and completion of a s106 agreement. To adopt the Appropriate Assessment.

EXECUTIVE SUMMARY

This proposal seeks planning consent for the creation of 35 dwellings with associated infrastructure. The proposed development conflicts with the development plan as it seeks to build residential housing in the countryside outside the defined Built-Up Area Boundary (BUAB) for Feniton. Further, the proposal would result in the loss of a former employment building and there are ambiguities remaining over the marketing exercise, such that limited harm has been identified to employment opportunities. Nevertheless, the loss of such employment space must weigh against the proposal.

The district cannot currently demonstrate a sufficient five-year housing land supply. The latest changes to the National Planning Policy Framework (NPPF) emphasises the need to significantly boost the supply of housing across England. This proposal would deliver a meaningful number of dwellings, including 51% affordable housing, addressing the need for housing in the district. It would also generate short-term economic benefits during the construction phase and longer-term social benefits by providing much-needed housing. The provision of affordable housing thereby meeting a demonstrable need, is a key priority of the NPPF and government policy, and one which carries substantial weight in the planning balance.

The site lies within a Critical Drainage Area (CDA) which raises potential flood risk concerns. However, this risk has been satisfactorily addressed through a robust Flood Risk Assessment (FRA) and the inclusion of a suitable Sustainable Drainage System (SuDS) scheme to manage surface water effectively. Ongoing flood mitigation works involving the Council have been approved and are in progress to address wider drainage issues – however this can only be attributed limited weight at this time. South West Water (SWW) has also deemed the proposed foul drainage scheme acceptable, subject to appropriate Grampian-

style conditions. Further, the site has been chosen as a preferred allocation under the regulation 19 emerging local plan process. Therefore, the flood risk to the development and surrounding areas is considered to be adequately mitigated.

The site is reasonably close to the services and facilities in Feniton, which are accessible via safe pedestrian routes. The distance to these services ensures that reliance on private vehicles by future residents would not be necessary.

The ecological impact of the development has also been appropriately mitigated and the landscape issues raised can be suitably addressed within conditions and a legal agreement.

The benefits of the development, including the delivery of housing to improve the district's land supply and the provision of much-needed affordable housing, outweighs the identified conflict with the development plan. Accordingly, the harm of being sited outside the BUAB does not demonstrably and significantly outweigh the benefits. It is therefore recommended that a resolution to grant planning permission is made subject to conditions and the completion of a Section 106 agreement.

As this recommendation conflicts with the views of the Ward Member the application is referred to the Development Management Committee.

CONSULTATIONS

Local Consultations

Feniton - Cllr Alasdair Bruce - 29.03.2023

I must post the following objections to this planning application.

Flooding

The village of Feniton has a long recorded history of flooding, including the area of the proposed site. The yet to be tested flood alleviation scheme has still to demonstrate it can successfully cope and disperse flood water in heavy rain fall. It is impossible to see how an increase in housing will do anything but aggravate the ongoing misery of those that continue to suffer.

In addition, a recent application nearby at Park Lodge was roundly refused by EDDC, one of the grounds being the recorded issue of flooding on the site. A level of flooding which has been ironically commented on in the developers report for this site which is noted often reaches a similar depth!

Sewerage

The appalling state of the current sewerage system in this part of Feniton was discussed in detail at a recent public meeting, with many examples of personal experience of sewerage backing up into people's homes at times of heavy rainfall. At the very least, the entire system needs overhauling before any further building is allowed in Feniton.

Density

The proposed level of buildings appeared very dense and it would seem not enough capacity for parking has been accounted for.

Traffic

The lanes around Feniton are often at capacity during peak times, especially when the rail crossing barriers are down. There are no plans to change this so an increase in traffic from this development will only serve to further aggravate an existing problem.

Infrastructure

Feniton was described in the 2014 super inquiry as being an unsustainable village for further development due in part to a lack of infrastructure. This position has not changed, and has indeed gone backwards. Much is made in the developers report of pedestrian access and public transport. Along with a number of erroneous assumptions in the report, one wonders if anyone actually visited the village. There are no pavements in the roads relating to the site. The bus service is very poor and the reality is almost everyone uses cars to access employment and services outside the village.

In summary, the above along with the many well informed comments from residents should be ample for the committee to see that there are a wealth of factual contradictions to the developers report which should see this application refused.

24/01/2025 - I am responding to your email seeking comments on the amended plans for the above application. I am agreement with the parish council in that almost none of the previous concerns have been addressed, and therefore I remain in objection to this application.

22.02.2024 - Clerk To Feniton Parish Council

Feniton Parish Council - comments 22.2.24 Burlands Mead 23/0296/MFUL

The comments that we have submitted already on this application are still relevant as there are only minor amendments made by the applicant.

However, it's important to add our further comments with reference to the updated NPPF, the Environment Act 2021 and the emerging findings of the review of the Neighbourhood Plan.

The NPPF, at para 61 makes it clear that the plan should base its development aspirations on a Housing Needs Assessment (HNA). There is no definition of "plan", but as Neighbourhood Plans are quoted many times in the NPPF there is an obvious read across and therefore our conclusion is that "plan" means Local Plans and Neighbourhood Plans.

When the Neighbourhood Plan was being prepared, an HNA was researched and prepared by the Community Council of Devon. This concluded that a total of 15 houses were required.

EDDC financed a further HNA, requested by Feniton Parish Council, for the review of the Neighbourhood Plan [NA]. This resulted in a new figure of 13, a 15% reduction in need.

The ongoing assessment of public transport has shown a decline in service, with no indication of any improvement provided by this application. This is clearly contrary to the NPPF strategic policy 20[b] and the application should fail on this alone. The increase in car traffic that will result from this application will add a huge increase to the carbon footprint of the village. Again, this is contrary, not only to the NPPF, but also to general Government and UN policy.

There is also an underlying principle that all new developments should have the infrastructure and facilities to allow them to satisfy the criteria laid out at para 8a, 8b and 8c of the NPPF. Para 74 NPPF reinforces that requirement.

The super inquiry of 2014 made it very clear that Feniton did not have the infrastructure or facilities for further large scale developments. Ironically, since that decision was made the infrastructure and facilities have got significantly worse. The railway timetable has been reduced, the traffic through the village from other settlements has increased, the schools have now reached saturation point meaning both primary and secondary school children will have to be bussed or taxied to schools outside their normal catchment. This is totally against our Objective [4] "Promote opportunities for young people to access education"

The medical facilities at Ottery St Mary, where most residents are registered have been on the decline for some time and are unable to cope with their current patient base properly. Adding further numbers could well see the complete demise of the practice resulting in a large number of the village population not having access to medical facilities. One of the Objectives [7] of the NP is to support the provision of local medical facilities. Clearly this application goes against this objective.

Having studied the way the developer has put together the proposed drainage strategy, there still appears to be a lack of understanding of the issues involved.

Their latest scheme has failed, in our view, to take into account all the known and anecdotal evidence that indicates the site will impact other parts of the village with their scheme. SUDS are supposed to be completely self contained on the development site. If this was allowed to go ahead, we can see the sort of issues we have with the Feniton Park site, where water run off is impacting the houses adjacent and EDDC and DCC are now trying to deal with the problem.

Finally, we turn to the Environment Act 2021. The developer was required to do an assessment of the biodiversity of the site, before and after being built on, using a statutory matrix. Their plans were required to show an increase in biodiversity of 10%. It appears that they have failed to do so.

24.03.2023 - Parish/Town Council

Feniton Parish Council strongly object to this application for the following reasons:

' The site is outside the current built up area boundary.

' The road infrastructure is not suitable for the increase in traffic and there are no plans to improve it. Traffic holdups at the railway crossing are more and more frequent, partly due to development in other villages having to come through Feniton to get to the main A30.

' It appears to be indicated that there will no on road parking on the development, which does seem a little naïve. Parking on the Ottery Road would be hazardous to both other drivers and pedestrians. Traffic coming in and out of the site would cause further congestion on the narrow roads and without pavements would be further

danger to pedestrians. Many secondary school children walk from Green Lane to the bus pick up points nearer the station and they would be put at much more risk, especially as they would walk blind out of Green Lane, which does not have pavements. There doesn't seem to be any real substance in the transport assessment which should have identified and addressed some of these issues.

' Because of the very poor declining public transport in the village, it will mean more cars having to commute to work, increasing the carbon footprint of the village contrary to the NPPF.

' The schools, both primary and secondary, are unable to cope with an increase in children, at this time. The probable increase of 10 children, generated by the application, will mean DCC having to fund buses or taxis to take them outside the area, again increasing the carbon footprint of the village and wasting vital taxes.

' The issue of flooding and drainage has been addressed by a desk based review and has failed to take into account the very crucial issues relating to the flooding of the village. It is also interesting that only one flood event was mentioned, even though there have been numerous serious events and many more minor events. The private watercourse, referred to in their submission, is the main flood relief pipe (was a ditch up to the 60s) for the bottom end of the main estate. It has already been shown to be inadequate by itself and the new FAS will hopefully improve the situation. However, it will still be a crucial part of the scheme, taking flood water away that the new pipe cannot pick up. This can be seen by looking at the flood map. To put the storm water from another 40 houses, plus the hard landscaping, into that water course, could see some further flooding on the other side of the railway line and possibly on the site itself. The site floods and water pools in Ottery Road. Ironically their review highlights the fact that the Ottery Road floods to a depth of 2 feet, but does not see this as a problem, even suggesting alternative routes for emergency vehicles. The whole Flood Risk Assessment seems to have been drawn up on the basis of anecdotal evidence and phone calls. In the Council's view it is an extremely unsatisfactory document that has not addressed the flood risks in any meaningful way.

' The fact that SWW have no choice but to allow the site to connect to the existing foul sewer is of some very serious concern. The sewer running along Ottery Road is a combined sewer. This results in sewage being discharged onto the road, during times of high rainfall. It is evident from the map showing flooding from surface water that the railway crossing is shown as high level of flooding going to medium along Ottery Road until it meets the site where it becomes high again. All this flood water has to go into the foul sewer, blowing the covers, and putting sewage contaminated water along the road. We have been told that someone who had to walk through this effluent caught *Cryptosporidium* and was quite ill. The other, very serious effect, is that the sewers from the Burlands site, next door, has sewage backing up into their houses during heavy rain. This is well known by the Authorities and the only practical advice has been to not use the toilet, use a bucket and if sewage is backing up in the toilet, stuff an old duvet down to stop the toilet overflowing. The proposed site will likely suffer the same problem and quite possibly worse. It would seem inappropriate to allow a development to be built with this hanging over them. The development

downstream at Green Acres has sewage backing up at times, but so far it is only the smell and not effluent causing a nuisance.

' It has been proved beyond doubt, firstly by the Inspector Jessica Graham at the Super Inquiry in 2014 and then by the Inspector Jill Kingaby in 2018 signing off the Neighbourhood Plan that the village is not a sustainable location, as required by the NPPF and they commented that 'substantially increasing the number of houses in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services would risk eroding community cohesion'. This application does little or nothing to address those issues.'

08.08.2023 - Clerk To Feniton Parish Council

As in the previous comments submitted on the original application the view of the Council has not changed. There are marginal differences but overall the Council feel that none of the concerns expressed in those comments have not been addressed by the amended application."

This will be ratified and minutes at the September meeting due to there being no meeting in August.

23/01/2025 - All The Parish Council comments made previously, still stand, as the amendments do little or nothing to address the concerns raised.

Technical Consultees

South West Water (SWW)

South West Water reviewed the application in March 2023 and February 2024. They provided detailed feedback on drainage, potable water, and asset protection. South West Water noted that the applicant plans to connect to manhole 6009 at a rate of 1.62 l/s for foul water flows, with the intention of seeking sewer adoption. They reminded the applicant to adhere to the latest Design and Construction Guidance and mentioned that infiltration removal work at Sidmouth Junction SPS is planned, negating the need for further network reinforcement. For surface water flows, SWW emphasized the importance of sustainable drainage solutions like rainwater harvesting and permeable paving, while making clear that land and highway drainage must not be connected to public sewers. SWW also outlined additional conditions, including the need for detailed drainage designs, plans for managing construction surface water, exceedance flow strategies, and adoption and maintenance proposals. Regarding potable water, SWW stated that upgrades to the water distribution system would take 18 months and recommended a water conservation strategy to achieve a usage rate of 110 litres per person per day. Finally, SWW outlined asset protection requirements, including maintaining 3m easements from sewers and avoiding construction within 15m of the pumping station to minimize risks from odour, noise, and vibration.

05.02.2025 - South West Water have no further comments to add to our response of 2nd October 2024.

Devon County Council (DCC) Flood Risk SuDS Consultation

DCC initially objected to the application due to insufficient information but later conditionally withdrew the objection.

DCC expressed initial concerns that the surface water drainage strategy did not conform to Policy EN22 and emphasized the importance of using above-ground sustainable drainage systems (SuDS) over underground systems, which lack water quality, public amenity, and biodiversity benefits. They required further justification for runoff rate calculations. In their revised submission, DCC imposed conditions including the provision of detailed drainage designs, construction surface water management plans, adoption and maintenance proposals, and exceedance flow strategies. They supported incorporating above-ground features like rain gardens.

East Devon District Council (EDDC) Trees

EDDC tree officers highlighted concerns regarding tree retention, non-dig construction techniques, and tree protection measures.

They noted significant issues with the encroachment of development into root protection areas (RPAs) of notable trees, including T914 and T915. They found insufficient clarity in the plans for non-dig construction and ground protection measures. The council expressed concern over the removal of hedgerows like H6, which had not been adequately justified. They acknowledged positive revisions, including the removal of Plot 17, which eased pressure on trees T914 and T915, but also requested updated tree protection plans and arboricultural method statements for clarity.

Devon County Highways

Our road collision record has been reviewed and for the 5 year period of our current records, January 2018 to December 2022, only 1 slight collision presents within the vicinity, indicating few safety issues with the local highway network. The new priority junction to be created from the existing access has acceptable visibility in both the north and south direction in accordance with our best practice guidance, Manual for Streets 1 and 2. The site layout includes sufficient space for off-carriageway turning and parking including for the Class E ground floor use, set aside for either Health or Retail use. An additional pedestrian path will also be utilised internal of the site out onto Green Lane.

To further enhance the pedestrian provision, together with the good bus and rail services of Feniton, I would recommend that the proposed secure cycle storage is conditioned to help encourage sustainable travel and further help reduce the trip generation impact from this development.

That being said, I do not believe the trip generation from this proposed 40 dwellings and Class E use will create an unacceptable trip generation intensification.

Devon County Archaeologist

I refer to the above planning application and the recently received report setting out the results of the archaeological investigations undertaken within the proposed development site. These investigations have demonstrated, despite the proximity to the known site of a prehistoric funerary monument, the proposed development site has a low archaeological potential. As such, no archaeological mitigation is required.

In the light of the results of the archaeological evaluation of this site I would like to withdraw the Historic Environment Team's previous comments and instead offer no comments on this planning application.

EDDC Landscape Architect

The EDDC Landscape Architect found the development to be overly dense, with poor provision of open space and an overemphasis on car parking. They criticized the lack of adequate buffer zones for woodland and hedgerows, and noted that the proposed tree planting plans lacked attention to detail, including species placement and soil volume calculations. They recommended reducing the site's density, retaining hedgerows, and revising the layout to include appropriate buffer zones and locally distinctive landscaping features. In response amended plans were submitted by the applicant, however, there are still outstanding issues to be resolved with regards to hard/soft landscaping and means of enclosure.

EDDC District Ecologist

The EDDC District Ecologist emphasized the site's ecological significance, noting the presence of exceptional populations of slow worms and dormice. They pointed towards the development for failing to provide sufficient compensatory habitat for these species, with biodiversity net gain (BNG) calculations showing a significant loss of hedgerow units (-40.02%) and habitat units (-7.04%). The ecologist recommended off-site compensation measures, the implementation of a Landscape and Ecology Management Plan (LEMP), and a Construction Ecological Management Plan (CEcoMP).

EDDC Housing Strategy/Enabling Officer

29.01.25 - The layout looks like it has been improved and is more dispersed through the site now.

On balance the housing mix does meet an identified housing need and is a good range of dwelling sizes for a relatively small development.

I support this application.

NHS

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £23,819.00

sought will go towards the gap in the funding created by each potential patient from this development.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

EDDC Economic Development Officer

Objects to the proposal due to loss of employment land and non-compliance with Strategy 32.

The Economic Development Officer objected to the proposal, citing the loss of land previously used for employment purposes. They criticized the insufficient evidence provided by the applicant to demonstrate that the site could not be retained for employment use. They also noted the critical shortage of employment land in the area.

Environmental Health

Recommends approval with conditions related to construction and noise mitigation. Environmental Health recommended approval with conditions requiring a Construction and Environmental Management Plan (CEMP) to address noise, dust, lighting, and pollution. They also requested a noise assessment for dwellings near train lines and restricted delivery hours to protect residential amenity. Noise mitigation measures and compliance with British standards for sound insulation were also emphasized.

Police Architectural Liaison Officer

No objection but recommends defensive planting and low-level boundary treatments to reduce crime risks.

The Police Architectural Liaison Officer supported the scheme but recommended the addition of defensive planting along rear garden boundaries to deter graffiti and ball games. They also suggested knee-high railings or similar boundary treatments to define public open spaces and discourage misuse.

Other Representations

To date 48 objections have been received (including from former MP Simon Jupp), in summary;

- The development would result in surface water flooding
- Flooding will carry viruses and significantly result in adverse impact health risks (identified by a consultant who specialises in infectious diseases).
- Contrary to the development plan – outside BUAB

- Amenity – overlooking and overbearing
- Poor design
- Increase traffic causing health and safety risks and congestions.
- Noise during construction
- Loss of protected trees.
- Contrary to the finding of previous appeals.
- Would set a precedent.
- Infrastructure unable to cope – school, Doctors/Dental surgery, NHS facilities
- Poor surface water drainage
- Village unable to cope with increase in residential units.
- Harm to wildlife
- Insufficient foul drainage infrastructure
- Not enough parking
- Archaeological important site at risk.
- Lack of transport links.
- Landscape harm

PLANNING HISTORY

Reference	Description	Decision	Date
22/1926/TRE	G1, Comprised of 5 x Lawson cypress, 1 x Whitebeam, 1 x Monterey cypress and 1 x Cherry tree: i) Crown lift to a height of 5.2m above the public highway and footpath. ii) Crown reduce by up to 2m, making pruning cuts of up to 50mm in diameter.	13.10.2022	Approved
20/2247/FUL	Refurbishment of existing workshop and garage and conversion to 3no. terraced houses.	03.02.2021	Refused
96/P0143	Replan Part Of Site From Two Units To Three	24.04.1996	Approved
95/P0683	Erection Of Three Additional Dwellings & Repositioning Of Plots 15 & 16	07.06.1995	Approved
93/P1335	Erection Of 18, Link, Semi And Detached Properties	10.01.1994	Approved
92/P1245	Erection Of 12 Dwellings Renewal Of Permission	22.09.1992	Approved

88/P1174	12 Houses	16.12.1988	Approved
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)
 Strategy 2 (Scale and Distribution of Residential Development)
 Strategy 3 (Sustainable Development)
 Strategy 4 (Balanced Communities)
 Strategy 5 (Environment)
 Strategy 5B (Sustainable Transport)
 Strategy 7 (Development in the Countryside)
 Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)
 Strategy 34 (District Wide Affordable Housing Provision Targets)
 Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)
 Strategy 37 (Community Safety)
 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)
 EN13 (Development on High Quality Agricultural Land)
 EN18 (Maintenance of Water Quality and Quantity)
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
 EN21 (River and Coastal Flooding)
 EN22 (Surface Run-Off Implications of New Development)
 H2 (Range and Mix of New Housing 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)

Neighbourhood Plans

Feniton 'made' Neighbourhood Plan

Policy T1

Policy T2

Policy F1

Policy H1

Policy H3

Policy H3

Policy C2

Policy E1

Policy 02

Emerging East Devon Local Plan

CHAPTER 3. THE SPATIAL STRATEGY

Strategic Policy SP01: Spatial strategy

Strategic Policy SP02: Levels of future housing development

Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area

Strategic Policy SP05: Development inside Settlement Boundaries

Strategic Policy SP06: Development beyond Settlement Boundaries

CHAPTER 5. DEVELOPMENT IN THE TOWNS AND VILLAGES

Strategic Policy SD18: Development allocations at Feniton

CHAPTER 6. MITIGATING CLIMATE CHANGE

Strategic Policy CC01: Climate emergency

Strategic Policy CC02: Moving toward Net-zero carbon development

Strategic Policy CC03: Promoting low carbon and renewable energy

CHAPTER 7. ADAPTING TO CLIMATE CHANGE

Strategic Policy AR01: Flooding

Strategic Policy AR02: Water efficiency

CHAPTER 8. MEETING HOUSING NEEDS

Strategic Policy HN01: Housing to address needs

Strategic Policy HN02: Affordable housing

Policy HN03: Housing to meet the needs of older people

Policy HN04: Accessible and adaptable Housing

Policy HN05: Self-build and custom build housing

CHAPTER 9. SUPPORTING THE ECONOMY AND TOWN CENTRES

Strategic Policy SE04: Resisting the loss of employment sites

Strategic Policy SE06: Town Centre Hierarchy

CHAPTER 10. HIGH QUALITY DESIGN

Strategic Policy DS01: Design and local distinctiveness

Policy DS02: Housing density and efficient use of land

CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS

Strategic Policy TR01: Prioritising walking, wheeling, cycling, and public transport

Strategic Policy TR02: Protecting transport sites and routes

Policy TR03: Travel plans, transport statements and transport assessments

Policy TR04: Parking standards

CHAPTER 12. OUR OUTSTANDING LANDSCAPE

Strategic Policy OL01: Landscape features
Policy OL09: Control of pollution
Policy OL10: Development on high quality agricultural land

CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY

Strategic Policy PB01: Protection of internationally and nationally important wildlife sites

Policy PB02: Protection of regionally and locally important wildlife sites

Policy PB03: Protection of irreplaceable habitats and important features

Strategic Policy PB04: Habitats Regulations Assessment

Strategic Policy PB05: Biodiversity Net Gain

Strategic Policy PB06: Local Nature Recovery Strategy and Nature Recovery Network

Policy PB07: Ecological enhancement and biodiversity in the built environment

Policy PB08: Tree, hedges and woodland on development sites

Policy PB09: Monitoring requirements for new planting schemes

CHAPTER 14. OPEN SPACE AND SPORTS AND RECREATION

Strategic Policy OS01: Access to open space and recreation facilities

Policy OS02: Sport, recreation and open space provision in association with development

Policy OS03: Location of facilities for sport and recreation and open

Policy OS04: New allotments and avoiding the loss of existing ones

Policy OS05: Leisure and recreation developments in the countryside

Development Plan Documents

East Devon Villages Plan (2018)

Government Planning Documents

NPPF (National Planning Policy Framework 2024)

National Planning Practice Guidance

Site Location and Description

Burlands Mead is a detached property situated in large grounds. It is located on Ottery Road, within a few hundred metres of the main facilities in Feniton, the railway station, school, pub and supermarket. Within the site are greenhouses and a redundant single storey workshop/office building. The site is bordered by residential development on two sides, with woodland occupying the eastern portion with the railway further beyond. Currently the site is positioned outside of the BuAB (Built Up Area Boundary) for Feniton. The land is relatively flat and can be seen on the approach into the village. There is an existing access point with tarmacked drive leading to the complex of buildings. On the opposite side of the main road are an expanse of agricultural fields giving rise to a semi rural character.

Proposed Development

The proposal seeks full planning permission for the creation of 35 dwellings and associated landscaping with infrastructure. The proposal has evolved over time which has seen a reduction in overall numbers and the loss of an originally proposed B1 unit (replaced by a rain garden area). Amended plans submitted in January 2025 updated the archaeological assessment, altered house sizes to comply with national space standards and alteration to the position of affordable housing to better pepperpot. The following considerations are made in light of the plans as amended.

The proposed site area is approximately 1.4 ha and with 35 dwellings proposed, this equates to a proposed density of 25 dwellings per hectare.

The proposal includes several house types accessed from a main spine road. The existing access point serving the site would be used. To the north of this access are affordable units consisting of a broadly semi circle layout configuration, with adjacent parking. Further into the site on the south side of the spine road is more affordable dwellings consisting of apartments with parking to the front. To the rear of these is open space. Moving further into the site, away from the adjacent highway, is the open market dwellings consisting of 3 and 4 bed dwellings. Between this open market housing and the railway line positioned further to the east is a general wooded amenity area. Additional open space area is positioned to the south east of the open market dwellings.

Pedestrian footpaths are proposed to allow on foot access from the north and east of the site. Parking to serve each of the dwellings is also proposed. A range of boundary treatments are proposed consisting of close boarded fencing, brick estate walls, railings and post and wire.

Underneath the rain garden subterranean surface water crates are proposed to store and control flow rates. In terms of foul water drainage, the proposal seeks connection with the existing SWW mains within the main road which feeds into the pumping station positioned on the other side of this main road. The site has an existing culvert that runs diagonally through the middle of the site which requires an easement zone either side.

The proposal would involve the removal of 5 TPO Lawson Cypress trees along the site north edge, which previously provided screening of the residential estate to the north east of the application site. Pedestrian access would also be available from the east with a connecting footpath through to Green Lane.

It is worth noting that the consultation on the draft emerging Local Plan identifies this site as a preferred allocation under ref; Feni_05.

Site Assessment Summary for Feni_05:

Infrastructure implications: There are no explicit site specific infrastructure issues identified in this phase of this work for this site. However, for Feniton on a more general level (and these concerns could impact on or be relevant to development potential of this site), there are or could be concerns around highway capacity, water and flooding and education provision.

Landscape sensitivity - summary of findings: This site was previously used as a

plant nursery and some building and structures and an old dwelling remain on the site. The site is over-grown and with development to three sides and a road frontage it does not read as being part of the open countryside, albeit it does have an open and somewhat wild character.

Impact on historic environment - summary of findings: There are no designated heritage assets in close proximity of the site.

Ecological impact - summary of findings: The extensive vegetation cover on the site and the fact that it contains a number of mature trees within and to its boundaries means that it is likely to support species of at least some local interest. There are no designated wildlife features or assets close to the site.

Accessibility assessment: The site falls within 1,600 metres of the modest range of services and facilities that are available in Feniton.

Other known site constraints: There are no other identified constraints to development that are specific to this site.

Site opportunities: There are no specific opportunities that development of the site could help deliver other than noting that development would help secure new housing provision.

Amended Maximum Yield following discounted areas on site: 42

Brief summary of the key positives and negatives of the site: The site would form a reasonable allocation for residential development.

Should the site be allocated? Yes

Reason(s) for allocating or not allocating: This is the site of a former plant nursery that contains former structures and buildings that are in a poor state of repair. The site lies towards the southern side of new Feniton. A planning application, 20/2247/FUL, on part of the site to include three houses was refused. The rectangular site has existing development to three sides and can be seen as a reasonable development option, it presents what might be looked upon as a large infill opportunity in the built fabric of the village. However, there is a concern that it is not clear if alternative employment uses for the site have been effectively explored and also extensive on-site vegetation cover may be of some wildlife interest

Members should be aware that at Strategic Planning Committee it was agreed that this should be included as a preferred site allocation as part of the Regulation 19 emerging local plan.

ANALYSIS

The main issues concerning this proposal are;

- The principle of the development
- The need to maintain a healthy housing supply and trajectory going forward
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- The impact on highway safety and the road network.
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The principle of the development

Strategies 1 and 2 of the East Devon 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. Feniton does however feature a Built up Area Boundary (BUAB) as designated within the Villages Development Plan Document.

The proposed development would comprise major development in the countryside, outside of the defined settlement boundary of Feniton, thereby conflicting with Strategy 7 and Strategy 27 of the local plan. Consequently, the site would not offer an appropriate location for the development proposed having regard to the development plan's overall settlement strategy and expectation for such development to be contained within a designated built up area boundary.

Feniton has a 'made' neighbourhood plan. The date of 'making' this Plan is 19 July 2018. This was following the successful referendum on 17th May 2018, where 93.71% of residents who voted were in favour of adopting the Plan.

NP Policy H3 Housing developments states within Feniton's BUAB development will usually be supported where they include a range of house types. The NP policies do not specifically allow for any housing development outside of the BUAB.

Given the above residential development of this nature and within this location conflicts with the spatial approach to development as expressed within the development plan. This conflict is attributed significant weight given that protection of the countryside, preventing sporadic development and ensuring suitable growth are amongst the main objectives of the local plan.

The need to maintain a healthy housing supply and trajectory going forward

The need for housing over the next five years is a crucial consideration in planning decisions. According to the National Planning Policy Framework (NPPF) 2024, 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.

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. Within an adequate supply of housing an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of the NPPF.

Appeal decisions have shown that even if a site is not allocated in the current plan or is outside development boundaries, it can still nevertheless be considered for 'sustainable development' if there is no identified contextual conflict, would unbalance communities and is within reasonable reach of an appropriate level of services and facilities.

As a result of the recent publication of the government's proposed reforms to the National Planning Policy Framework published on 12 December 2024 the Assistant Director – Planning Strategy and Development Management was disappointed to report that the Council's position had now become significantly worse. He explained that the Council now had to assess its housing land supply position against the new standard method figure of 1,188 homes per year, an increase of just over 200 homes per year as well as include a requirement of a 5% buffer. As a result, the Council's housing land supply position is **2.97 years**.

Anticipated housing completions over the next five years suggest continued underperformance against statutory requirements. Projections indicate an accumulating deficit unless swift action is taken to accelerate delivery. Adjustments to policies encouraging smaller and garden land windfall developments may provide incremental supply boosts.

The council must address the housing supply deficit to align with NPPF standards and support the adoption of the emerging Local Plan by 2026.

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.

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

The 2024 National Planning Policy Framework, as a material consideration

The National Planning Policy Framework (NPPF) published in December 2024 is a material consideration in the determination of planning applications. The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework, in the decision-taking section states:

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (footnote 8)*

, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (footnote 7) provides a strong reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.*

As above paragraph makes clear that where the policies of the Local Plan are out of date, which is the case here in the absence of a 5 year housing land supply, then a so called 'tilted balance' is applied, i.e. to grant consent unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

However, it is relevant that areas of particular importance within para (i), as stated within footnote 7, include 'areas at risk of flooding'. As this proposal takes place within a Critical Drainage Area (CDA), an area at risk of flooding, it is necessary to ascertain whether this provides a strong reason for refusing the proposal. If it does, then the 'tilted balance' is dis engaged.

Paragraph 14 of the NPPF states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply: a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement. As the Feniton NP was adopted more than five years ago (2018) this would not affect the application of the presumption in favour of sustainable development.

The Potential for Flooding

Feniton NP records that the settlement has been badly affected by flooding, most notably in 2008 and on numerous occasions since. The first documented reference to flooding was in a parish council report of 1912, but probably the worst case of flooding was in 2008 when between 50 and 60 homes were flooded and elderly residents were forced to escape the rising water by climbing up into the attic of their bungalows. As noted by several objectors the flood water could contain bacteria giving rise to series infections disease and viruses which have the potential to significantly impact health. NP Policy F1 seeks a design and construction which seeks to minimise adverse impact on existing flooding (including, but not limited to measures such as permeable driveways and dedicated parking spaces, use of soakaways and planting to minimise run-off). Proposals should demonstrate that they have taken full account of and recognise the impact of flood risk, both in terms of fluvial and localised surface water flooding. Development should minimise and do not exacerbate existing surface water flooding issues beyond the site.

At a national level the National Planning Policy Framework (NPPF) clarifies that the sequential approach and associated tests must consider all sources of flood risk when allocating or permitting development. The Planning Practice Guidance (PPG) on Flood Risk and Coastal Change has been updated to reflect this position. This represents a notable shift in the application of the Sequential Test, which now explicitly applies to *all* areas at risk of flooding, including risks from rivers, the sea, surface water, groundwater, overwhelmed sewers and drainage systems, and artificial sources such as reservoirs and canals. Paragraph 23 of the flood risk section of the PPG now clearly states that the Sequential Test prioritises avoiding development in medium and high-risk flood areas from all sources, including surface water. It further emphasizes that even where a Flood Risk Assessment (FRA) demonstrates that a development can be made safe without increasing risks elsewhere, the Sequential Test must still be satisfied.

The sequential approach aims to direct development to areas with the lowest flood risk, minimizing reliance on measures such as flood defences, warnings, and resilience features. This ensures that areas with little or no flood risk are developed first. By prioritizing avoidance of high-risk areas, the approach effectively mitigates potential flooding impacts. Even with an FRA confirming the safety of a development throughout its lifespan, the Sequential Test must be applied to avoid placing unnecessary pressure on flood risk management systems. In summary a risk adverse approach is advocated.

The NPPF emphasizes steering development toward areas with the lowest risk of flooding, both now and in the future. The August 2022 PPG revisions expanded the definition of "areas at risk of flooding" to now include, explicitly, areas designated as Critical Drainage Areas (CDAs). These revisions also clarified that Flood Zone 1 areas with critical drainage problems, as identified by the Environment Agency (EA), must be treated as flood risk areas.

The Sequential Test must be applied to both major and non-major developments proposed in areas at risk of flooding and subject to sources of flooding other than rivers or sea.

The applicant has highlighted ongoing infrastructure improvements in Feniton, suggesting these measures may address drainage issues and potentially alter the flood risk classification in the future. However, as per the PPG, existing flood risk management infrastructure should be excluded from initial considerations due to uncertainties regarding its long-term maintenance and funding. Therefore, limited weight can be attributed to these works in the current decision-making process.

The CDA designation places the site within the broader flood risk framework. Historical flood events, such as the October 2008 flooding in Feniton, underscore the importance of ensuring all off-site surface water discharge mimics "greenfield" conditions to reduce downstream risks.

The proposed surface water drainage strategy includes subterranean crate systems and other measures such as the rain garden deemed acceptable by the Lead Flood Authority, mitigating flood risks within the site. Nevertheless, the Sequential Test must still be considered.

A level 1 Strategic Flood Risk Assessment (SFRA) was carried out by the Policy department in the early part of last year. This process was carried out and included assessment of this application site. It concluded that none of the preferred allocations (including this site, Feni_05), were shown to be at flood risk and none were taken forward in the level 2 work, although it was noted that all are in a CDA. The Level 2 SFRA at appendix C summarises the flood risk and sets out the sites that were not taken forward to a Level 2 SFRA, the implication being that further investigation into flood risk were not necessary.

Further this site is a preferred allocation of the emerging local plan and so further weight can be given to its likelihood of actual allocation once adopted.

The PPG at para Paragraph: 027 Reference ID: 7-027-20220825 Revision date: 25 08 2022 states that the Sequential Test should be applied to 'Major' and 'Non-major development' proposed in areas at risk of flooding, but it will not be required where:

- The site has been allocated for development and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test).
- The site is in an area at low risk from all sources of flooding, unless the Strategic Flood Risk Assessment, or other information, indicates there may be a risk of flooding in the future.

The second bullet point above is considered to apply to the circumstances of this planning application. The EA flooding records indicate that the actual site is at 'very low risk', neither the DCC Lead Flood team or SWW object and consider that foul and surface water can be suitably controlled (as will be reported in the subsequent

sections), and the latest evidence from the Policy Team in the form of a recent SFRA points towards a low risk for this preferred allocation. Accordingly, this provides compelling reasons why the sequential test, in this instance, is not applicable in line with the PPG exemptions.

Application of the Exception Test

Given the site very low surface water flood risk (less than 0.1% annual chance) of the housing area of the site and its classification akin to Flood Zone 1, the exception test is arguably not applicable given that it's not in a 'floodzone' but rather a CDA. Nevertheless, the flood event maps also show that the main road is at worse a medium risk 1:30 (flood zone 3a equivalent) to 1:100 (floodzone 2 equivalent) year events. This takes into account the requirements of Table 2 in the PPG flood risk section.

The NPPF, para 178, is clear with regards to the Exception Test that:

- It must be demonstrated that the development provides sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared.
-
- A site specific flood risk assessment must demonstrate that 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 case the contribution towards affordable housing in Feniton (the whole settlement is covered in a CDA) provides a wider sustainable benefit that outweigh the flood risk.
 - The quantum of dwellings would contribute towards supply of housing in the district.
 - Brings forth a preferred allocation in the emerging plan, thereby aligning with the spatial approach to the distribution of housing of the emerging local plan.
 - DCC Lead flood support the approach to surface water mitigation – subterranean storage creates, and rain garden would restrict flow in high rainfall periods,
 - The accompanying FRA deals with how this proposal would be safe for its lifetime – no objections raised by the EA. Such analysis/measures include;
 - a) Emergency Access - The small accumulation of floodwater alongside the southwest corner of the site on Ottery Road may be unsuitable for passage of emergency vehicles. However, by turning right out of the site access would allow the deep floodwater to be avoided. Depths of water further northwest along Ottery Road are anticipated to be shallow because this area conveys runoff as opposed to ponding. Furthermore, a footpath is available from the site to Green Lane. This provides a dry route that avoids the minor surface water flow path on Ottery Road. It therefore offers an alternative and safe means of access and egress for the site.

- b) Whilst it is thought unlikely that the railway embankment would experience overtopping once the Feniton Alleviation Scheme is complete, the site layout and proposed site levels have been designed in a way with this in mind.
- c) The Feniton Flood Alleviation scheme is well underway and due for completion summer 25'.
- d) Finished Floor Levels (FFL) of the dwellings will be elevated above the surrounding ground levels by at least 150 mm in accordance with building regulations. This will help to protect against the possibility of saturated ground and shallow ponding of water, which is inevitable after prolonged or very heavy rainfall.
- e) The surface water drainage strategy has been based on providing management up to and including the 1 in 100 year plus a 45% allowance climate change event,

Conclusion

The Sequential Test, in most instances, should be applied to the proposed development due to its location within a CDA – an area of flood risk. However, for the reasons given the site is considered to be at 'low risk' meaning that the exemption to the sequential test applies.

The Exception Test has been applied given the annual risks of the where the proposed access meets the public highway. As above the scheme is considered to provide benefits to the community and provide measures to ensure is safe for its lifetime. With no objections raised by the EA or DCC Lead flood team, and taking into account officer assessment above the potential flood issues should not be used as a reason to withhold planning consent.

The CDA designation therefore does not provide strong reasons for refusing the development and so the 'titled balance' within the NPPF is engaged once more.

Surface Water Drainage

LP Policy EN22 (Surface Run-off Implications for New Development) states 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. Planning permission for new development will require that the surface water run-off implications of the proposal have been fully considered and found to be acceptable. NP Policy F1 seeks to ensure no adverse impact on existing flooding and satisfactorily mitigate / accommodate surface water run-off arising from the development through the use of Sustainable Drainage Systems (SuDS) where appropriate.

The provided plan highlights the surface water drainage strategy for the development, including the use of attenuation crates and flow control measures to manage surface water runoff. The applicant has amended the development layout and the impermeable area is changed from 5,350.40m² (5,885.44m² with 10% urban creep)

to 5,170.60m² (5,687.66m² with 10% urban creep). The associated greenfield runoff rate is maintained at 0.544l/s.

The key elements include:

The system involves the installation of underground attenuation crates, which temporarily store excess surface water during heavy rainfall. These crates are located in strategic positions across the site, as marked by blue outlines and corresponding labels on the submitted plans. The crates are designed with specific capacities (e.g., available storage volumes of 74.4 m³, 184.7 m³, etc.), ensuring they accommodate runoff generated by impermeable surfaces such as roads, paths, and roofs.

Flow control mechanisms, such as orifice plates and control pipes, regulate the release of stored water at a controlled flow rate (e.g., 0.5 l/s). This gradual release minimizes the risk of overwhelming downstream drainage infrastructure and mitigates flood risks in the local area.

From the crates, water is discharged either into the existing private culvert or the public sewer system, as indicated. The outflow is regulated to meet specified limits (e.g., 1.2 l/s at the final discharge point), ensuring compliance with local drainage requirements and environmental standards.

The proposed drainage system incorporates a sustainable drainage approach by retaining and managing water on-site before controlled discharge. The design ensures sufficient capacity to manage extreme rainfall events, aligning with best practices in flood prevention and water management. This strategy reduces the impact on existing drainage infrastructure, such as nearby culverts, and protects adjacent properties from potential surface water flooding. In summary, the surface water soakaway system employs modern attenuation and flow control measures to ensure efficient and sustainable water management across the development.

DCC Lead Flood Authority withdrew their original objection and as such they have no in-principle objections, assuming that the suitable pre-commencement planning conditions are imposed on any approved permission. Whilst the size of the dwellings has changed slightly to comply with national standards since those DCC comments were made the drainage plans remain unchanged. The proposal complies with policy EN22.

Foul Drainage

Foul water flows are intended for disposal via mains sewer. In principle, SWW does not currently hold any objection to foul water disposal through a connection to a public foul Sewer. Further hydraulic modelling on the network needs to be undertaken by SWW to see if there would be need for some further network improvements to be undertaken. If network improvements are needed it is likely to be in the form of surface water separation. SWW have advised it would take 3 months to complete this hydraulic modelling which would then confirm the scope of any relevant improvements. A Grampian style condition is recommended to secure this and any necessary mitigation prior to the occupation of any dwelling.

There is a duty on South West Water under s94 and s37 of the Water Industry Act 1991 (the WIA) to provide capacity to accommodate new developments. The water company who have a statutory duty to accommodate new developments. This duty is enforceable under s18 of the WIA. SWW have done some works to the capacity of the foul drainage network, however, their response indicates that further investigation and works maybe required. In planning terms, while concerns have been raised that neither South West Water or by extension an enforcing authority are meeting those commitments, the NPPF specifically requires that in taking planning decisions it should be assumed that separate pollution control regimes, in this case including the WIA, should operate effectively. This does not mean that a proposal to operate with an unsustainable or inappropriate foul drainage scheme cannot be considered, but does apply where a proposal is to connect to a mains drainage network and there is no objection from the water undertaker (as is the case).

SWW have stated that it is anticipated that suitable provision can be made within the existing network for the supply of portable water to the proposed development however SWW strongly advise the developer to consider maximising the use water efficiency opportunities within the design of their proposals, as supported by planning policy Strategy 3 and 38.

SWW provided further feedback on the proposed development following its previous responses dated 20 March 2023 and 9 February 2024. For foul water flows, the applicant proposes to connect to manhole at a discharge rate of 1.62 l/s and seeks SWW's adoption of the sewer network. SWW emphasizes that the design must adhere to the latest Design and Construction Guidance, and offers pre-design assessment services. Planned infiltration removal work and network cleansing will enhance the local sewerage system's performance, meaning additional reinforcement is unnecessary.

Regarding surface water flows, SWW notes the applicant plans to discharge at a rate of 1 l/s into a private culvert, requiring consent from the culvert owner. The drainage strategy includes sustainable measures such as water butts, rain gardens, and permeable paving. However, further details are requested, including a detailed drainage design, surface water management during construction, adoption and maintenance plans, exceedance flow management, and a site build program. A condition is recommended to ensure these requirements are met before occupation to mitigate flood risks and ensure system feasibility.

For the potable water supply, SWW indicates that the local distribution network is near capacity, necessitating upgrades to accommodate the development. These works will take 18 months and are designed to support broader growth in the area. Occupation of the development will be contingent upon the completion of these upgrades. SWW also encourages maximizing water efficiency through adherence to the Building Regulations Optional Requirement G2 of 110 Litres per person per day, aligning with sustainable development policies.

In terms of asset protection, the site contains combined sewers and is near a pumping station, requiring easements of 3 meters on either side of the pipes to ensure accessibility for maintenance. Structures must not encroach on these easements, and diversions should be discussed with SWW if compliance is not possible.

SWW consultation concludes by recommending specific conditions to address water efficiency, drainage, and infrastructure capacity to ensure sustainable and effective service provision for the development.

Therefore, SWW support the proposal subject to a condition securing the G2 requirement relating to potable water prior to commencement and a Grampian style condition requiring no occupation until confirmation that SWW has completed is modelling and network improvements for foul drainage and implemented any required mitigation.. The SWW response sets out that such requirements can be made achievable within the lifetime of the consent so that a Grampian condition would be reasonable. The suggest conditions required modification to align with planning legislation, as some elements are covered under other relevant legislation.

Given the above it is considered that foul water drainage from the proposal can be suitably accommodated and should not be used as a reason to withhold planning consent.

Character, Layout and Design

NP Policy E1 acknowledges Feniton's unique topography, its status as a rural farming settlement of long standing and it a sense of 'remoteness' (to quote the Planning Inspectorate's report following the Joint Inquiry). These all contribute to making Feniton the unique place that it is. Accordingly, development proposals which change the characteristics and essential qualities of the natural environment (including biodiversity, habitats, built heritage and landscape) will only be supported under the NP where they: i) demonstrate no adverse impact on those characteristics or that any adverse impacts are satisfactorily mitigated (for example, through appropriate landscaping, habitat creation or replacement and natural planting consistent with local biodiversity and species); ii) enhance the natural environment where there is the opportunity to do so.

The proposed development comprises the construction of 35 residential dwellings located within the area outlined by the red boundary in the provided plans. The layout integrates various housing types, including apartments and houses with different configurations and floor areas, offering a mix of market and affordable housing options.

From the adjacent main road the rain garden and two storey curved dwellings provide a suitable frontage. It has to be taken into account that this is one of the main routes into the village and so has to accommodate the transition from rural to semi-rural mixed with residential development.

The arrangement of the dwellings prioritises efficient use of space while maintaining green areas and open spaces. Properties are clustered into distinct areas, with a mix of terraces, detached, and semi-detached housing to create a varied streetscape. The central road network provides vehicular access while ensuring pedestrian permeability. The design reflects modern planning principles, promoting accessibility and internal connectivity. With regard to external connectivity this site can be readily accessed from the east and north with pedestrian footpaths, as well as from the main vehicular entrance.

The development achieves a density reflective of suburban character, balancing the need for housing provision and maintaining a comfortable living environment. The density ensures an efficient land use pattern, suitable for the site's semi-urban context, while avoiding overdevelopment as open space is still incorporated. This aligns with typical residential densities observed in the surrounding area, preserving compatibility with the local residential character.

Substantial landscaping is incorporated, with tree retention and improved planting concentrated along site boundaries and within open spaces. This softens the visual impact of the development and enhances biodiversity. Green corridors and landscaped buffers along the eastern edge ensure compatibility with adjacent areas, particularly where the site abuts existing housing and open countryside. This is assessed further within the landscaping section of this report.

The site plan provides parking spaces for each dwelling, supplemented by shared or visitor parking areas. Parking ratios align with standards for suburban residential developments, and garages are included for specific house types. The arrangement minimizes on-street parking and integrates spaces seamlessly into the overall layout without compromising green areas.

The proposed scheme is in keeping with the scale, form, and character of existing developments adjacent to the site boundary. Careful attention has been paid to the interface between new dwellings and existing properties, ensuring privacy and minimizing potential conflicts. Open spaces and tree-lined buffers create a transitional edge, maintaining harmony with surrounding residential uses.

In summary, the proposal demonstrates a well-considered approach to site development, prioritizing high-quality design, landscape integration, and compatibility with the surrounding environment. The mix of housing types, sufficient open space, and parking provision enhance its suitability within the broader context.

Landscaping

The landscaping scheme has been through several evolutions alongside the change in overall layout and, at the time of writing, there are still issues to be resolved regarding the hard and soft landscaping, as well as boundary treatments (see EDDC landscape officer consultee comments).

Of particular note is the proposed rain water garden, the inclusion of which achieves several objectives. It provides an area for surface water drainage thereby alleviating pressure on drainage, it provides an attractive soft frontage for the development (when viewed from the adjacent road) and it contributes towards the need for open space. The landscape officer has taken issue with the alignment of the pathway running through this and the need for suitable planting on the periphery of this garden area. However, these issues can be remedied via condition.

The north boundary, adjacent to the Burlands residential estate, must be sensitively handled. This transitional area currently feature protected trees to be removed. A brick

wall to the rear of the properties is proposal and this would provide a suitably estate like boundary treatment for the street scene of the properties within Burlands.

In-depth conditions are required to improve on the information received to date, but subject to their compliance this should not withhold consent being granted.

Whether the proposed occupiers are in suitable range of services and facilities so as to not be reliant on private modes of transport

The government published Manual for Streets states 'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot'. Not only is the distance of important but so too is the nature and character of the route.

The provisions of Local Plan Strategy 5B (Sustainable Transport) require that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport and would need to be of a form, incorporate proposals for, and be at locations where it would encourage and allow for efficient, safe and accessible means of transport with low environmental impact, including (among other things), walking and cycling. These provisions are largely supplemented by those of Policy TC2 (Accessibility of New Development) which require new development to be located so as to be accessible by pedestrians and cyclists, as well as public transport, and also well related to compatible land uses so as to minimise the need for car travel.

Walking to the north on the pavement to the train line is about 350 metres, the shop is another 60 metres, continuing this route to the school is approximately 800m.

The route along Ottery Road is relatively flat, benefits from pavements with street lighting making it a relatively attractive proposition to transverse on foot.

Affordable Housing

For the proposal to be compliant with the existing local plan, and given that it is outside of any identified Built Up Area Boundary (BUAB), then under strategy 34 of the Local Plan an affordable housing target of 50% applies. This proposal, in providing 18 of these units as affordable it is therefore policy compliant with the local plan in this regard. The neighbourhood plan states under Policy H1 outside the BUAB, on exception sites, at least 66% affordable housing should be provided, in accordance with Strategy 35.

As can be seen from the layout plans all of the affordable units are positioned in the west portion of the site adjacent to the road as well as further within the site. This distribution is considered to meet the strategy requirement for peppotting throughout the site and so enhance social integration.

The use of similar architectural styles and materials ensures the affordable housing is homogeneous with open market helping to promote social cohesion.

The proposal has not been put forward as an exception site and the overall scale of the housing is well beyond the circa 15 units usually intended for such developments, therefore NP policy H1 is not applicable. Given the need for housing numbers, of both open market and affordable, the affordable housing offer is considered acceptable.

The above addresses the Housing Enabling Officer original concerns in this regard and no issues were identified with regard to affordable housing distribution in terms of the layout.

The Feniton Affordable Housing Survey (2022) put forward the size of property required;

- 6 of the households surveyed would require one or two bedroom accommodation for singles and couples – proposal provides 8
- 2 of the households would require two bedroom family accommodation – proposal provides 2 (non apartment) dwellings
- 4 of the households would require three bedroom family accommodation – proposal provides 8
- 1 of the households would require four bedroom family accommodation – none.
 - Within the survey no 5 bedrooms were required.

In summary the proposal provides more than the identified need for apartment accommodation, meets the two bed family accommodation need, provides more three bedroom family accommodation than required but does not provide the four bedroom home identified. On balance this is considered to meet the affordable need and this has been recognised as a 'good range' of affordable housing by our Housing Enabling Officer. The smaller accommodation, typically affordable rented accommodation, would be catered for as well as 2 bed family homes. The over provision of three bed homes should not be seen as a negative, as many within the local area could fall within this category of demand. Therefore, on balance the proposal meets the overall need of Feniton so that this should not weigh against this scheme.

Impact on trees

The site is covered by a blanket Tree Preservation Order (ref; 20/0047/TPO) and the tree officer has been consulted. In addition to this blanket TPO there are five individual Lawson Cypress trees positioned along the north eastern boundary which are individually protected.

The tree officer raised no objection to the loss of the Cyprus trees along the northern boundary. These are rather tired examples of the species which are likely to become increasingly more problematic to manage as they continue to age. The proposed replacement planting in compensation for the loss of the Cyprus tree is largely appropriate. However, the Acer campestres located approx. 2.5m to the north of Unit No 29, would need ongoing cyclical pruning to provide clearance from the adjacent dwelling once they become established. Therefore, alternative slower growing species should be sought and this could be addressed within a condition.

There is a lack of detail with regards to the connection with the edge of the carriageway with Green Lane to the south east of the site and therefore further details shall be requested via condition to ensure that this is satisfactory.

The impact on highway safety and the road network.

NP Policy T1 Proposals for new development will only be supported where they demonstrate that they will, in proportion to the scale of development proposed: i) minimise any adverse impact of additional traffic, such as increased volume of traffic at peak times which could lead to congestion, increased levels of pollution or increased speeds which may compromise pedestrian and cyclist safety; ii) improve accessibility to and safe use of pedestrian and cycle routes through enhancement of existing or provision of new routes. Additionally, proposals should not exacerbate existing parking problems in and around old and new Feniton.

The proposal would utilise an existing access point with the main road with adequate visibility splays taking into account the 30 mph speed limit. Engineering drawings show that within the site the road alignment is suitable for a range of vehicles. Increased traffic flowing onto this highway is to be expected, however, this is not considered to result in 'severe' residential cumulative harm ('severe' being the threshold under para 116 of the NPPF).

Pedestrian linkages enhance connectivity and permeability of the development. Cycle storage has been submitted in order to meet the objective of providing alternative transportation methods.

Therefore, the proposal is considered acceptable in this regard.

The impact on ecology

The application is supported by a bat emergence survey which are considered to have low suitability to support roosting bats.

No bats were seen to emerge in May 2024, and the buildings were considered unlikely to be used by roosting bats. No further survey work is therefore required, and the demolition of the buildings will not require a European protected species licence. Recommendations are made for the provision of bat boxes in each new dwelling and a sensitive lighting scheme to be detailed with a Landscape and Ecological Management Plan (LEMP).

As the proposal was submitted prior to the introduction of Biodiversity Net Gain (BNG) the site is not subject to mandatory BNG. Nevertheless, the application is supported by a Biodiversity Metric 3.1 and BNG report which quantifies that the development would result in a change of -0.41 habitat units (- 7.04%) and -1.09 hedge units (- 40.02%), i.e., the development would result in a quantified biodiversity loss for habitats and hedges.

The proposed mitigation strategies for dormice and reptiles (both present on the site) are largely in accordance with published guidelines in terms of the actions required, for example, an outline reptile translocation methodology and habitat clearance

methods for dormice.

- o A European protected species licence will be required for habitat clearance.
- o Insufficient details regarding the amount of compensatory habitat provision for reptiles and dormice has been provided to date and therefore should be conditioned.
- o The ecological appraisal makes suggestions for compensatory habitat provision for protected species, but it is unclear if these measures have been implemented to date.
- o Off-site compensation for reptiles and the enhancement of the woodland and hedges could potentially be used for compensation for dormice (and for bats), subject to sufficient details and long-term maintenance being secured, e.g., through planning obligation.

The application is supported by an Ecology Note on Consultation Response (FPCR, 2024) addressing previous (above) ecological commentary on the submitted scheme. Some of the key points addressed in the note and to be secured include:

- o A woodland management plan.
- o A sensitive lighting plan in accordance with BCT/ILP 08/2023 and Devon Dark skies guidance (including supporting lux contour plan).
- o Securing off-site habitat gains to achieve 10% Biodiversity Net Gain (BNG).
- o A local reptile translocation site secured to sustain the existing exceptional population of reptiles present on the site.

Assuming the above measures can be secured appropriately via pre-commencement conditions and off-site habitats are secured via planning obligations for the reptile translocation site, then the proposed measures are likely to be acceptable in terms of mitigating impacts of the development.

Therefore, the proposal is considered acceptable in terms of its impact on ecology and in relation to LP policy EN5 and strategy 47, subject to conditions and a legal agreement.

Derogation tests

Natural England can only issue a licence if the following tests have been met:

- the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest;
- there is no satisfactory alternative; and
- the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.

Whilst decision makers should have regard to the 3 tests above it should be noted that the LPA is not expected to duplicate the licensing role of NE. An LPA should only refuse permission if the development is *unlikely* to be licensed pursuant to the derogation powers *and* Article 12 of the Habitats Directive was likely to be infringed.

In terms of public interest this proposal as a matter of principle accords with the national level of significantly boosting housing supply from which some economic and

social benefits could accrue. Alternative scenarios are not easily discernible. There is also a consensus that in order to provide housing, thereby meeting a public interest, greenfield sites such as this would need to be developed. Given what has been reported for this site (see above), the fact suitable mitigation measures are proposed and both of these elements have been found acceptable by the councils ecologist there is no reason why a license would not be issued (if one would be needed) or why Article 12 would be infringed.

Consequently, there is no reason to suggest that, from the LPA's perspective, the proposal would be likely to offend article 12 of the Habitat Directive or that a licence would be withheld by Natural England as a matter of principle.

Summary

Based on the information received and proposed mitigation measures the council ecologist raises no objection. Taking into account all of the above the proposal is considered to accord with policy EN5 of the East Devon Local Plan, NP8 of the NP, the NPPF and reflective of guidance within circular 06/2005.

Employment Use

The East Devon Local Economic Review published by the Council in October 2023 summarises the most up to date position in relation to the need for employment land. This indicates current demand (2022) for over 50ha of employment space. Over the period 2019-2040 demand for employment space in East Devon is expected to be nearly 130ha.

It is notable that historic planning application 20/2247/FUL on this site featured a reason for refusal which stated that the redevelopment of buildings previously used for employment purposes; 'It has not been demonstrated that the premises have been marketed for their previous or similar use for a period of twelve months, or that redevelopment for employment would cause harm to the quality of the locality'. Accordingly, conflict with strategy 32 was identified in this regard.

Within the intervening period there is little to suggest that this site would provide suitable opportunities for reuse of the existing buildings. The site is untamed and features a dilapidated main building in an ongoing state of disrepair. To redevelop the site for employment generating uses would most likely require fresh new build development and require significant infrastructure. This combined with the proximity of residential dwellings makes for an unattractive employment site so that it is unlikely that economic opportunities would be substantially harmed by allowing residential development. The applicant has put forward evidence that the site has been marketed for over a year by Stags in 2019. However, there is no evidence of enquiries, that the pricing listed was suitable or that such marketing was specifically aimed at employment generating uses. So while marketing does appear to have taken place there is a lack of evidence that this process has been robustly carried out in accordance with the LPA's advice on such matters.

It should be mentioned that the preferred allocation does not include the retention of employment elements of this site.

Accordingly, there is identified limited conflict with strategy 32 in this respect. Nevertheless, this must weigh against this proposal.

Open Space

With regards to public open space strategy 43 of the local plan states for the quantum of development proposed on site space within a rural area is to be provided.

Population increase will be used to determine the relative demand created by different developments. For residential development contributions these will be on a per-dwelling basis and the level of contribution will be higher for larger housing than for small houses or flats. This will be determined by the average occupancy rates where the average occupancy acts as a multiplier reflecting population increase. The assumed average occupancy rates are as follows:

- o a 1 bed dwelling = 1.5 persons,
- o a 2 to 4 bed dwelling = 2.22 persons,
- o a 5+ bed dwelling = 2.5 persons.

The development of 35 dwellings, based on bedrooms sizes, would accommodate approximately 75 (rounded up) persons in a rural area. In accordance with strategy 43 225 sqm amenity open space should therefore be provided. The proposed layout show open space areas, the rain garden near the entrance to the site, and the open space area also providing pedestrian access from the east of the site and the wooded area adjacent the railway line. The submitted design and access statement states that approximately 40% of the site retained for green public space, be used by all residents of Feniton for dog walking or recreation time. This would meet the open space requirements. The open spaces can be readily accessed and includes the wooded area and the more formalised space adjacent the open market housing offering variety for users. The rain water garden seating and pathway should be reconfigured to improve usability and this is subject of a condition. These areas would be protected and maintained via the requirements of the s106 agreement.

Taking into account the quantum and variety of open space offered this is considered to comply with policy.

Archaeology

Policy EN7 of the LP establishes that when considering development proposals which affect sites that are considered to potentially have remains of archaeological importance, the District Council will not grant planning permission until an appropriate desk based assessment and, where necessary, a field assessment has been undertaken

Devon County Archaeologist highlighted the site's proximity to a prehistoric funerary monument, raising the likelihood of significant archaeological deposits. A geophysical survey conducted by the applicant was inconclusive and so a programme of intrusive field evaluation was made to assess the significance of heritage assets before a

planning decision is made. Upon review by DCC Archaeology the findings of the on site investigation was accepted and so there is now no objections raised.

Mitigation secured via a S106

Strategy 50 (Infrastructure Delivery) of the LP seeks to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. NP Policy C2 states developer contributions generated from Section 106 planning obligations or the Community Infrastructure Levy (CIL), where relevant and feasible, should contribute towards the local priority amenity and facility projects identified to East Devon District Council by Feniton Parish Council.

If a resolution of approval is made a s106 would be drafted to secure the following;

- Affordable Housing Schedule - to secure 51% on site affordable in line with the latest position. Tenure should align with policy.
- On Site Open Space Schedule (and Maintenance Company Schedule)
- Habitats Contribution Schedule - to mitigate the impact on the Pebblebed Heath SAC
- Securing 10% off site BNG and suitable translocation of reptiles.

The NHS have requested mitigatory financial contributions however there is currently a lack of justification for the amount requested. EDDC have considered issues around capacity at GP practices in the past and sought funding to help deliver additional consulting rooms, but it would be for such services to bid for available monies through CIL.

It is noted that the Devon County Council Education department have requested a contribution towards local educational facilities. It should be noted that this requirement would be covered under the CIL regulations and therefore it should not be duplicated under a s106. Instead, it would be for the Education department to seek and bid for a mitigatory contribution from this CIL pool.

Planning Balance

Planning legislation establishes that planning applications must be determined in accordance with the development plan unless other material considerations indicate otherwise.

The proposed development conflicts with the development plan as it seeks to build residential housing in the countryside outside the defined Built-Up Area Boundary (BUAB) for Feniton. Consequently, the proposal does not align with plan-led development, and this conflict with the development plan is acknowledged. Furthermore, whilst the proposal would result in the loss of a modest dilapidated employment space, and while some marketing of the site has taken place, there are ambiguities remaining over this marketing such that limited harm has been identified. Nevertheless, the loss of such employment space must weigh against the proposal.

The National Planning Policy Framework emphasizes the need to significantly boost the supply of housing across England. This proposal would deliver a meaningful

number of dwellings, including 51% affordable housing, addressing the need for housing in the district. It would also generate short-term economic benefits during the construction phase and longer-term social benefits by providing much-needed housing. The provision of affordable housing, a key priority of the NPPF and government policy, carries substantial weight in the planning balance.

It is widely accepted that releasing additional greenfield sites will be necessary to meet the Council's ongoing housing trajectory. While the proposal conflicts with both the Local Plan and the Feniton Neighbourhood Plan by developing outside the BUAB, the district cannot currently demonstrate a sufficient five-year housing land supply and the shortfall is significant.

The site lies within a Critical Drainage Area raising potential flood risk concerns. However, this risk has been satisfactorily addressed through a robust Flood Risk Assessment and the inclusion of a suitable Sustainable Drainage System scheme to manage surface water effectively. Additionally, ongoing flood mitigation works involving the Council have been approved and are in progress to address wider drainage issues. South West Water has also deemed the proposed foul drainage scheme acceptable, subject to appropriate Grampian-style conditions. Therefore, the flood risk to the development and surrounding areas is considered to be adequately mitigated and the relevant tests passed.

The site is reasonably close to the services and facilities in Feniton, which are accessible via safe pedestrian routes. The distance to these services ensures that reliance on private vehicles by future residents would not be necessary. Furthermore, the proposal provides a policy-compliant level of affordable housing for Feniton and its grouped parishes, addressing a local need. Given the lack of alternative sites in these parishes with appropriate services and facilities, the provision of affordable housing in this location is a compelling justification for the development.

The applicant has positively engaged with the planning process, resulting in an acceptable design, layout, and mitigatory landscaping that ensures the development's impact on the character and appearance of the area is now acceptable. The ecological impact of the development has also been appropriately mitigated.

The affordable housing provided would significantly contribute to the demonstrable need for the local area and integrate well with the open market housing.

Although the site is located outside the BUAB, it aligns with the principles of sustainable development when considered in the round. The evidence base for the emerging local plan, while carrying limited weight at this stage, recognises the attributes of the site and suggests it is suitable for the allocation of housing. This further supports the view that the development would contribute meaningfully to boosting the district's housing supply, which is a significant material consideration.

In conclusion, the benefits of the development, including the much needed delivery of housing to improve the district's land supply and the provision of much-needed affordable housing, outweighs the identified conflict with the development plan. The

resulting potential harm arising from the position outside the BUAB, and the limited weight attributed to the loss of employment land, is not considered to significantly and demonstrably outweigh the benefits of this proposal. Accordingly, it is recommended that a resolution to grant planning permission is made, subject to conditions and the completion of a Section 106 agreement.

Appropriate Assessment

An Appropriate Assessment is required for development as it is within 10k of these designated sites the proposed development and could give rise to recreation activity. The Appropriate Assessment must consider the conservation objectives for the affected European site(s) and the effect the proposed development would have on the delivery of those objectives. In the light of the conclusions about the effects on the delivery of the conservation objectives the competent authority must decide if the integrity of the site would be affected. There is no definition of site integrity in the Habitats Regulations - the definition that is most commonly used is in Circular 06/2005 is '(...) the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified'.

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

The draft heads of terms submitted within this application makes clear that such contributions would form part of the s106 and therefore this mitigation is considered acceptable in line with the above.

RECOMMENDATION

Resolution to approve subject to conditions below and completion of a s106 agreement. To adopt the Appropriate Assessment (above).

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Construction 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.
(Reason - To ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the East Devon Local Plan)
4. Prior to commencement of development the Planning Authority shall have received an approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) any road closure;
 - (c) hours during which delivery and construction traffic will travel to and from the site,
with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (d) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (e) 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;
 - (f) 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;
 - (g) hours during which no construction traffic will be present at the site;
 - (h) the means of enclosure of the site during construction works; and
 - (i) details of proposals to promote car sharing amongst construction staff in order to
limit construction staff vehicles parking off-site
 - (j) details of wheel washing facilities and obligations
 - (k) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (l) Details of the amount and location of construction worker parking.
 - (m) 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 agreed CMP.

(Reason - To ameliorate and mitigate against the impact of the development on the local community and to ensure that any impact on the highway network is kept to a minimum in accordance with policies TC7 - Adequacy of Road Network and Site Access and EN15 (Control of Pollution) of the East Devon Local Plan. Such details are required prior to commencement to ensure that the site preparation and construction phase is taken into account.)

5. The cycle storage facilities hereby approved shall be implemented prior to the occupation of the dwellings to which they relate and shall be retained and maintained for the lifetime of the development.
(Reason: To promote sustainable travel in accordance with policy TC9 (Parking Provision) of the East Devon Local Plan).
6. Prior to the first occupation of each individual dwelling at least 1 parking space that relates to the dwelling and its associated vehicle access route shall have been properly formed, surfaced and be accessible for use by the respective occupiers.
(Reason - To ensure that the development has appropriate parking provision, in accordance with policy TC9 (Parking Provision in New Development) of the East Devon Local Plan).
7. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment dated February 2023 and conducted by Cresco Asset Management Ltd.
(Reason - To ensure that the potential flood risk is mitigated, in accordance with policy EN21 (River and Coastal Flooding) of the East Devon Local Plan).
8. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
 - (a) A detailed drainage design based upon the approved Drainage Layout (Drawing No. VD222762-VEC-S104-XXX-DR-CD-400, Rev. P06, dated 02nd October 2023) but with the updated Drainage Layout (Drawing No. VD22762-VEC-S104-XXX-DR-CD-400, Rev. P07, dated 08th December 2023).
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
 - (d) A plan indicating how exceedance flows will be safely managed at the site.
 - (e) 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. Evidence shall be submitted confirming that a discharge consent from the culvert owner, to discharge this surface water, has been obtained.

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

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

9. Prior to development above slab level of any units on the development approved by this permission, a Water Conservation Strategy shall be submitted for the written approval of the Local Planning Authority. The strategy shall include a water efficiency specification for each dwelling type, based on South West Water's run off destination hierarchy including the use of measures such as smart water butts, rainwater harvesting, grey flushing toilets. The approved strategy for each residential dwelling shall be subsequently implemented in full accordance with the approved details prior to first occupation of that residential dwelling and thereafter shall be retained.

(Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction in line with Paragraph 154 of the National Planning Policy Framework and Strategy 3 of the East Devon Local Plan).

10. Prior to the commencement of development it shall be evidenced to, and agreed in writing by the Local Planning Authority, whether or not the South West Water foul and surface water (combined sewer) sewerage infrastructure that this development would link into has adequate capacity to deal with the foul sewage generated by this development and its surface water run off. If it is identified that upgrade works are required to ensure adequate foul sewage capacity and surface water drainage capacity, no dwelling shall be occupied until the upgrades to the foul sewage and surface water infrastructure have been completed to the satisfaction of the Local Planning Authority unless alternative means of adequately dealing with foul drainage have been agreed in writing by the Local Planning Authority and implemented in full.

(Reason: In the interests of pollution control, the environment and amenity in accordance with Policies EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan. This needs to be a pre-commencement condition to ensure that the impact and therefore control of sewage and surface water discharge outputs from the site are fully understood and any necessary upgrades to the sewage infrastructure identified and agreed, together with a time scale for implementation)

11. a) Prior to commencement of any works on site (including demolition), the Tree Protection measures shall be carried out in accordance within the Tree Protection Plans and AIA ref; AIA-BUR-23 submitted by Dart Tree Consultancy dated 15th May 2023 and revised 8th December 2023. All works shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no amendments to be made without first gaining consent in writing from the Local Authority.
- b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
- c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
- d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
- e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- f) Protective fencing shall be submitted to and approved in writing by the Local Planning Authority prior to commencement and shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
- g) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the

Adopted New East Devon Local Plan 2013-2031. Details are required pre commencement in order to take into account site preparation and construction work).

12. Site monitoring:

- a) The installed tree protection measures shall be inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.
- b) The written findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.
- c) Ad-hock monthly site inspections (these may be done remotely, via video call) shall be undertaken by a suitably qualified tree specialist and the finding recorded in a site monitoring log.
- d) Any departures from the approved Tree Protection Plan shall be reported to the Local Planning Authority in writing within five working days of the site inspection.

On practical completion of the development hereby approved:

- e) A completed written site monitoring log shall be submitted to the Local Planning Authority for prior approval and final discharge of the tree protection condition.

(Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2013-2031 and pursuant to section 197 of the Town and Country Planning Act 1990).

13. The development shall not proceed other than in accordance with the recommendation, mitigation measures and enhancements detailed in the Ecological Assessment conducted by FPCR Assessments dated 14th March 2023, 19th July 2022 and December 2023 and the Briefing Note updated dated May 2024.

(Reason -To ensure protected species are managed in an appropriate way in accordance with Policy EN6 (Wildlife Habitats and Features) of the East Devon Local Plan.)

14. A Landscape and Ecology Management Plan (LEMP) for a minimum 30-year period following first occupation of the development shall be submitted to, and approved in writing by, the local planning authority prior to the commencement

of the development. The Plan shall be based on the submitted Ecological Appraisal (FPCR, December 2023) and the approved hard and soft landscape plans and associated details and shall include the following:

- a. Details of the body or organization responsible for implementation of the plan accompanied by a site plan showing areas to be adopted; maintained by management company or other defined body; and areas to be privately owned/ maintained.
- b. 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/ bodies responsible for its delivery.
- c. A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
- d. Landscape and ecological management aims and objectives for the site.
- e. Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works (including an annual work plan capable of being rolled forward over a minimum 30-year period). in relation to:

Existing trees, woodland and hedgerows/banks. Hedgerow management shall be carried out in accordance with the Hedge Management Cycle as set out in Hedgelink guidance.

New trees, woodland areas, hedges and amenity planting areas, woodland management plan.

Grassland, wildflower and any other habitat areas proposed.

- f. The location and design of biodiversity features including bird boxes, bat boxes, and other features, e.g., permeable fencing, to be shown clearly on accompanying plans.
- g. A sensitive lighting plan in accordance with BCT/ILP Guidance Note 08/2023 and follow Devon County Council (2022) guidance - Maintaining dark corridors through the landscape for bats. Where specific lux levels are required, a lux contour plan provided.
- h. Details regarding the proposed reptile translocation, including receptor site details in accordance with .GOV guidance.
- i. Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- j. Arrangements for inspection and monitoring of the site and maintenance practices.

- k. Arrangements for periodic review and update of the plan that may be required to meet the objectives of the plan and reflect any relevant changes to site, legislation and best practice guidance.
- l. The Plan shall also set out (where the results from monitoring show that its conservation aims and objectives 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 shall be implemented in accordance with the approved details.

(Reason – To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement of the character and appearance of the areas measures in accordance with Strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the East Devon Local Plan. The condition is pre commencement to ensure that it properly integrates into the development from an early stage).

- 15. No development shall take place (including ground works) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication, including reporting compliance of actions to the LPA
 - g) The role and responsibilities on site of an ecological clerk of works (ECOW), including any licence requirements.
 - h) Use of protective fences, exclusion barriers and warning signs.

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

The development shall not be occupied until the local planning authority has been provided with evidence, including photographs and toolbox talk sheets, that all ecological mitigation and enhancement features, including bat boxes, bird boxes, have been installed/constructed, and compliance with any ecological method statements in accordance with details within 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), Policy EN5 (Wildlife Habitats and Features), and Policy EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031. The condition is pre commencement to ensure construction works are taken into account).

16. No development work shall commence on site until the following landscaping information has been submitted and approved by the Local Planning Authority:
- a) Notwithstanding the submitted details a full set of hard landscape details for proposed walls, fencing, retaining structures, pavings and edgings, site furniture and signage. For the avoidance of doubt such hard landscaping details shall include the following elements;
- K-lite traditional kerbing
 - Changes to the route and alignment of the rain garden pathway
- b) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:
- o a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
 - o methods for stripping, stockpiling, re-spreading and ameliorating the soils.
 - o location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
 - o schedules of volumes for each material.
 - o expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture. identification of person responsible for supervising soil management.
- b) Notwithstanding the submitted details a full set of soft landscape details shall be submitted which for the avoidance of doubt shall include the following elements:
- Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.
 - Construction of a Devon hedgebank on the West boundary of the rain garden.
 - Details of native planting mix between the rain garden and the apartment buildings
 - Single species planting serving plots 30-34.

c) Notwithstanding the submitted details further tree pit and tree staking/ guying details. For the avoidance of doubt such tree related details shall include;

- The soil extent, soil volume calculations and construction details for the tree pits to the front of plots 19-23 and South East of plot 30.
- Repositioning of two oaks north of plot 34 (to be closer together).
- The construction details boundary wall of plots 19-21 (which appear to cut across the Root Protection Area of adjacent trees) shall be provided prior to its construction.

Planting shall be completed no later than the first planting season following commencement of development. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the written satisfaction of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

17. Prior to their installation, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls including underbuild, roofs, windows, doors, rainwater goods, soffits and fascias and ground surface materials of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

18. Prior to the commencement of the development a scheme to demonstrate that the internal and external noise levels within the residential units would confirm within the 'good' design range as detailed within BS 8233;2014 Guidance on sound insulation and noise reduction for buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

(Reason – To ensure that the occupiers of the residential units are suitably insulated from adverse noise impacts, in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan. This condition is pre commencement In order to ensure that such mitigation is incorporated within construction).

19. Prior to the commencement of the development a detailed plan illustrating the connection of the proposed footpath to the south east of the site with the adopted public Highway, known as Green Lane, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plan. The development shall not proceed above slab level on the dwellings hereby approved until the works have been carried out in accordance with the approved details. The route shall be made available for public access for the lifetime of the development.

(Reason – In order to provide suitable pedestrian linkages to reduce reliance on private modes of transport and promote sustainable forms of travel. The requirements are pre commencement to ensure consideration at an early stage and to ensure the alterations are in place prior to increased traffic), in accordance with policies Strategy 5B (Sustainable Transport) and TC2 (Accessibility of New Development) of the East Devon Local Plan).

20. Notwithstanding the submitted plans further details and plans of the means of enclosure and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. For the avoidance of doubt such details/plans shall include the following elements;

- The rear of plots 27, 30-35, 24, side of 25, 9-14 and south boundary of 14 & 15 shall be a brick wall construction.
- Omit the 1.8 fence to the front of plots 17, 20-24.
- Brick wall serving plot 9.
- The railings (rear of apartments buildings, plots 30-35 and 15-18) shall be estate types.
- The brickwall to north of plot 29 shall extend to the footway.

The development shall be carried out in accordance with the approved plans.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrated into the development from an early stage.)

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected other than those expressly authorised by this permission.

(Reason – In the interest of the character and appearance of the area, in accordance with policies D1 (Design and Local Distinctiveness) and D2 (Landscaping) of the East Devon Local Plan).

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no hardstanding areas other than those expressly authorised by this permission shall be constructed.

(Reason – In the interest of the character and appearance of the area and to ensure that surface water drainage is not adversely impacted. This is in accordance with policies D1 (Design and Local Distinctiveness), D2 (Landscaping) and EN22 (Surface Water Implications of New Development) of the East Devon Local Plan).

23. The communal apartments gardens serving plots shall be made available to all occupiers of the apartments for the lifetime of the development.

(Reason – To ensure a suitable level of amenity for the intended occupiers, in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.

24. The pedestrian access route to the north of the site shall be constructed and made available prior to the first occupation of any of the dwellings and shall be publicly accessible for the lifetime of the development.

(Reason – To ensure that the development is accessible, provide suitable connectivity and to promote alternative methods of transport, in accordance with policy TC2 (Accessibility of New Development) and Strategy 5B (Sustainable Transport) of the East Devon Local Plan).

Plans relating to this application:

DR-A-(01)001 P3	Location Plan	22.11.23
21.48-EDS-XX- ZZ-DR-A-(01)012	Other Plans	20.01.25
21.48-EDS-XX- ZZ-DR-A-(01)006	Other Plans	20.01.25
21.48-EDS-XX- ZZ-DR-A-(01)010	Other Plans	20.01.25
21.48-EDS-XX- ZZ-DR-A-(01)009	Other Plans	20.01.25
21.48- EDS-XX-ZZ-DR- A-(01)005	Proposed Site Plan	20.01.25

21.48- EDS-XX-ZZ-DR- A-(01)011	Other Plans	20.01.25
006 P4	Additional Information	09.01.25
007 P4	Landscaping	09.01.25
017 P2	Additional Information	09.01.25
DR-LA-WSOFT 01 P03 : wider soft landscape plan 1	Landscaping	19.11.24
DR-LA-SOFT- 002 P03 : soft landscape planting 2	Landscaping	19.11.24
DR-LA-SOFT- 003 P03 : ornamental planting 1	Landscaping	19.11.24
DR-LA-BOUND 01 P02 : boundary treatment 1	Landscaping	19.11.24
DR-LA-BOUND 02 P02 : boundary treatment 2	Landscaping	19.11.24
90008 PL03 : tree pit details	Landscaping	19.11.24
DAH P03 : wider soft landscape plan 2	Landscaping	19.11.24
DR-LA-HARD 01 P02 : wider hard landscape plan 1	Landscaping	19.11.24
DR-LA-HARD 02 P02 : wider hard landscape plan 2	Landscaping	19.11.24

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

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

Equality Act:

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