

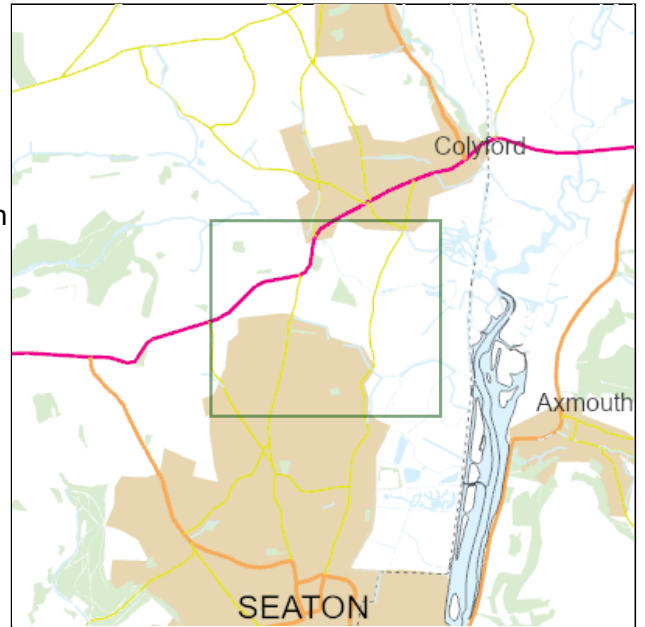
**Ward** Seaton

**Reference** 22/2781/MOUT

**Applicant** Baker Estates Ltd

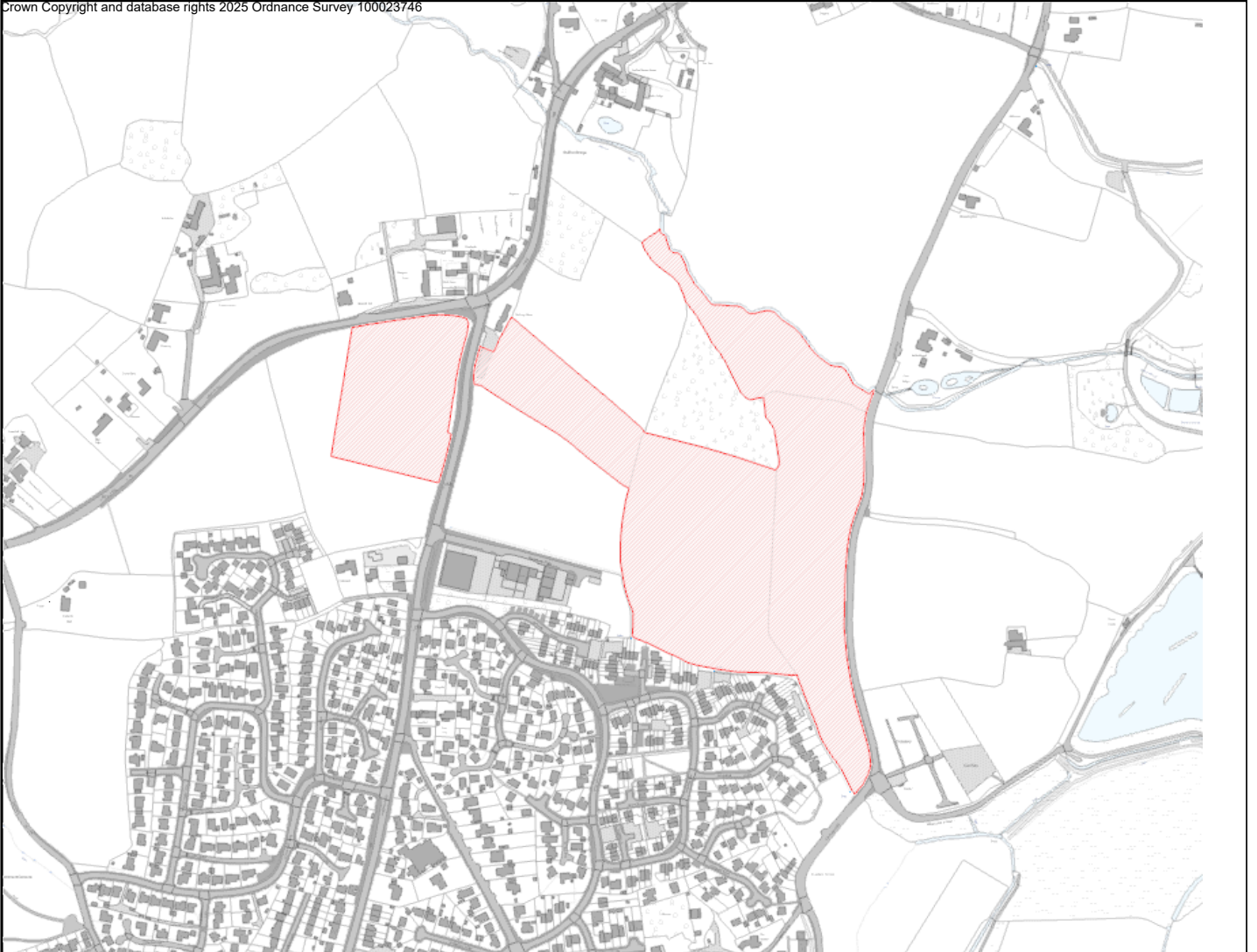
**Location** Land Adjacent To Harepath Road Seaton Devon EX12 2WH

**Proposal** Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.



### RECOMMENDATION: Approval with conditions

Crown Copyright and database rights 2025 Ordnance Survey 100023746



		<b>Committee Date: 25.02.2025</b>
<b>Seaton (Seaton)</b>	<b>22/2781/MOUT</b>	<b>Target Date: 24.04.2023</b>
<b>Applicant:</b>	<b>Baker Estates Ltd</b>	
<b>Location:</b>	<b>Land Adjacent To Harepath Road</b>	
<b>Proposal:</b>	<b>Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

The site is located on the northern edge of Seaton and includes land both within and outside of the Built-Up Area Boundary (BUAB), and also within the Green Wedge.

The proposal seeks outline planning permission for up to 130 dwellings, a football pitch and associated parking and welfare facilities on the northern edge of Seaton. Approval is sought now for the three proposed vehicular access points with all other matters being reserved for later approval.

The site is currently comprised of undeveloped fields, with intervening hedgerows and trees. It would bridge the gap from Colyford Road to Harepath Road and extend up Harepath Hill to the A3052. The site would abut existing commercial and residential development to the south.

The site lies across both sides of the Built-Up Area Boundary, intrudes into the Green Wedge and land allocated for commercial/recreational use. There is a small area of Flood Zones 2 & 3 on which would fall in an area proposed for open space and ecological mitigation.

The application has attracted a significant number of objections and the supporting information has been revised a number of times, principally to address the likely effects on the nearby Beer Quarry Caves SAC.

The proposed development conflicts with the general presumption against development outside of BUABs, and with the green wedge policy.

The development would have some harmful landscape effects and would also conflict with the Green Wedge strategy, contributing to the coalescence of Seaton and Colyford. It would also lead to the loss of the Best and Most Versatile agricultural land.

Effects on nearby grade II listed buildings are not possible to establish at this stage and will depend on the details of the reserved matters application.

In terms of benefits, the development would provide housing at a time that the Council is behind in its delivery of required housing. Furthermore, it would deliver 25% affordable housing (up to a maximum of 30.5 affordable homes) in an area where there is a need for 250 affordable homes and when affordable housing delivery across the District is behind target, in the context of a worsening affordability index. Accordingly, these are considered to be benefits to which very significant weight should be afforded.

In addition, the development would deliver a much-needed recreational facility, in a reasonably sustainable location, identified in the Council's own Playing Pitch Strategy which is now 10 years old. This is considered as significant benefit to the local community to which significant weight should be attached.

The development would not likely adversely affect the integrity of the Beer Quarry Caves SAC and would adequately mitigate the on-site ecological effects.

The inability to demonstrate a five-year housing land supply means that the housing policies in the Local Plan are out of date and the tilted balance in the NPPF therefore applies. This requires that permission be granted for sustainable development, which this proposal is considered to be. As the integrity of the SAC will be upheld, none of the disqualifying criteria of the tilted balance are applicable. It is therefore recommended that the Council adopts the Appropriate Assessment (HRA) and grants permission for the development, subject to the completion of a S.106 agreement and conditions set out below.

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council**

15/07/24 - Seaton Town Council object to the amended plans submitted for this application which relate to the Surface Water Drainage Strategy Plan as the only information submitted recently on 5 October 2023 is a drawing with little detail on it and in the Flood Risk Assessment and Drainage Strategy submitted by JRC Consulting Engineers on 28 July 2023 they state in Chapter 8 - Surface Water Strategy on page 24 that 'These calculations include the very latest climate change allowances which were released in May 2022 and allow for 10% impermeable area increase for urban creep'. Consideration needs to be taken into account that with climate change and more severe storms being encountered by the UK e.g. Storms Babet and Ciaran and with the Met Office stating that smaller scale convective summer storm activity is also projected to increase over the UK in the future there is going to be more problems going forward with the drainage of surface water.

Policy EN22 - Surface Run-Off Implications of New Development states that 'The surface water run-off implications of the proposal have been fully considered and found to be acceptable and appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development'. Seaton Town Council felt the amended plans still do not adhere to this policy.

Therefore the Town Council object to these amendments and the application as they want to see up to date data regarding surface water drainage submitted for consideration and consultation and more information supplied by the developer concerning surface water drainage proposals for the site so that a proper and informed decision can be made by the Planning Committee regarding the amended plans. Also the amendments are contrary to Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan.

Seaton Town Council object to the amended plans submitted for this application which relate to the Technical Note which addresses the comments made by East Devon District Council's Ecologist as the Planning Committee felt that the proposal was a potential threat to wildlife habitat and could not be supported in its current form. The reply from EAD Ecology to the statement submitted by East Devon District Council's Ecologist does not go anywhere near to mitigating the concerns raised by the Ecologist in their submission statement.

Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites states that: 'Development or land-use changes likely to have an adverse effect, either directly or indirectly, on:

1. Local Nature Reserves.
2. County Wildlife Sites.
3. County Geological Sites

either as identified on the Proposals Map in the Local Plan or otherwise existing in the plan area will only be permitted if the justification for the proposals clearly outweighs any harm to the intrinsic nature conservation and/or scientific value of the site and where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

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

Seaton Town Council object to these amendments and the application on environmental grounds as they pose a potential threat to the wildlife habitat in its current form and the reply to the statement submitted by East Devon District Council's Ecologist from EAD Ecology does not go anywhere near to mitigating what the district ecologist submitted in their report. Also they are contrary to Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites and Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan. 15/07/24 - Seaton Town Council object to the amended plans submitted for this application which relate to the revised concept masterplan, landscape strategy, sections and lighting information.

On Drawing Number DR ' 1501 ' PC ' C Concept Masterplan Coloured submitted by Collier Planning in June 2024 it clearly shows on the layout a cut-through internal road from Harepath Road to Colyford Road. The County Highway Authority in their response dated 12 September 2023 state that 'it has been accepted to avoid cut-through's that there will be no through-route of Harepath Road - Colyford Road for this site.'.

In the Town Councils' comments submitted on 18 August 2023 and 10 November 2023 it clearly states that Members of Seaton Town Councils' Planning Committee had grave concerns over the proposed access from the development onto Colyford Road. The distance of the development from the town centre will mean there will be a heavy reliance on cars. It is therefore in conflict with Policy TA2 Accessibility of New Development of the East Devon Local Plan which says that 'New development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car'. The development will produce considerably more traffic using Colyford Road which is one of the main

routes leading into Seaton. This road is narrow and bendy in parts and is incapable of carrying the extra volume of traffic this development will generate.

Parts of Colyford Road have no pedestrian pavement and vehicles can drive at considerable speed along it. This would be detrimental to the safety of vehicles exiting and entering the site. Policy TC7 Adequacy of Road Network and Site Access of the East Devon Local Plan states 'Planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network'. An important consideration with this application is its relationship to the existing highway network and in particular the suitability of the approach roads and access to the development site. Colyford Road is completely unsuitable for serving a development of the size proposed in this application. This proposal is in conflict with Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031 and advice contained within the National Planning Policy Framework 2024.

None of the amendments submitted in June 2024 have resolved the objections Seaton Town Council still have with this Outline Planning application namely:

Policy TA2 Accessibility of New Development of the East Devon Local Plan 2013-2021. The distance of the development from the town centre will mean there will be a heavy reliance on cars. It is therefore in conflict with Policy TA2 Accessibility of New Development of the East Devon Local Plan which says that 'New development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car'.

Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031 as the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network as Colyford Road is incapable of carrying the extra volume of traffic this development will generate due to it being narrow with bends and parts of it have no pedestrian pavement.

Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2021 states that 'The surface water run-off implications of the proposal have been fully considered and found to be acceptable and appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development'. Seaton Town Council felt the amended plans still do not adhere to this policy.

Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites of the East Devon Local Plan 2013-2021 as the proposal is a potential threat to wildlife habitat. Concerns raised by the East Devon District Council's Ecologist in their submission statement have not been fully addressed by EAD Ecology.

Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan 2013-2021 which states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites.

Therefore, Seaton Town Council having looked at the amended plans relating to a revised concept masterplan, landscape strategy, sections and lighting information still object to this application as it is still contrary to the following policies in the East Devon Local Plan 2013-2031:

Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites

Policy EN5 - Wildlife Habitats and Features

Policy EN22 - Surface Run-Off Implications of New Development

Advice contained within the National Planning Policy Framework 2024.

Parish/Town Council

10/11/23 - Seaton Town Council object to the amended plans submitted for this application which relate to the Surface Water Drainage Strategy Plan as the only information submitted recently on 5 October 2023 is a drawing with little detail on it and in the Flood Risk Assessment and Drainage Strategy submitted by JRC Consulting Engineers on 28 July 2023 they state in Chapter 8 - Surface Water Strategy on page 24 that 'These calculations include the very latest climate change allowances which were released in May 2022 and allow for 10% impermeable area increase for urban creep'. Consideration needs to be taken into account that with climate change and more severe storms being encountered by the UK e.g. Storms Babet and Ciaran and with the Met Office stating that smaller scale convective summer storm activity is also projected to increase over the UK in the future there is going to be more problems going forward with the drainage of surface water.

Policy EN22 - Surface Run-Off Implications of New Development states that 'The surface water run-off implications of the proposal have been fully considered and found to be acceptable and appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development'. Seaton Town Council felt the amended plans still do not adhere to this policy.

Therefore the Town Council object to these amendments and the application as they want to see up to date data regarding surface water drainage submitted for consideration and consultation and more information supplied by the developer concerning surface water drainage proposals for the site so that a proper and informed decision can be made by the Planning Committee regarding the amended plans. Also the amendments are contrary to Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan.

Seaton Town Council object to the amended plans submitted for this application which relate to the Technical Note which addresses the comments made by East Devon District Council's Ecologist as the Planning Committee felt that the proposal was a potential threat to wildlife habitat and could not be supported in its current form. The reply from EAD Ecology to the statement submitted by East Devon District Council's Ecologist does not go anywhere near to mitigating the concerns raised by the Ecologist in their submission statement. Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites states that: 'Development or land-use changes likely to have an adverse effect, either directly or indirectly, on:

1. Local Nature Reserves.
2. County Wildlife Sites.
3. County Geological Sites

either as identified on the Proposals Map in the Local Plan or otherwise existing in the plan area will only be permitted if the justification for the proposals clearly outweighs any harm to the intrinsic nature conservation and/or scientific value of the site and where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

Policy EN5 - Wildlife Habitats and Features states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process and where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat

enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent'.

Seaton Town Council object to these amendments and the application on environmental grounds as they pose a potential threat to the wildlife habitat in its current form and the reply to the statement submitted by East Devon District Council's Ecologist from EAD Ecology does not go anywhere near to mitigating what the district ecologist submitted in their report. Also they are contrary to Policy EN4 - Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites and Policy EN5 - Wildlife Habitats and Features of the East Devon Local Plan.

#### Parish/Town Council

18/08/23 - In light of the recent comments of the Environment Agency and the fact that, as at the date of the meeting, there was no view received from Highways, Members RESOLVED to oppose the application and requested that a full application be submitted by the applicant addressing all pertinent matters.

18/08/23 - Seaton Town Council object to this planning application.

#### Reasons for the objection:

Over the past decade three previous planning applications have been submitted for mixed use development, housing and football/sports pitches on Land Adjacent to Harepath Road. All three were refused permission by East Devon District Council and the one taken to appeal was dismissed by the Planning Inspector.

This latest application is an Outline application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure. Amended plans have been submitted relating to revised access to Colyford Road, revised ecological impact assessment, shadow Habitat Regulations Assessment & updated Flood Risk Assessment and Drainage Strategy.

Members of Seaton Town Councils' Planning Committee had grave concerns over the proposed access from the development onto Colyford Road and were disappointed to see that, so far, no comments for this application have been submitted by the County Highway Authority. This access point will be the main entry and exit route from the proposed development. They noted the revision to the access in the amended plans but still had concerns and could not support the application. The distance of the development from the town centre will mean there will be a heavy reliance on cars. It is therefore in conflict with Policy TA2 'Accessibility of New Development of the East Devon Local Plan which says that 'New development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car'. The development will produce considerably more traffic using the Colyford Road which is one of the routes leading into Seaton. This road is narrow and bendy in parts and is incapable of carrying the extra volume of traffic this development will generate. Parts of Colyford Road have no pedestrian pavement and vehicles can drive at considerable speed along it. This would be detrimental to the safety of vehicles exiting and entering the site. Policy TC7 'Adequacy of Road Network and Site Access of The East Devon Local Plan states 'Planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network'. An important consideration with this application is its relationship to the existing highway network and in particular the suitability of the approach roads and access to the development site. Colyford Road is completely unsuitable for serving a development of the size proposed in this application. This proposal is in conflict with Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031 and advice contained within the National Planning Policy Framework 2021.

According to a Collision Map on the Devon County Council website which records collision data in Devon involving personal injury there have been two serious car collisions recorded on Colyford Road between 2018 and 2022. The first collision in June 2018 was classified as serious involving one vehicle with two casualties and the second in December 2020 again was classified as serious and involved one vehicle with one casualty. Both of these Road Traffic Collisions happened in the area of Colyford Road where the revised proposed site access from the development will be located.

Therefore, Seaton Town Council object to this application on the grounds that it is in conflict with the following:

Policy TA2 ' Accessibility of New Development of the East Devon Local Plan 2013-2021  
Policy TC7' Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031  
Advice contained within the National Planning Policy Framework 2021

Clerk To Seaton Town Council  
24/02/23 - Good morning,

Seaton Town Council considered planning application 22/2781/MOUT - Land Adjacent to Harepath Road, Seaton at a planning meeting held on Tuesday 14 February.

In light of comments submitted by the Environment Agency on 20 February the Town Council would like to reconsider the application. It is hoped that a meeting can be held on Monday 6 March and any comments could be submitted by the end of that week or the beginning of the following week.

Clerk To Colyford Parish Council

16/11/23 - Colyford Parish Council would like to make the comments below in response to the additional documentation of SURFACE WATER DRAINAGE STRATEGY and RESPONSE TO EDDC ECOLOGY RESPONSE being added to the planning application:-

-There are real issues concerning the impact on environmental habitation particularly in regards to Stafford Brook. It is proposed that two ponds be put in at the Seaton Road end of the development. If these ponds were to overflow anything contained in the ponds would flow into Stafford Brook, which has brown Trout in it and is used by deer. This in turn would flow onto the Wetlands and Colyford Common.

-Cutting down hedgerows will damage the habitat for dormice living there.

-Around 40 species of birds have been identified in the area. It has been proposed that every new house and 30 trees (which would have to be bought into the area and be of sufficient size to enable a bird box to be attached) should have a nesting box this would amount to around 130 nesting boxes which gives an indication of how many birds would be affected by the development and how it will change the ecology of the area.

-The bats there have been recognised as internationally important. Their main foraging and flight path route is from Beer to the Wetlands; the Parish Council is concerned that the proposed 10 meter landscape buffer is sufficient and therefore will not work.

-It is proposed that woodland is fenced off, this would effectively lock the wildlife in.

-Although it is not proposed by the developer to install lighting for the football pitches the Parish Council is concerned that retrospective permission may be applied for in the future.



## Clerk To Colyford Parish Council

24/08/23 - This matter was discussed at length at last night's Colyford Parish Council meeting where two representatives of Baker Estates were present and were allowed a three minute presentation. During this they maintained that South West Water and the Environment Agency had approved the amended application and that the proposed Football Pitch would not require lighting as it was designed for use by women and children. More of this later.

Our original objections to this application stand and we do not view the amends to materially change anything. The new access point to the site remains on Coly road in an area with a 60 mph limit, is a narrow two way road with no footpaths. Any attempt to install a footpath would require destroying the existing hedge to provide room and while the hedge could be replanted this would take some years to establish with a resulting disruption to wildlife corridors.

One of our Councillors with some experience of developments has calculated the price's required for the various types of property proposed and this calls into question the commercial viability of the development if it is to be completed in line with the application and generate the profit levels developers normally work to. This in turn calls into question whether the application is made in good faith and Baker Estates intend to build in line with the application. We believe that they have in the recent past walked away from building the smaller/cheaper properties from a development in North Devon.

The application makes reference to Dark Areas and LED lighting but of course this only covers what Baker Estates build. For instance the Bungalow's may be single story but equally may be Dormer Bungalows or have rooms in the roof , in addition once occupied the residents may wish to and security lighting and a conservatory to their property.

Similarly once the football pitch is in place the users may want flood lighting to extend the period of use in winter months so the defence that its for women and children is not only sexist and patronising but also beggars belief. A recent Bat detector used over a two night period noted nine(and possibly twelve) species of bat using the hedges just north of the proposed site, as a corridor between the wetlands and their well known roosting sites Local residents have drawn our attention to the matter of sewage. Seaton sewage works is struggling to cope with its existing burden while the addition of 100+ new premises would undoubtedly cause further occasions when SWW pump raw sewage into the sea.

This leads on to surface water drainage which will inevitably drain into Stafford Brook and through there into the Wetlands and Colyford Common which is owned by the Burgesses. Further interference with the existing drainage pattern with further volumes of surface water may well cause flooding on the local roads as both Stafford Brook and the Coly pass under the A3052. Local health and school facilities are already under considerable pressure.

## Clerk To Colyton Parish Council

01/03/23 - The Colyton Parish Council do not support this application due to concerns regarding the following:

1) Any creeping development on the Green Wedge between Colyford and Seaton would encourage the coalescence of the two settlements in contravention of the Colyton Parish Neighbourhood Plan Policy No. Coly4, and EDDC Local Plan 2013-2031, Strategy 8 and clause 6.24e.

2) Additional traffic generated, particularly with reference to the new junction with Colyford Road and the subsequent increase of traffic using the junction of Colyford Road and the A3052 in Colyford.

- 3) It is known there are problems with drainage in the area which will be exacerbated by this development
- 4) It is known there has been localised flooding of houses on an adjacent area of housing. More building over of green fields will not help alleviate this problem
- 5) The area is known for its bat population and although mitigation measures are proposed via bat routes, it is felt the proposals will have a detrimental effect
- 6) The open fields have much wildlife including visiting deer. Loss of this provision is not welcomed.
- 7) The additional pressures on the services provided by Seaton, e.g. Doctor's Surgeries, Dentists and Schools has not been explored
- 8) The development would involve the loss of prime agricultural land
- 9) The site offers beautiful views down from the top of Harepath Hill towards Seaton, and from Colyford itself. These views would be lost.
- 10) The site is close to the AONB and Seaton Wetlands. It is not clear how the additional houses will impact on both of these.
- 11) It is known that the Government backed Housing Targets for East Devon is being questioned. CPC requests the results of this review are first ascertained before any decision is made on this development.
- 12) At a previous appeal regarding this site the inspector did not support the proposals concluding - "The application site forms part of an important area of open countryside between Seaton and Colyford identified as Green Wedge in the East Devon Local Plan. The development would result in the loss of part of this high quality countryside, bringing the urban area of Seaton closer to Colyford to the detriment of the setting of Seaton in the local landscape and encouraging closer coalescence of the two settlements".

## **Technical Consultations**

### County Highway Authority

12/09/23 -

Though this application is outline only at this stage, I will not comment upon any internal site layout proposals, however it has been accepted to avoid cut-through's that there will be no through-route of Harepath Road - Colyford Road for this site.

I would also recommend the provision of a Construction and Environment Management Plan (CEMP) for this project, should it come forward for Reserved matters planning, due to the size of the development.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

### DCC Flood Risk SuDS

FRM/ED/2781/2023

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission (included in recommended conditions at end of report).

### EDDC Landscape Architect

For the reasons noted above the application as currently proposed is considered likely to give rise to unacceptable landscape and visual impacts and by extending development onto prominent land intervisible with Colyford is also likely also to contribute to settlement coalescence contrary to the aims of the Green Wedge designation.

### EDDC District Ecologist

#### Habitat Regulations Assessment -

Light adverse bats are negatively influenced by urban areas and the proposed development of the site would materially change the nature of the site from an undeveloped agricultural landscape to a suburban development.

Despite reservations regarding the lack of proposed semi-natural cattle grazed parkland habitat, it is considered that the revised site design which includes the retention of H12 and other proposed measures, if successfully implemented, **would be unlikely to result in an Adverse Effect on the Integrity of the SAC.**

List of avoidance, mitigation and compensation measures:

- Construction Ecological Management Plan (CEcoMP)
- Landscape and Ecological Management Plan (LEMP)
- 10 m minimum 'dark corridor' around the development site with a further 10 m landscape buffer zone bounded by hedges and fences backing onto the built development.
- 6 m dark corridor either side of hedgerow H12
- Detailed lighting design at reserves matters stage including light design, house design and layout.
- A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.
- Provision of native hedgerows, trees, scrub, and wildflower meadows.
- Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.
- A bespoke bat house suitable for use by horseshoe bats.
- Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.

#### Biodiversity Net Gain –

BNG is not a mandatory requirement [due to date of application] and measures have been proposed to enhance the wetland habitat area and these measures are not quantifiable within the metric. It is also noted the proposals are demonstrating a net gain in excess of 20% for both habitats and hedges based on the submitted outline landscape plan. The provision of BNG when it is not required is a benefit that weighs in favour of the proposal but only if it is secured and delivered, so it will be included as a requirement of the S.106, otherwise this benefit cannot be taken into account in the final planning balance.

#### Summary –

Despite reservations regarding the proposed development, assuming that the proposed mitigation, compensation, and enhancement measures are secured (in perpetuity) and implemented successfully, the outline submission is considered to be legally compliance (from a biodiversity perspective), based on current guidelines and current best practice.

### Natural England

#### SUMMARY OF NATURAL ENGLAND'S ADVICE

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC). In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required, as set out in the Appropriate Assessment.

- o A Construction Ecological Management Plan for the development, to be appended to the Construction Environmental Management Plan.
- o A Landscape and Ecological Management Plan to incorporate management objectives, actions and responsibilities to ensure appropriate long-term habitat management to maximise the foraging value of the habitats provided for horseshoe and Myotis bats.
- o A detailed Lighting Assessment to ensure that dark corridors are maintained.
- o Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

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

### EDDC Recycling & Waste Contract Manager

Thank you for sight of this.

There are no comments from R & W at this stage.

However, we would like to see a more detailed layout plan indicating the kerb-side collection points, locations of any communal recycling facilities and also enabling us to assess vehicle access.

### Sports England

#### Conclusion

This being the case, Sport England offers its support for this this application.

Sport England recommends, based on our assessment, that if the Council is minded to approve the application, the following planning conditions should be imposed.

1. No development shall take place unless and until:
  - a) A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on drawing number..... shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority after consultation with Sport England.

Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with LP Policy \*\*

2. The playing field/s and pitch/es shall be constructed and laid out in accordance with the [planning application \*, Section \* and Drawing No. \*\*] and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use or occupation [or other specified timeframe] of the development [or specified part of the development/] hereby permitted.

Reason: To ensure the quality of pitches is satisfactory and they are available for use before development (or agreed timescale) and to accord with LP Policy \*\*.

### Environment Agency

Environment Agency position:

We have no objection the proposed development as submitted subject to the inclusion of the following documents/plan on the list of approved documents:

- o Flood Risk Assessment & Drainage Strategy ref.: 1937w001 revision P2 dated 09/06/2023 by JRC Consulting Engineers,
- o Surface Water Drainage Strategy ref.: 1937-0SK02 revision P3 dated 28/09/2023.

The reason for this position is provided below.

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

### South West Water 2/2/23

I refer to the above application and can confirm that South West Water has no objection subject to the surface water being managed by means of a SUDS to watercourses as detailed in the proposal.

The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

### Foul Sewerage Services

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

### Surface Water Services

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

### DCC Historic Environment Officer

No objection subject to conditions

### Conservation

To the north of the proposed site is Harepath Farm and the other independently listed farm buildings known as The Dairy, The Stables, The Linhay and Barn northeast of Harepath farmhouse. The farmhouse and farm buildings range from C18 - C19 and are listed grade II with group value. The designated assets are also known as Rolle Court. The farm group is openly visible from the convergence of Harepath Hill and Harepath Road. Visibility is shielded though by some existing hedgerows to the east and north of the football pitch site.

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

The farm group is an interesting group and through its close visibility and location from the road is a prominent group of buildings. Currently the land to the south and southeast is rural but with limited views of the farm steading and no known historic association.

The proposed sports pitch immediately south of Harepath Farm is largely screened from the farmhouse by vegetation south of Harepath Road but open from Harepath Hill. The pitch may be visible in acute-angled glimpsed views from the south end of the farmhouse only, but this does not detract from any of the heritage value of the asset. This land was not formerly part of its landholding, at least in the 19th century. It isn't clear whether there would be land regarding to form the sports pitch and how this would impact on the farmhouse and steading. The flood lighting proposals have been removed from earlier schemes which is an improvement. Hedgerows are shown on the eastern boundary of the football pitch and on the corner which shields views from Harepath Road. Should permission be granted these hedgerows should be maintained and boosted.

There may be minimal glimpsed views of the main development area to the east of Harepath road, from the farmhouse although again these are not views of land with any identified functional or historic association with the designated assets. The contribution this field plays to the setting of the steading is as a rural approach. Settings may change, however the provision of dwellings in the closer area of the steading if agreed, should be of group of buildings of a higher standard of design and materials so that they contribute positively to the setting of the steading. It is noted the development would be a dark development.

## Conclusion

- o There is insufficient information on the levels of the football pitch and landscaping around it.
- o The provision of dwellings and mixed use in close proximity to the southeast of the steading, although not historically or functionally related could have an impact on the setting of the steading. The impact would be affected by quality of design, lighting, landscape materials and density.
- o The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant consent for any works to have special regard to the desirability of preserving the setting of the listed buildings. Here taking account of the above this has been taken into consideration.

## PROVISIONAL RECOMMENDATION - PROPOSAL

### Holding response

#### Historic England

In this case we are not offering advice.

#### Environmental Health

A BS4142:2014+A1:2019 assessment is required to determine the likely noise impact from any neighbouring commercial area on the new noise sensitive properties. The purpose of this noise assessment is to determine whether or not future residents are likely to be adversely affected by noise. This will help inform the decision making process for the proposed new residential dwellings. If the noise impact assessment highlights noise as an issue, mitigation will need to be considered and assessed in order to determine if it is at an appropriate level to achieve both satisfactory internal and external (amenity areas) noise levels.

A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lighting used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

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

#### NHS Local (Eastern Locality)

16/06/23 –

Request funding towards local health services – please see full response at report end.

#### East Devon AONB

East Devon AONB would like to make the following observations about this planning proposal.

The proposed site falls within the area of East Devon covered by the District Council's recently adopted Bat Consultation Zones for Beer Quarry and Caves SAC .

The proposal therefore may be likely to cause significant effects on the SAC bat population and so a Habitat Regulation Assessment will be required.

#### Police Crime Prevention Officer

Various recommendations on designing crime safe development.

#### Devon County Council Education Dept

Apologies for the delay in responding to this application. The above application has been considered and in order to make the development acceptable in planning terms, an education contribution to mitigate its impact is requested, as set out below. This is in accordance with Devon County Council's Education Infrastructure Plan 2016-2033, which has been approved by Members.

It has been identified that the proposed 130 family type dwellings will generate an additional 32.50 primary pupils and 19.50 secondary pupils which would have a direct impact on Seaton Primary school and Axe Valley Community College.

It has been forecast that the nearest primary and secondary schools have capacity for the number of pupils likely to be generated by the proposed development. Therefore, a contribution will not be sought towards education infrastructure.

We will however require a contribution towards secondary school transport costs due the development being further than 2.25 miles from The Axe Valley Community College. The costs required are as follows:

19.50 Secondary pupils

£4.91 per day x 19.50 pupil x 190 academic days x 5 years = £90,957

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

It is anticipated that this school transport contribution would be provided through Section 106.

#### Other Representations

264 Objections received, summarized as:

##### **Environmental Concerns:**

1. **Loss of Biodiversity:** Significant harm to wildlife, including protected bat species, dormice, and birds. The area is described as rich in biodiversity, with habitats vital for several species.
2. **Impact on Wetlands and Green Wedge:** Proximity to Seaton Wetlands Nature Reserve and the green wedge between Seaton and Colyford, which are crucial for preserving the area's ecological balance and landscape.
3. **Flood Risks:** Concerns about inadequate drainage plans and potential flooding, particularly affecting nearby roads and residential areas. Questions raised about the reliability of proposed Sustainable Urban Drainage Systems (SUDS).

##### **Infrastructure Concerns:**

1. **Traffic and Road Safety:** Increased traffic on narrow, unsuitable roads like Colyford Road, exacerbating safety risks, especially near schools and pedestrian areas.



2. **Pressure on Public Services:** Overstretched local medical facilities, schools, and sewage systems cited as unable to accommodate the development's population increase.
3. **Lack of Sustainable Design:** Criticism of the lack of future-proofing, such as solar energy integration and effective light pollution control.

#### **Social and Economic Issues:**

1. **Housing Needs:** Emphasis on the need for affordable housing rather than large developments, with skepticism about the developer's commitment to delivering affordable homes.
2. **Tourism Impact:** Concerns about the negative effects on Seaton's appeal as a tourist destination, particularly given the aesthetic and ecological damage the development might cause.

#### **Development Specific Concerns:**

1. **Football Pitch Proposal:** The proposed pitch is seen as impractical due to its location, potential cost, and minimal community benefit.

#### **Procedural and Policy-Based Arguments:**

1. **Green Belt Policies:** Reference to national and local policies advocating the preservation of green belts and prioritization of brownfield sites for development.
2. **Community Opposition:** The plan is described as overwhelmingly opposed by local residents, with emphasis on the importance of heeding community voices.

6 letter of support received:

- Seaton has a need for more social and affordable housing.
- The Commercial /Mixed use are in the plan to be delivered by others needs to be explored in detail now, and not left for the future. Such that business development goes hand-in-hand with house building.
- Slow progress which has led to limited housing opportunities over the past 20 years.
- Bovis Homes achieved agreement for their attractive development of 150 homes. And indeed the Rowan Drive and Barnards Hill smaller developments, provided some much needed social housing for local families.
- developments of Primrose Way and Popular Tree Drive and all the roads of those two major roads were built on green land. The hundreds of homes provided have given homes and helped grow this much stunted town.

## **PLANNING HISTORY**

Reference	Description	Decision	Date
15/2188/MOUT	Outline planning application for a mixed use development providing for class B1 (a) (offices up to 5050sqm), class B1(c) and B2 light/general industrial units (up to 3500sqm), open space and the erection of up to 150 no. dwellings (21 no. affordable) and associated roads and infrastructure including a main spine road (all matters reserved)	Refusal	13.12.2016

12/1185/MOUT	Outline planning application for a mixed use development providing for Class B1(a) offices (up to 3,100sqm GIA), Class B1(c) and B2 Industrial Units (up to 4,791sqm GIA), play space/open space, sports field, including two football pitches, multi-use games area, changing rooms and parking and erection of up to 170 dwellings (34 affordable) and associated roads and infrastructure including a main spine road (all matters reserved)	Refusal	14.06.2013
--------------	---	---------	------------

---

## **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 6 (Development within Built-up Area Boundaries)

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

Strategy 25 (Development at Seaton)

Strategy 31 (Future Job and Employment Land Provision)

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 38 (Sustainable Design and Construction)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN16 (Contaminated 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)

RC2 (New Open Space, Sports Facilities and Parks)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

**Draft East Devon Local Plan 2020 – 2042 (currently carry limited weight)**

Strategic Policy SP01: Spatial strategy

Strategic Policy SP02: Levels of future housing development

Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area

Strategic Policy SP04: Employment provision and distribution strategy

Strategic Policy SP05: Development inside Settlement Boundaries

Strategic Policy SP06: Development beyond Settlement Boundaries

Strategic Policy SP07: Delivery of infrastructure

Strategic Policy SP08: Phased Delivery of Infrastructure and Services

Strategic Policy SD05: Seaton and its development allocations

Strategic Policy CC01: Climate emergency

Strategic Policy CC02: Moving toward Net-zero carbon development

Strategic Policy CC03: Promoting low carbon and renewable energy

Strategic Policy CC06: Embodied carbon

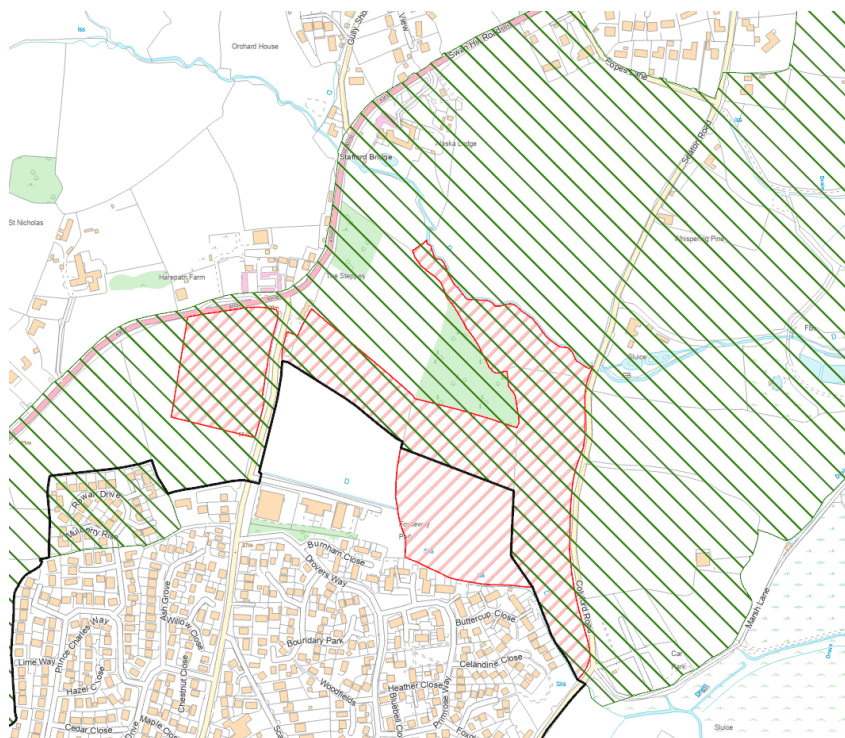
Strategic Policy AR01: Flooding

Strategic Policy AR02: Water efficiency

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  
Strategic Policy DS01: Design and local distinctiveness  
Policy DS02: Housing density and efficient use of land  
Strategic Policy TR01: Prioritising walking, wheeling, cycling, and public transport  
Policy TR03: Travel plans, transport statements and transport assessments  
Policy TR04: Parking standards  
Strategic Policy OL01: Landscape features  
Policy OL09: Control of pollution  
Policy OL10: Development on high quality agricultural land  
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  
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  
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 OS05: Leisure and recreation developments in the countryside  
Strategic Policy HE01: Historic environment  
Policy HE02: Listed buildings  
Policy HE04: Archaeology and Scheduled Monuments

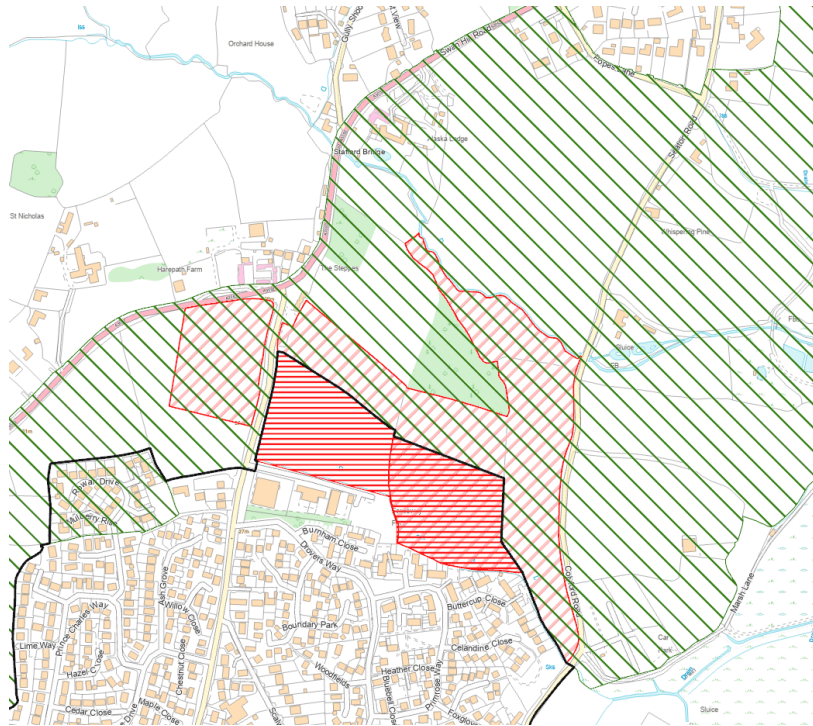
## Site Location and Description

The site is located on the northern edge of Seaton and includes land both within and outside of the Built-Up Area Boundary (BUAB), and also within the Green Wedge. The following map shows the relative positions of each of these. The diagonal red hatched area is the application site, the black line indicates the extent of the BUAB and the green hatching denotes the Green Wedge.





Shown below (for clarity) is the same map with an additional layer which denotes the land allocated for mixed-use employment and recreation uses.



## Proposed Development

The proposal seeks outline planning permission for up to 130 dwellings, a football pitch and associated parking and welfare facilities on the northern edge of Seaton. Approval is sought now for the three proposed vehicular access points with all other matters being reserved for later approval.

The site is currently comprised of undeveloped fields, with intervening hedgerows and trees. It would bridge the gap from Colyford Road to Harepath Road and extend up Harepath Hill to the A3052. The site would abut existing commercial and residential development to the south.

The site lies across both sides of the Built Up Area Boundary, intrudes into the Green Wedge and land allocated for commercial/recreational use. There is a small area of Flood Zones 2 & 3 on which would fall in an area proposed for open space and ecological mitigation.

## ANALYSIS

## Main considerations

The main material matters are considered to be:

- The principle of development, including the Green Wedge and Football Pitch
- Affordable Housing
- Landscape
- Heritage
- Residential/Neighbouring Amenity
- Ecology/Biodiversity, including SAC effects, BNG and on-site ecology
- Flood Risk and Sustainable Drainage
- Loss of Agricultural Land

## Principle of development

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

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

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

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; and

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear 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.

The National Planning Policy Framework (December 2024) (NPPF) states, at paragraph 78, that "local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old."

The most recent information indicates that the Council's 5-year housing land supply (5YHLS) stands at 2.97 years and as such the presumption in favour of sustainable development in paragraph 11 of the NPPF applies.

The proposed for development site is complicated because of the way it straddles different designations in the Local Plan (seen in the Site Description section of the report).

Of all of the proposed site that lies within the BUAB, the proposal seeks to place housing on land that forms part of the 118b mixed-use employment/recreation allocation under Strategy 25 (although layout is not a matter for which permission is now sought, the 'zone' for housing is somewhat fixed through the Habitat Regulations Assessment). At first glance this is contrary to Strategy 25. However, technically speaking, the application includes provision of a football pitch, which would align with the recreational element of the designation to a degree, and so is not necessarily out of conformity with Strategy 25. As noted previously approval is not being sought for layout at present, and although the agreed HRA assessment requires the different uses in a particular place, it could be possible in theory for a reserved matters application to vary the proposed 'illustrative' layout if that were supported by a refreshed and acceptable HRA. The Economic Development team were consulted on the application but no formal response was received. The site has not come forward for employment development since the LP adoption in 2016 (save for a recently submitted retail

planning application (24/2292/MOUT) on the portion of 118b nearest Harepath Road). As presented in the masterplans provided with the application, the development would conflict with the land allocations under Strategy 25.

The portion of the application site which lies outside of the BUAB (which also falls in land presently designated as Green Wedge) includes land for housing, ecological mitigation and biodiversity net gain (proposed voluntarily here as it is not compulsory because the application was submitted prior to BNG going live), and also the proposed football pitch.

#### Green Wedge –

The NPPF explains that in terms of implementation, policies (in Local Plans) should not be considered out-of-date simply because they were adopted or made prior to the publication of the new Framework (para. 232). Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Strategy 8 of the Local Plan states:

*Within Green Wedges, as defined on the Proposal Map, development will not be permitted if it would add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.*

In January 2014 an Inspector refused planning permission for a major commercial, housing and recreation development on Land East of Harepath Road in Seaton, land which was and still is designated as Green Wedge (Planning application reference 12/1185/MOUT – PINS reference APP/U1105/A/13/2202124). This application site extended further north than the current proposal and also included all the 118b allocation in Strategy 25. This was issued during the preparation of the now adopted Local Plan and under the preceding 2012 version of the NPPF.

In the decision letter, the Inspector examined the Green Wedge policy. Starting at paragraph 51 of the letter it was stated that:

51. *Whereas the objectives of the Green Wedge policy may be similar to the purposes of a Green Belt, I do not consider that this means the policy has to be given the same status, or the area set out on the Proposals Map the same level of protection, conveyed by The Framework for Green Belt areas. That is, irrespective of what may have been said in the DCLG letters of 4 January 2013 and 3 April 2013 nothing in The Framework indicates that a Green Wedge policy is the equivalent to, or has equal weight as, Green Belt policy.*
52. *Nevertheless the Green Wedge policy has a reasonably long-standing provenance or 'pedigree' and it should not be set aside lightly. Its purpose is to safeguard the setting of built up areas by, amongst other matters, maintaining a separation between what are presently free-standing settlements. This intention is carried through into the eEDLP. It is not just a housing or development restraint policy; it has a strategic aim which has been originally agreed by the Secretary of State, subsequently identified as a 'saved' policy, and its continuation has been democratically endorsed and maintained by the Council – albeit that the eEDLP has yet to be examined and its policies adopted. That is, there is a clear strategic objective – the purpose of which is not solely housing restraint - which has been consistently supported through the development plan process.*

Neither the old or new NPPF makes reference to Green Wedges but taking a steer from the Inspector's comments above this does not mean that Strategy 8 is inconsistent with the Framework. It is a strategy that has been tested during the appeal referenced above and also in relation to the adoption of the current Local Plan. The revisions to the Framework do not diminish the strategic objectives of Strategy 8. It is therefore considered that full weight can be afforded to it.



A more recent appeal at Colyford (application 18/2376/MFUL – APP/U1105/W/19/3233226) also tested the Green Wedge policy. The Inspector gave full weight to Strategy 8 in dismissing that appeal.

Having found that Strategy 8 can be afforded full weight, the development must be tested against it. It is quite clear that there are three circumstances in which development must not be permitted in the Green Wedge;

1. if it would add to existing sporadic or isolated development; or
2. if it would damage the individual identity of a settlement; or
3. if it leads to or encourage settlement coalescence.

If the development fails on any of these considerations, it would be in conflict with the Strategy. Other material considerations would still be required to be balanced against the finding on this issue.

#### Would it add to existing sporadic or isolated development?

At present, Seaton ends quite obviously when travelling north along Harepath Road. The footway extends to Colyford and the street lighting stops near the application access point, but the built form of development that might be visible ceases and either side of the road is bounded by continuous green hedges and groups of trees. There is a clear visual separation between the two settlements and this separation is clearly visible from different views around the area.

The word 'sporadic' is derived via Medieval Latin from the Greek word "sporadikos", from "sporas" meaning 'scattered' (The Oxford English Dictionary, online). The word 'isolated' is derived originally from the Latin word "insula", meaning an "island", it carries the ordinary sense of something that is "... [placed] or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary" (The Oxford English Dictionary, second edition).

In the context of the Strategy and its objectives, there are no buildings between the settlements in the vicinity of the site proposed for development. The proposals therefore could not be said to add to sporadic development. Nor is it considered to add to isolated development but would instead be seen as an extension of the northern edge of Seaton.

#### Would it damage the individual identity of a settlement?

The Council's Landscape Architect finds that the development likely to give rise to unacceptable landscape and visual impacts and by extending development onto prominent land intervisible with Colyford is also likely also to contribute to settlement coalescence contrary to the aims of the Green Wedge designation.

In the appeal referred to above, the Inspector went on to state that (para 53) '*Any incursions into the Green Wedge would erode the physical separation and thereby could be seen to weaken its strategic function*'. Furthermore that '*the degree of separation between neighbouring settlements is judged not solely on physical separation or measured distance; also relevant is the extent or effectiveness of the visual break, plus a consideration of the psychological perception of when or where coalescence would occur.*' This reinforces the view that it is not necessary to see both settlements in the same field of view to have a perception that the gap would be diminished, although in this particular case, you can see both settlements in any of the views available.

It is clear from the number and content of representations made by interested parties that there is a perception that the development will be damaging in some degree to the individual identity of Seaton and Colyford, through a lessening of the green space between them. It is considered therefore that the development could damage the individual identity of Colyford and Seaton to some extent.

## Would it lead to or encourage settlement coalescence?

The question is not ‘will the development result in settlement coalescence’, which clearly would require a far larger scale development in this location, but instead ‘will it be a step on the road to such coalescence’?

It is unlikely that settlements in East Devon that are bounded by Green Wedges will face applications for development of land from one settlement boundary to another in its entirety. The Strategy therefore has been formulated to take account of piecemeal developments which, in combination over any period of time, could result in eventual coalescence. This is a logical way to draft such a strategy and it negates any argument that development of a single field does not lead to settlement coalescence. The Inspector recognised this (para 53) by stating ‘*Any incursions into the Green Wedge would erode the physical separation and thereby could be seen to weaken its strategic function*’.

The development proposed clearly would infill a number of undeveloped fields in-between the two settlements and therefore is a step towards coalescence. The proposed development would fail to accord Strategy 8 as it would damage the individual identity and lead towards the coalescence of Seaton and Colyford.

## Football pitch –

The application describes the provision of a ‘community football pitch’ which is described as being an identified local need. The East Devon Playing Pitch Strategy (2015) states that the club’s Colyford Road pitch is over capacity, too narrow and that the club needs additional pitches (1x youth, 11 v 11, and 1x youth 9 v 9 pitch). The facilities are also described as inadequate. The Action Plan from this document summarises this in the following tables.

Adopted East Devon Playing Pitch Strategy 2015

### **Seaton sub-area**

Overview	Site	Issue	Action Ref.	Sport	Action	Priority	Who should deliver the action?
ENHANCE	Boshill Cross, Axmouth	<ul style="list-style-type: none"> <li>Drainage coming towards the end of its life. Games occasionally cancelled and means that unable to set up additional sides or let other clubs use the site due to capacity constraints.</li> </ul>	SE.1	F	Support club in installing new drainage if they intend on increasing number of teams playing on site. Recommend that club arrange an FA Pitch Improvement Programme (PIP) visit.	2	Club, FA, SE, EDDC, Axmouth Parish Council
		<ul style="list-style-type: none"> <li>Occasionally lose footballs into the road (A358), could do with nets to reduce this risk.</li> </ul>	SE.2	F	Explore possibility of installing nets.	3	Club, FA, SE, EDDC
ENHANCE	Chantry Bridge, Colyton	<ul style="list-style-type: none"> <li>Changing facilities poor – boilers condemned</li> </ul>	SE.3	F	Explore possibility of replacing boilers and refurbishing changing facilities so that Chantry Bridge can be made available for other football clubs in the area that are short of pitches.	2	Clubs, FA, SE, EDDC, Colyton Parish Council
PROVIDE	Colyford Road, Seaton	<ul style="list-style-type: none"> <li>Pitch too narrow and cannot be widened due to penned-in nature of the site</li> <li>Site at capacity. Club run two adult and two</li> </ul>	SE.4	F	Explore and encourage provision of a new home ground for Seaton Town FC in Seaton with a minimum of 2 full-sized pitches and one youth 9v9 pitch overmarking the second adult pitch, moveable goals for increased pitch flexibility and adequate ancillary facilities (car parking and changing). All pitches should be ideally provided on one site to help with ongoing viability and maintenance.	1	Club, EDDC, FA, SE, Seaton Town Council

Overview	Site	Issue	Action Ref.	Sport	Action	Priority	Who should deliver the action?
		youth teams off this one pitch and plans to increase teams	See Action Ref. SE.3				
		<ul style="list-style-type: none"> <li>Poor ancillary facilities</li> </ul>					
		<ul style="list-style-type: none"> <li>Club would like a floodlit 3G pitch and say they have the site for one</li> </ul>	SE.5	F	Explore the potential of developing a floodlit 3G training pad in <b>Seaton</b> if demand does exist when considered against priority AGP projects.	3	Club, EDDC, FA, SE, <b>Seaton</b> Town Council
			See Action Ref. AX.1				
ENHANCE	Colyton Grammar School	<ul style="list-style-type: none"> <li>No hockey club currently playing here</li> </ul>	SE.6	H O	Encourage formation of a satellite hockey club to use the site in 2014/15.	2	Club, School, DCC, EH, SE
ENHANCE	Elizabeth Road Recreation Ground, <b>Seaton</b>	<ul style="list-style-type: none"> <li>Pitch rated poor – slope and drainage major issues</li> </ul>	SE.7	F	Explore levelling of pitch and installation of drainage.	2	<b>Seaton</b> Town Council, Clubs, FA, SE
ENHANCE	The Furzebreak, Beer	<ul style="list-style-type: none"> <li>Club would like a 3G training area at The Furzebreak</li> </ul>	SE.8	F	Support the club in installing a 3G training surface at The Furzebreak if demand does exist when considered against priority AGP projects.	3	Club, FA, SE, Beer Parish Council
			See Action Ref. AX.1				

81

Overview	Site	Issue	Action Ref.	Sport	Action	Priority	Who should deliver the action?
		<ul style="list-style-type: none"> <li>Pitch majorly slopes off in one corner</li> </ul>	SE.9	F	Encourage levelling work to improve standard of pitch.	2	Club, FA, SE
ENHANCE	Peace Memorial Playing Fields, Colyton	<ul style="list-style-type: none"> <li>Site floods badly especially main adult pitch</li> </ul>	SE.10	F	Consider location of main pitch.	3	Club
		<ul style="list-style-type: none"> <li>Artificial cricket wicket no longer used but base still in place</li> </ul>	SE.11	C	No demand for this facility at present, but should be retained in case of future demand.	3	Club, land owners, Colyton Parish Council, ECB
PROVIDE	General	<ul style="list-style-type: none"> <li>General need for youth 9v9 football pitches in <b>Seaton</b> sub-area</li> </ul>	SE.12	F	Explore possibility of mini 7v7 pitch at Elizabeth Road Recreation Ground being remarked as a youth 9v9.	2	Club, <b>Seaton</b> Town Council, FA, SE, EDDC
PROVIDE		<ul style="list-style-type: none"> <li>Need for 1x youth 11v11 and 1x youth 9v9 football pitch in <b>Seaton</b> sub-area</li> </ul>	See Action Ref. SE.4				

82

East Devon District Council are identified as one of the bodies who should deliver this provision.

The Football Association has rated the pitch as 'poor' due to its over usage. Seaton Town Football Club has a men's 1<sup>st</sup> and 2<sup>nd</sup> team, a women's team and are aiming to re-instate a men's reserve team. The youth division currently has teams for under 16, under 12, under 10, under 8 and under

6. All of the teams (save for U6) need to play on facilities approved by the FA and the league, facilities that don't exist in Seaton.

The junior teams are trying to use grounds at the Primary School, but only 1 small pitch is available here instead of the 3 required for junior events. In addition, therefore, they are using the grounds in the Elizabeth Road Playing Fields which are publicly accessible and therefore not ideal, either from a child protection standpoint, or practically with regards to dog waste and rubbish etc. They also do not comply with the FA standards. On top of this, the club is having to spend funds to hire the 4G pitch in Axminster and transport players to and fro.

The new pitch will be used for youth training and football matches, using a multiple small pitch layout, and also for the adult reserve team when necessary. All adult matches which draw a crowd and require refreshment facilities will be held at the current pitch where the club house provides all that is required. The reduction in use of this ground will allow it to recover such that the club can perform to its best standards.

The new pitch, therefore, does not require facilities for spectators or catering. It simply needs changing spaces and a groundsman store.

The pitch will be terraced into the slope of the site and constructed to FA standards using sand slit drainage. It is proposed to be formed within the first year of the development (if approved) but will take a few seasons before it is mature enough to cope with the use proposed.

Sport England were consulted and support the application in principle, note there is no detail design of the pitches yet available, and recommend some conditions which are set out in the recommendation at the end of the report.

Strategy 25, section 4 states:

***Social and Community Facilities and sport and recreation provision*** – *Provision of new sport and leisure facilities to meet the needs of the whole community will be strongly encouraged. Improvements to community and recreational facilities, particularly for young people, will be required to match new homes commitments and to redress the existing shortage of playing field space. Public and non-car transport links will be improved within and to and from the town, especially where supportive of sustainable tourism. Schools, health and other service providers will be supported to meet their accommodation needs.*

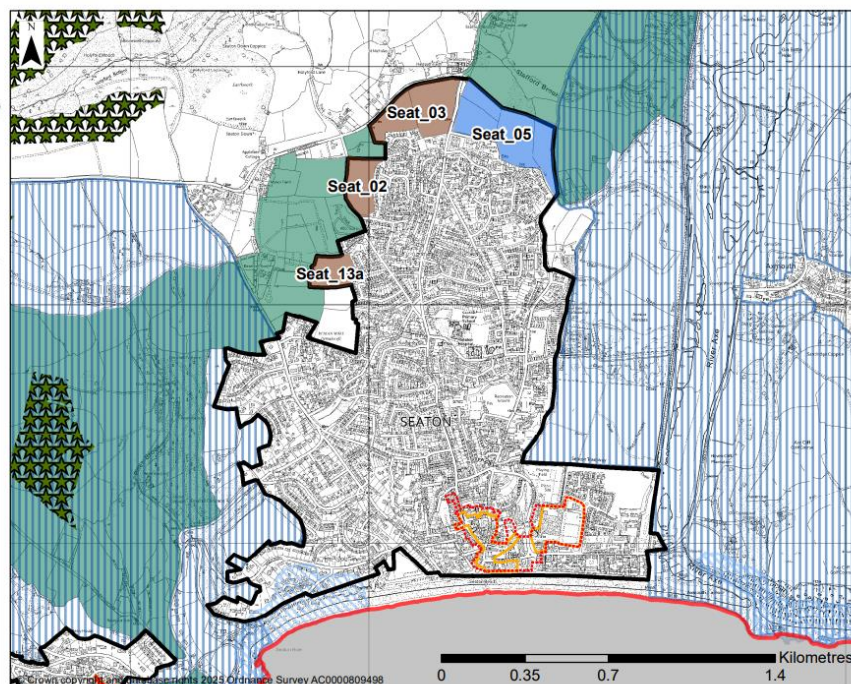
While it might be considered questionable whether the football pitch would meet to needs of the 'whole' community, one would not necessarily expect every individual planning application for a recreation facility to meet this requirement. Instead, it is a general statement of support for such proposals, which could be varied in their type and meet different sport and recreational needs of the community. It would not seem logical to refuse one section of the community permission to meet its needs just because it does not meet the whole community's needs.

Overall, it is considered that the policies in the LP are generally supportive of the principal of developing a new football pitch and this weighs in favour of granting permission.

#### Emerging Local Plan –

The emerging local plan will likely be out to public consultation (Reg 19) by the time this report is considered. This plan, under Strategic Policy SD05, allocates land north of Seaton on the west side of Harepath Hill (Seat\_03) for around 75 dwellings. Land on the east side of Harepath Hill (Seat\_05) is proposed for housing (up to 130 dwellings) and employment (around 2.2 hectares). Both of these designations would also remove any Green Wedge status of the land. SD05 does state that both sites would need to come forward as a co-ordinated and comprehensive development that delivers the proposed large-scale mixed-use development on the northern edge of Seaton and seeks to deliver the long-standing need for a football pitch as part of a viable package of planning obligations.

n.b. This inset map has been provided as an additional resource; the definitive version of the Policies Map is the interactive version which can be accessed here:  
<https://maps.strata.solutions/portal/apps/webappviewer/index.html?appid=8da794a146d94df680ee37c7589e9a1e>



**East Devon Local Plan 2020-2042 (Reg 19 Consultation)**  
**inset to Policies Map**



However, given the early stage the emerging Local Plan is at only limited weight can be afforded to these policies at this time.

## Affordable housing

As the site lies outside the BUAB for Seaton and in accordance with Strategy 34 the development should provide 50% affordable housing. However, full weight cannot be given the Local Plan policies on housing as the Council does not have the requisite housing land supply as noted above. Given that the site would deliver housing for Seaton and immediately abuts its development boundary it is considered appropriate to require the same affordable housing threshold as for sites within the town (25%).

There are 5939 households on the housing register in East Devon and 254 of those registering a preference for Seaton. This is a substantial need. Strategy 25 (Development at Seaton) of the current Local Plan only provides for one residential allocation for 30 dwellings at Rowan Drive which has already been completed.

The affordability of housing in East Devon is worse than the national average in England and Wales as shown in the following table. These figures show the affordability ratios nationally versus East Devon. The figures show house prices relative to earnings as a ratio. So, for England and Wales in 2021 house prices were 8.93 times earnings whereas in East Devon they were 10.88



Year	2013	2014	2015	2016	2017	2018	2019	2020	2021
England & Wales	6.74	6.95	7.37	7.59	7.77	7.85	7.73	7.75	8.93
East Devon	10.00	10.05	10.34	9.39	9.84	9.93	10.56	10.08	10.88

The proposed scheme could deliver up to 32.5 affordable homes (25% of 130 homes). Any non-whole units would be secured under the S.106 agreement as an off-site contribution in lieu of on-site provision in accordance with the Councils Affordable Housing SPD and using the commuted sum calculator therein. It should be noted that the application is for 'up to 130 dwellings' and the final number of dwellings may mean that the quantum of affordable housing required is a whole number, so an off-site contribution may not actually be required.

Based on the above it is considered that the provision of affordable housing should be given significant weight in the planning balance

## Access

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

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

Policy TC9 (Parking Provision in New Development) state that spaces will need to be provided for parking of cars and bicycles in new developments. As a guide at least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.

Full planning permission is sought for the means of access to the site. There are three accesses proposed; one from Colyford Road, serving the east side of the housing site, another from Harepath Road, serving the west side of the housing site, and the third from Harepath Road into the site of the proposed football pitch. The County Highway Authority is satisfied that safe access can be provided via the proposed access points as designed.

Where footpaths exist (Harepath Road), the proposed access points for the housing and football pitch include footways which will link to these to ensure opportunities for sustainable travel are available. Colyford Road does not have footways already, however there may be opportunities to link to a cycle/pedestrian footway internal to the site which links with Celandine Close, which in turn could provide reasonable access to the town avoiding the main roads. The Health Impact Assessment states the development will connect via pedestrian/cycle routes to surrounding infrastructure, as does the Planning Statement. The housing site is about 1.6km from the nearest point via Celandine Close, through the quieter streets to the Town Centre. Via Colyford Road this is 1.3km. Harepath Road also benefits from existing bus stops served by at least twice hourly buses.

The site is located adjacent to the existing settlement and is well served by existing footpaths and buses. There are opportunities to provide further pedestrian and cycle links via Celandine Close that are safer than using Colyford Road. The Football pitch is well related to the community ensuring sustainable travel options can be used to access it. The development is considered to be sustainably located in terms of travel and provides safe access to and from the highway network in accordance with Strategy 3, 5B and policy TC2 of the Local Plan.

## **Landscape**

The majority of the site lies in the open countryside for the purposes of the development plan. That said, the section within the BUAB is an undeveloped greenfield site. It is not within a National Landscape, the nearest being 550m to the east, where the tramline runs.

Strategy 46 (Landscape Conservation and Enhancement and AONBs) states that development will only be permitted where it conserves the landscape character of the area, does not undermine landscape quality and is appropriate to the economic, social and well being of the area.

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

Section 12 of the NPPF, 2024 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development (para 131). In addition, development should function well and add to the overall quality of the area; be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and be sympathetic to local character and history, including the surrounding built environment and landscape setting (para 135). Development that is not well designed should be refused (para 139).

The site is exposed to views from Harepath Road, Colyford Road. The A3052 (Harepath Hill), Axmouth and in other local views. Some of the site is more sensitive to change than other parcels, for instance field 4 is mainly away from existing development and retains a strong rural character and is located near to the Seaton Wetlands. Others are less sensitive being co-located with existing development or on land already allocated for development. The development will urbanise the site which is presently greenfield in nature to the detriment of its character and appearance and as a consequence it would run contrary to Strategy 46 of the Local Plan. This weighs negatively in the planning balance.

## **Heritage**

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

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

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

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant consent for any works to have special regard to the desirability of preserving the setting of the listed buildings.

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

The proposed football pitch lies directly opposite the Harepath Farm, The Dairy, The Stables, The Linhay and Barn Grade II group of listed buildings. The application is in outline form (except for the means of access) and so it is not possible to establish the likely effects on these assets. Effects will likely only be in relation to their setting, this being derived in part from the rural fields surrounding these buildings which have an agricultural character. Further consideration will need to be given at the reserved matters stage. The Conservation Officer has expressed an expectation that the quality of the buildings nearest to the listed buildings should be of a higher design and materials so they contribute positively to the setting of these heritage assets.

In relation to archaeology DCC's archaeologist has advised that an archaeological watching brief should be secured through the usual planning condition, to record any items of interest.

At this stage there is no objection in relation to the effects on heritage assets.

### **Residential/Neighbour Amenity**

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

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

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

The proposal would result in dwellings being erected adjacent to existing dwellings, which is unlikely to cause any conflict, subject to suitable layout, design and landscaping.

The proposed housing would also be located adjacent to an existing and designated employment/recreation site under Strategy 25 (site 118b). This may cause some issues that need further consideration. The existing employment units are fairly modest in scale and appear to co-exist with the nearby housing without undue disturbance. The Environmental Health officer has suggested that a noise assessment would be required to inform a noise mitigation scheme and the layout and design of the new houses. An appropriate condition is recommended.

### **Ecology/Biodiversity**

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

The site is located in proximity (3.4km) to the Beer Quarry Cave Special Area of Conservation (SAC).

The site is located within a lesser horseshoe bat *Rhinolophus hipposideros* and Bechstein's bat *Myotis bechsteinii* core sustenance zone, and greater horseshoe bat *Rhinolophus ferrumequinum* landscape connectivity zone.



The site is also located within a lesser horseshoe bat and greater horseshoe bat Pinch Point.

There is a Key lesser horseshoe bat maternity roost (also a lesser horseshoe bat hibernation roost) approximately 150 m north-east of the site.

The designated area of the SAC is relatively small and comprises the quarry and caves and the immediately surrounding areas. However, the qualifying features (the bat populations) are dependent upon a much wider area outside the SAC boundary which provides foraging habitat and commuting routes and supports other critical roosts. Protection of key areas of habitat in the area is therefore essential in order to maintain and enhance the favourable conservation status of the qualifying features.

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated under the Conservation of Habitats and Species Regulations 2017 (as amended), which are commonly referred to as “The Habitats Regulations”. These sites are internationally important for nature conservation, and are afforded the highest level of protection of any ecologically designated sites in the UK.

EDDC is a Competent Authority under the Habitats Regulations, and therefore has a duty to carry out Habitats Regulation Assessment (HRA) in order to test if a proposed plan or project could significantly harm the qualifying features of a Site. This applies to the granting of any permissions by EDDC. HRA typically consists of two stages:

1. **Screening** - An assessment of whether there is a likely significant effect (LSE) on the qualifying features of a European site in absence of mitigation measures. If it does not, then the appropriate assessment stage does not need to be completed.
2. **Appropriate Assessment** – An assessment of whether LSEs can be mitigated, with full mitigation, avoidance and compensation details.

The screening stage concludes that Appropriate Assessment is required and the applicant has submitted supporting information to assist the Council in its duty. Through negotiation with the Council's ecologist, the application and its supporting materials has been revised to the extent that it has been concluded the development would be unlikely to result in an adverse effect on the integrity of the SAC. This is however contingent on various mitigation measures set out in Part D section 14 A-G 'Avoidance/Mitigation/Compensation' (summarised in section 20) of the HRA which sets out specific design requirements for the development but also requires the submission of further supporting information at the reserved matters stage (an application for reserved matters would also be subject to HRA anyway). These mitigation measures will be secured as part of the S.106 given that they will be required to be managed in perpetuity.

#### Biodiversity Net Gain –

BNG is not a mandatory requirement [due to date of application] and measures have been proposed to enhance the wetland habitat area and these measures are not quantifiable within the metric. It is also noted the proposals are demonstrating a possible net gain in excess of 20% for both habitats and hedges based on the submitted outline landscape plan. The provision of BNG when it is not required would be a benefit that weighs in favour of the proposal but only if it is secured and delivered. However, the applicant has indicated an unwillingness to be bound to deliver this quantum of BNG under the S106 (and it is not strictly required to make the development acceptable) and so the weight that can be attributed to this as a benefit is limited. Ecological enhancements proposed in the Ecological Impact Assessment are still likely though (to which attract moderate weight) and are secured in the S106 but there is no guarantee it will equate to 20% under the BNG metric.

#### On-site ecological effects –

The Council's ecologist states that there is no concern regarding nesting birds, dormice, reptiles & amphibians. There are no objections (other than points raised regarding bats) to the proposed

ecological mitigation and enhancement measures, subject to successful implementation and that these could be covered by planning conditions. Concerns regarding SAC related bats have been addressed through revisions to the Landscape Strategy.

Some concern is raised regarding the desire to provide floodlights for the football pitch. These would likely require planning permission in their own right but it is recommended that planning condition is imposed to prevent any lighting of this area due to its sensitivity to bats related to the SAC.

There are non-SAC related bat species of considerable importance in the local area too that need consideration, these being the grey long-eared bat. One of ten maternity roosts in the UK is located in the local area. However the habitat being lost is primarily arable habitat, which is of lower importance to grey long-eared bats, which are primarily associated with unimproved grassland and edge habitats, such as broadleaved woodland edge. The Council's ecologist recommends that the area to the north-east adjacent to the woodland as well as the area around the Stafford Brook (and ideally the woodland) be managed as semi-natural habitat, to future proof the location for grey long-eared (and other) bats. This can be secured through the use of planning conditions, which Natural England has also recommended. These would require the need for Construction and Ecological Management Plan, a landscape and ecological management plan, a Lighting Assessment, and monitoring regime for the development of the site.

Subject to securing the mitigation outlined above in the S.106 and by using planning conditions the development's effects on biodiversity are considered acceptable.

## **Flood Risk & Sustainable Drainage**

Policy EN21 (River and Coastal Flooding) of the Local Plan states that a sequential approach will be taken to considering whether new developments excluding minor developments and changes of use (minor development includes non-residential extensions with a footprint of less than 250 square metres, development that does not increase the size of the building or householder development unless it would create a separate dwelling) will be permitted in areas subject to river and coastal flooding.

Wherever possible developments should be sited in Flood Zone 1 as defined in the East Devon District Council Strategic Flood Risk Assessment<sup>106</sup>. Only if there is no reasonably available site in Flood Zone 1 will locating the development in Flood Zone 2 and then Flood Zone 3 be considered. The flood vulnerability of proposed development, as set out in Appendix D of the East Devon Strategic Flood Risk Assessment will be taken into account.

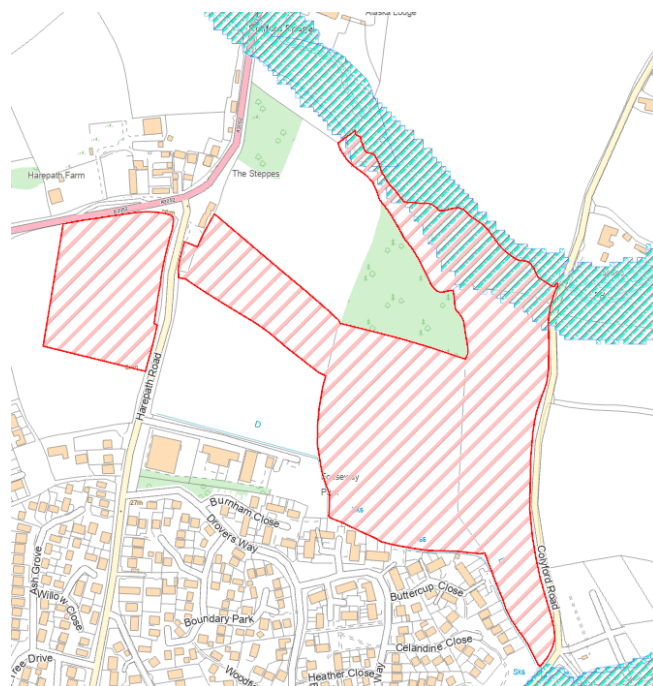
If, after following this sequential approach, acceptable sites cannot be found and the development is necessary for wider sustainable development reasons, development may be permitted if all of the following criteria are met.

1. It is demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk.
2. The proposed development is on previously developed land that is suitably located and available for development, unless no reasonable alternative sites are available.
3. A flood risk assessment demonstrates that the development will be safe, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

This shall not apply to 'highly vulnerable' development in Flood Zone 3a or 'less vulnerable'; 'more vulnerable'; or 'highly vulnerable' development in Flood Zone 3b as defined in the East Devon Strategic Flood Risk Assessment.

The Policy above is supported by the NPPF, 2024 which advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) (para 170) and sets out a requirement to apply the sequential and exceptions sets as set out above.

A small section of the site lies in flood zones 2 and 3.



Recent changes to the NPPF and NPPG confirm however that areas proposed to be used for public open space, biodiversity and amenity areas that lie in the flood risk areas will not necessarily trigger the need for a sequential test. This application has a concept masterplan which shows the area at risk of flooding will be used for open spaces and biodiversity, making the application of the sequential test unnecessary. It will be necessary to apply a condition preventing other development being proposed under the application for the approval of the reserved matters in the flood risk areas.

Policy EN22 (Surface Run-Off Implications of new Development) states that planning permission for new development will require that:

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

DCC's Flood Risk SuDS team were consulted on the application, being the Lead Local Flood Authority for major applications. Its initial objection was overcome through the submission of a revised Surface Water Drainage Strategy. Planning conditions have been recommended for the submission of further detailed drainage information with the application for the approval of the reserved matters. Therefore the development is considered acceptable in accordance with policies EN21 and EN22 of the Local Plan.

## Loss of Agricultural Land

Policy EN13 (Development on High Quality Agricultural Land) of the Local plan states that the best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from development not associated with agriculture or forestry. Planning permission for development affecting such land will only be granted exceptionally if there is an overriding need for the development and either:

1. Sufficient land of a lower grade (Grades 3b, 4 and 5) is unavailable or available lower grade land has an environmental value recognised by a statutory wildlife, historic, landscape or archaeological designation and outweighs the agricultural considerations. Or
2. The benefits of the development justify the loss of high quality agricultural land.

If best and most versatile land needs to be developed and there is a choice between sites in different grades, land of the lowest grade available must be used except where other sustainability considerations, including intrinsic nature conservation value of a site, outweigh land quality issue.

The site between Harepath Road and Colyford Road is identified on the Council's mapping system as primarily being Grade 2 agricultural land, in other words the Best and Most Versatile (BMV) land. This designation also appears to extend to half or so of the field for the proposed football pitch, the remainder being undifferentiated Grade 3. The development would lead to the loss of BMV land contrary to policy EN13 which weighs against the proposal.

## **Other Matters**

The Royal Devon University Healthcare NHS Foundation Trust has commented on the planning application. It seeks a £111,793.00 contribution towards health services. However, the request is not considered to be robustly justified to warrant such a contribution.

Census data from 2011 is used when data from 2021 is available. The main concern though is with the contracts for service delivery. At paragraph 29 of its letter it states that it predominantly uses a tariff approach for funding but does not explain either in the body of the report, nor in the glossary, what this means. The tariff is a fixed payment per patient seen that is set centrally for the delivery of an identified service - effectively it is payment by results. Without evidence to the contrary, it therefore stands to reason that any service paid under this mechanism is unaffected by population growth.

Paragraph 32 of its letter states that outpatient services are paid for via a block contract. There's relatively minimal explanation of what this means in its letter but more detail is given in some recent high court cases (The University Hospitals of Leicester NHS Trust, R (On the Application Of) v Harborough District Council [2023] EWHC 263 (Admin) (13 February 2023) and Worcestershire Acute Hospitals NHS Trust, R (On the Application Of) v Malvern Hills District Council & Ors [2023] EWHC 1995 (Admin) (31 July 2023)). It is a fixed amount of money paid for the delivery of services that may or may not make some allowance for population growth.

The request seems to be based on an amount of money for a variety of services - outpatient, elective and acute/emergency. Based on their own evidence it appears as though a proportion of this would be subject to a tariff approach which would bring the request down, if any request can be legally justified. Consequently, no contribution can be sought in respect of this development based on the information provided.

In addition, DCC has requested a contribution of £90,957.00 towards school transport funding, due the development being further than 2.25 miles from The Axe Valley Community College. However education infrastructure should now be provided through the Community Infrastructure Levy.

## **PLANNING BALANCE**

The proposed development conflicts with the general presumption in Strategy 7 against development outside of BUABs, and with the green wedge policy. Neither does it align with the allocation for commercial/recreational use.

The development would have some harmful landscape effects and would also conflict with the Green Wedge strategy, leading towards the coalescence of Seaton and Colyford. It would also lead to the loss of the Best and Most Versatile agricultural land.

Effects on nearby grade II listed buildings could be acceptable provided the detailed plans submitted at reserved matters stage are carefully designed to take account of the need to conserve their setting.

In terms of benefits, the development would provide housing at a time that the Council cannot demonstrate a five year housing land supply, and where the shortfall is significant. Furthermore, it would deliver 25% affordable housing (up to a maximum of 30.5 affordable homes) in an area where there is a need for 250 affordable homes and when affordable housing delivery across the District is behind target, in the context of a worsening affordability index. Accordingly, these are considered to be benefits to which very significant weight should be afforded. There are also some benefits to the economy generated during the course of the construction period to which some weight can be attributed.

In addition, the development would deliver a much needed recreational facility, in a reasonably sustainable location, identified in the Council's own Playing Pitch Strategy which is now 10 years old. This is considered as significant benefit to the local community to which significant weight should be attached.

The development would not likely adversely affect the integrity of the Beer Quarry Caves SAC and would adequately mitigate the on-site ecological effects. There would be some ecological enhancements to the site, though the stated BNG gains could not be secured.

Taking the above into consideration, the development would provide social and economic benefits of significant weight. Biodiversity interests would be not only maintained but there would also be some ecological enhancements to the site. While there would be some landscape harm the overall balance (considering the definition of sustainable development in the NPPF which stands on 3 pillars: economic, social and environmental) is positive and the development can therefore be said to be sustainable.

The development is not in accordance with the allocations in the emerging Local Plan as presently drafted. For instance, Seat\_03 is only allocated for housing (where the football pitch is suggested to be) and Seat 05 is allocated for both housing and employment when no employment is proposed as part of this application, and the development site includes land north and outside of Seat\_05. Furthermore, the draft Local Plan requires that Seat\_03 and Seat\_05 be delivered as a co-ordinated and comprehensive development and this application leaves some of the allocated land out. Only limited weight can be afforded to the emerging Local Plan at this time in any event.

The inability to demonstrate a five year housing land supply means that the housing policies in the Local Plan are out of date and the tilted balance in the NPPF therefore applies. This requires that permission be granted for sustainable development. As the integrity of the SAC will be upheld, none of the disqualifying criteria of the tilted balance are applicable. It is therefore recommended that the Council adopts the Appropriate Assessment (HRA) and grants permission for the development, subject to the completion of a S.106 agreement and conditions set out below.

## **RECOMMENDATION**

1. Adopt the shadow Habitat Regulations Assessment as its Appropriate Assessment.
2. Approve subject to the following matters to be secured by a Section 106 legal agreement:
  - 25% Affordable Housing. Delivery of 50% affordable housing by 50% occupation of open market units. Delivery of 100% affordable housing by 75% open market units;
  - Delivery of Public Open Space on-site and future management;
  - Travel Plan Measures and Monitoring (as proposed in sections 8.9, 9.3 & 12.3 of Planning Statement);
  - Monitoring fee including monitoring of LEMP
  - Delivery of ecological mitigation/ enhancement measures as set out in the Ecological Impact Assessment (EAD Ecology July 2023) (subject to revised details at reserved matters stage)
  - Submission of further SAC mitigation details at reserved matters application stage and delivery of mitigation specified in section 14 A-G of (summarised in section 20) the Habitat Regulations Assessment dated 19.7.2024 by East Devon District Council.
- Sports pitch Heads of Terms -
  - Delivery (completion of the works to form the pitch, car and cycle parking, access works and any associated facilities) of the football pitch in accordance with the scheme to be agreed under condition 11 before occupation of 65% of the dwellings;
  - Future management/ownership of the facility (to be agreed);
  - Pitch inspection 7 months post completion but prior to first use plus remedial works if necessary;
  - Within 18 months of the initial completion of the football pitch the final inspection and sign-off of the condition of the pitch and the transfer of the management/ownership to agreed body.

APPROVE subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)
2. Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
4. Prior to commencement of development the Planning Authority shall have received and approved in writing a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the

development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works;

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations;

(l) The proposed route of all construction traffic exceeding 7.5 tonnes;

(m) Details of the amount and location of construction worker parking; and

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

The development shall proceed in strict accordance with the approved CMP.

(Reason- To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policy TC7 (Adequacy of the Road Network and Site Access) of the East Devon Local Plan 2013-2033. This is a pre-commencement condition as it concerns how the development is carried out.)

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

(Reason - To ensure the construction works do not give rise to undue noise, disturbance or pollution in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031. This is a pre-commencement condition as the CEMP concerns how the development is carried out.)

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

(a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with Devon County Council's groundwater monitoring policy.

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

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

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

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

(f) Evidence there is agreement in principle from the landowner.

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

(Reason- The above condition is 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 NPPG and policy EN22 (Surface Water Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031). The condition is a pre-commencement because 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.)

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

(Reason- To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan 2013-2031 that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.)

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

(Reason - To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan 2013-2031.)

9. No development work shall commence on site until the following information has been submitted and approved:

- a) A full set of hard landscape details for proposed walls, fencing, retaining structures, hedgebanks, pavings and edgings, site furniture, play equipment and signage.

- b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation including lux levels plan. External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.

- c) A site levels plan indicating existing and proposed levels and showing the extent of earthworks and any retaining walls at 1:250 scale or greater. This shall be accompanied by a minimum of 6 sections through the site at a scale of 1:200 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings.



d) A landscape and green infrastructure strategy plan showing existing trees, hedgerow and habitat to be retained and removed; proposed tree and structure planting and new habitat to be created; existing and proposed watercourses, ponds and wetland areas; pedestrian and cycle routes through the site and how they connect to the existing network beyond.

e) Surface water drainage strategy incorporating an appropriate SuDS treatment train and details of SuDS features including proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc. The SuDS scheme shall be designed to enhance bio-diversity value and engineered elements should have a positive or neutral impact on visual amenity.

f) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- o a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- o methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- o location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- o schedules of volumes for each material.
- o expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.
- o identification of person responsible for supervising soil management.

g) A full set of soft landscape details including: i) Planting plan(s) showing locations, species and number of new tree, shrub and herbaceous planting, type and extent of new amenity/ species rich grass areas, existing vegetation to be retained and removed. ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting. iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule. iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

h) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Page 10 of 10 Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

10. No development shall take place until a Landscape and Ecology Management Plan (LEMP), based on the submitted Ecological Impact Assessment (EAD Ecology, 2023) and HRA

(EDDC, 2024), for a minimum period of 30 years (Habitats provided for SAC bats will need to be managed in perpetuity) has been submitted to, and approved in writing by, the Local Planning Authority which should include the following details:

- a) Extent, ownership and responsibilities for management and maintenance accompanied by a plan showing areas to be adopted, maintained by management company or other defined body and areas to be privately owned/ maintained.
- b) Details of how the management and maintenance of habitats, open space and associated features will be funded for the life of the development.
- 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 aims and objectives for the site.
- e) Condition survey of existing trees, hedgerow and other habitat to be retained as a baseline for future monitoring and to identify any initial works required to address defects/ issues identified and bring them into good condition.
- f) Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works in relation to:
  - i) 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.
  - ii) New trees, woodland areas, hedges and amenity planting areas.
  - iii) Grass and wildflower areas.
  - iv) Biodiversity features – bat house, hibernacula, bat/ bird boxes etc.
  - v) Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- g) Arrangements for Inspection and monitoring of the site and maintenance practices.
- h) 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.

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

The development hereby permitted shall not be occupied until all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), permeable garden fencing, reptile hibernacula, have been installed/constructed in accordance with details within the submitted LEMP.

The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 4 (Balanced Page 10 of 10 Communities), Strategy 5 (Environment), Strategy 43 (Open Space Standards), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. To The maintain the integrity of the Beer Quarry Caves Special Area of Conservation and on-site biodiversity, in accordance with strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031). The LEMP is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

11. The reserved matters application for layout shall include:

- a) A detailed assessment of ground conditions of the land proposed for the new playing field land as shown on drawing number 1501-PL-C shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
- b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority after consultation with Sport England.

(Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with policy RC2 (New Open Space, Sports Facilities and Parks) of the East Devon Local Plan 2013-2031).

12. The playing field/s and pitch/es shall be constructed and laid out in accordance with the approved reserved matters and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011).

(Reason: To ensure the quality of pitches is satisfactory and they are available for use before development is completed and to accord with policy RC2 (New Open Space, Sports Facilities and Parks) of the East Devon Local Plan 2013-2031).

13. Any reserved matters application must include a noise assessment to BS4142:2014+A1:2019 to determine the likely noise impact from any neighbouring commercial area on the new noise sensitive properties. The purpose of this noise assessment is to determine whether or not future residents are likely to be adversely affected by noise and to inform the layout and design of the new development. If the noise impact assessment highlights noise as an issue, mitigation will need to be considered and assessed in order to determine if it is at an appropriate level to achieve both satisfactory internal and external (amenity areas) noise levels.

(Reason - To ensure the development is not adversely affected by noise from nearby existing commercial development in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).

14. There shall be no artificial lighting of the any of the site laying west of Harepath Road including the section of the site proposed for the new football pitch, as indicated on the Concept Master Plan Coloured (drawing 1501-PL-C).

(Reason - The use of lighting in this area will likely adversely affect the integrity of the Beer Quarry Caves Special Area of Conservation, contrary to strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

15. A lighting scheme for the construction phase shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lighting used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable. Development shall take place in accordance with the approved details.

(Reason - To ensure the construction works do not give rise to undue disturbance or pollution in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031. This is a pre-commencement condition as the CEMP concerns how the development is carried out.)

16. No works shall commence on site unless the Local Planning Authority has been provided with a copy of the dormouse mitigation licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead. Any mitigation and compensation measures should be in accordance within an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.

(Reason - To avoid harm to protect species which would be contrary to strategy 47 (Nature Conservation and Geology) of the East Devon Local Plan 2013-2031).

17. No dwelling shall be first occupied until a Lighting Impact Assessment (LIA) based on the detailed site design and most recent guidelines (currently GN08/23), and in accordance with the approved HRA (EDDC, 2024), has been submitted to, and approved in writing by, the Local Planning Authority. The LIA should clearly demonstrate that dark corridors provided around the site are achievable without the attenuation of habitat features which long-term management cannot be guaranteed. The LIA should also be supported by evidence, where statements are made regarding no use of lighting, by the competent authority (The Local Highway Authority) or other stakeholders, that this is acceptable in the long-term. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

(Reason - The use of lighting in this area will likely adversely affect the integrity of the Beer Quarry Caves Special Area of Conservation, contrary to strategy 47 (Nature Conservation and Geology) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

18. No development shall take place (including ground works or vegetation clearance) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority based on the details within the submitted EclA (EAD Ecology, 2023). The CECoMP shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.

- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication, including reporting compliance of actions to the LPA
- g) The role and responsibilities on site of an ecological clerk of works (ECoW)
- h) Use of protective fences, exclusion barriers and warning signs. The approved CEcoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

(Reason - To ensure on-site biodiversity is not adversely affected in accordance with strategy 47 (Nature Conservation and Geology) of the East Devon Local Plan 2013-2031).

Plans relating to this application:

final v.2 (part 1)	Ecological Assessment	28.07.23
final v.2 (part 2)	Ecological Assessment	28.07.23
1937w001 + appendices	Flood Risk Assessment	28.07.23
19008-002 D : proposed site access	Other Plans	28.07.23
DR-1501-PL-C : concept master plan coloured	Other Plans	13.06.24
CLPD 093 P01 : landscape strategy	Landscaping	13.06.24
CLPD 093 P02 : landscape strategy	Landscaping	13.06.24
CLPD 093 P03 : landscaping indicative section A-AA	Additional Information	13.06.24
CLPD 093 P04 : landscaping indicative section B-BB	Additional Information	13.06.24
05878 TPP 08.11.22 : 1 of 3	Tree Protection Plan	20.12.22
05878 TPP 08.11.22 : 2 of 3	Tree Protection Plan	20.12.22

05878 TPP 08.11.22 : 3 of 3	Tree Protection Plan	20.12.22
19008-001 A : proposed site access	Other Plans	20.12.22
19008-003 A : proposed site access	Other Plans	20.12.22
DR-A-1001	Location Plan	20.12.22

#### 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.

The Conservation of Habitats and Species Regulations 2017		East Devon District Council
Regulation 63 – Habitats Regulations Assessment		
Stage 1: Screening for Likely Significant Effect on the Beer Quarry and Caves SAC		
Part A: The proposal		
1. Type of permission/activity:	Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.	
2. Application reference no:	22/2781/MOUT	
3. Site address: Grid reference:	Land Adjacent to Harepath Road, Seaton, Devon, EX12 2WH NGR SY 24656 91715	
4. Brief description of proposal:	<ul style="list-style-type: none"> <li>• <b>Type of development</b> Mixed use development comprising of up to 130 dwellings and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.</li> <li>• <b>Distance to the European site</b> Approximately 3.4 km northeast of Beer Quarry and Caves Special Area of Conservation (SAC)</li> <li>• <b>Is the proposal site within a consultation zone (landscape connectivity, core sustenance, pinch point, hibernation sustenance zone)</b>  The site is located within a lesser horseshoe bat <i>Rhinolophus hipposideros</i> and Bechstein's bat <i>Myotis bechsteinii</i> core sustenance zone, and greater horseshoe bat <i>Rhinolophus ferrumequinum</i> landscape connectivity zone.  The site is also located within a lesser horseshoe bat and greater horseshoe bat Pinch Point.  There is a Key lesser horseshoe bat maternity roost (also a lesser horseshoe bat hibernation roost) approximately 150 m north-east of the site.</li> <li>• <b>Size</b> 10.05 ha</li> <li>• <b>Current land use (habitat type and immediately adjacent habitat types)</b>  The site lies on the northern edge of Seaton and was dominated by five arable fields sown with maize, cereal crops or with a grass ley. Arable margins were narrow (1-2m in most places) and dominated by coarse grasses.</li> </ul>	

	<p>A belt of unmanaged poor semi-improved grassland with encroaching tall ruderal and scattered scrub was present in the northeast of the Proposed Development site and was bordered by a shallow stream (Stafford Brook).</p> <p>Field boundaries were bordered by species-rich and species-poor hedgerows, several with mature trees or associated dry ditches. Semi-natural broadleaved woodland containing a pond was also present immediately adjacent to the north-eastern boundary.</p>
5. European site name	Beer Quarry and Caves SAC (BQ&CSAC) – SAC EU Code UK0012585
<p>6. Qualifying Features and Conservation Objectives:</p> <p>Ecological characteristics associated with the features (including those associated with the site, and information on general trends, issues or sensitivities associated with the features if available).</p>	<p><b>Annex II species that are a primary reason for selection of this site</b></p> <ul style="list-style-type: none"> <li>• 1323 – Bechsteins bat (<i>Myotis bechsteinii</i>). This complex of abandoned mines in south-west England is regularly used as a hibernation site by small numbers of Bechstein's bat <i>Myotis bechsteinii</i> as well as an important assemblage of other bat species.)</li> </ul> <p><b>Annex II species present as a qualifying feature, but not a primary reason for site selection</b></p> <ul style="list-style-type: none"> <li>• 1303 – Lesser horseshoe bat (<i>Rhinolophus hipposideros</i>)</li> <li>• 1304 – Greater horseshoe bat (<i>Rhinolophus Ferrumequinum</i>)</li> </ul> <p><b>Conservation Objectives</b> (Natural England 27/11/2018):  <i>"With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;</i></p> <p><i>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</i></p> <ul style="list-style-type: none"> <li>• <i>The extent and distribution of qualifying natural habitats and habitats of qualifying species.</i></li> <li>• <i>The structure and function (including typical species) of qualifying natural habitats.</i></li> <li>• <i>The structure and function of the habitats of qualifying species</i></li> <li>• <i>The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely.</i></li> <li>• <i>The populations of qualifying species, and,</i></li> <li>• <i>The distribution of qualifying species within the site.</i></li> </ul> <p><i>These Conservation Objectives should be read in conjunction with the accompanying Supplementary Advice document (where available), which provides more detailed advice and information to enable the application and achievement of the Objectives set out above."</i></p> <p><b>Targets:</b></p> <ul style="list-style-type: none"> <li>• Lesser horseshoe bat  <i>Maintain the abundance of the population at a level which is above 107 individuals, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.</i></li> <li>• Greater horseshoe bat  <i>Maintain the abundance of the hibernating population at a level which is above 146 individuals, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.</i></li> <li>• Bechstein's bat</li> </ul>



	<p><i>Maintain the presence of hibernating Bechstein's bat at the site, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.</i></p> <ul style="list-style-type: none"> <li><i>• Maintain the total extent of the habitats which support the features.</i></li> <li><i>• Maintain the distribution and continuity of the feature and its supporting habitat, across the site.</i></li> <li><i>• Restore the structural integrity of the roost space, with no recent collapses/falls or signs of geological instability.</i></li> <li><i>• Restore appropriate light levels, humidity, temperature and ventilation.</i></li> <li><i>• Restore the number of access points to the roost at an optimal size and in an unlit and unobstructed state, with surrounding vegetation providing sheltered flyways without obstructing accesses.</i></li> <li><i>• Restore the presence, structure and quality of any linear landscape features which function as flightlines.</i></li> <li><i>• Flightlines should remain unlit, functioning as dark corridors.</i></li> <li><i>• Maintain any core areas of feeding habitat outside of the SAC boundary that are critical to the bat features during their hibernation period.</i></li> <li><i>• Maintain the feature's ability, and that of its supporting habitat, to adapt or evolve to wider environmental change, either within or external to the site.</i></li> <li><i>• Restore concentrations and deposition of air pollutants to at or below the site relevant Critical Load or Level values given for this feature of the site on the Air.</i></li> <li><i>• Restore the management measures (either within and/or outside the site boundary as appropriate) which are necessary to Restore the structure functions and supporting processes associated with the feature and/or its supporting habitats.</i></li> <li><i>• Control and minimise human access to roost sites</i></li> <li><i>• Where the feature or its supporting habitat is dependent on surface water and/or groundwater, Maintain water quality and quantity to a standard which provides the necessary conditions to support the feature</i></li> </ul> <p>The designated area of the SAC is relatively small and comprises the quarry and caves and the immediately surrounding areas. However, the qualifying features (the bat populations) are dependent upon a much wider area outside the SAC boundary which provides foraging habitat and commuting routes and supports other critical roosts. Protection of key areas of habitat in the area is therefore essential in order to maintain and enhance the favourable conservation status of the qualifying features.</p>
7. Ecological survey Summary of effort and findings	<p><b><i>Name of documents containing ecological survey information:</i></b></p> <p>Adkins (2012) Harepath Road, Seaton Bat Survey Report 2012.</p> <p>Bayley, A., and Reardon, E. (2018). Bat species use of the 'Green Wedge' landscape lying between and around Seaton and Colyford - A report requested on behalf of the East Devon Area of Outstanding Natural Beauty Partnership.</p> <p>EAD Ecology (2023) Shadow Habitats Regulations Assessment Land east and west of Harepath Road, Seaton.</p> <p>EAD Ecology (2023) Ecological Impact Assessment – Land east and west of Harepath Road, Seaton, Devon. Report for Baker Estates.</p> <p>EAD Ecology (2023) Ecological Impact Assessment – Appendices - Land east and west of Harepath Road, Seaton, Devon. Report for Baker Estates.</p> <p>Encompass Ecology (2014) Bat activity assessment and mitigation strategy. Land off Rowan Drive, Seaton.</p>

Mathews, F. (2014). Proof of evidence against the refusal of planning permission of land east of Harepath Road, Seaton. EDDC ref: 12/1185/MOUT.

Richard Green Ecology (2015) Interim Ecological Survey Report – Land adjacent to Harepath Road, Seaton, Devon. Ecological Assessment – 15/2188/MOUT

The Lighting Bee (2023) Land at Seaton Lighting Strategy V0.4

***Summary of survey effort (no. transects, static detector deployments and bat emergence surveys, if applicable):***

Bat activity surveys of the Proposed Development site, comprising transect and static detector surveys, were undertaken between June – October 2019 and April – May 2020, with winter static detector surveys between February – March 2020. Full results of the surveys are presented in the EclA Report (EAD Ecology, 2023).

Previous bat activity and static surveys of the site and surrounding habitats have been undertaken between 2012-2018 by various consultants including Adkins (2012), Richard Green Ecology Ltd (2015), and Bayley and Reardon (2018).

***Summary of relevant findings and Bat Activity Index (number of bat passes from greater and lesser horseshoe bats – note that Bechstein passes are unlikely due to low amplitude, flight patterns and cryptic call parameters):***

The ecological surveys have demonstrated that the site is used by all three qualifying bat species associated with Beer Quarry and Caves SAC for both for commuting and foraging with seasonal use by all species noted and spatial distribution across the whole site.

The surveys have indicated that the areas surrounding the woodland and the riparian corridor in the north-east as the areas with highest levels of bat activity and of primary importance.

Lesser horseshoe bat use of the qualifying bat species is highest, which is likely given the proximity of the site to a lesser horseshoe bat maternity Key Roost, i.e., within 150 m of the site. The winter survey results also demonstrated the use of the site over the winter frequently by lesser horseshoe bats.

***Bat transect surveys – active period (April – October)***

The overall trends for the three qualifying bat species for the SAC are as follows:

***Myotis bats*** (proportion assumed to be Bechstein's): The eastern half of the Survey Area (to the east of Harepath Road) had significantly more *Myotis* bat registrations; with only 11 *Myotis* bat registrations recorded in the west, and 134 in the east.

The north-eastern section of the Survey Area has the most *Myotis* bat registrations overall. However, there is also a concentration of activity along part of the south-eastern survey boundary (Hedgerow H11).

**Greater horseshoe bat:** Eleven greater horseshoe bat registrations were recorded during the transect surveys. These were all in the eastern half of the Survey Area with the exception of a single registration recorded along Hedgerow H5. The remaining registrations were recorded on Hedgerows H8-H10 and in proximity to Stafford Brook in the northeast of the Site.

**Lesser horseshoe bat:** Twenty-one lesser horseshoe bat registrations were recorded during the transect surveys. All registrations were recorded in the eastern half of the Survey Area, mainly along hedgerows H9 and H12, as well as within the north-eastern part of the Survey Area.

***Bat static detector surveys – 'Active period'***

At least ten species were recorded during the static detector survey with an overall total of 80,236 registrations. Common pipistrelle was the most abundant species comprising 69.10% of all recordings, followed by *Myotis* bats (10.14%). Lesser horseshoe bat (2.08%) and greater horseshoe bat (1.05%).

***Myotis* bats** were recorded at all static detector locations within the Survey Area. The three static detector positions that recorded BAI values above the Site average were those located in the northeast corner of the Site adjacent to semi-natural broadleaved woodland and a stream. This corresponds with the static detector locations with the highest *Myotis* bat activity levels during the active period (April-October) surveys.

Activity recorded within the Site over the winter period (November-March) was typically much lower than that recorded within the active period (April-October). However, the survey results showed that *Myotis* bats were using the Site during the hibernation period. The spatial distribution of *Myotis* bat activity was similar in winter to summer (higher activity in the northeast of the Site).

**Greater horseshoe bats** were recorded at all static detector locations within the Survey Area except for four positions located in the northwest and southeast of the Survey Area (Positions 2, 4, 8 and 9). The overall Survey Area winter Bat Activity Index (BAI) of 0.01 was recorded. Significantly reduced bat activity was recorded within the winter activity surveys when compared with levels during the active period.

However, greater horseshoe bats were shown to be using the Site in both February and March, albeit in lower numbers than typically recorded during the active period. The spatial distribution of greater horseshoe bat activity was similar in winter to summer, with higher activity levels recorded along the southern Site boundary and in the northeast of the Site.

Lesser horseshoe bats were recorded at all static detector locations within the Survey Area except Position 9. The overall Survey Area winter Bat Activity Index (BAI) of 0.08 was recorded.

The winter activity surveys showed comparable levels of lesser horseshoe bat activity at a number of Positions within the Site. This implies that the Site is of importance to lesser horseshoe bats during the both the active (April – June) and winter period (November – March). This is likely to be due to the proximity of the Site to the Key lesser horseshoe bat maternity (and hibernation) roost.

**Static detector surveys – ‘Winter period’**

At least ten bat species were recorded during the winter static detector surveys with an overall total of 11,239 registrations. Common pipistrelle was the most abundant species comprising 70.30% of all recordings. Lesser horseshoe bat (5.88%), Myotis bats (4.78%) greater horseshoe bat accounting for less than 1% of registrations.

Lesser horseshoe bat was the most abundant species at Positions 11 and 14 in the east of the Site. Light sensitive bat species were recorded at all static detector locations.

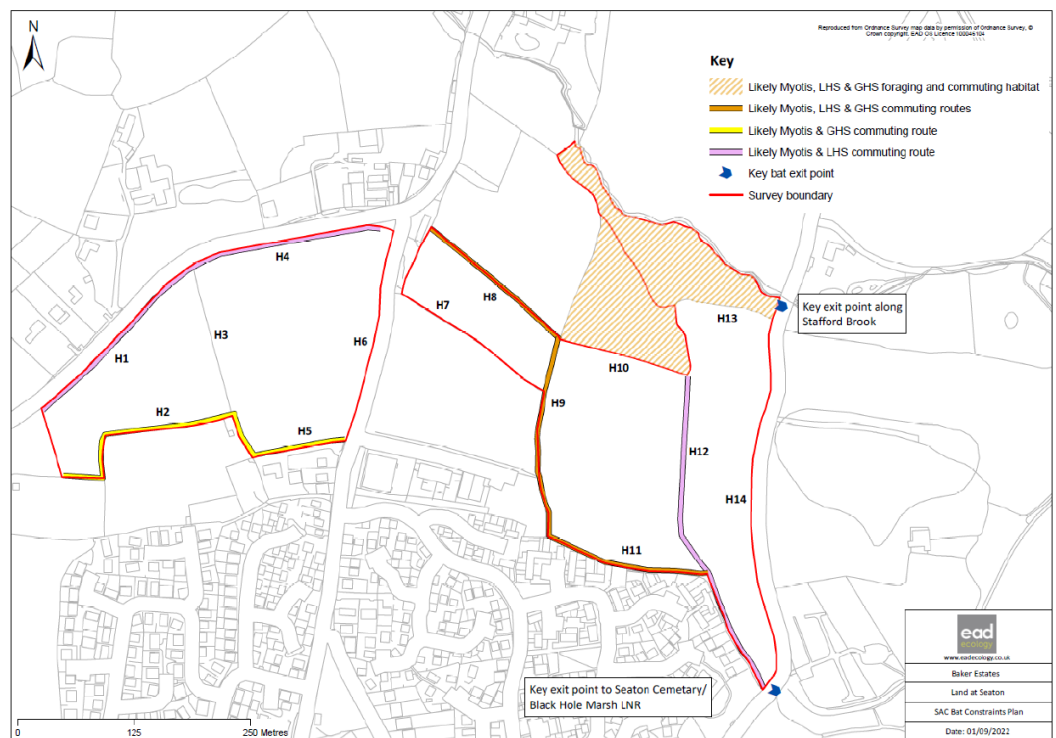
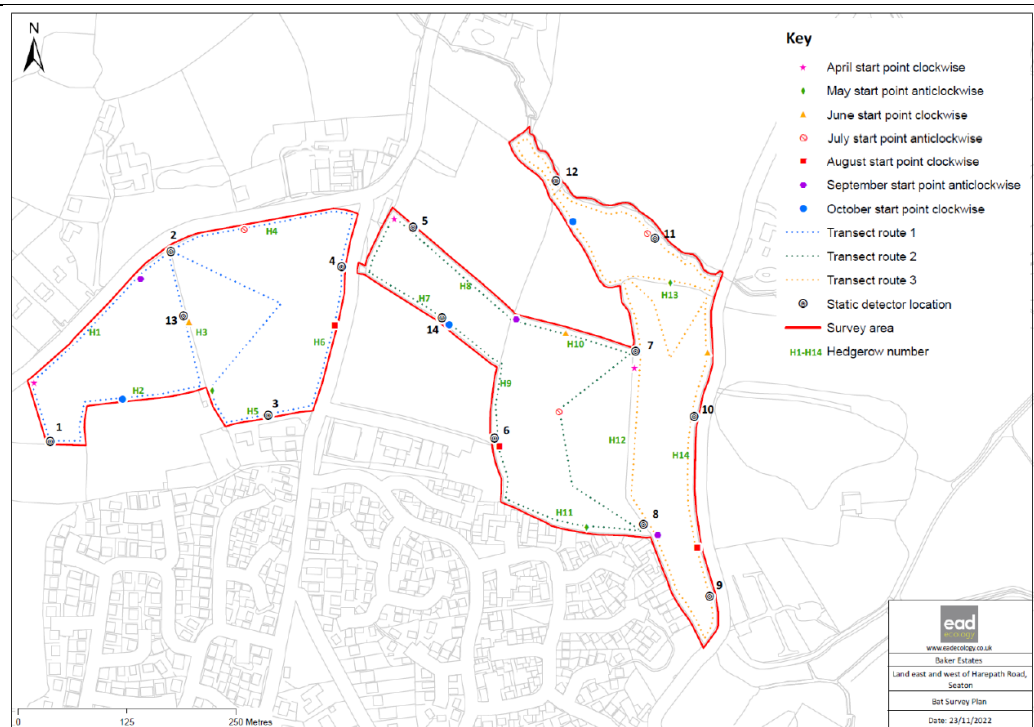
Myotis bats were recorded at all static detector locations within the Survey Area. The three static detector positions that recorded BAI values above the Site average were those located in the northeast corner of the Site adjacent to semi-natural broadleaved woodland and a stream. This corresponds with the static detector locations with the highest Myotis bat activity levels during the active period (April-October) surveys.

Activity recorded within the Site over the winter period (November-March) was typically much lower than that recorded within the active period (April-October). However, the survey results showed that Myotis bats were using the Site during the hibernation period. The spatial distribution of Myotis bat activity was similar in winter to summer (higher activity in the northeast of the Site).

Greater horseshoe bats were recorded at all static detector locations within the Survey Area except for four positions located in the northwest and southeast of the Survey Area (Positions 2, 4, 8 and 9). The overall Survey Area winter Bat Activity Index (BAI) of 0.01 was recorded. Significantly reduced bat activity was recorded within the winter activity surveys when compared with levels during the active period. However, greater horseshoe bats were shown to be using the Site in both February and March, albeit in lower numbers than typically recorded during the active period. The spatial distribution of greater horseshoe bat activity was similar in winter to summer, with higher activity levels recorded along the southern Site boundary and in the northeast of the Site.

***Relevant figure excerpts from document (maps, tables, if relevant/concise):***

Refer to EcIA (part 1 and 2) and submitted sHRA (EAD Ecology, 2023).



## Part B: Screening assessment for Likely Significant Effect – In absence of proposed mitigation

8. Is this application necessary to the management of the site for nature conservation?

No

9. What BQ&CSAC consultation zones is the proposal within (insert "X")?

10 km GHB Landscape connectivity zone

X

4 km GHB Sustenance zone

2 km GHB Hibernation sustenance zone

11.2 km LHB Landscape connectivity zone

2.5 km LHB Sustenance zone

X

1.2 km LHB Hibernation sustenance zone

<p><i>Refer to the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document and online mapping</i></p>	10.25 km Bechstein's Landscape connectivity zone	
	2.5 km Bechstein's sustenance zone	<b>X</b>
	Pinch point	<b>X</b>
<p><b>10. Summary assessment of potential impacts to Qualifying Features of the European site, in the <u>absence</u> of mitigation measures.</b></p> <p>Consider scale, extent, timing, duration, reversibility and likelihood of the potential effects.</p> <p><i>Impacts of these types are considered to result in result in a Likely Significant Effect (LSE) on the SAC. Refer to the flow chart on page 19 of the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i></p> <p><b>If the proposal is located in a Landscape Connectivity Zone (LCZ) ONLY, then the only impact to result in an LSE is "A – Landscape scale connectivity impacts".</b></p> <p><i>Consider construction phase and operational phase. For some proposals, it may also be necessary to consider de-commissioning and after-use.</i></p>	<i>A – Landscape (large) scale connectivity impacts</i>	Unmitigated development of the site and associated lighting would result in the contraction and potential severance of a lesser horseshoe and greater horseshoe bat Pinch Point.
	<i>B - Direct impacts on the SAC roost or other key roost(s)</i>	<p>The nearest SAC roost (a Key lesser horseshoe bat maternity roost) is located within 150 m of the site within a private residential site. The site and roost would not be accessible, or likely to be disturbed by noise, lighting, or dust during construction or operation.</p> <p>There would be no direct impacts on any SAC roost or key roost.</p>
	<i>C - Change in habitat quality and composition (loss or change in quality of foraging habitat)</i>	<p><b>Construction</b></p> <p>The loss of habitat during site clearance would reduce the availability of foraging habitat and damage of commuting routes used by SAC bats. This could also impact the Pinch Point and inhibit the movement of bats within their Landscape Connectivity Zone and between other key roosts in the region.</p> <p><b>Operation</b></p> <p>The development of the site would change the site from an agricultural landscape with historic hedge features to a sub-urban environment with public access and result in the direct loss of foraging and commuting habitat used by all qualifying bat species.</p>
	<i>D - Severance or disturbance of linear features used for navigating or commuting</i>	<p><b>Construction</b></p> <p>The development of the site will result in the severance of hedges (H9, H12, &amp; H14) used by all bat qualifying species.</p> <p>Predicted impacts from lighting during construction and operation are provided in section 10.E below.</p> <p><b>Operation</b></p> <p>The severance of H9, H12, &amp; H14 (including new access road) and potential insensitive management of H7 (being within the curtilage of residential dwellings) could also result in the degradation of these features used by qualifying bat species.</p>
	<i>E - Disturbance from new illumination causing bats to change their use of an area/habitat</i>	<p><b>Construction</b></p> <p>Construction lighting, including from compound buildings, security lighting, and vehicle lighting has the potential to result in the disturbance, avoidance and delay of horseshoe and Bechstein's bats from commuting and foraging over the site, including along retained site boundaries and woodland edge, which</p>

		<p>could also impede their access to foraging sites and dispersal into the wider environment. It could also impact on pregnant lesser horseshoe bats and their volant young from the nearby maternity roost having to expend further energy.</p> <p><i>Operation</i> Lighting associated with the development including street lighting, lighting from residential dwellings (including security lighting, light spill from windows), and lights from vehicles could result in the avoidance of the site (or delay in used of the site) from light adverse horseshoe and Myotis bats from commuting and foraging over the site and into the wider landscape. Vehicle movements could also sever east/west permeability of the eastern part of the site.</p> <p>Lighting from the site (in combination with upgraded offsite street lighting) could also result in a vacuum effect resulting in the concentration of invertebrates into well-lit area avoided by light adverse horseshoe and myotis bats, reducing the availability if suitable prey from retained dark areas and resulting in increased competition from more light tolerant species such as pipistrelle and serotine bats.</p> <p>Any lighting associated with the proposed football pitch associated building, and vehicles could result in the disturbance of bats and avoidance of bats from commuting and foraging over the site.</p>
	<i>F - Disturbance to or loss of land or features secured as mitigation for BQ&amp;CSAC bats from previous planning applications or projects</i>	N/A – there would be no impact on previous land or mitigation features secured from previous planning application projects.
	<i>G – Loss, damage, restriction or disturbance of a pinch point</i>	<p><i>Construction</i> Site clearance and associated construction lighting could result in in the contraction and severance of the lesser horseshoe and greater horseshoe bat Pinch Point on the site, from bats avoiding the site and being further concentrated to the north of the site, away from development activity.</p> <p><i>Operation</i> The provision of a major residential development located in in an area of existing agricultural landscape would materially change the nature of the site and could result in the avoidance of the site by horseshoe and myotis species and result in the contraction of the Pinch Point.</p>

	<p><i>E - Other impacts – e.g. physical injury by wind turbines or vehicles</i></p>	<p><b>Construction</b> The movement of construction vehicles on the site are unlikely to result in the direct mortality of bats, given the low speeds of movement.</p> <p><b>Operation</b> The new access road to the east part of the site and subsequent increase in car movements along Colyford Road could potentially result in some risk of mortality of juvenile lesser horseshoe bats from the nearby maternity roost which are noted as being particularly vulnerable to collision risk (Fensome and Matthews, 2016). However, Colyford Road would be restricted to 30 mph near the site entrance so direct mortality is hard to predict above a level considered significant.</p>
<p><b>11.</b> Potential for in-combination effects (<i>other permissions granted and proposals in the area that could result in impacts when assessed in combination – review planning permissions in the vicinity with similar impacts</i>)</p>	<p>The proposed upgrade of street lighting by Devon County Council along Harepath Road to P4 class, especially at the junction with Harepath Hill has been modelled to show that lux levels along the entirety Harepath Road and bottom of Harepath Hill would be in levels in excess of those considered to impact on horseshoe and myotis bats, i.e., above 0.5 lux. This could act to sever the permeability of bats from the east site to the west site across Harepath Road and result in the contraction of the existing Pinch Point.</p> <p>An updated search of planning applications was undertaken from Branscombe in the West to the Axe Estuary in the east, and in a northerly direction to Colyton. All relevant planning applications considered in the assessment are shown below:</p> <p>22/1522/MRES Land Adjacent Short Furlong Short Furlong Beer (Awaiting decision). Application for approval of reserved matters (Appearance, landscaping, layout and scale) following approval of outline application no 18/1957/MOUT18 - construction of up to 30 new dwellings (including affordable housing provision).</p> <ul style="list-style-type: none"> <li>• 21/1782/MFUL Seaton Heights Harepath Hill Seaton (Awaiting decision). Erection of No. 9 x 2-bed and No. 14 x 3-bed and 19 x 4 bed two storey detached holiday homes with associated parking and amenity space.</li> <li>• 18/2376/MFUL Land North of Kingsholme and West of Coly Road Colyford Colyton (Nondetermination appeal lodged; appeal dismissed). Proposed residential development of 15no. dwellings (10no. affordable) with site access and associated works.</li> <li>• 22/1846/FUL Land Off Gosling Walk Harepath Road Seaton (Awaiting decision). Construction of 4 no. dwellings.</li> <li>• 22/1457/MOUT Land at Whitecross Farm Colyford Road Seaton (Application withdrawn). Outline application with all matters reserved for spa facility (to include spa facility/activity buildings, associated outdoor recreation areas; a bar/restaurant/shop), accommodation. alterations to existing access and erection of farm buildings (relocated within site). This application lies directly adjacent to the proposed developments south-east boundary. The illustrative site layout indicates that the western most part of the site will be developed. The key bat flight corridor from the exit point on the southern</li> </ul>	



	<p>boundary of the proposed development to Seaton Cemetery/ Seaton Wetlands will be maintained.</p> <p>The planning applications for the identified developments set out above have been or will also be subject to Habitats Regulations Assessment. For each development to be acceptable in isolation, it would be necessary to demonstrate that there would not be an adverse effect on the integrity of the greater and lesser horseshoe bat and Bechstein's bat populations associated with the Beer Quarry and Caves SAC, which would include the delivery of avoidance and mitigation measures as required.</p>
12. Natural England consultation comments (if available)	<p>Natural England latest pre application comments are provided in Appendix 1 of the supporting sHRA.</p> <p>The formal Natural England consultation response to the submitted sHRA was provided on 16/08/2023 stated:</p> <p><b>NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED</b>  We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC).  In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required, as set out in the Appropriate Assessment.</p> <ul style="list-style-type: none"> <li>• A Construction Ecological Management Plan for the development, to be appended to the Construction Environmental Management Plan.</li> <li>• A Landscape and Ecological Management Plan to incorporate management objectives, actions and responsibilities to ensure appropriate long-term habitat management to maximise the foraging value of the habitats provided for horseshoe and Myotis bats.</li> <li>• A detailed Lighting Assessment to ensure that dark corridors are maintained.</li> <li>• Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.</li> </ul> <p>We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.</p> <p>Natural England's previous comments regarding appeal 12/1185/MOUT are also provided in the supporting proof of evidence. In particular, from 10/06/2013 which stated (section 8.2, pg. 17):</p> <p><i><u>"The area of existing plantation woodland, the field to the north-east, and the area proposed for woodland planting north of the Stafford Brook are not within the redline of the planning application but <b>management and enhancement of these areas needs to be secured to deliver an acceptable level of mitigation.</b>"</u></i></p>
<b>Part C: Conclusion of Screening</b>	
13. Is the proposal likely to have a significant effect 'alone' or 'in combination' on a European site?	<p>We conclude that, in the absence of mitigation measures, a Significant Effect on the Beer Quarry and Caves SAC <b>is likely</b>, either 'alone' or 'in-combination' with other plans and projects.</p> <p>An <b>Appropriate Assessment</b> of the proposal <b>will therefore be necessary</b>.</p>
Name Date	<p>William Dommett 19/07/2024</p>



# The Conservation of Habitats and Species Regulations 2017

## Regulation 63 – Habitats Regulations Assessment

### Stage 2: Full Appropriate Assessment of effects on the qualifying features of the Beer Quarry and Caves SAC

#### Part D: Assessment of Impacts with Mitigation Measures

**NB:** In undertaking the Appropriate Assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain, the Authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.

#### 14. Assessment of impacts taking account of mitigation measures included in the proposal and possible additional restrictions

**Applicant's proposed mitigation – Provide document reference numbers and titles below:**

EAD Ecology Ltd (2023) Ecological Impact Assessment and Appendix  
The Lighting Bee (2023) Land at Seaton Lighting Strategy V0.4

EDDC Ecology Planning Response 22/2781/MOUT, 28/09/2023, V1.1  
EDDC's Ecology's response to the submitted Technical Note 231013/P984/TN1

Landscape Strategy CLPD 093 P01  
The Lighting Bee (2024) Land at Seaton - Lighting Impact Review  
Concept Master Plan LSD-BSL-ZZ-XX-DR-C 1501-PL-C

Potential LSE (as identified in section 10. A-H)	Avoidance/Mitigation/Compensation measures proposed <i>Consider both Construction and Operational Phases, and monitoring requirements.</i>	Conclusion regarding effectiveness of mitigation and residual LSE <i>Consider how measures would be implemented, how certain you are that measures will remove LSE, how long it will take for measures to take effect, monitoring requirements and changes that would be made if monitoring shows failure of measures.</i>	Secured by
14. A - Landscape (large) scale connectivity impacts	Consideration regarding the potential contraction of the Pinch Point/landscape permeability are considered primarily relating to changes in habitat quality, disturbance of commuting routes, and potential impacts from lighting, which are discussed in sections 14.C-E.		
14.B - Direct	N/A	N/A	

<p><i>impacts on the SAC roost or other key roost(s)</i></p>			
<p><b>14.C - Change in habitat quality and composition (loss or change in quality of foraging habitat)</b></p>	<p><i>Construction</i> Construction would be undertaken in accordance with BS5837:2012 'Trees in relation to construction'. Retained trees and hedgerows would be protected from potential damage during construction through the use of temporary barriers (e.g. Heras fencing), which would be installed prior to the start of construction. All contractors' compounds would be located a minimum of 20m away from hedgerows, watercourses and the offsite woodland, and outside of the 'dark' habitat corridors along the boundaries to minimise potential lighting and disturbance effects.</p> <p><i>Operation</i> Retention of the majority of hedgerows along the Site boundaries, together with new native hedgerow planting. Dark commuting habitat for Myotis and horseshoe bats would be maintained around the development through the creation of minimum 10m wide 'dark corridors' (&lt;0.5 lux) along retained key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of new hedgerow planting before the development platform in accordance with Devon dark corridors guidance (DCC, 2022). Temporary fencing with a minimum 1.8m height would also be erected to provide screening until the new hedgerows matured. The dark corridors / landscape buffers forming part of the Proposed Development would be planted with new native hedgerows, mixed native trees and scrub, and wildflower meadow, to create new bat foraging habitats and provide screening, which would enhance the suitability of these areas for foraging / commuting horseshoe and Myotis bats.</p>	<p><u>EAD Ecology view</u> Lesser horseshoe and Myotis bats used habitats within the Proposed Development site for occasional foraging and commuting, with part of a core foraging area identified in the north-east of the site. The baseline results also indicated that greater horseshoe bats used the Proposed Development site predominantly for commuting and for occasional foraging.</p> <p>Given that much of the existing foraging habitat on site is considered sub-optimal (arable habitat) for these bats, the habitat creation proposals particularly within the dark corridors / landscape buffers and the habitat enhancement proposals for the retained area adjacent to Stafford Brook in the north-east of the Proposed Development site would lead to a net increase in the extent of foraging habitats for bats including horseshoe and Myotis bat species.</p> <p>Dark commuting habitat for Myotis and horseshoe bats would be maintained around the development post-construction, ensuring permeability for these species through their Landscape Connectivity Zones and 'Pinch Point'. Temporary fencing would allow continued ecological permeability for bats associated with the SAC post-development. West to east movement/functionality would be maintained so that bats can continue to travel across the Proposed Development site to habitats to the east. North to south movement/functionality would be maintained between the two main departure points for commuting bats from the</p>	<p>All ecological mitigation measures during construction would be detailed in a Construction Ecological Management Plan (CECoMP) for the development, which would be appended to the Construction Environmental Management Plan (CEMP).</p>

	<p>A proposed orchard would be located within the species-rich wildflower meadow in the Public Open Space in the northeast of the Proposed Development and proposed wildflower grassland management to promote abundance of invertebrate food sources for foraging horseshoe bats. Proposed riparian woodland and scrub planting along Stafford Brook and wetland meadow creation adjacent to the watercourse.</p> <p>The area adjacent to Stafford Brook in the northeast of the Site would be retained.</p> <p>A bespoke horseshoe bat night / day roost would be built in the north-east of the Proposed Development. The detailed design of the bat roost would be set out in a Reserved Matters Application for the Proposed Development</p> <p><b>2024</b></p> <p>The scheme has been revised to include the retention of hedgerow H12 with a 6 m dark corridor provided on either side of the hedge.</p> <p><i>Monitoring</i></p> <p>Construction monitoring in line with the CEcoMP, including compliance checks by a qualified ecologist, would be undertaken throughout the construction period. Post-construction monitoring of the retained and created habitats would be undertaken to ensure successful establishment and management; a monitoring protocol would be contained in the LEMP.</p> <p>The proposed bat roost structure would be monitored by a Natural England Licensed bat ecologist in Years 1, 3, 5 and 10 following its construction (this would be included in the LEMP). Monitoring would consist of internal inspections of the roof void to search for evidence of use by bats i.e. presence of bats and / or droppings / feeding remains. Monitoring would inform any necessary changes to the roost structure, should these be required.</p>	<p>Proposed Development site (Stafford Brook and Seaton Cemetery / Black Hole Marsh).</p> <p>The proposed orchard located within the species-rich wildflower meadow in the Public Open Space in the northeast of the Proposed Development would provide additional foraging habitat.</p> <p>Wildflower grassland management to promote abundance of invertebrate food sources for foraging horseshoe bats. Proposed riparian woodland and scrub planting along Stafford Brook would link the watercourse with the offsite woodland, enhance connectivity and would provide an alternative flightline for bats connecting the Proposed Development with the wider landscape.</p> <p>The LEMP would include management objectives and actions to ensure appropriate long-term habitat management to maximise the foraging value of the habitats provided for horseshoe and Myotis bats.</p> <p><u>EDDC Ecology view</u></p> <p><b>2024 revision to the masterplan</b></p> <p>The masterplan has been revised to include the retention of hedgerow H12 with a 6 m dark corridor buffer provided on either side. The revised masterplan includes vehicular access through H12, and H9 as this is required to provide a circular route for emergency purposes. Additional planting of standard trees at the severed nodes of the hedgerows are proposed to provide additional cover for foraging and commuting bats. A revised lighting impact assessment considered that based on the masterplan that the 6 m dark corridor either side of H12 is feasible.</p> <p>Further clarity regarding the use of functionally linked-habitat has been provided (The Habitats Regulation Journal, Issue 13). The Natural England position statement considers that habitat provided to compensate for habitat loss of functionally linked-habitat (outside of</p>	
--	---	---	--

		<p>designated site boundaries) would be considered as mitigation (not compensatory habitat) for HRA purposes.</p> <p>In my view, given the proximity to the Key maternity roost, the uncertainty of the value of the woodland (which has not been surveyed) and the lack of control of this woodland, it is considered that the provision of high quality semi-natural bat foraging habitat should be provided, such as cattle-grazed wood pasture.</p> <p>For HRA purposes, it is not disputed that the proposed revised scheme would result in an enhancement of habitats, compared to the existing intensive agricultural use and the 2024 revised scheme is an improvement on the previous scheme, which included the removal of H12.</p> <p>Assuming the mitigation measures are successfully and fully implemented, with sufficient monitoring and adaptive measures, secured in perpetuity, the measures are likely to be sufficient to avoid and mitigate against adverse effects on the integrity of the SAC.</p> <p><b>No Adverse Effect on Integrity is predicted.</b></p>	
<p><b>14.D - Severance or disturbance of linear features used for navigating or commuting</b></p>	<p><i>Construction</i></p> <p>Retention of the majority of hedgerows along the Site boundaries, together with new native hedgerow planting</p> <p>Retained trees and hedgerows would be protected from potential damage during construction through the use of temporary barriers (e.g. Heras fencing), which would be installed prior to the start of construction.</p> <p>All contractors' compounds would be located a minimum of 20 m away from hedgerows, watercourses, and the offsite woodland, and outside of the 'dark' habitat corridors along the boundaries to minimise potential disturbance effects.</p>	<p>The majority of hedgerows along the site boundaries identified as likely Myotis and / or horseshoe bat commuting routes have been retained and buffered.</p> <p><u>EAD Ecology</u></p> <p>The Proposed Development would ensure that bat species from the SAC would be able to navigate and commute through the site. Minimum 10m wide 'dark corridors' (&lt;0.5 lux) will be created along key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of a new hedgerow before the development platform.</p> <p><u>EDDC</u></p>	<p>CEcoMP and a LEMP</p>

	<p>Lighting impacts discussed in section 14.E.</p> <p><i>Operation</i> Creation of minimum 10m wide 'dark corridors' (&lt;0.5 lux) along retained key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of new hedgerow planting before the development platform.</p> <p><b>2024</b> A 6 m wide dark corridor would be provided either side of hedgerow H12, which is now retained.</p>	<p><b>2024 revision to the masterplan</b> The proposed masterplan has been revised and now includes the retention of hedgerow H12 with a 6 dark corridor either side. Clarity on Natural England's position on functionally linked-habitat and consideration of mitigation vs compensation (for HRA purposes) has also been provided (see 14.C above).</p> <p>Assuming the mitigation measures are successfully and fully implemented, with sufficient monitoring and adaptive measures secured in perpetuity, the measures are likely to be sufficient to avoid and mitigate against adverse effects on the integrity of the SAC.</p> <p><b>No Adverse Effect on Integrity is predicted.</b></p>	
<p><b>14.E –</b> <i>Disturbance from new illumination causing bats to change their use of an area/habitat</i></p>	<p><i>Construction</i> All contractors' compounds would be located a minimum of 20 m away from hedgerows, watercourses, and the offsite woodland, and outside of the 'dark' habitat corridors along the boundaries to minimise potential lighting and disturbance effects.</p> <p>Lighting would be avoided between March and October where possible, and no lighting would be left on during the night during the construction period. Any security lighting would be low-level and motion activated on short-timers.</p> <p><i>Operation</i> It has been agreed with Devon County Council that the Proposed Development will be a 'dark development'. No street lighting is proposed to the roads within the Proposed Development and the proposed access junction with Colyford Road will not require lighting. No additional lighting to the DCC maintenance improvements on Harepath Road is proposed.</p>	<p>The key navigating and commuting 'dark corridors' corridors along the northern and southern boundaries would be maintained; connectivity between the two corridors would also be maintained through a 'dark corridor'. The extent of foraging habitat within the Proposed Development site would be increased and would not be affected by lighting.</p> <p>Lighting during construction could be controlled by the proposed mitigation measures, set out and secured through a CEcoMP.</p> <p>A mitigated lighting design for the footpath adjacent to Colyford Road is proposed to ensure that the dark corridor is maintained (&lt;0.5lux) at the key exit point for bats from the Proposed Development to Seaton Cemetery / Black Hole Marsh.</p> <p>The DCC maintenance proposals to Harepath Road could result in a reduction in the functionality of the bat crossing points. However, the modelled maintenance scenario still retains some darker areas between luminaires (between</p>	<p>The production of a detailed lighting assessment, including lux contour plans with respect to light spill from external lighting and internal light spill from buildings, to ensure that the</p>

	<p>A mitigated lighting strategy has been designed to ensure that light levels do not exceed 0.5 lux within the proposed 'dark corridors'. This level of lighting (&lt;0.5 lux) is generally accepted as providing a 'dark' environment, which would not deter light sensitive bat species such as greater/lesser horseshoe bats (GHS/LHS). Creation of minimum 10m wide 'dark corridors' (&lt;0.5 lux) along retained key commuting and foraging routes for bats, with an additional 10m landscape buffer to include natural screening in the form of new hedgerow planting before the development platform.</p> <p>Private roads and drives will also remain unlit. The standalone footpaths throughout the Proposed Development are also proposed to be unlit with the exception of the footpath running south from the new access adjacent to Colyford Road. This would be lit to a P6 standard, utilising low-level bollard LED luminaires (1.3 m high) with amber 1750K light sources with back shields to provide single sided distribution at approximately 11 m spacings.</p> <p>Where the footpath crosses through the hedgerow on the southern boundary, to ensure the dark corridor is maintained (&lt;0.5 lux) wayfinding lights are proposed with in-ground solar way marker lights with LED amber 1900K light sources at 5m spacings through the dark crossing point. These are specifically designed to have limited light spill and with 'bat hat' covers that prevent upward light spill. This footpath would link to the adoptable path from Foxglove Road to Celandine Close outside of the Proposed Development boundary.</p> <p>Levels of illuminance from the proposed footpath will therefore be limited to &lt;0.5 lux vertically up to 2m in height, and &lt;0.2 lux horizontally at ground level within the proposed dark corridor.</p> <p>The positioning of residential units and roads, as well as the locations of proposed hedgerow planting (with temporary fencing where required until vegetation matures to a minimum height of 2m) would ensure that</p>	<p>2-4 lux) at the southern extent of Harepath Road, which is a similar lux level as identified during the baseline lighting survey. In addition to these possible bat crossing points, bats could still move between the two parcels of the Proposed Development through habitat connectivity to the north as Harepath Hill, which would remain unlit. Therefore, habitat connectivity particularly along the identified commuting corridors along the northern and southern boundaries of the Proposed Development site and the north-south corridor H9 will be maintained.</p> <p>The revised masterplan also includes the retention of hedgerow H12 and a lighting impact assessment considered that a 6 m dark corridor either side of the hedge is achievable.</p> <p>It is considered that if successfully implemented, the measures proposed would be sufficient to avoid and mitigate against adverse effects on the integrity of the SAC. <b>No Adverse Effect on Integrity is predicted.</b></p>	<p>lighting parameters outlined within the HRA are met.</p> <p>The proposed extension of the footpath adjacent to Colyford Road to connect to the adopted footpath off Celandine Close to the south-west of the Proposed Development could be secured through a s106 agreement.</p> <p>This would also set out any requirement for lighting</p>
--	---	---	---



	<p>lighting from internal sources and car headlights would not significantly increase light spill onto the corridors. In addition, the following measures would be implemented to ensure that 'dark corridors' are maintained; refer to The Lighting Strategy (The Lighting Bee, 2023):</p> <ul style="list-style-type: none"><li>• Careful consideration would be given at the Reserved Matters stage to the locations within the Site of the residential roads and their hierarchy, to avoid roads being located adjacent to the dark corridors / buffer zone for bats. This would minimise the effects of vehicle headlights. Screening planting would also be provided at the interface between 10m landscape buffer and the development platform in the form of vegetation, hedgerows, and hedge banks, with temporary fencing of a minimum 1.8m height, where required until the vegetation matures to a minimum height of 2m.</li><li>• Careful consideration would be given to the locations and orientations of proposed dwellings located adjacent to the 10m landscape buffer. Where the front or rear elevations of any proposed dwellings face the dark zones, sufficient offsets would be created between the two to ensure that the &lt;0.5lux parameter is achieved in the 10m 'dark corridor'. Preliminary testing undertaken by The Lighting Bee (2023) demonstrates that this is achievable for the quantum of development proposed.</li></ul> <p>Consideration would be given to locating bungalows, rather than houses, adjacent to 10m landscape buffer, particularly where the topography of the development area is higher than the adjacent landscape buffer/dark corridor.</p>		<p>e.g. to mirror those for the footpath section within the Proposed Development.</p>
--	--	--	---

<ul style="list-style-type: none"><li>• It is anticipated that recessed lighting would be provided within properties adjacent to the 10m landscape buffers. Typically, downlight luminaires used in residential properties will have beam angles of 30-40 degrees. The recessed nature of downlights, and their smaller beam angles, reduces light spill compared with pendant luminaires.</li></ul> <p>Consideration would also be given to window locations, head heights and size, to reduce impacts from internal light spill into the proposed dark zones.</p> <ul style="list-style-type: none"><li>• Private external lighting to residential properties adjacent to the 10m landscape buffers would be carefully positioned, limited in number and operated by PIR (movement) detectors. Luminaires to residential properties would be specified as downward directional with 0%Upward Light Output Ratios. If any low-level lighting is required to private drives, roads or parking courts, specialist downward directional bollard luminaires would be utilised. All external lighting would utilise LED lights sources, with warm white colour temperatures of 3000K or less.</li><li>• Where any column mounted or bollard lighting is required, careful consideration would be given to the siting of luminaires, and luminaires with either back shields, or a narrow optic designed for the area to be lit, would be used to limit light spill into the proposed dark corridors.</li><li>• No lighting is proposed to the football pitch. Lighting may be provided to the associated welfare facilities for security, safety and amenity in accordance with the latest relevant British Standards and guidance. The design would be developed at the Reserved Matters stage.</li></ul>		
--	--	--

	<p>Any lighting associated with the welfare facilities for the football pitch would be LED with warm white colour temperatures (3000K or less), and downward directional with 0% Upward Light Output Ratios to minimise the impacts on bats and to comply with the requirements for an E2 Environmental Zone.</p> <p>Detailed analysis, including lighting calculations and assessment, will be provided at the Reserved Matters stage to demonstrate that light spill from all proposed external/internal lighting would not conflict with the &lt;0.5lux light parameter for the dark corridors. All lighting proposals would be subject to approval by EDDC.</p> <p><b>2024</b></p> <p>The scheme has been revised to include the retention of hedgerow H12 with a 6 m dark corridor provided on either side of the hedge. A revised lighting impact assessment considered that the dark corridor is achievable based on the outline masterplan.</p> <p><i>Monitoring</i></p> <p>Lux level readings would be undertaken from baseline 'Pre-construction Monitoring Points', following the baseline methodology (The Lighting Bee, 2023). Measurements would be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.</p>		
<b>14.F -</b> <i>Disturbance to or loss of land or features secured as mitigation</i>	N/A		

for BQ&CSAC bats from previous planning application s or projects			
<b>14.G</b> – Loss, damage, restriction or disturbanc e of a pinch point	It is considered that permeability throughout the site would be maintained, and potential lighting impacts are adequately addressed.		
<b>14.H</b> - Other impacts – e.g. physical injury by wind turbines or vehicles	N/A		

## Part E. In-combination impacts

### 15. List of plans or projects with potential cumulative in-combination impacts

The proposed upgrade of street lighting by Devon County Council along Harepath Road to P4 class, especially at the junction with Harepath Hill has been modelled to show that lux levels along the entirety Harepath Road and bottom of Harepath Hill would be in levels in excess of those considered to impact on horseshoe and myotis bats, i.e., above 0.5 lux. This could act to sever the permeability of bats from the east site to the west site across Harepath Road and result in the contraction of the existing Pinch Point.

22/1522/MRES Land Adjacent Short Furlong Short Furlong Beer (Awaiting decision). Application for approval of reserved matters (Appearance, landscaping, layout and scale) following approval of outline application no 18/1957/MOUT18 - construction of up to 30 new dwellings (including affordable housing provision).

- 21/1782/MFUL Seaton Heights Harepath Hill Seaton (Awaiting decision). Erection of No. 9 x 2-bed and No. 14 x 3-bed and 19 x 4 bed two storey detached holiday homes with associated parking and amenity space.

- 18/2376/MFUL Land North of Kingsholme and West of Coly Road Colyford Colyton (Nondetermination appeal lodged; appeal dismissed). Proposed residential development of 15no. dwellings (10no. affordable) with site access and associated works.

- 22/1846/FUL Land Off Gosling Walk Harepath Road Seaton (Awaiting decision). Construction of 4 no. dwellings.

- 22/1457/MOUT Land at Whitecross Farm Colyford Road Seaton (Application withdrawn). Outline application with all matters reserved for spa facility (to include spa facility/activity buildings, associated outdoor recreation areas; a bar/restaurant/shop), accommodation. alterations to existing access and erection of farm buildings (relocated within site). This application lies directly adjacent to the proposed developments south-east boundary. The illustrative site layout indicates that the western most part of the site will be developed. The key bat flight corridor from the exit point on the southern boundary of the proposed development to Seaton Cemetery/ Seaton Wetlands will be maintained.

The planning applications for the identified developments set out above will also be subject to Habitats Regulations Assessment by EDDC. For each development to be acceptable in isolation, it would be necessary to demonstrate that there would not be an adverse effect on the integrity of the greater and lesser horseshoe bat and Bechstein's bat populations associated with the Beer Quarry and Caves SAC, which would include the delivery of avoidance and mitigation measures as required.

<p><b>16.</b> How impacts of current proposal combine with other plans or projects individually or in combination</p>	<p>The Proposed Development would have a limited residual adverse effect to carry forward to in combination assessment. Commuting and navigating habitat would be maintained. Foraging habitat would be increased although there is a concern regarding the success of such habitat in the submitted proposal to maintain the Pinch Point in perpetuity. It is reasonable to assume that other planning applications will also be subject to Habitats Regulations Assessment.</p> <p>For each development to be acceptable in isolation, it would be necessary to demonstrate that there would not be an adverse effect on the integrity of the greater and lesser horseshoe bat and Bechstein's bat populations associated with the Beer Quarry and Caves SAC, which would include the delivery of avoidance and mitigation measures as required. In summary, there would be no adverse effect on the integrity of the SAC in-combination with other development likely to come forward.</p>
<p><b>Part F: Further Information</b></p>	
<p><b>17.</b> Compliance with current East Devon Local Plan</p> <p><i>List relevant environmental policies/ strategies and how this proposal achieves or opposes these policies/ strategies</i></p>	<p>The site is not allocated for development under Strategy 25 - Development at Seaton of the existing East Devon Local Plan 2013-2031.</p> <p>The proposed site design has minimised fragmentation of habitats in accordance with Strategy 47 - Nature Conservation and Geology.</p>
<p><b>18.</b> Does the proposal take into account measures agreed at outline or pre-app stages (if applicable)</p>	<p>Yes.</p>
<p><b>19.</b> Does the proposal take into account Natural England consultation responses, and include suitable measures as identified in the Natural England consultation? (if applicable)</p>	<p>On the whole yes, although comments raised regarding the inclusion of Hedgerow H7 during the pre-application advise have not been carried forward. This was not raised as an issue by Natural England during the approval of the submitted shadow HRA.</p>
<p><b>Part G. Conclusion of Appropriate Assessment - The Integrity Test</b></p>	
<p><b>20.</b> List of avoidance/ mitigation/ compensation measures and safeguards to be covered by condition or</p>	<p>List of avoidance, mitigation and compensation measures, as per section 14:</p> <ul style="list-style-type: none"> <li>• Construction Ecological Management Plan (CECoMP)</li> <li>• Landscape and Ecological Management Plan (LEMP)</li> <li>• 10 m minimum 'dark corridor' around the development site with a further 10 m landscape buffer zone bounded by hedges and fences backing onto the built development.</li> </ul>

<p>planning obligations (Unilateral Undertaking or S106)</p>	<ul style="list-style-type: none"> <li>• 6 m dark corridor either side of hedgerow H12</li> <li>• Detailed lighting design at reserves matters stage including light design, house design and layout.</li> <li>• A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.</li> <li>• Provision of native hedgerows, trees, scrub, and wildflower meadows.</li> <li>• Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.</li> <li>• A bespoke bat house suitable for use by horseshoe bats.</li> <li>• Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.</li> </ul>
<p><b>21.</b> Applicants conclusion of integrity test.</p>	<p>Light adverse bats are negativity influenced by urban areas and the proposed development of the site would materially change the nature of the site from an undeveloped agricultural landscape to a suburban development.</p> <p>Despite reservations regarding the lack of proposed semi-natural cattle grazed parkland habitat, it is considered that the revised site design which includes the retention of H12 and other proposed measures, if successfully implemented, <b>would be unlikely to result in an Adverse Effect on the Integrity of the SAC.</b></p>
<p><b>22.</b> Completed by: Date:</p>	<p>William Dommett 19/07/2024</p>

## **Appendix 1: Mitigation proposals**

**Refer to EAD Ecology Ltd (2023) Ecological Impact Assessment and Appendix, The Lighting Bee (2023) Land at Seaton Lighting Strategy V0.4, Landscape Strategy CLPD 093, P01, The Lighting Bee (2024) Land at Seaton – Lighting Impact Review, Concept Master Plan LSD-BSL-ZZ-XX-DR-C 1501-PL-C**



## **Consultations in full:**

### **Technical Consultations**

EDDC Landscape Architect  
21/11/23

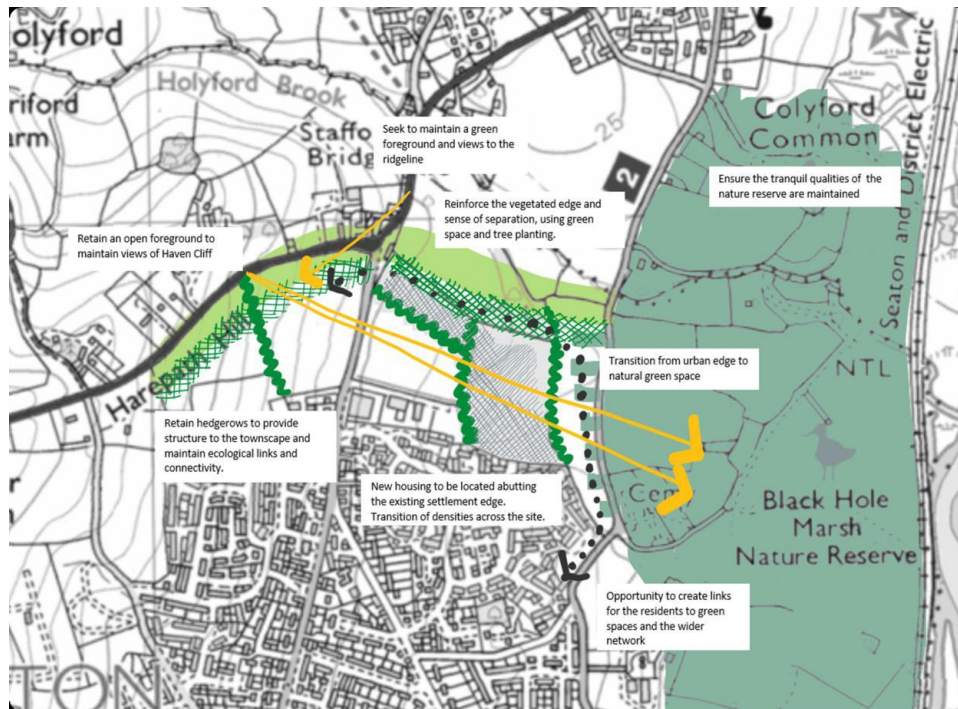
1 This note is prepared in response to the applicant's Response to the Landscape & Green Infrastructure Officer Consultation, recently submitted in further support of the above application.

2 It is accepted that land to the south of the application site is allocated in the current local plan for commercial/ recreation development and that this parcel, together with fields 2, 3 and 4 of the application site, are allocated for mixed use development in the draft local plan as Seat\_05 for around 100 dwellings and 2.2 ha employment land. The application is for 130 dwellings which is a 30% increase on the draft local plan allocation for the site.

3 I agree with the overall assessment of sensitivity of the site to housing development as medium within the draft local plan evidence base. However, I consider the susceptibility<sup>1</sup> to vary across the site with fields 2 and 3 having lower susceptibility due to their position adjacent to existing housing or currently allocated employment land, the more urban character of Harepath Road to the west and the well treed hedgerow and woodland parcel to the north, which provides effective screening to views from that direction. Field 4 has a higher susceptibility to development as it retains a strong rural character, is adjacent to Seaton Wetlands and is open to views from Colyford Road/ Seaton Road while development is likely to entail the removal of the species rich hedgebank between it and field 3, as well as construction of a new access from it onto Colyford Road. Furthermore, limiting development to fields 2 and 3 (and land to the south) gives a much better landscape fit in relation to the existing northeastern edge of Seaton and tree and woodland cover to the north. As such I disagree with the draft local plan site assessment that development along the eastern site boundary would have less of a landscape impact than other areas of the site.

4 With respect to the Green Wedge I agree this does not of itself confer a high landscape value. It is also subject to review as part of the draft Local Plan. However, development of field 4 is likely to have a greater impact in consideration of Green Wedge issues than fields 2 and 3 as it is the only part of the site which has intervisibility with the edge of Colyford and is visible from Seaton Road within approximately 200m of the village boundary.

5 The LVIA submitted with the application included as figure 4.10 a plan (copied below) illustrating landscape recommendations '*based on the published analysis and site observations to be considered in the development of the masterplan*'. For the above reasons I concur with the indicated recommendations that development should be concentrated in fields 2 and 3 and that all existing hedgerows should be retained.



*Copy of landscape recommendations presented as figure 4.10 in applicant's submitted landscape and visual appraisal*

6 Comments justifying the location of the football pitch are noted although there still appears to be potential to move the pitch further away from Harepath Hill to reduce visual and heritage impact which should be explored at detail design stage.

7 LiDAR images have been prepared to represent existing and post development views from Popes Lane and LVA viewpoint 8 from Axmouth Road. The images are presented as panoramas with 90 degree horizontal field of view and need to be viewed in an arc at A1 size to represent actual viewing experience. The images, particularly for viewpoint 8 would have been better presented as single frame with 40 degree horizontal field of view allowing them to be viewed at A3 size at correct scale in accordance with best practice guidance. As LiDAR is very poor at distinguishing between vegetation and buildings the images should also have been supported by baseline photographs of the same views.

8 It is accepted that the site is not visible from Popes Lane itself on the southern edge of Colyford and that views of the site from adjacent properties situated on higher ground to the north are largely limited to upper floor windows.

9 In respect of viewpoint 8, the LiDAR image reflects the development extent shown in the overmarked photograph in my initial landscape response. The likely extent and form of employment buildings has been modelled on the LiDAR image and if they are taken as part of the existing landscape baseline the magnitude of effect of housing development in surrounding fields would be substantially reduced in this view.

10 My statement at para. 4.1 of my original landscape response was not limited to considerations of the green wedge and interrelationship with Colyford but also the impact of development within field 4 on local landscape character and landscape fabric and the visual impact on views from Colyford Road/ Seaton Road. I maintain my objection to this, notwithstanding the applicant's suggestion to limit outer perimeter housing within field 4 to single storey.

11 I consider proposed development within fields 2 and 3 to be acceptable in principle in terms of landscape and visual impact, while proposals for the sports pitch in field 1 could be accommodated satisfactorily subject to detail layout and design considerations.

EDDC Landscape Architect

22/8/23

## 1 INTRODUCTION

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

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

## 2 SITE DESCRIPTION & CONTEXT

The site is situated to the northern edge of Seaton and comprises five fields of varying size totalling 10.4 ha in all (refer figure 1 below). Field 1 lies to the west of Harepath Road and south of Harepath Hill. The remaining fields are situated between Harepath Road and Colyford Road. New vehicular access points are proposed off Harepath Road and Colyford Road.



Housing development is proposed within fields 2, 3 and 4. Only about half of field 1 is proposed to be developed as a football pitch with associated pavilion and car park situated towards the northeast field corner adjacent Harepath Hill and Harepath Road. Fields 1-4 are roughly rectangular, bounded by native hedgebanks. Field 5 is a small irregular parcel with a northerly aspect situated to the north of field 4 and bounded by Stafford Brook to the north and woodland to the southwest.

With the exception of field 5 there are no field trees. The southern boundary of fields 1, 3 and 4 and northern boundary of field 2 contain notable mature trees predominantly oak with some ash and there are poorer quality trees within the hedgebanks to the northeast

corner of field 1. Otherwise boundary hedge banks are generally treeless. A triangular parcel of mixed woodland is a prominent landscape feature lying to the north of field 3 and southwest and west of fields 5 and 4 respectively.

The site is generally level, lying at about 25m AOD but field 1 rises to the west with a slope of approximately 1:11 up to approximately 37m AOD within the proposed developed area. There are subtle changes in site levels particularly within field 4 where the ground rises from its southern and northern boundaries to a low ridgeline extending across it from the southern edge of the adjacent woodland.

The urban envelope of Seaton lies to the south comprising recent development for housing and employment, partially screened to its open edge by mature trees and hedgerow. Surrounding land to the east, north and west is predominantly agricultural with scattered residential development particularly to the north side of Harepath Hill, including the grade II listed Harepath Farm immediately opposite the proposed sports pitch in field 1. Seaton Wetlands nature reserve lies 300m to the east and beyond that is the Axe Estuary. The southern edge of Colyford lies some 360m north of field 2 and 530m north of the northern limit of proposed development shown on the masterplan in field 4.

Notwithstanding adjacent development to the south, both the site and Colyford Road to the east, retain a strong, open, rural character. Harepath Road itself has a more urban character where it passes between fields 1 and 2, due to the presence of footways to either side, the visibility of housing and industrial units, street lighting and overhead medium voltage power lines.

There is no public access within the site. National Cycle Route 2 (NCR2) follows Colyford Road along the eastern site boundary. An off-road section follows the western edge of Seaton Wetlands. There are no public rights of way in the vicinity from which the site is visible with the exception of Colyton footpath 24 from which there is a partial view of fields 1 and 3 at its eastern end adjacent to the B3172.

There are extensive views out from the site across the Axe estuary to the prominent land mass of Hawksdown Hill and Haven Ball within the East Devon AONB. Views to the north and northeast from fields 2 and 3 are constrained by boundary woodland and hedgerow but there is a panoramic view from higher ground within field 4 to the north and north east towards Colyford and extending to the AONB beyond. Views to the west and northwest are limited to some 500m due to a combination of landform and vegetation cover and to the south by the urban edge of Seaton.

Eastbound travellers on Harepath Hill have direct views over the site over a length of about 500m as it descends from the junction with Barnards Lane to Harepath Road, in which fields 1, 2, 3 and 4 are visible. Westbound travellers have occasional, glimpse and partial views of the site along the A3052 between the Axe bridge and the junction with Harepath Road, particularly on the approach to the junction, where field 1 and the edge of field 2 are visible through the boundary vegetation. Travellers on the B3172 Axmouth Road to the east of the estuary have occasional views over the site from gateways and over sections of low roadside hedge in which field 1 and parts of fields 2, 3, and 4 are visible. There is a long distance view over the site from Musbury Castle 4km to the north in which the site can be seen in the context of the urban edge of Seaton.

Principal visual receptors are likely to be:

- Residents of dwellings edging the development fields to the south and along Harepath Hill.
- Residents on the southern edge of Colyford particularly Popes Lane.

- Motorists, cyclists and pedestrians along the A3052 between the Axe bridge and Barnards Hill Lane who will have occasional, partial and glimpse views over the site on the approaches and closer views in the vicinity of the junction with Harepath Road and extending along the frontage of field 1.
- Motorists and cyclists along Colyford Road who have close views over field 4
- Motorists, cyclists and pedestrians along Harepath Road where it passes between fields 1 and 2.
- Motorists and cyclists along the B3172 Axmouth Road to the east side of the estuary.
- Visitors to Axmouth particularly the waterfront picnic area.

Visitors to Seaton Wetlands and users of the tramway and off-road cycle path have very restricted, if any, views to the site due to intervening landform and vegetation cover. The East Devon AONB boundary lies 500m to the east of the site. Fields 1, 2 and 5 are wholly within the Seaton-Colyford Green Wedge as defined in the Local Plan. The northern third of field 3 is also within the Green Wedge.

### **3 REVIEW OF LANDSCAPE RELATED INFORMATION**

#### **3.1 Review of LVIA**

##### **Methodology**

The methodology generally follows best practice guidance as set out in Guidelines for Landscape and Visual Impact Assessment 3rd Edition.

##### **Presentation of viewpoint photographs**

No information is given on the technical aspects of photography and presentation of images. Images are presented in varying sizes and formats, mostly as wide panoramas, with no specified horizontal field of view. This is not in accordance with LI guidance note 06/19 - Visual Representation of Development Proposals - which recommends, where possible, that photographs are presented at A3 size with 40 degree horizontal field of view (HFoV), and which can be supported by up to two 60 degree HFoV images to show context.

##### **Baseline assessment**

The verified visual envelope, fig. 2.11, should have extended northwards to the A3052 between Boshill Cross and Colyford and up to the southern edge of Colyford.

##### **Sensitivity of landscape and visual resource**

The LVIA assesses the site and its context as being on the low to midway point on the sensitivity spectrum for the development proposed. While this may be correct in respect of fields 2 and 3 which are low lying, with thick vegetation to their northern boundaries, fields 1 and 4 are more prominent and open to views from the north and east. Field 1 has an association with the grade II listed Harepath Farm and forms part of its setting, while field 4 has intervisibility with Colyford and overlooks the Seaton Wetlands. A higher sensitivity should therefore be ascribed to fields 1 and 4 than fields 2 and 3. This is recognised in figure 4.1 of the LVIA - Landscape and Visual Recommendations - which indicates that built development should be restricted to fields 2 and 3, retaining the existing hedge bank between field 3 and 4 and leaving field 4 undeveloped as a transition from urban edge to natural greenspace as part of the proposed mitigation measures.

In the assessment of visual sensitivity summarised in table 3.1 of the LVIA, consideration should have been given to views from Colyford Road, which forms part of the NCR2. Due to its strong rural character in the vicinity of the site, the views it affords over field 4 and its designation as a National Cycle Route, sensitivity of travellers along it should consequently have been considered mid-high. The visual sensitivity of residents living on the southern edge of Colyford who have views over the site should have been considered and assessed as high.

### **Magnitude of landscape change**

Table 5.1 summarises the assessed Magnitude of Landscape Change for identified receptors. The LVIA findings that the proposals are likely to have negligible or no effect on the character and setting of the AONB are accepted.

While the mid-high magnitude of change of development on the landscape of the site and its immediate environs is accepted, the assessment of the change as neutral is not as, for fields 1 and 4 proposed development is likely to have an adverse effect on local rural character which they currently contribute positively to, as well as respectively, the setting of the grade II Harepath Farm and Seaton Wetlands.

In considering the effects on existing trees and hedgerow, table 5.1 of the LVIA states that *'there will be a partial loss of a short section of hedgerow to accommodate the access points to the site.'* It neglects to mention that the accompanying Landscape Strategy Plan and Illustrative Masterplan indicate the wholesale removal of the existing species rich hedgebank between fields 3 and 4, totalling 233m.

In respect of new landscape resources to be provided by the development as identified in table 5.1, it is accepted that there is a generous green infrastructure provision within the proposals. However, references to retaining a fish lake and possibly also the proposal for orchards, seems to be a carry-over from some other assessment as there is no fish pond on site and orchards are not a characteristic feature of the local landscape.

### **Magnitude of visual change**

Due to a combination of distance and intervening landform and tree cover it is accepted that visual effects on receptors for viewpoints 1-7 are likely to be negligible. From Axmouth northwards along the B3172 Axmouth Road, including LVIA viewpoint 8, the effect of development becomes much more noticeable and will appear as an uncharacteristic, narrow swathe of built form interrupting the open, broad field pattern descending from Harepath Hill down to the estuary, as highlighted in the extract from the LVIA photo viewpoint 8 below resulting in an adverse magnitude of effect post completion in the mid-high range of the spectrum.





*Figure 1 - Extract from LVIA photo viewpoint 8*

The LVIA assessment of effect for viewpoints 9-13 is accepted. From viewpoint 14 proposed development would cut across views over the estuary to Axmouth and in view 12 would be likely to block view to Haven Hill resulting in adverse effect in the mid-range of the spectrum.

Views from Colyford Road have not been considered (refer photo below taken from entrance to cemetery and Seaton Wetlands), but are likely to have an adverse impact in the medium-high range of the spectrum for travellers along it.



*Figure 2 - View looking north over field 4 from south of entrance to Seaton Wetlands and cemetery*

The view northwards from the ridgeline in field 4 shows the visibility of houses on the edge of Colyford. Residents of these properties are likely to have a clear view of development within field 4 that is likely to have a magnitude of effect in the medium-high range of the spectrum at completion.



*Figure 3 - View from southeast corner of woodland in field 4 looking northwards towards Colyford*

### **3.2 Site masterplan**

Recommendations for landscape mitigation and enhancement illustrated in figure 4.1 of the LVIA for treatment of the eastern edge of the proposed development have not been followed in the illustrative masterplan which extends built development into field 4. As noted above, this field has a high sensitivity to development due to its prominence, strong rural character, its role as setting for the wetlands and estuary and the consequential impact of its development on the designated green wedge. Limiting the extent of built development to field 3 would provide a better landscape fit picking up the line of existing development to the south and extending it to the southeast corner of the woodland to the north.

The proposed sports pitch is situated close to Harepath Hill where it would introduce an urbanising influence along the rural edge of the development that is likely to be detrimental also to the setting of Harepath Farm. Repositioning it closer to the southern field boundary would allow a softer transition from countryside to urban edge to the northern boundary.

### **3.3 Site access**

Access provisions should include for the creation of a 3m width cycle path connecting from the southeast corner of the development through the southern end of field 4 to the existing greenspace to the south and from there for provision of a safe crossing point of Colyford Road for cyclists to connect on to the Seaton-Colyford off-road cycle path currently under construction. This is not reflected in the proposed Colyford Road access detail dwg. no. 1908-002 D which should be amended to show the path to the south as indicative subject to detail design. Visibility plays for the Colyford Road access are based on a 38mph road speed. Consideration should be given to extending the 30mph limit along Colyford Road which would reduce the extent of visibility splay and hence hedge removal required to form the access.

The access point onto Harepath Road (dwg. no. 19008-001 Rev A should include for a 3m width shared use path to the south side.



There is potential for a bridleway link to be provided along the northern site boundary to connect from Harepath Road to Seaton bridleway 7 which would greatly improve site connectivity with the wider rights of way network. This is hinted at in the landscape recommendations fig. 4.1 but not included in the landscape strategy and illustrative masterplan.

### **3.4 Other matters**

Landscape management should extend to cover all of the existing hedgerow boundaries within fields 1-5 with appropriate gapping up and reinforcement and the positive management of the woodland between fields 3 and 5 to ensure that it provides effective screening and contributes positively to landscape character and biodiversity value in the long term.

It should be noted that although the northern boundary hedge to field 2 appears tall and well treed and currently provides good screening to views from the north, much of this comprises outgrown elm which becomes prone to Dutch Elm disease and dies back once stems reach 5m or so in height. There are also a number of mature ash within the hedge line which are showing signs of extensive ash die back and which are also likely to die in the short-medium term resulting in significant loss of screen cover which proposals should address.

## **4 CONCLUSIONS & RECOMMENDATIONS**

### **4.1 Acceptability of proposals**

For the reasons noted above the application as currently proposed is considered likely to give rise to unacceptable landscape and visual impacts and by extending development onto prominent land intervisible with Colyford is also likely also to contribute to settlement coalescence contrary to the aims of the Green Wedge designation.

## **Introduction**

This report forms EDDC's Ecology's response to the submitted Technical Note 231013/P984/TN1 from EAD Ecology in response to the EDDC Ecology comments regarding planning application 22/2781/MOUT.

### **Habitats Regulation Assessment (HRA)**

1.1.3 notes that EDDC has not fulfilled its requirement under the Habitats Regulations to undertake a Habitats Regulation Assessment (HRA) for the proposal. It notes the Natural England has not objected to the proposals based on the submitted shadow HRA (sHRA) subject to planning conditions for a Construction Ecological Management Plan (CECoMP); a Landscape Ecological Management Plan (LEMP), a detailed Lighting Assessment to ensure proposed dark corridors are maintained; and a Post-construction Monitoring Plan, extending to 10 years following completion of the development.

A HRA is currently being produced by EDDC and will be submitted to Natural England for comment.

### **Street lighting along Harepath Road**

The submitted sHRA and Appropriate Assessment (AA) assumes that Devon County Council (DCC) highways will upgrade the street lighting to P4 class along Harepath Road within 12 months (prior to March 2024).

The submitted lighting strategy states (Section 5.3) requirements under Section 278 of the Highways Act 1980 requires the upgrade of the lighting along Harepath Road to be lit to P4 class.

DCC head of planning, transportation, and environment official comment on the application (12/09/2023) states:

*The Environmental lighting strategy for this project is based upon the existing benchmark of Harepath Road streetlights being LED, as this was going to be completed this financial year by Devon County Council (DCC), unfortunately due to resources, there is now no set completion date for this conversion.*

Further correspondence from Andy Ware Lighting Engineer for DCC stated on 18/09/2023:

*There aren't any immediate plans to replace the existing DCC old style SON lanterns along Harepath Road with LED's at the present although this will happen at some point in the future & where the existing SON lanterns fail, these will be replaced with LED. The new LED lanterns that DCC use are full cut-off, Warm White 3000k & will be controlled via DCC's CMS with the streetlights out of the built up area of Harepath Road on part night operation.*

*However the Harepath Hill end of Harepath Road has been under discussion recently due to the proposed Baker Estates development where an area has been highlighted as a crossing point for bats. The lighting designer employed by Baker Estates is looking at reduced lighting / lower colour temperature LED's for this as part of the Lighting Strategy for the site.*

The most recent correspondence (02/11/2023) from Andy Ware at DCC has stated that DCC has not had any further correspondence regarding the street lighting from the developer, such as measure to reduce lighting impacts at the northern end of Harepath Road. He did note that the required infrastructure to supply the central management system (CMS) has been installed in Seaton but could not provide any confirmation of time scales for replacement of the street lighting, *possibly* starting within 6-months but no clarification on whether it would be undertaken.

If the lighting is not replaced by DCC then this responsibility would fall to the developer, i.e., Baker Estates. The most recent correspondence from DCC would indicate the replacement of the street lighting is likely to be within the predicted time frame as used for the baseline assessment in the sHRA and EclA impact assessments.

No details regarding a reduction of colour temperature and/or reduced lighting at the northern end of Harepath Road by Harepath Hill have been provided, either by DCC or the developer. The proposed maintenance schedule would increase the lux levels along Harepath Road to above those considered to have an adverse effect on light adverse bat species, include all species associated with Beer Quarry and Caves SAC. It is possible that some bats may still cross the road with the increase light levels and that there would be a dark (<0.5 lux) area on the northern extent of Harepath Hill. However, additional measures to attenuate lighting at the northern extent of Harepath Road could have a significant and important impact, through increasing the dark corridor/permeability of the landscape for light adverse bats.

## Habitats

3.1.2 - In terms of the removal of Hedgerow H12 it is stated that the concept design considered the retention of all hedgerows, *where possible*. The removal of H12 is stated as being unavoidable due to other development constraints, primarily accommodating the developers preferred quantum of development.

Policy 85 of the East Devon Local Plan 2020 to 2040 Preferred Options Regulation 18 Consultation Draft Plan (Current Draft - Autumn 2022) Protection of irreplaceable habitats and important features states that “*impacts for the removal of Important Hedgerows should be avoided and where they are proposed for removal, justification for impacts should be provided in full*”.

It is accepted that considering proposed hedgerow provision using the Biodiversity Metric 3.1 there would be a predicted 24.7% gain in hedgerow units on the site. It is also stated that the proposed hedgerow creation would maintain movements corridors of bats around the site and that Natural England provided no objection to this.

It should be noted that a newly planted hedgerow can take in excess of 5-10 years to fully mature and would lack the soil biota of a historic hedge bank. Approximately 23% of hedgerow decline, i.e., loss, has been recorded in the UK<sup>i</sup> and the importance of hedgerows has been established, especially for broad wing bat species such as horseshoe bats which activity avoid open habitats, as well as the multiple ecosystem services they provide. Best practice management for existing established mature hedgerows for bats is considered on a cutting regime between 3 and 10 years<sup>ii</sup>.

It is stated that the landscape strategy would provide permeability for bats around the site through the provision of dark corridors and a landscape buffer. This is considered a reasonable position in terms of bat movements over the site.

H12 offers a direct commuting route from the south-east corner of the off-site adjacent woodland to the established bat crossing point towards Seaton Marshes Local Nature Reserve (LNR), an extensive area of grazing marsh and high-quality bat foraging habitat.

Bats already habituated to using H12, including lesser horseshoe bats from the nearby maternity roost, would either have to commute towards the east and south, along Colyford Road or fly around the west and southern boundary of the site to get to this location. It is accepted that Colyford Road would remain unlit. However, the access point to the site would be subject to vehicle access, which can cause severance of commuting routes, or bats would have to follow the west and southern boundary. In addition, research has shown that low flying juvenal bat species, i.e., horseshoe bat species, are particular at risk of mortality and avoid road<sup>iii</sup> which could indicate the lower levels of bat activity recorded on hedge H10 along Colyford Road.

Given that most of the site is arable, and the hedges are heavily managed, this would further indicate the hedges importance as a foraging resource, especially for the nearby lesser horseshoe bat maternity roost. Nearby linear features are considered important especially during periods of lactation, as female bats travel shorter distances to forage and it has been demonstrated that increasing these distances can negatively impact on juvenile growth and survival<sup>iv</sup>.

In my view, given the historic nature of the H12, its confirmed used as a commuting route used by both lesser horseshoe and myotis bats for which Beer Quarry and Caves SAC is

designated for (and numerous other protected and notable species), and the intrinsic value of historic hedgerows, it should be retained and integrated in the site design.

3.1.3 - It is accepted that static bat detectors were placed at the southern and northern terminus of H12 and the hedge was subject to walked transects and that Natural England has not challenged the survey approach, evaluation or assessment.

I would agree that significant survey effort has been undertaken and it has identified the importance of H12 as a commuting and foraging resource, especially for lesser horseshoe bats in all seasons. A previous survey of the site (Bayley & Reardon, 2018) identified 12 different bat species at the central part of H12.

Despite comments regarding the locations of deployment of static bat detectors within H12 and the limited deployment period on hedge H7, no issue was raised regarding insufficient survey effort, timing, or methodology, i.e., it was not requested to undertake updated surveys or argued that survey effort was a reason for refusal.

3.1.3-3.1.5 - In my view, H7 has been shown to be used by all qualifying SAC bat species (and barbastelle bats) and could provide an important commuting route towards the west, under the current street lighting regime. The site design proposes the northern boundary as a commuting route. However, this terminates at an existing residential dwelling with an external security light, of which there is no control by the applicant and could have an adverse impact on commuting bats, e.g., if the light is left on. I accept that the southern boundary is also allocated for employment use and this will also require mitigation, such as avoidance of lighting on this hedge.

The planned maintenance of lighting along Harepath Road would raise lighting levels above 0.5 lux along Harepath Road at the termination of H7 and H8. Therefore, additional light attenuation measures at the northern extent of Harepath Road could be vital to ensure the permeability of bats from east to west.

It is accepted the concerns raised by Natural England were not carried over from their pre-application response, but there has been a change of staff at Natural England assessing the application and it may be that the different advisors have taken a different viewpoint.

3.1.6 - Regarding the proposed development exceeding outside of the allocated site boundary it is stated that it is acceptable for parts of the mitigation strategy to be delivered outside of the emerging allocation boundary for Policy Seat\_05 and importantly the built development is within the allocation boundary. It is also stated that the emerging policy regarding the site within the East Devon Local Plan 2020 to 2040 Preferred Options Regulation 18 Consultation Draft Plan (Current Draft - Autumn 2022) is a material planning consideration.

As part of the evidence base and supporting documents relating to the draft local plan, Appendix 2 Site Selection – interim findings at Teir One and Teir two Settlements states for Seat\_05 allocation”

*Significant ecological impacts relating to bats will need to be addressed in bringing the site forward, specifically, the constriction of the bat pinch point located between the northern edge of Seaton and Colyford. The development of the entire site is unlikely to be acceptable from a Habitats Regulation Assessment (HRA) standpoint, but a smaller part of the site, along the southern and/or eastern boundary, would have less of an ecological and landscape impact, and could be considered further.*

*In order to ensure no adverse effect on the integrity of the Beer Quarry Caves SAC, suitable avoidance/mitigation/compensation measures would need to be identified. At this preliminary stage, it is considered that these would consist of a sensitive lighting plan (including sensitive site design, to ensure light levels of no more than 0.5 lux at the northern development boundary) and compensatory bat foraging and commuting habitat within the remainder of the proposed allocation site (to secure and enhance the pinch point in perpetuity).*

Policy 86 – Habitats Regulations Assessment of the draft local plan *Protection of Beer Quarry Cave SAC bat pinch points between Seaton and Colyford, and between Colyford and Colyton* also states:

*In order to protect the pinch points and secure their long-term suitability for the SAC bat species, planning permission will not be supported for any development proposals within the pinch points, and the council will not support any applications which reduce the quality of the bat foraging and commuting habitats within these pinch points. The objective is for these pinch points to be retained in perpetuity and enhanced where possible in order to guard against potential future development pressure.*

The development site is located within a defined Pinch Point for lesser horseshoe and greater horseshoe bats associated with Beer Quarry and Caves SAC. It is accepted the site is within a preferred location for development in Seaton within the draft local plan. However, the submitted scheme is proposing mitigation measures outside of the allocation site boundary and is encroaching further into an existing area of open countryside, which has been demonstrated as of high value to bats include all associated with Beer Quarry and Caves SAC, and long-eared, and barbastelle bats.

In my view, given that light adverse bats are negatively influenced by urban areas and the proposed development of the site would materially change the nature of the site from an undeveloped agricultural landscape to a suburban development, notwithstanding the proposed lighting mitigation measures in accordance with DCC guidance<sup>v</sup>, that the proposed open space habitat is not an equivalent or better provision of bat foraging habitat. There is a lack of clarity/research of how managed public open space provision is of high value for foraging and commuting bats, in comparison to the large amount of published data regarding the benefit of managed semi-natural habitats, such as non-wormed cattle grazed permanent pasture and parkland habitat and woodland/woodland edge and riparian habitat provision.

### Nesting birds

3.1.7 - The provision of 30 tree bird boxes is welcome, as is the proposed provision of one bird box per dwelling and agree this could be detailed appropriately within a CECoMP and LEMP.

### Dormice

3.18-1.19 - Despite my concerns regarding the removal of Hedge H12, the proposed compensation measures for dormice including new hedges, scrub, and woodland planting, in combination with dormouse nest boxes, is considered acceptable once these habitats have fully established. It is also agreed that there would be some element of an existing cat predation from the nearby development and these impacts are hard to quantify.

Comments regarding additionality and dormouse habitat provision have also been adequately addressed.

## Reptiles and amphibians

3.1.10 - I have no issue with the reptile survey which was undertaken in accordance with survey guidelines. Even if a low population of grass snake was present, e.g., associated with the riparian habitats, proposed mitigation and compensation measures are considered acceptable.

3.1.11 - Further details have been provided regarding attempting to survey the adjacent woodland and how the limitations of the restricted access were mitigated for, e.g., using binoculars.

3.1.12 – No issues were raised previously with the proposed reptile and amphibian mitigation.

## Bats

3.1.13 – The valuation of the site was stated as being “of at least of National importance for bats” primarily based on the assemblage of bat species in accordance with Table 3.3 of the Bat Mitigation Guidelines 2023<sup>vi</sup>. These guidelines also state that that valuation of bat foraging and commuting habitat cannot be based on a matrix approach.

I am in agreement with EAD Ecology that the site is of International importance for bats, for reasons previously stated including its use by all Annex II bat species, all qualifying species associated with Beer Quarry and Caves SAC, use by grey long-eared bats, and the high assemblage of bat species found on the site.

In my view, the surveys have demonstrated that the habitats on the site, especially the hedges are classified as ‘functionally linked-land’, i.e., “*it provides a role or ‘function’ that land beyond the boundary of a European site might fulfil in terms of supporting the populations for which the site was designated or classified*”<sup>vii</sup>. This is supported by the detailed survey work confirming use by all qualifying bat species, and proximity to a Key maternity roost within 150 m of the site.

3.1.14 – As detailed in response to paragraph 3.1.6, I take the view that the mitigation and avoidance strategy for bats should conform to the site allocation boundary as shown within Policy Seat\_05 of the emerging local plan, as evidenced by the accompanying site selection document and given that part of the proposed mitigation measures are exceeding outside of the built up area boundary (BUAB) into land designated as a green wedge.

As impacts and a contraction on the SAC Pinch Point would be irreversible, it is considered that any proposed mitigation measures outside of the allocation site boundary should be of the highest value for foraging and commuting bats, based on published scientific data regarding habitat management, to provide confidence that large scale development within the Pinch Point is adequately compensated for in perpetuity, without risk of long-term decline or inappropriate management.

3.1.15 – It is accepted that the landscape strategy and recommendations for habitat creation would provide a diverse range of habitats and likely a betterment for some species, such as pipistrelle, and serotine bats which are more tolerant within semi-urban environments. It is also commonly established that the urbanisation, removal of linear features, and lighting all have a negative influence on broad winged species including horseshoe, some myotis, barbastelle, and long-eared species.

I am still of the view, that the introduction of public access and the development of the site would reduce the value of habitats for light adverse and broad wing species, in comparison

to farmland without public access. I would agree there is a broad scope to enhance the existing site, given the intensively farmed nature of the site, such as allowing hedges to grow tall with an infrequent cutting regime, increasing field margins, change to pasture from arable. However, I am also of the view that given the highly sensitive nature of the site, that any mitigation and compensation measures provided are of the upmost quality for bats (and other ecological receptors).

To my knowledge, there are no studies demonstrating how a housing development has provided a betterment (in comparison to semi-natural habitats) of bat foraging and commuting habitat for horseshoe and other rare bat species, e.g., such as a demonstrable increase in invertebrate abundance/foraging and commuting activity.

It is noted that Natural England has not objected to the development of the site, subject to appropriate planning conditions.

I hold the advice from Natural England in high regard and would agree with all their recommendations in terms of requirement for mitigation including a CEoMP, LEMP, Lighting Assessment, and monitoring regime for the development of the site.

I have participated in harp trapping and mist netting at Beer Quarry and Caves SAC and the surrounding landscape (including adjacent to the site), have acted as an authorised agent on project licence 2014-5176-SCI-SCI, monitoring flight lines and recording species within 4 km of Beer Caves SAC. I have also previously undertaken surveys of the site and have ten years' experience as an ecological consultant specialising in bats in East Devon. Therefore, my assessment is based on a good understanding of the landscape and it's important for bats.

I would also note the ecological survey work, Ecological Impact Assessment (EclA), sHRA, and lighting strategy are of a high standard, and I have limited objections overall. However, as the Ecology Officer for the district my role is to provide objective appraisals of development proposals in terms of biodiversity, based on the best available scientific data and professional opinion. I am not against development per say and consider that measures must be proportional to the impact.

The location of the site is currently one of the most sensitive areas for bats in East Devon likely to be subject to development pressure, being one of two identified Pinch Points for SAC bats and within a Core Sustenance Zone for the Endangered grey long-eared bat. I consider it important to hold it to the highest account as any impacts from the development of the site will be irreversible.

3.1.16-3.1.17 – It is agreed that any long-term management of the site would need to be informed by a LEMP.

It has been suggested, should EDDC consider it necessary, that public access could be excluded from the area in the north-east adjacent to the woodland through a planning condition and its management, including proposed conservation grazing, could be set out within a LEMP. It is noted in the response that this is not considered to be required to make the avoidance and mitigating strategy for bats acceptable.

In my view, given the proximity to the Key maternity roost, the uncertainty of the value of the woodland (which has not been surveyed) and lack of control of this woodland, and for other reasons outlined, the provision of high quality semi-natural bat foraging habitat is required, to provide certainty that the development of the site is adequately compensated for, and to ensure that no further contraction of the Pinch Point between Seaton and Colyford.

The vital importance of the adjacent off-site woodland, area to the north-east, and around the Stafford Brook was raised during the previous planning appeal<sup>viii</sup> for the site, with Natural England commenting at the time:

*“The area of existing plantation woodland, the field to the north-east, and the area proposed for woodland planting north of the Stafford Brook are not within the redline of the planning application but management and enhancement of these areas needs to be secured to deliver an acceptable level of mitigation.”*

Although, it would be possible to exclude this area and detail its management of semi-nature habitat, the submitted proposal does not include this, for example including a SUDS, so the submitted scheme would be in contrary to this.

It is agreed that public access from the site to the off-site wood could be deterred through fencing, planting, and other measures that could be detailed within a LEMP.

#### Community football pitch, parking, and welfare facilities

3.1.18 - The Technical Notes states that a planning condition would be sufficient to guarantee that no lighting is provided/installed at the proposed full sized football pitch.

The submitted planning statement (Collier, 2022) refers to the requirement of Seaton Town FC for a full-sized pitch and modern facilities and cites the East Devon Playing Pitch Strategy as material evidence for its provision. This East Devon Playing Pitch Strategy notes the aspiration of the Seaton Town for a floodlit 3G pitch, thus confirms that there is a desire for floodlit facilities.

Given it is proposed to provide a purpose-built full-sized football pitch (of which there is a recognised requirement) with modern facilities I am still of the opinion that there will be a demand for flood lighting this facility as no alternative flood lit proposals are suggested that would be delivered in line with Seaton Town FCs ambitions and consideration of the FAs requirements for floodlit facilities.

I am also still of the opinion that the proposed location of the football pitch would be better located towards the existing built form of Seaton rather than in the far east of the site adjacent to Harepath Hill (a confirmed SAC bat commuting route) and opposite the likely bat crossing point from the east part of the development site. It should also be noted that the southern boundary of the west site is also an important commuting route, and any development proposal would need to maintain this corridor.

3.1.19 - I accept that the proposed landscaping around the proposed pitch *could* offer a betterment in bat foraging habitat, in comparison to the existing arable habitat, subject to suitable planting and management. The playing pitch is still considered to offer a negligible foraging resource and likely subject to high levels of nutrient input and potentially pesticide use. It is also accepted that arable habitat is also likely to be subject to these management processes.

Subject to no lighting, appropriate habitat creation, and long-term management the existing location/design could offer some east/west permeability for bats notwithstanding comments regarding the upgrade of street lighting and potential impacts on bats crossing Harepath Road.

#### Biodiversity Net Gain (BNG)

3.1.20 - As highlighted by the Technical Note, the application is supported by calculations undertaken using the Biodiversity Metric 3.1, not 3.0.



3.1.21 - It is noted that BNG is not currently a policy, or a mandatory requirement and measures have been proposed to enhance the wetland habitat area and these measures are not quantifiable within the metric. It is also noted the proposals are demonstrating a net gain in excess of 20% for both habitats and hedges based on the submitted outline landscape plan.

3.1.22–3.1.23 - The Technical Note has addressed comments regarding additionality and dormice. Previous comments suggested the submission of two metrics could be an option of demonstrating additionality but was not specifically requested. I am satisfied that additionality for dormice has been addressed.

3.1.24 - In terms of the hedgerow BNG condition assessment, I am still of the view that a precautionary approach to predicted condition assessment should be assigned, especially with habitats in the public realm or where long-term management/intervention measures are based on covenants of sale that in reality are extremely hard to enforce.

It is noted that changing the proposed condition assessment from 'Good' to 'Moderate' would still achieve a predicted net gain of greater than 20% for hedgerow provision.

#### Other ecological receptors

3.1.25 - As detailed in my initial response, I have no objection (other than points raised regarding bats) to the proposed ecological mitigation and enhancement measures, subject to successful implementation and these could be covered by planning conditions.

I would re-iterate the importance of any drainage strategy to ensure there was no increase in run off or risk to the Stafford Brook and connecting habitats, i.e., Seaton Marshes.

#### Shadow Habitats Regulation Assessment

3.1.26-3.1.27 – I am largely in agreement with the submitted sHRA and its conclusions. There has been inconsistencies regarding proposed street lighting along Harepath Road since the sHRA was produced with changes in position regarding the upgrade of the lighting.

It is accepted based on the latest DCC correspondence that the sHRA and assessment/conclusions regarding the street lighting baseline is acceptable. However, it is also noted there is still a lack of detail or engagement over additional attenuation measures at the northern extent of Harepath Hill which could provide a benefit for SAC bats.

I am of the view that there is uncertainty regarding potential effects of the development from the lack of high value habitat provision for bats, the lack of inclusion of the adjacent woodland and its long term management, and given the potential indirect effect of the upgraded street lighting that effects could be significant.

It is accepted that absolute scientific certainty can never be demonstrated, and 'practical' scientific certainty when assessing potential significant effects in combination with strict monitoring and adaptive mechanisms can be relied on. The proposed monitoring scheme is proportionate and measures such as designing out lighting impacts in line with current guidelines. However, there is also a level of published scientific data on the benefits of semi-natural habitat provision for bats, i.e., providing certainty in their effectiveness. Given that once the site is developed, impacts are likely to be irreversible and adaptive measures could become hard to rectify any adverse effects.

#### EDDC: Conclusions and recommendations

3.1.28 - Pending further comments from Natural England on the revised HRA, my view is that the following offer reasons for refusal:

The site is not within the existing East Devon Local Plan 2013-2031 allocation boundary.

The proposed site design has not minimised fragmentation of habitats and there are questions whether the integrity of a European designated site would be maintained in contrary to Strategy 47 - Nature Conservation and Geology.

In terms of the draft East Devon Local Plan 2020-2040 policies:

There is insufficient detail/justification provided regarding the proposed removal of 220 m of Important Hedgerow in accordance with Policy 85 Protection of irreplaceable habitats and important features. This is also supported by Strategic Policy 23 – Seaton and its future development, where site Seat\_05 is allocated for around 100 dwellings, so would appear there is scope to reduce the quantum of housing in line with the local plan and retain the hedge.

The submitted scheme is in contrary to Policy 86 – Habitats Regulations Assessment of the draft local plan *Protection of Beer Quarry Cave SAC bat pinch points between Seaton and Colyford, and between Colyford and Colyton*, in that this is a development within an identified Pinch Point, there is a potential reduction in the amount and quality bat foraging habitat, there is potential contraction of the Pinch Point, and the objective of enhancing the Pinch Point in perpetuity is not guaranteed.

Policy 96 Location of facilities for sport and recreation, open spaces and allotments of the draft local plan requires playing pitches to be within or adjoining built-up areas. The proposed location is within the BUAB but is located at the northern extent away from the existing build form.

3.1.29 – The proximity of the grey long-eared bat maternity roost, one of ten in the UK, has been acknowledged. It is stated that the majority of proposed habitat loss will be arable habitat, which is of lower importance to grey long-eared bats, which are primarily associated with unimproved grassland and edge habitats, such as broadleaved woodland edge. It also noted that hedgerow margins were limited, indicating the importance of the existing hedges on the site for grey long-eared bats.

3.1.30 – It is accepted that the provision of dark corridors, landscape buffers, and proposed habitat planting would provide habitat for grey long-eared and other bat species. The provision of new riparian woodland and scrub adjacent to the Stafford Brook is welcome, as is the provision of the proposed bat house which would provide habitat for grey long-eared, and other species including qualifying species associated with Beer Quarry and Caves SAC.

Given the scarcity and risk of extinction posed to grey long-eared bats in the UK, and given that site-level management in combination with landscape scale restoration is recognised as a measure to successfully conserve bats in an agricultural landscape through the restoration of semi-natural habitats and reduction of areas of intensive agriculture<sup>ix</sup>, e.g., arable production, I am still of the view that the area to the north-east adjacent to the woodland as well as the area around the Stafford Brook (and ideally the woodland) be managed as semi-natural habitat, to future proof the location for grey long-eared (and other) bats. This is also in accordance with Lawton principles<sup>x</sup>, the Environment Improvement Plan (EIP23)<sup>xi</sup>, and previous comments made by Natural England.

3.1.31 – It is accepted based on the submitted proposals, the outline plan would achieve a net gain in excess of 20% for both habitats and hedgerows and that details regarding

additionality have been satisfied. It is also accepted the BNG will become a mandatory requirement and key tool for assessment of development proposals and is also a detailed within the EIP23 as a mechanism for enhancing biodiversity within development proposals.

In accordance with Principle 3<sup>xii</sup>, the metric is not a complex or comprehensive ecological model and is not a substitute for expert ecological advice. Principle 5 states the metric is designed to inform decisions in conjunction with locally relevant evidence, expert input, or guidance.

I do not disagree that the submitted proposal would result in a net gain for habitats and hedges when measured using the metric and the submitted design would provide an enhancement of habitats over and above the existing intensive arable production of the site. However, I would argue that given the International importance of the site for bats, that bespoke compensation measures are also required, especially in the most sensitive areas for bats around the woodland.

3.1.32 – The point regarding LSE above and reasons for refusal are set out above. It is also accepted that BNG is neither policy or mandatory yet, and as such could not be enforced by planning condition.

3.1.33 – If EDDC are minded to approve, I would be happy to collaborate on wording of planning conditions with EAD Ecology and the planning team.

### Summary

4.1.1 – It is accepted that the proposed reasons for refusal do not fully align with the submitted EclA or sHRA for reasons as described above. It should also be noted that there are a limited number of areas where there is a disagreement, primarily relating to the removal of, and the provision of semi-natural habitats, which in my view is critical to safeguard the Pinch Point in perpetuity and the viability of the nearby grey long-eared bat maternity roost.

It is possibly to take a different view to the statutory consultee which isn't taken lightly, and only relates to some limited areas that I consider necessary.

4.1.2-4.13 – A HRA is currently being produced and will be submitted to Natural England for consideration, as per the competent authorities' duties under Regulation 63. The submitted HRA will take 'regard' for Natural England's former position and the assessments within the submitted EclA and sHRA.

**William Domett** MSc MCIEEM

District Ecologist

East Devon District Council

## References

- <sup>1</sup> Barr, C.; Gillespie, M. Estimating hedgerow length and pattern characteristics in Great Britain using 496 Countryside Survey data. *J. Environ Manage* 2000, 60, 23-32.
- <sup>1</sup> Froidevaux JSP, Boughey KL, Hawkins CL, Broyles M, Jones G. Managing hedgerows for nocturnal wildlife: Do bats and their insect prey benefit from targeted agri-environment schemes? *J Appl Ecol.* 2019;56:1610–1623.
- <sup>1</sup> Fensome, A.G. and Mathews, F. (2016), Roads and bats: a meta-analysis and review of the evidence on vehicle collisions and barrier effects. *Mam Rev*, 46: 311-323.
- <sup>1</sup> Finch D, Schofield H, Mathews F. Habitat Associations of Bats in an Agricultural Landscape: Linear Features Versus Open Habitats. *Animals (Basel)*. 2020 Oct 12;10(10):1856.
- <sup>1</sup> Devon County Council. Building with Nature: Devon Technical Guidance Maintaining dark corridors through the landscape for bats. Beta format during 2022.
- <sup>1</sup> Reason, P.F. and Wray, S. (2023). UK Bat Mitigation Guidelines: a guide to impact assessment, mitigation and compensation for developments affecting bats. Chartered Institute of Ecology and Environmental Management, Ampfield.
- <sup>1</sup> Chapman, C. & Tyldesley, D. 2016. Functional linkage: How areas that are functionally linked to European sites have been considered when they may be affected by plans and projects - a review of authoritative decisions. Natural England Commissioned Reports, Number 207.
- <sup>1</sup> Mathews, F. (2014). Proof of evidence against the refusal of planning permission of land east of Harepath Road, Seaton. EDDC ref: 12/1185/MOUT.
- <sup>1</sup> Froidevaux JSP, Boughey KL, Hawkins CL, Broyles M, Jones G. Managing hedgerows for nocturnal wildlife: Do bats and their insect prey benefit from targeted agri-environment schemes? *J Appl Ecol.* 2019;56:1610–1623.
- <sup>1</sup> Lawton, J. L. (2010). Making Space for Nature: A review of England's Wildlife Sites and Ecological Network.
- <sup>1</sup> DEFRA (2023). Environmental Improvement Plan 2023. First revision of the 25 Year Environment Plan.
- <sup>1</sup> Natural England (2023). The Biodiversity Metric 4.0 User Guide - Natural England Joint Publication JP039

EDDC District Ecologist  
28/09/23

## **1. Introduction**

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

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

### 3. Review of submitted details

4.

Ecological survey work for the site has encompassed several years between 2019 and 2023 including repeated extended phase 1 habitat surveys. The detailed hedgerow survey, surveys for potential bat roosts in trees, reptiles, and dormice were only undertaken in 2019. Surveys for great crested newts were undertaken in 2019 and repeated for some ponds again in 2021, surveys for otter and water vole and badgers were undertaken in 2019 and 2021, with a breeding bird survey undertaken in 2020. Bat activity surveys spanned two survey periods in 2019 and 2020. The EclA has been produced in accordance with CIEEM guidelines, and included desk study data and the applicant has utilised the Natural England discretionary advice service (DAS) and has had discussions with East Devon District Council (EDDC).

BS 42020:2013 Code of Practice for planning and development states that “ecological information should be sufficiently up to date (e.g., not normally more than two/three years old, or as stipulated in best practice guidance)”. Given that the majority of the surveys are within three years, and an updated surveys to undertaken habitat condition assessments were undertaken in August 2022 and June 2023, the current age of the survey data would be acceptable for a planning submission in 2023, e.g., as results from the 2019 surveys confirming presence of reptiles and dormice are unlikely to have changed significantly for these receptors.

#### Habitats

The proposed development is expected to result in the permanent loss of 9.76 ha of arable habitat, 0.24 ha of poor semi-improved grassland, 0.02 ha of dense scrub, 0.25 ha of tall ruderals, 220 m of species-rich hedgerow, and 20 m of species-poor hedgerow.

With the exception of the hedgerows and Stafford Brook within the survey boundary, the existing habitats on the site are considered to be of local ecological value, given their widespread nature and limited botanical diversity. Species-rich Devon hedge banks and streams are considered to be of county ecological value. It is also noted that the Stafford Brook is known to support breeding brook lamprey and European eel are regularly found on within the stream.

The proposed outline plan indicates that approximately 220 m of species-rich hedgerow (H12) would be removed from the site, as well as 20 m of species-poor hedge (a Priority Habitat).

H12 is considered important under the Hedgerow Regulations 1997, is a Devon Biodiversity Action Plan (DBAP) habitat, and a habitat of Principal Importance (NERC Act, 2006). In addition, the hedgerow is used as a commuting route used by qualifying species (lesser horseshoe and myotis bats) associated with Beer Quarry and Caves Special Area of Conservation (SAC), is assumed to be used by hazel dormouse, reptiles, common amphibians, nesting birds (including red listed<sub>1</sub> and Priority Species Linnet and amber listed White Throat), and is a historic hedgerow shown on 1890s OS maps.

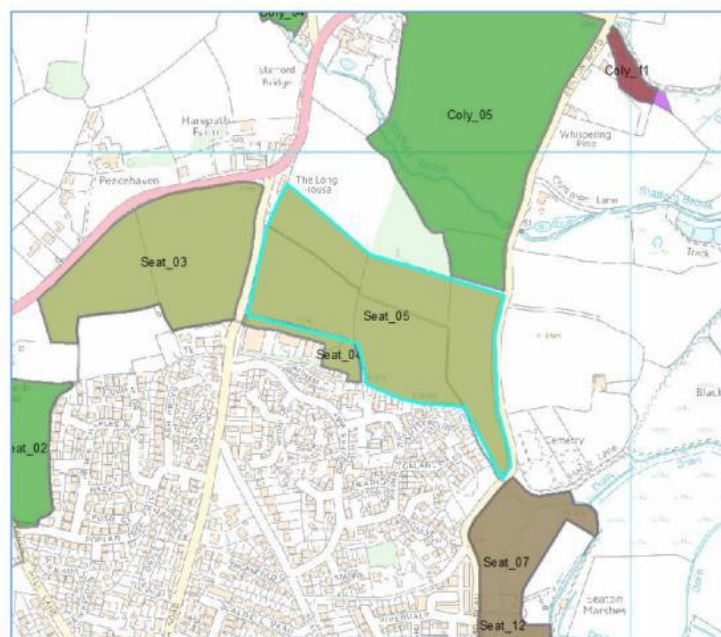
Given the ecological value of this historic hedgerow, including its confirmed use as a commuting route used by qualifying species associated with Beer Quarry and Caves SAC, it is unsure how the mitigation hierarchy has been followed using reasonable avoidance in the first instance and retaining this hedgerow within the development, even if the value of the hedgerow is reduced for foraging and commuting light adverse bats due to the proximity of the development. Historic Devon hedge banks provide multiple ecosystem services and habitat for a range of protected and notable species. The retention of existing linear features

is a key recommendation for habitat management for bat species (Eurobats, 2019). No static bat detector was placed in this important habitat feature proposed to be removed, with high levels of lesser horseshoe bat use noted during the manual activity survey. Therefore, its value to commuting and foraging bats could be undervalued.

The northern boundary of Hedgerow H7 is shown to be within the curtilage of dwellings and the southern boundary is outside of the site boundary, so long-term management and the ecological value of this hedge cannot be guaranteed. Natural England previously raise concerns that no dark corridor was being provided along this hedge as well as Hedge H8 to provide landscape permeability from the site across Harepath Road.

The supporting documents considers that H7 is not well used by bats, although this is based on limited survey data with a static bat detector being deployed on the hedge between February and April 2020, missing the previous 2019 summer/autumn survey period. From the limited survey data, it demonstrates that the hedge was used by Annex II species including lesser horseshoe (in winter and spring), greater horseshoe, barbastelle and myotis species. H7 also provide well used badger outlier setts likely associated with the large (not surveyed) badger sett in the area of woodland bounding the site.

The site allocation within the draft local plan 2020-2040 is for around 100 dwellings with the allocation boundary bounding hedgerow H8, southern boundary of the woodland continuing on the same line to Colyford Road. The submitted application is for approximately 130 dwellings on the site and the development boundary extends outside of the allocation boundary (and built up areas boundary) to the north-east. Refer to Figure 1.



NT 1:6000 © Crown copyright and database rights 2022 Ordnance Survey 100023746

Figure 1 – Draft local plan site allocation boundary Seat\_05

Given the ecologically important value of the hedgerows on the site, it is considered that any principle for development should retain these important habitat features, with minimal loss where required, e.g., for access. It is also unclear that given that hedgerow H12 is proposed for removal that no static bat detector was placed in this hedgerow, especially as the transect survey identified relatively high numbers of lesser horseshoe bats which are

adverse to crossing large open spaces and rely on a network of linear features for commuting through the environment.

Other than native bluebell (a Schedule 8 plant species) and Schedule 9 invasive montbretia and Himalayan balsam no other notable botanical species were noted. The habitats present and plant species lists indicates the site has high nutrient content e.g., with several thistles, docks, dandelion, common nettle etc. recorded.

### Nesting birds

A total of 41 species were recorded during the surveys, of which 26 species were confirmed, probably or possibly breeding within the survey area. These included a number of Red listed and Amber listed and Priority Species.

The EcIA highlights the development would likely change the nature of the site from an arable/typical farmland assemblage of birds to a more urban assemblage of bird species. The proposed scrub, tree, hedgerow, and grassland provision over the site is likely to provide a supporting mosaic of habitat for nesting birds.

Recommendations are made for nest boxes to be provided at a ratio of one per two units. In accordance with BS42021:2022 Integral nest boxes should be provided at a ratio of one per unit.

### Dormice

Dormice are confirmed as nesting on site and considered to be in all suitable habitat on the site included hedgerows and scrub. Clearance of hedges and woody vegetation prior to development will require a European protected species licence from Natural England.

Mitigation is proposed to replace habitat at a minimum ratio of 2:1 for habitat loss (240 m of hedge is proposed for removal as well as 0.02 ha of dense scrub) and 30 dormouse nest boxes.

Notwithstanding the comments regarding the mitigation hierarchy and avoidance of the loss of H12, the BNG metric indicates 980 m of new hedge native planting which is likely to be suitable in mitigation (once fully established), depending on implementation of planting, appropriate management etc.

However, there is likely to be increased pressure of onsite habitats from hedge management and cats. The proposed hedges largely bound residential dwellings with several gaps (at least 10 noted) for access which could deter dormice from using these hedges and the hedges could also be subject to insensitive management.

### Reptiles and amphibians

The site supports a low population of slow worms which are distributed across the site associated with hedge banks. Given the number of ponds within the vicinity of the site, and that the reptile survey only encompassed the late-autumn survey period in September it is also possible that other common reptiles such as grass snake could occasionally be present.

The site is surrounded by several water bodies and include a stream (Stafford Brook) and is likely to support common amphibians such as common toad (a species of principal importance), likely associated with hedge banks woodland edge and scrub habitat.

The EcIA assumes the presence of great crested newts (GCN) is unlikely based on environmental DNA (eDNA) surveys of three of six ponds within 250 m of the site. It is noted that the closest pond to the site is located within the area of woodland bounding the site. The report notes the pond has a 'below average' Habitat Suitability Index (HSI) score and that it was too shallow to undertake an eDNA test. However, methods such as torching, egg searching, netting, and use of bow traps could provide alternatives to provide more confidence in its potential use by GCN. It is also noted that the 'land owner could not be contacted'. The woodland formed part of previous development curtilage for this site so the new owners must have had contact details of the woodland owners so unsure what level of effort was made to survey this important habitat feature adjacent to the site. No evidence of correspondence etc. has been provided.

Proposed outline mitigation measures for supervised habitat manipulation and provision of reptile hibernacula are considered proportionate for the identified population of slow worms and presence of amphibians on the site, subject to details provided within a Construction Ecological Management Plan (CECoMP) and Landscape and Ecological Management Plan (LEMP).

### Bats

The site is located within a lesser horseshoe bat key sustenance zone<sup>2</sup>, is within 150 m of a key lesser horseshoe bat maternity roost (also a lesser horseshoe bat hibernation roost, whiskered bat maternity roost, greater horseshoe, grey long-eared, and common pipistrelle bat roost) and is located within an identified pinch point<sup>3</sup> for bats associated with Beer Quarry and Caves Special Area of Conservation (SAC). The site is also within a Bechstein's bat sustenance zone, and a greater horseshoe bat landscape connectivity zone.

In addition, the site lies within a core sustenance zone (CSZ)<sup>4</sup> of a grey long-eared bat maternity roost located approximately 500 m from the site.

The manual and static bat activity surveys (including historic surveys of the site) identified the use of the site by at least 10 different bat species over the entire survey period encompassing all seasons, i.e., spring, summer, autumn, and winter, including all UK Annex II bat species, all qualifying bat species associated with Beer Quarry and Caves SAC, light adverse long-eared bat species, myotis, and barbastelle bats accounting for between 10% (transect survey) and 14.9% (static survey) of all bat calls recorded.

Approximately 78-79% of all bat calls are from pipistrelle species, with noctule, serotine, Leisler's accounting between 6% (static survey) and 12% (transect survey) of calls. It is noted that due to the similarities in call parameters it is not possible to fully categorise myotis bat calls to species level, especially as all calls were recorded in zero-crossing format, not full spectrum. Therefore, the presence of Bechstein's bat is assumed, given the site is within a sustenance zone for this species and there is potentially suitable habitat adjacent to the site, although this was not surveyed.

Given the directional nature and high attenuation rate of horseshoe bat calls and quite nature of long-eared bat echolocation calls, it is possible there may be some under recording of these species, in comparison to louder calling species such as pipistrelle and serotine bats.

Given the assemblage of bats using the site, its location within sustenance zones of qualifying species associated with Beer Quarry and Caves SAC, its proximity to a key maternity roost, being within a pinch point associated with the SAC, and the presence of other rare bats including Annex II barbastelle bat and being within the CSZ of a grey long-eared bat maternity roost, which is the rarest and most at risk bat species in the UK



considered to be Endangered<sup>5</sup>, the value of the site for bats is considered of at least of National importance for bats (Reason, P.F., and Wray, S., 2023). In summary, proposed habitat mitigation and compensation measures for bats, including those associated with Beer Quarry and Caves SAC, include:

- 10 m minimum 'dark corridor' around the development site with a further 10 m landscape buffer zone bounded by hedges and fences backing onto the built development.
- A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.
- Provision of native hedgerows, trees, scrub, and wildflower meadows.
- Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.
- A bespoke bat house suitable for use by horseshoe bats.

The location of the majority of proposed bat compensatory foraging habitat is located outside of the draft site allocation boundary (refer to Figure 1), i.e., to the east and north-east of the woodland on the northern boundary of the site. The draft site selection document states "*...compensatory bat foraging and commuting habitat within the remainder of the proposed allocation site (to secure and enhance the pinch point in perpetuity)*". Therefore, it appears that compensatory habitat is being proposed outside of the allocation boundary and reasonable avoidance strategies to maintain foraging and commuting habitat on the site is being exceeded.

The landscape strategy for the site indicates that the dark corridor and proposed landscape buffer will provide recreational routes around the development, with formal and informal play areas with these also extending into to the area of proposed POS to the east of the woodland and orchard.

The adjacent Seaton Wetlands is a Local Nature Reserve (LNR) and County Wildlife Site (CWS) with no access for dog walkers, given the sites importance for birds. Therefore, it is likely the areas of POS (including to the east of the woodland) and accessible dark corridors/landscape buffers would be subject to frequent use by recreational users, including dog walkers, from the new development and surrounding existing development to the south where there is a proposed footpath connection. This could result in deleterious effect on the proposed habitats which include 'species-rich' grassland. Given the existing agricultural use of the land and indicative high nutrient levels, the provision of species-rich grassland of high value to bats within publically accessible areas is considered unlikely to result in significant insect biomass and botanical diversity without significant long-term and sustained management.

Bat surveys have identify the areas surrounding the woodland as the most important areas for foraging bats, with several hedges over the site noted as commuting routes for bats associated with Beer Quarry and Caves SAC (including H12 which is proposed for removal). There is currently no public access over the site so the introduction of development and public access to the site, including the area of managed POS habitat is considered likely to reduce the value of these habitats for bats.

In addition, with the proposed development of the site, despite the proposed light mitigation measures, the proposals would result in the development over a large part of the existing site, removing an established bat commuting route, and concentrating the majority of bat mitigation in an area subject to the existing highest levels of bat activity, i.e., along the riparian corridor in the north-east potentially compromising the carrying capacity for these habitats to maintain the existing bat populations.

Following the Lawton principles of 'Bigger, better, and more joined up', and established favourable habitat management for bats, it is considered that as well as enhancing the riparian corridor as recommended that the area to the east and north-east of the woodland be excluded from public access and provided as low intensity non-wormed cattle grazed permanent pasture and parkland with trees, managed in perpetuity in accordance with best practice habitat management recommendations for bats. This is considered important given the assemblage of bat species recorded over the site, that the woodland to the north has not been surveyed (and its value not fully accounted for) and the surrounding edge habitats are particularly important habitats for myotis, lesser horseshoe, and grey long-eared bats.

This would provide long-term suitable habitat for foraging and commuting bats, including volant juvenile lesser horseshoe bats associated with the nearby maternity roost, as well as providing habitat for bat species associated with Beer Quarry and Caves SAC during the transitional periods in the spring and autumn, as well as providing habitat for grey long-eared bats. This would also buffer the development from the most sensitive areas for bats.

#### Community football pitch, parking and welfare facilities

The proposed football pitch is located in the north-east part of the western parcel of the proposed development. This is adjacent to likely crossing points of bats associated with Beer Quarry and Caves SAC from the main development site (although no crossing point bat surveys were undertaken). There are existing dark (<0.5 lux) spaces due to faulty and/or vegetation covered street lights in this location. However, these are proposed to be upgraded by Devon County Council (DCC) which could also result in an effective severance of the crossing point. In addition, Harepath Hill is unlit and hedgerows H1 and H4 bounding the road are confirmed commuting routes used by lesser horseshoe and myotis bats.

The submitted documents state that '*No lighting is proposed to the football pitch*', although this statement is not backed up by any confirmation by Seaton Town FC or the proposed users of the new community football pitch. The existing town football club has existing lighting on the pitch. Seaton Town FC are part of the Football Association (FA) Devon and Exeter Football League. The FA guide to floodlighting (FA, 2013) state that the minimum standard for non-league clubs for the lowest tier of the league (Grade G), that floodlighting to 180 lux is required to illuminate the playing surface.

Given that it is proposed to provide a brand-new football facility for the community it is considered that providing no lighting for this facility would severely restrict its use, i.e., given that it would preclude the use of the facilities over the majority of the autumn (October) to spring (March) period, where sunset is approximately between 18:45 or earlier. Therefore, it would only be of practical use in the daytime in this period and could not be used for winter evening training or matches and could also restrict any aspirations for the new pitch to be used within any league or cups that require minimum standard lighting requirements.

The location of the proposed football pitch would introduce a heavily modified habitat of no value to bats, i.e., monoculture grassland habitat, with heavily managed surrounding habitats to support spectators.

Therefore, from an ecological perspective it is considered that the location of the football pitch and facilities would be better located to the south closer to the built development form with the northern edge in line with the proposed allocation for employment land, to maintain landscape permeability and the viability of commuting bats from the east/west is maintained and protected, especially considering the potential impacts from upgrading the street lighting along Harepath Road.

### Biodiversity Net Gain

The application is supported by a biodiversity net gain (BNG) calculation using the Biodiversity Metric 3.0. All three habitat types (habitats, hedgerows, and watercourses) are included in the baseline calculations.

An assessment of the watercourse has been undertaken by a competent assessor. However, there is no proposed 10% gain in watercourse biodiversity units with some proposed removal of agricultural habitat which does not contribute to any improvement of the watercourse using the metric.

The metric calculations for the proposed landscape strategy indicates the proposed landscaping could result in a gain of 10.9 habitat units (a 37.59% gain) and 6.74 hedgerow units (a 24.78% gain). Reference is made to consideration of additionally for habitats provided for SAC bats and that habitat provided in the dark corridors, landscape buffers, and to the south of the Stafford Brook were only include in the calculations up to no net loss. However, it is not fully clear how this is differentiated from the habitat to provide the gains over and above non net loss, e.g., though submission of two metrics, and additionally of habitats provided for hazel dormouse are not mentioned.

The proposed condition assessment of hedges within the metric are considered to be of 'Good' ecological value, including all the hedges bounding the built development separated by a 1.8 m post and wire fence. The EclA states that a restrictive covenant within the title deeds would restrict the permitted management of the hedges. However, the certainty that all hedges would remain in good condition in the long term when adjoining residential properties is debatable, as other measures such as non-native invasive plant species, deposition of garden waste etc. is unlikely to be regulated. In addition, to achieve good condition requires over 90% of the hedgerow base to be undisturbed where one side of the hedgerow will be in publically accessible areas and the other adjacent to residential gardens. In terms of hedgerows with trees there is also unlikely to be any mature/ancient/veteran trees present, and over 90% of the hedgerow base without some form of undisturbed ground. Therefore, moderate condition would be considered a more realistic and precautionary valuation of the proposed habitat creation.

### Other ecological receptors including badgers, water vole, otter, and other Section 41 Species of Principal Importance

The submitted ecological survey information, general ecological avoidance, mitigation, enhancement measures for other ecological receptors are considered acceptable and proportionate.

Measure to ensure development does not cause any additional flood risk from the site is critical for the management and status of the adjacent Seaton Wetlands CWS/LNR and should be fully implemented in the construction and operation of the development.

### Shadow Habitats Regulation Assessment (HRA)

It terms of the submitted shadow Habitats Regulation Assessment (HRA), I support the conclusions in terms of screening out Likely Significant Effects (LSEs) on the qualifying features of the River Axe SAC, Sidmouth to West Bay SAC and Lyme Bay and Torbay Marine SAC.

I also support the scoping in of Beer Quarry and Caves SAC to Stage 2 Appropriate Assessment (AA) as the proposals could result in an adverse impact on the qualifying features of the SAC primarily through habitat loss, modification, and fragmentation through

direct habitat loss and indirect impacts through an increase in lighting both during construction and operation.

The ecological surveys have demonstrated that the site is used by all three qualifying bat species associated with Beer Quarry and Caves SAC for both for commuting and foraging with seasonal use by all species noted and spatial distribution across the whole site. The surveys have indicated that the areas surrounding the woodland and the riparian corridor in the north-east as the areas with highest levels of bat activity and of primary importance. Lesser horseshoe bat use of the qualifying bat species is highest, which is likely given the proximity of the site to a lesser horseshoe bat maternity Key Roost<sup>6</sup>, i.e., within 150 m of the site. The winter survey results also demonstrated the use of the site over the winter frequently by lesser horseshoe bats.

Mitigation measures have been informed by a Lighting Impact Assessment (LIA) based on the parameters of the outline plan and draft Devon County Council guidance. This indicates that it is feasible base on the outline plan that a *minimum* recommended 10 m dark corridor (<0.5 lux) and further 10 m landscape buffer could be provided around the development footprint.

Proposed mitigation measures regarding lighting on the development site, the provision of a bat house, new hedgerow provision, long-term management and monitoring provisions are all considered necessary and relevant and would provide permeability around the boundaries of the development for light adverse bats.

The removal of Hedgerow H12 would sever a confirmed lesser horseshoe and myotis bat commuting route (a historic hedge from at least 1890) and loss of foraging habitat. It is also considered that the provision of Public Open Space (POS) adjacent to the woodland boundary is considered unlikely to result in significant foraging resource for bats, in comparison to semi-natural habitats including grazed pasture and parkland. It is considered that with the removal of H12, the decline of hedge H8 which is noted to have several trees with ash dieback and maturing elms, and the urbanised development of the site, that the woodland edge habitat is likely to be an even more important resource for foraging SAC bats, especially juvenile lesser horseshoe bats, breeding and hibernating lesser horseshoe bats, and myotis bats post development. The woodland edge is also noted to support foraging greater horseshoe bats. As no survey of the woodland has been undertaken there could also potentially be unrecorded Bechstein's bat roosts within the woodland.

The location of the proposed football pitch is located at the northern extent of the western site, adjacent to the assumed crossing point of SAC bats from the eastern site. It also abuts Harepath Hill an unlit road with the northern boundary a confirmed commuting route used by lesser horseshoe and myotis bats. The existing lighting regime along Harepath Road is subject to change in the future, but yet unknown date. The location of the proposed football pitch would introduce a heavily modified habitat of no value to bats, i.e., monoculture grassland habitat, with heavily managed surrounding habitats to support spectators and could further encroach/erode the current Pinch Point for SAC bats.

Based on the submitted scheme, including the location of the proposed football pitch and lack of clarity regarding proposed lighting of the football pitch, the removal of a significant historic habitat feature (H12) using by commuting and foraging qualifying species, and the lack of provision of high-quality bat foraging habitat surrounding the woodland based on guidance for habitat management for bats, on balance it is considered that there is some scientific doubt regarding the submitted scheme and that a LSE on the qualifying features of Beer Quarry and Caves SAC cannot be ruled out.

In particular, this is considering the sensitive nature of the site located within multiple sustenance zones, a Pinch Point, and that impacts from the development would be irreversible. It would result in the degradation of off-site supporting habitat and functionally linked habitat supporting a Key Roost. Therefore, as it is considered there could be an LSE from the proposed scheme and the current scheme should be rejected.

### **3. Conclusions and recommendations**

#### **1.1. Acceptability of the proposal**

Based on the submitted outline scheme I would object to the proposal, based on the removal of removal of hedge H12, the location of the proposed football club and sports pitch, the encroachment of the development outside of the draft allocation site boundary to the area to the east of the broadleaved woodland, and the exclusion of the woodland and its long-term management from the development proposal.

#### **1.2. Reasons**

It is considered that the submitted proposal would result in a negative adverse ecological impact especially in regards to the loss of Hedgerow H12, a commuting route used by qualifying species associated with Beer Quarry and Caves SAC, and that the proposed compensatory bat foraging habitat, i.e., areas of managed Public Open Space (POS) would be of limited value for bats especially for qualifying species associated with Beer Quarry and Caves SAC (including the key maternity roost within 150 m of the site), breeding grey long-eared bats, barbastelle bats (and other bat species).

The site is within 2 km of a grey long-eared bat maternity roost, one of 10 known maternity colonies within the UK, with grey long-eared bats considered to be Endangered, i.e., facing a very high risk of extinction in the wild in the near future. The Environment Act 2021 has targets to reduce the risk of species extinction by 2042, when compared to the risk of species extinction by 2022. Seaton Wetlands is a confirmed foraging area used by grey long-eared bats who primarily forage on unimproved grassland, broadleaved woodland, and riparian vegetation. The ecological surveys of the site have confirmed its use by long-eared bats and given the proximity to the maternity colony the presence of grey long-eared bats on the site is assumed. Key recommendations to maintain the favourable conservation status of grey long-eared bats and to mitigate the risk of extinction include the restoration of favourable foraging areas including semi-natural habitats within their current range (Natural England, 2021). Therefore, it is considered the current design would result in a detrimental loss of existing foraging habitat and the proposed Public Open Space habitat to the east of the woodland would be insufficient to compensate for the development of the site and pose a risk to the local grey long-eared bat colony.

The outline biodiversity metric calculation is demonstrating a net gain for habitats and hedge units. Reference to additionality is made regarding SAC bats as well as a high strategic significance score attributed to existing and proposed habitat creation as the site is within bat sustenance zones associated with Beer Quarry and Caves SAC. Irrespective of strategic significance scores the biodiversity metric provides a proxy to describe biodiversity value of habitats and cannot fully account for the cumulative biodiversity value of a site derived from its historic value, assemblages of protected and notable species, and wider landscape importance of features, such as Pinch Points or potential long-term impacts from climate change.

The suitability of provision of foraging habitat based on publicly accessible open space habitats is not quantified to a satisfactory degree, with information/reference to how this is

suitable other than saying management could be secured through planning conditions such as a LEMP.

For reasons stated it is also considered that there is some scientific doubt that the proposals would not fully mitigate impacts on qualifying features of Beer Quarry and Caves SAC and there could be an LSE from the proposed scheme. Therefore, the current scheme should be rejected.

### 1.3. Recommendations

It is recommended that H12 be integrated within the site design and the area to the east and north-east of the woodland around the Stafford Brook be excluded from public access and managed as low intensity grazed pasture and parkland habitat in line with current best practice and guidance for habitat management for bats. This would also buffer the key bat foraging habitat in the north-east and the Stafford Brook which is used by otter, water vole (also Endangered), brook lamprey and European eel.

In addition, it is recommended that the area of woodland bounding the site be included as critical habitat for SAC and other bats and its long-term management secured for any development of the site. Public Open Space (POS) should be retained with the allocation site boundary.

The location of the proposed football pitch adjacent to a bat crossing point and commuting route along Harepath Hill and uncertainty regarding potential lighting in the future, and risk to the severance of landscape permeability also provide a negative concern within the current design. Therefore, it is recommended the football pitch and buildings be moved south towards the built development in line with the employment land allocation boundary and away from the commuting routes along Harepath Hill and hedges H1 and H4 using by qualifying bat species associated with Beer Quarry and Caves SAC. Consideration should also be given to enhancing this linear corridor along Harepath Hill to maintain and enhance its integrity as a commuting route.

Any compensatory habitat creation measures for SAC bats would need be implemented and fully functioning prior impacts occurring, such as habitat clearance on the site. For example, existing and new hedges should be at least 3 m wide x 3 m tall with established suitable habitat within any dark corridors and landscape buffers with monitoring to demonstrating their functional use.

The removal of permitted development rights for dwellings adjacent to any compensatory habitats especially regarding installation of Velux, extensions, and external lighting are also considered necessary.

In terms of considerations of ecological receptors including dormice, reptiles, amphibians, nesting birds, badgers, and other species such S41 species, the proposed mitigation measures are considered proportionate subject to securing their mitigation and enhancement measures and taking into account any recommendations made such as the increase in bird nesting provision.

### 1.4. Conditions

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

- *No works shall commence on site unless the Local Planning Authority has been provided with a copy of the dormouse mitigation licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead. Any mitigation and compensation measures should be in accordance within an agreed Landscape and Ecological Management Plan (LEMP), unless otherwise amended by Natural England.*
- *The development shall deliver at least a 10% biodiversity net gain (BNG) for all habitat types within the development boundary. Any subsequent reserves matters application and detailed site design should be supported by an updated biodiversity net gain calculation using the most up to date biodiversity metric (currently 4.0), a biodiversity gain plan, and habitat maintenance and management plan following best practice principle, including BS 8683, and following current or subsequently updated BNG guidelines. Any net gain calculations should clearly demonstrate how any proposed habitats for any protected species account for up to no net loss and that other habitats not provided result in an ecological enhancement.*
- *No works shall commence on site unless the Local Planning Authority has been provided with a Lighting Impact Assessment (LIA) based on the details site design and most recent guidelines (currently GN08/23) has been submitted and approved in writing. The LIA should clearly demonstrate that dark corridors provided around the site are achievable without the attenuation of habitat features which long-terms management cannot be guaranteed. The LIA should also be supported by evidence where statements are made regarding no use of lighting by the competent authority (DCC) or stakeholders (Seaton Town FC) that this is acceptable in the in the long-term. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.*
- *No development shall take place (including ground works or vegetation clearance) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority based on the details within the submitted EcIA (EAD Ecology, 2023). The CECoMP shall include the following.*
  - a) *Risk assessment of potentially damaging construction activities.*
  - b) *Identification of “biodiversity protection zones”.*
  - c) *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
  - d) *The location and timing of sensitive works to avoid harm to biodiversity features.*
  - e) *The times during construction when specialist ecologists need to be present on site to oversee works.*
  - f) *Responsible persons and lines of communication, including reporting compliance of actions to the LPA*
  - g) *The role and responsibilities on site of an ecological clerk of works (ECoW)*
  - 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.*
- *A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development based on the submitted Ecological Impact Assessment (EAD Ecology, 2023) and shadow HRA (EAD Ecology, 2023). The content of the LEMP shall include the following.*

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

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

- *The development hereby permitted shall not be occupied until all ecological mitigation and enhancement features, including bat boxes, bird boxes (1 per dwelling), permeable garden fencing, reptile hibernacula, have been installed/constructed in accordance with details within the submitted LEMP.*

**William Dommatt** MSc MCIEEM  
District Ecologist  
East Devon District Council

---

<sup>i</sup> Barr, C.; Gillespie, M. Estimating hedgerow length and pattern characteristics in Great Britain using 496 Countryside Survey data. *J. Environ Manage* 2000, 60, 23-32.

<sup>ii</sup> Froidevaux JSP, Boughey KL, Hawkins CL, Broyles M, Jones G. Managing hedgerows for nocturnal wildlife: Do bats and their insect prey benefit from targeted agri-environment schemes? *J Appl Ecol.* 2019;56:1610–1623.

<sup>iii</sup> Fensome, A.G. and Mathews, F. (2016), Roads and bats: a meta-analysis and review of the evidence on vehicle collisions and barrier effects. *Mam Rev*, 46: 311-323.

<sup>iv</sup> Finch D, Schofield H, Mathews F. Habitat Associations of Bats in an Agricultural Landscape: Linear Features Versus Open Habitats. *Animals (Basel)*. 2020 Oct 12;10(10):1856.

<sup>v</sup> Devon County Council. Building with Nature: Devon Technical Guidance Maintaining dark corridors through the landscape for bats. Beta format during 2022.

<sup>vi</sup> Reason, P.F. and Wray, S. (2023). UK Bat Mitigation Guidelines: a guide to impact assessment, mitigation and compensation for developments affecting bats. Chartered Institute of Ecology and Environmental Management, Ampfield.

<sup>vii</sup> Chapman, C. & Tyldesley, D. 2016. Functional linkage: How areas that are functionally linked to European sites have been considered when they may be affected by plans and projects - a review of authoritative decisions. Natural England Commissioned Reports, Number 207.



---

viii Mathews, F. (2014). Proof of evidence against the refusal of planning permission of land east of Harepath Road, Seaton. EDDC ref: 12/1185/MOUT.

ix Froidevaux JSP, Boughey KL, Hawkins CL, Broyles M, Jones G. Managing hedgerows for nocturnal wildlife: Do bats and their insect prey benefit from targeted agri-environment schemes? J Appl Ecol. 2019;56:1610–1623.

x Lawton, J. L. (2010). Making Space for Nature: A review of England's Wildlife Sites and Ecological Network.

xi DEFRA (2023). Environmental Improvement Plan 2023. First revision of the 25 Year Environment Plan.

xii Natural England (2023). The Biodiversity Metric 4.0 User Guide - Natural England Joint Publication JP039

#### Clerk To Colyton Parish Council

01/03/23 - The Colyton Parish Council do not support this application due to concerns regarding the following:

- 1) Any creeping development on the Green Wedge between Colyford and Seaton would encourage the coalescence of the two settlements in contravention of the Colyton Parish Neighbourhood Plan Policy No. Coly4, and EDDC Local Plan 2013-2031, Strategy 8 and clause 6.24e.
- 2) Additional traffic generated, particularly with reference to the new junction with Colyford Road and the subsequent increase of traffic using the junction of Colyford Road and the A3052 in Colyford.
- 3) It is known there are problems with drainage in the area which will be exacerbated by this development
- 4) It is known there has been localised flooding of houses on an adjacent area of housing. More building over of green fields will not help alleviate this problem
- 5) The area is known for its bat population and although mitigation measures are proposed via bat routes, it is felt the proposals will have a detrimental effect
- 6) The open fields have much wildlife including visiting deer. Loss of this provision is not welcomed.
- 7) The additional pressures on the services provided by Seaton, e.g. Doctor's Surgeries, Dentists and Schools has not been explored
- 8) The development would involve the loss of prime agricultural land
- 9) The site offers beautiful views down from the top of Harepath Hill towards Seaton, and from Colyford itself. These views would be lost.
- 10) The site is close to the AONB and Seaton Wetlands. It is not clear how the additional houses will impact on both of these.

---

11) It is known that the Government backed Housing Targets for East Devon is being questioned. CPC requests the results of this review are first ascertained before any decision is made on this development.

12) At a previous appeal regarding this site the inspector did not support the proposals concluding - "The application site forms part of an important area of open countryside between Seaton and Colyford identified as Green Wedge in the East Devon Local Plan. The development would result in the loss of part of this high quality countryside, bringing the urban area of Seaton closer to Colyford to the detriment of the setting of Seaton in the local landscape and encouraging closer coalescence of the two settlements".

#### Natural England

31/07/24 –

#### **SUMMARY OF NATURAL ENGLAND'S ADVICE**

#### **NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC).

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required, as set out in the Appropriate Assessment.

- Construction Ecological Management Plan (CEcoMP)
- Landscape and Ecological Management Plan (LEMP)
- 10 m minimum 'dark corridor' around the development site with a further 10m landscape buffer zone bounded by hedges and fences backing onto the built development.
- 6 m dark corridor either side of hedgerow H12
- Detailed lighting design at reserves matters stage including light design, house design and layout.
- A 'dark development', i.e., no proposed street lighting, or adopted lighting on S38 highways or on the proposed access locations.
- Provision of native hedgerows, trees, scrub, and wildflower meadows.
- Public Open Space (POS) with orchard planting, SUDS, and riparian woodland and scrub planting.
- A bespoke bat house suitable for use by horseshoe bats.
- Post-construction monitoring to be undertaken on key habitat features of importance to bats associated with Beer Quarry and Caves SAC, including lux level readings to be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5 lux levels and below are still being achieved.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

---

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Natural England

27/02/24 –

Natural England notes that your authority, as competent authority, has undertaken a revised appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question, particularly the removal of a large section of hedgerow H12. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within regulation 64.

Campaign To Protect Rural England

23/02/23 - Please see scanned letter, received 23/02/23, under the documents tab.

Devon Wildlife Trust

07/03/23 - Please see scanned objection letter, received 07/03/23, under the documents tab.

Clerk To Colyford Parish Council

24/08/23 - This matter was discussed at length at last night's Colyford Parish Council meeting where two representatives of Baker Estates were present and were allowed a three minute presentation. During this they maintained that South West Water and the Environment Agency had approved the amended application and that the proposed Football Pitch would not require lighting as it was designed for use by women and children. More of this later.

Our original objections to this application stand and we do not view the amends to materially change anything. The new access point to the site remains on Coly road in an area with a 60 mph limit, is a narrow two way road with no footpaths. Any attempt to install a footpath would require destroying the existing hedge to provide room and while the hedge could be

---

replanted this would take some years to establish with a resulting disruption to wildlife corridors.

One of our Councillors with some experience of developments has calculated the price's required for the various types of property proposed and this calls into question the commercial viability of the development if it is to be completed in line with the application and generate the profit levels developers normally work to. This in turn calls into question whether the application is made in good faith and Baker Estates intend to build in line with the application. We believe that they have in the recent past walked away from building the smaller/cheaper properties from a development in North Devon.

The application makes reference to Dark Areas and LED lighting but of course this only covers what Baker Estates build. For instance the Bungalow's may be single story but equally may be Dormer Bungalows or have rooms in the roof , in addition once occupied the residents may wish to and security lighting and a conservatory to their property.

Similarly once the football pitch is in place the users may want flood lighting to extend the period of use in winter months so the defence that its for women and children is not only sexist and patronising but also beggars belief. A recent Bat detector used over a two night period noted nine(and possibly twelve) species of bat using the hedges just north of the proposed site, as a corridor between the wetlands and their well known roosting sites Local residents have drawn our attention to the matter of sewage. Seaton sewage works is struggling to cope with its existing burden while the addition of 100+ new premises would undoubtedly cause further occasions when SWW pump raw sewage into the sea.

This leads on to surface water drainage which will inevitably drain into Stafford Brook and through there into the Wetlands and Colyford Common which is owned by the Burgesses. Further interference with the existing drainage pattern with further volumes of surface water may well cause flooding on the local roads as both Stafford Brook and the Coly pass under the A3052.

Local health and school facilities are already under considerable pressure.

#### DCC Flood Risk SuDS Consultation DO NOT USE

23/02/23 - Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

#### Observations:

The applicant has proposed to manage surface water within rain gardens, as well as swales and detention basins prior to discharging into 2 separate catchments. The site appears to fall partly within the Stafford Brook catchment and mostly within the catchment of the watercourse along the southern boundary of the site.

The applicant has assessed the impacts of urbanisation for a 1 in 100 year return period. However, the applicant should assess both catchments for return periods from 1 in 1 year up to 1 in 100 years. The applicant has confirmed that they will assess the culverts.

The applicant has assessed the water quality indices for the access roads with less than 300 vehicle movements per day. However, for a site of 130 dwellings, we would expect there to likely be more than 300 movements per day. At the next stage of planning, the applicant will need to assess the access roads with more than 300 vehicle movements per day.

Maintenance details are required at this stage.

The applicant has confirmed that the site layout will be informed by the exceedance routes.

Yours Faithfully

---

Joshua Lewis  
Flood and Coastal Risk Officer

South West Water  
6/11/24

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

### **Asset Protection**

Please refer to the plan previously submitted 02/02/23, which shows the approximate location of public 300mm trunk water main in the vicinity of the site. Please note that no development will be permitted within 3.5 metres of the water mains. The water mains must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3.5 metre easement, the water main will need to be diverted at the expense of the applicant.

[www.southwestwater.co.uk/developer-services/water-services-and-connections/buildingnear-water-mains/](http://www.southwestwater.co.uk/developer-services/water-services-and-connections/buildingnear-water-mains/)

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

[www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-ofwater-mains/](http://www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-ofwater-mains/)

Should you require any further information, please contact the Pre Development Team via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 2020.

### **Surface Water Services**

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

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

### **Discharge to surface water body**

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

---

It is noted the applicant proposes to attenuate surface water discharge on site, through the use of two basins.

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

South West Water response relates to surface water discharge to our network, where the discharge is from buildings and yards belonging to buildings. Where the applicant has highlighted that the surface water does not connect to South West Water network, we are not commenting on this as it is not our responsibility.

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

South West Water are not responsible for Highway Drainage and our comments do not relate to accepting any of these flows. The applicant should discuss and agree with the Highway Authority, where the highway water connects to.

If the applicant wishes to connect this development to the South West Water network, they should engage with us separately to see if we can accommodate this. No highway drainage will be permitted to be discharged to SWW foul or combined public sewer network either directly or indirectly.

If the applicant is looking to have their sewers adopted (surface and foul), they should design and construction the sewers to the current version of the Design and Construction Guidance. The process for doing this can be found on South West Water's website at Adoption of new sewers | Building & Development | South West Water

### **Clean Potable Water**

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

A hydraulic modelling assessment has shown there will not be a need for any network reinforcement to supply this site.

### **Foul Sewerage Services**

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

Specific network reinforcement will not be required for the wastewater network to receive the flows from this site. Seaton North SPST is programmed to receive investment to ensure it meets its permit requirements. This should be completed before the development starts to be inhabited.

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

[www.southwestwater.co.uk/building-and-development/services/pre-development-services](http://www.southwestwater.co.uk/building-and-development/services/pre-development-services)

---

I trust this clarifies the water and drainage material planning considerations for your LPA, however, if you have any questions or queries, please the Planning Team on 01392 442836 or via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

DCC Historic Environment Officer  
09/02/23 - Dear Sir/Madam,

Application No. 22/2781/MOUT

Land Adjacent To Harepath Road, Seaton, Devon, EX12 2WH - Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure: Historic Environment

My ref: ARCH/DM/ED/38308a

I refer to the above application and your recent consultation. The proposed development site has been demonstrated, by previous archaeological investigations, to contain heritage assets with archaeological interest. These investigations demonstrate prehistoric and Romano-British occupation and possible funerary activity across the site. As such, groundworks for the construction of the proposed development will expose and destroy archaeological and artefactual deposits associated with the known prehistoric and Romano-British activity within the application area. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

#### Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

22/2781/MOUT

---

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

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

#### Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works commencing with the excavation of a series of evaluative trenches to determine the full extent of the archaeological deposits, identified by the earlier investigations, that will be affected by the development. Based on the results of this initial stage of works the scope of any further archaeological mitigation can be determined and implemented in advance of construction works. This archaeological mitigation work will take the form of full area excavation of areas where archaeological deposits have been demonstrated to survive. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

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

Stephen Reed

Senior Historic Environment Officer

#### Conservation

27/11/23 - CONSULTATION REPLY TO EAST TEAM  
LISTED BUILDING CONSENT/CONSERVATION AREA  
PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: Land Adjacent To Harepath Road Seaton Devon EX12 2WH

GRADE:.II

APPLICATION NO: 22/2781/FUL

CONSERVATION AREA: No



---

**PROPOSAL:** Outline planning permission is sought (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.

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

The site is situated to the northern edge of Seaton and comprises of five fields of varying size totalling 10.4 ha in all. Field 1 lies to the west of Harepath Road and south of Harepath Hill and the farm steading. The remaining fields are situated between Harepath Road and Colyford Road to the southeast of the steading. New vehicular access points are proposed off Harepath Road and Colyford Road.

To the north of the proposed site is Harepath Farm and the other independently listed farm buildings known as The Dairy, The Stables, The Linhay and Barn northeast of Harepath farmhouse. The farmhouse and farm buildings range from C18 - C19 and are listed grade II with group value. The designated assets are also known as Rolle Court. The farm group is openly visible from the convergence of Harepath Hill and Harepath Road. Visibility is shielded though by some existing hedgerows to the east and north of the football pitch site.

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

The farm group is an interesting group and through its close visibility and location from the road is a prominent group of buildings. Currently the land to the south and southeast is rural but with limited views of the farm steading and no known historic association.

The proposed sports pitch immediately south of Harepath Farm is largely screened from the farmhouse by vegetation south of Harepath Road but open from Harepath Hill. The pitch may be visible in acute-angled glimpsed views from the south end of the farmhouse only, but this does not detract from any of the heritage value of the asset. This land was not formerly part of its landholding, at least in the 19th century. It isn't clear whether there would be land regarding to form the sports pitch and how this would impact on the farmhouse and steading. The flood lighting proposals have been removed from earlier schemes which is an improvement. Hedgerows are shown on the eastern boundary of the football pitch on the corner which shields views from Harepath Road. Should permission be granted these hedgerows should be maintained and boosted.

There may be minimal glimpsed views of the main development area to the east of Harepath road, from the farmhouse although again these are not views of land with any identified functional or historic association with the designated assets. The contribution this field plays to the setting of the steading is as a rural approach. Settings may change, however the provision of dwellings in the closer area of the steading if agreed, should be of group of buildings of a higher standard of design and materials so that they contribute positively to the setting of the steading. It is noted the development would be a dark development.

**Conclusion**

- o There is insufficient information on the levels of the football pitch and landscaping around it.
- o The provision of dwellings and mixed use in close proximity to the southeast of the steading, although not historically or functionally related could have an impact on the setting of the steading. The impact would be affected by quality of design, lighting, landscape materials and density.

---

o The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant consent for any works to have special regard to the desirability of preserving the setting of the listed buildings. Here taking account of the above this has been taken into consideration.

## POLICIES

Listed Buildings and Conservation Areas Act 1990, section 66 and 72

NPPF section 16

East Devon District Council, EN9

Conservation Area Appraisal.

## PROVISIONAL RECOMMENDATION - PROPOSAL

Holding response

DATE: 21/11/23

INITIALS: M.Pearce

### County Highway Authority

12/09/23 - Observations:

I have visited the site in question and reviewed the planning documents.

The site is designated for development within the forthcoming East Devon Local Plan.

The Primary access road onto Harepath Road at 5.5m is an acceptable road width, it may require widening to 6m upon bends within the estate roads, to facilitate free-flowing traffic.

The visibility splay upon Harepath Road of 59m in both the East direction and the West direction is acceptable to Manual for Streets 1 and 2, our current best practice guidance, for a speed survey 85th percentile of 37mph.

The Tactile paving across Harepath Road is appreciated to help sustainable travel, especially to the proposed football ground access. The proposed vehicle cross-over access for the football ground is acceptable, as is the width of 5.5m and the two adjacent footways. This further encourages cyclist and footway travel.

The Environmental lighting strategy for this project is based upon the existing benchmark of Harepath Road streetlights being LED, as this was going to be completed this financial year by Devon County Council (DCC), unfortunately due to resources, there is now no set completion date for this conversion.

After discussions with DCC, the proposed access onto Colyford Road has been re-located into the 30mph zone, hence the superseded access plan for this one, avoiding the creation of a required Traffic Regulation Order (TRO), whilst still fulfilling the required visibility splay of Manual for Streets 1 and 2, 43m in each direction in accordance with the speed limit of 30mph.

The 2m footway width on each proposed access is acceptable, to help encourage sustainable travel, should this application be granted, upon any Reserved Matters application, I recommend the provision of secure cycle storage and a Travel Plan with a Travel Plan co-coordinator to help mitigate the trip generation from this site. This will be further enhanced with the intended proposal of the internal footway into Seaton residential area.

---

Colyford Road in the proposed location of access is currently unlit and after the review of a Road Safety Audit (RSA 1), we are happy to accept this scenario, with the 'dark development' concept, having many environmental benefits. Though the internal footway is planned to contain low-light bollards/studs, this will remain un-adopted by the County Highway Authority (CHA).

Though this application is outline only at this stage, I will not comment upon any internal site layout proposals, however it has been accepted to avoid cut-through's that there will be no through-route of Harepath Road - Colyford Road for this site.

I would also recommend the provision of a Construction and Environment Management Plan (CEMP) for this project, should it come forward for Reserved matters planning, due to the size of the development.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Officer authorised to sign on behalf of the County Council