

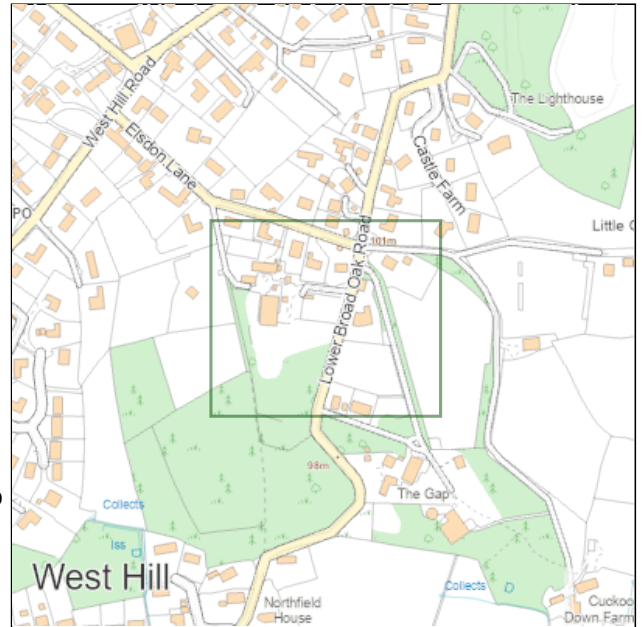
Ward West Hill And Aylesbeare

Reference 25/0173/PIP

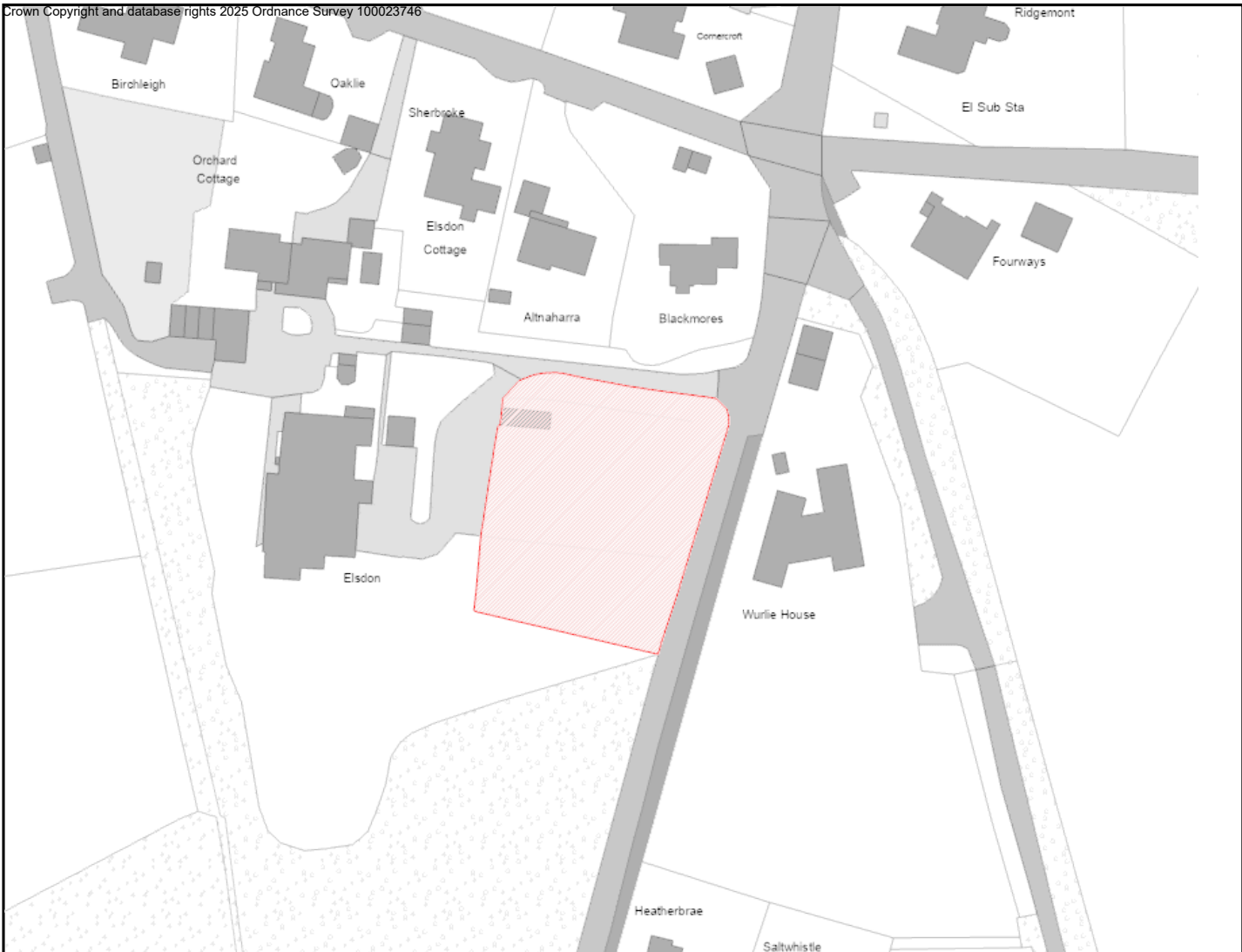
Applicant Mr G Moore

Location Elsdon House Elsdon West Hill

Proposal Permission in principle for the demolition of an existing greenhouse and the construction of two dwellings



RECOMMENDATION: Grant of Permission in Principle



		Committee Date: 22.04.2025
West Hill And Aylesbeare (West Hill)	25/0173/PIP	Target Date: 17.03.2025
Applicant:	Mr G Moore	
Location:	Elsdon House Elsdon	
Proposal:	Permission in principle for the demolition of an existing greenhouse and the construction of two dwellings	

RECOMMENDATION: Grant of Permission-in Principle

EXECUTIVE SUMMARY

This application is brought before the Planning Committee owing to the officer recommendation being in conflict with comments received from the Ward Councillor and the Parish Council.

The application site is located on the eastern edge of West Hill, on a corner plot located between Elsdon House and Lower Broad Oak Road. The site sits to the east of Eldson House, a substantial two storey house. Whilst Eldson House is inside the Built Up Area Boundary (BuAB) of West Hill, the application site is not.

The application is a 'Permission in Principal' which is a two stage process. At this stage the relevant considerations are limited to an assessment of the land use, the location and the amount of development proposed. All other matters are reserved for consideration at the second 'Technical Details Consideration' Stage.

The proposal involves the creation of two new build dwellings on a parcel of land to the east of Eldson House. The houses would be accessed off a private drive off Lower Broad Oak Road.

The application is identical to the previous 23/2535/PIP application, which was appealed for non-determination. The appeal was dismissed on the grounds that the proposal would be in the countryside and would not be explicitly permitted by policies within the development plan. In the course of the appeal the Inspector concluded that the site would promote sustainable modes of travel and minimise the need to travel by car, and also stated that two dwellings could be accommodated on the site without adversely affecting the low density residential and sylvan character of the locality.

Subsequent to that appeal, December's update to the NPPF means that EDDC no longer has a five year housing land supply and the tilted balance in favour of sustainable development applies. As such, permission for development proposals should be granted unless the application of policies within the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. Given the previous appeal history of the site, there are no demonstrable adverse impacts of the proposal to be weighed against the benefit of a small increase in housing.

On this basis, it is considered that Permission in Principle should be granted.

CONSULTATIONS

Local Consultations

West Hill And Aylesbeare - Cllr Jess Bailey

My objection is due to the site being outside the built-up area boundary and is therefore in the countryside and also outside the West Hill Settlement Boundary included in the East Devon Local Plan 2020-2042 currently undergoing Regulation 19 consultation.

Strategy 7 of the East Devon local plan does not permit development in the countryside unless there is a policy that explicitly permits such development. That is not the case in this instance and therefore the proposal is contrary to the plan.

I also object because it is excessive and represents cramming.

Parish/Town Council

This application was considered at the West Hill Parish Council meeting on 19th February 2025.

Councillors noted that the application is essentially a resubmission of a previous application 23/2535/PIP which was rejected in appeal APP/U1105/W/24/3338889. Indeed, many of the documents provided by the applicant are dated 2023. It therefore appears to be, in effect, an appeal against a previous appeal.

Strangely, the information provided by EDDC on the Planning Portal for this application is mis-leading as the Property History omits any reference to the previous PIP application 23/2535/PIP or the Planning Inspectorate decision to dismiss the appeal.

As a PIP application the consideration must be limited to consideration of location, land use and amount of development.

Our previous comments continue to apply:

1. Location: The critical matter in this application is location as the proposed site is:

- o outside the built-up area boundary and is therefore in the countryside.
- o outside the West Hill Settlement Boundary included in the East Devon Local Plan 2020-2042 currently undergoing Regulation 19 consultation.

Strategy 7 of the East Devon local plan does not permit development in the countryside unless there is a policy that explicitly permits such development. That is not the case in this instance and therefore the proposal is contrary to the plan.

The application site was part of a larger site submitted to EDDC for consideration under their call for sites in 2021 (West 16). The site was rejected.

This site is within 10km of the pebbled heath special area of conservation. Conditions and obligations cannot be secured against a permission in principle application and therefore this proposal cannot be mitigated against and will have a significant and unacceptable impact.

2. Land Use: no comments

3. Amount of development

Two dwellings would appear crammed on the site and out of keeping with surrounding dwellings which are on large plots and well spaced out.

In the period since the 2024 application there has been a material change to the NPPF Housing Targets and East Devon Housing Land Supply figure. At 2.97years, this fails to meet the target of 4.5/5 years and the Titled Balance in favour of sustainable development is engaged. However, the Parish Council considers that the breach of Strategy 7 of the local plan is a significant matter and generates the risk of undermining the principle of a BUAB and setting a precedent and opening up similar applications outside the BUAB.

The Planning Statement supporting the application states that the small number of dwellings will not adversely impact on the amenity of the village and will make a small economic contribution to the village. There may well be some modest benefits from the development of the two dwellings but the breach of Strategy 7 of the local plan is a significant matter and generates the risk of setting a precedent and opening up similar applications outside the built-up area boundary. There is either an approved plan or there isn't and if there is we should all stick to it. WHPC therefore considers that the modest potential benefits of the proposal are heavily outweighed by the significant risks associated with breaching Strategy 7.

WHPC therefore objects to this application.

Technical Consultations

South West Water

No details provided (Would be dealt with a Technical Details Stage).

EDDC Trees

No objection.

Other Representations

One third party representation has been received, in objection to the proposal. A summary of grounds for objection are as follows:

- There is no material difference between this application and the previous application (23/2535/PIP) which was refused by the Planning Authority and the subsequent appeal dismissed by the Planning Inspector. There is no mention of the previous application, or of the appeal decision, in the Property History section. This should be corrected.

PLANNING HISTORY

Reference	Description	Decision	Date
78/C1915	Use of Part of House For Small Private School	Approval with conditions	30.01.1979
85/P2053	Siting Of Caravan	Temporary Approval	02.01.1986
96/T0017	Silvicultural Thinning Of Various Trees	Approval - standard time limit	24.04.1996
97/T0049	Various Trees To Be Lopped & Felled	Approval with conditions	20.11.1997
24/2377/TRE	Silvicultural thinning of various mixed conifers.	Withdrawn	25.11.2024
23/2535/PIP	Permission in principle for the demolition of an existing greenhouse and the construction of two dwellings	Not determined	
APP/U1105/W/24/33 38889	Permission in principle for the demolition of an existing greenhouse and the construction of two dwellings	Dismissed	28.08.2024

24/2377/TRE	Silvicultural thinning of various mixed conifers.	Withdrawn	25.11.2024
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development) Adopted

Strategy 5B (Sustainable Transport) Adopted

Strategy 7 (Development in the Countryside) Adopted

D1 (Design and Local Distinctiveness) Adopted

D2 (Landscape Requirements) Adopted

D3 (Trees and Development Sites) Adopted

EN5 (Wildlife Habitats and Features) Adopted

EN8 (Significance of Heritage Assets and their setting) Adopted

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

EN21 (River and Coastal Flooding) Adopted

EN22 (Surface Run-Off Implications of New Development) Adopted

TC2 (Accessibility of New Development) Adopted

TC7 (Adequacy of Road Network and Site Access) Adopted

TC9 (Parking Provision in New Development) Adopted

Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP1: Development in the Countryside

Policy NP2: Sensitive, High Quality Design

Policy NP3: Infill, Backland and Residential Garden Development

Policy NP4: Settlement Containment

Policy NP26: West Hill Design

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft

Strategic Policy AR01 (Flooding) Draft

Strategic Policy AR02 (Water efficiency) Draft

Strategic Policy DS01 (Design and local distinctiveness) Draft

Strategic Policy TR01 (Prioritising walking, wheeling, cycling, and public transport) Draft

Policy TR04 (Parking standards) Draft

Strategic Policy OL01 (Landscape features) Draft

Policy OL09 (Control of pollution) Draft

Policy PB03 (Protection of irreplaceable habitats and important features) Draft

Strategic Policy PB04 (Habitats Regulations Assessment) Draft

Strategic Policy PB05 (Biodiversity Net Gain) Draft

Policy PB07 (Ecological enhancement and biodiversity in the built environment) Draft

Policy PB08 (Tree, hedges and woodland on development sites) Draft

Government Planning Documents

National Planning Policy Framework 2024 (as amended)

ANALYSIS

Site Location and Description

The site is located on the eastern edge of West Hill, on a corner plot located between Elsdon House and Lower Broad Oak Road.

The site sits to the east of Elsdon House, a substantial two storey house. Whilst Elsdon House is inside the Built Up Area Boundary (BuAB) of West Hill, the application site is not. The site is accessed via a private drive to the north of the site which comes off Lower Broad Oak Road.

The site has mature hedge boundaries to the north, east and west of the site and also contains a number of significant trees. The site is surrounded by residential dwellings to the east, north and west and by significant woodland to the east and south, which is all protected under tree preservation orders.

For purposes of clarification the previous 23/2535/PIP application was not refused but an appeal for non-determination was lodged by the applicant, which was subsequently dismissed.

Proposed Development

Permission in principle is sought for two dwellings on the site. The illustrative site plan indicates the site being split into two plots, each containing a detached dwelling and garage. The dwellings would be accessed off the private drive to the north of the site.

The application is the same as that submitted under application 23/2535/PIP. This was dismissed at appeal on the grounds that the proposal would be in the countryside and would not be explicitly permitted by policies within the development plan. As such it was contrary to the development plan. This was the only reason for dismissing the application.

It is necessary to assess if there has been a material change of circumstance since the appeal was dismissed. The main change is that, when the appeal was determined, the NPPF set out that if EDDC had a 4 year housing land supply the tilted balance in favour of sustainable development need not be applied. At that time EDDC had a 4.5 year supply. The NPPF has since been revised, reverting to the usual requirement to demonstrate a 5 year housing land supply; this is a material change in circumstance as is discussed in more detail below.

Procedure

The permission in principle (PiP) process was introduced through the Town and County Planning (Permission in Principle) Order 2017. It provides an alternative means of obtaining planning permission for housing-led development. It is a two stage process; the first being the permission in principle stage and the second technical details consent (TDC) stage. The PiP route can only be used for housing led development and cannot be used for major development.

Planning obligations cannot be secured at the permission in principle stage.

Considerations and assessment

At PiP stage the relevant considerations are limited to assessment of the land use, location and amount of development proposed with other matters reserved for consideration at TDC stage.

Land Use

The site lies just outside of the Built -up Area Boundary of West Hill. In planning policy terms this places the site within the countryside and the provisions of Strategy 7 therefore apply. This strategy states that development outside BuABs will only be permitted if it is in accordance with a specific local or neighbourhood plan policy and where it would not harm the area's distinctive landscape, amenity and environmental qualities.

However, the application also needs to be considered in the light of East Devon's housing land supply position. As a result of the publication of the revised National Planning Policy Framework on 12 December 2024, EDDC's housing land supply position now stands at 2.97 years.

As such in the absence of a 5 year housing land supply, the tilted balance (as at NPPF Para 11d) in favour of sustainable development applies and permission for development proposals should be granted unless the application of policies within the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development proposed; or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, and securing well-designed places.

The NPPF at Paragraph 14 states: In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).

The Ottery St Mary and West Hill Neighbourhood Plan was 'made' on 21st July 2018 and thus became part of the development plan over five years prior to the decision being made on this application. The Neighbourhood Plan does not contain any specific policies or allocations in respect of the housing requirement.

The application site is surrounded by residential development to the east, north and west, and the proposed two dwellings could be accommodated on the site without

adversely affecting the low density residential and sylvan character of the area. The proposal would not harm the amenity and environmental qualities of the landscape. In strategic policy terms therefore, given the application of the tilted balance, the proposed use of the land for housing would be acceptable from the perspective of land use.

Location

In relation to location a number of factors need to be considered in this case: accessibility, landscape impacts, the impacts to the setting of the nearby listed buildings and the flood risk.

Accessibility

West Hill contains a modest number of services and facilities including a shop, village hall, and primary school, approximately 750 metres away by road. There are also public transport links from the village centre also approximately 700 metres from the site by road. The first 300 metres of the route to the village centre would be along Elsdon Lane, which has neither pavements or lighting, however the levels of traffic are low, and vehicle speeds are slow through the village. The remainder of the route to facilities and public transport links has both pavements and lighting. As such, village facilities would lie within a reasonable distance to be accessible by either walking or cycling. The village is also served by a reasonable bus service operating between Exeter and Ottery St Mary. The proposal would therefore be accessible on foot, by bicycle and by public transport and would minimise the reliance on private car.

In addition, in the previous appeal at the site, the inspector concluded that the proposal would accord with Strategy GB and Policy TC2 of the Local plan in that the location would promote sustainable modes of travel and minimise the need to travel by car.

Given the above, the site is therefore is considered to be sustainably located.

Landscape impacts

EDDC's tree officer has stated there are no objections to the proposal as long as development is based on sound arboricultural principles. Any proposal coming forward could lead to shading of the residential gardens and pressure for pruning or removal of the trees, however the site is sufficiently large such that it is considered that two dwellings could be accommodated on the site without any adverse impacts to the sylvan character of the area. The size of the proposed plots would be commensurate with those which lie around the site, and the site is well screened by the existing trees and hedges which would limit the visual impact of the development. The grant of PIP does not commit the Council to the subsequent acceptance of a detailed scheme if, having regard to all material considerations at the later stage, it is considered unacceptable.

As such it is not considered the proposal would harm the amenity and environmental qualities of the landscape.

Flood risk

The application site is not in within Flood Zone 2 or 3 therefore there are no concerns in respect of flooding.

Heritage

There are no listed buildings near the application site that could be affected as a result of the proposal.

Amount of Development

The illustrative site plan demonstrates that the site would be capable of accommodating the proposed two dwellings with ample separation distances between the proposed dwellings and the existing dwellings to the east north and west of the site. It is therefore considered that the proposal would not lead to any adverse impacts to the residential amenity of any of the nearby existing dwellings or to that of future residents of the proposed dwellings.

Habitat Regulations Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured by way of the submission of an undertaking under section 111 of the Local Government Act. It is accepted that this does not take the form of a planning obligation and can therefore be accepted as a means of securing the requisite financial contribution. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Other matters

Considerations in respect of the potential impacts to habitats which would arise as a result of the scheme have not been considered during the principle stage but would be considered under the Technical Details Consent Stage.

In light of the comments from the tree officer regarding the felling of the Copper Beech tree along the western boundary of the site, any subsequent baseline calculation undertaken at Technical Details Consent stage would be required to consider the habitat values of the site prior to the clearance of the tree.

The PPG states that it is not possible for conditions be attached to a grant of PIP and also that its terms may only include the site location and the type and amount of development. It also states that these must be specified, advising that the amount of residential development must be expressed as a range, indicating the minimum and maximum net number of dwellings which are, in principle, permitted. The PPG also

advises that the default duration of a PIP, where granted by application, is 3 years. Any subsequent application for TDC must be determined within this time period.

Conclusion

The proposal is considered to be acceptable in terms of the proposed land use, the sustainability of the location and the amount of development proposed. Although outside of the Built up Area Boundary, In light of the 'tilted balance' that applies in respect of the presumption in favour of sustainable development, there are no demonstrable adverse impacts of the proposal to be weighed against the benefit of a small increase in housing, therefore permission should be granted.

RECOMMENDATION

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That Permission in Principle be granted.

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Community Infrastructure Levy (CIL) - Where CIL liable development is approved in permission in principle, the liability to pay CIL arises at the time of commencement of development following the grant of Technical Details Consent.

The applicant is advised that an application for approval of Technical Details Consent must be made and determined not later than the expiration of three years beginning with the date of this permission.

Plans relating to this application:

50-LPC-301A	Location Plan	05.02.25
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List of Background Papers

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

South West Water

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.

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, rainwater 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)

No surface water strategy details were provided with this planning application. Please note that a discharge into the ground (infiltration) is South West Water's favoured method and meets with the Run-off Destination Hierarchy. Should this method be unavailable, SWW will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

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

www.southwestwater.co.uk/building-and-development/services/pre-development-services

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Yours sincerely
The Pre-Development Team

EDDC Trees

As per the previous application, in principle I have no objection to the proposal as long as development is based on sound arboricultural principles. The main tree constraints have been identified by the supporting arboricultural information as being located along the southern boundary. These are large trees and the main issues are likely to be shading, feeling of dominance, leaf fall, concern over safety etc. Therefore good clearance between the trees and dwelling will be essential to ensure a sustainable juxtaposition to ensure that there is no pressure to prune or remove the trees.

It should be noted that from satellite images it does appear that a Copper Beech located along the western boundary has been removed; it is likely that this tree would have been a significant constraint in particular for the location of plot one.

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.