

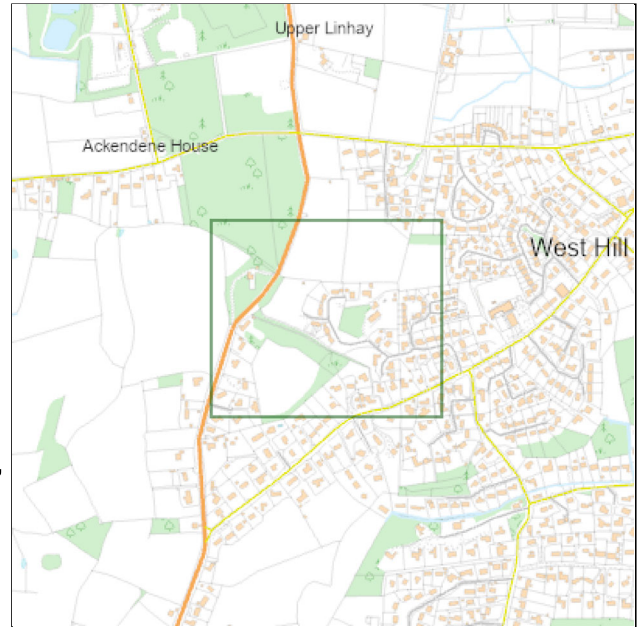
Ward West Hill And Aylesbeare

Reference 25/0057/OUT

Applicant Mr Paul Hunt

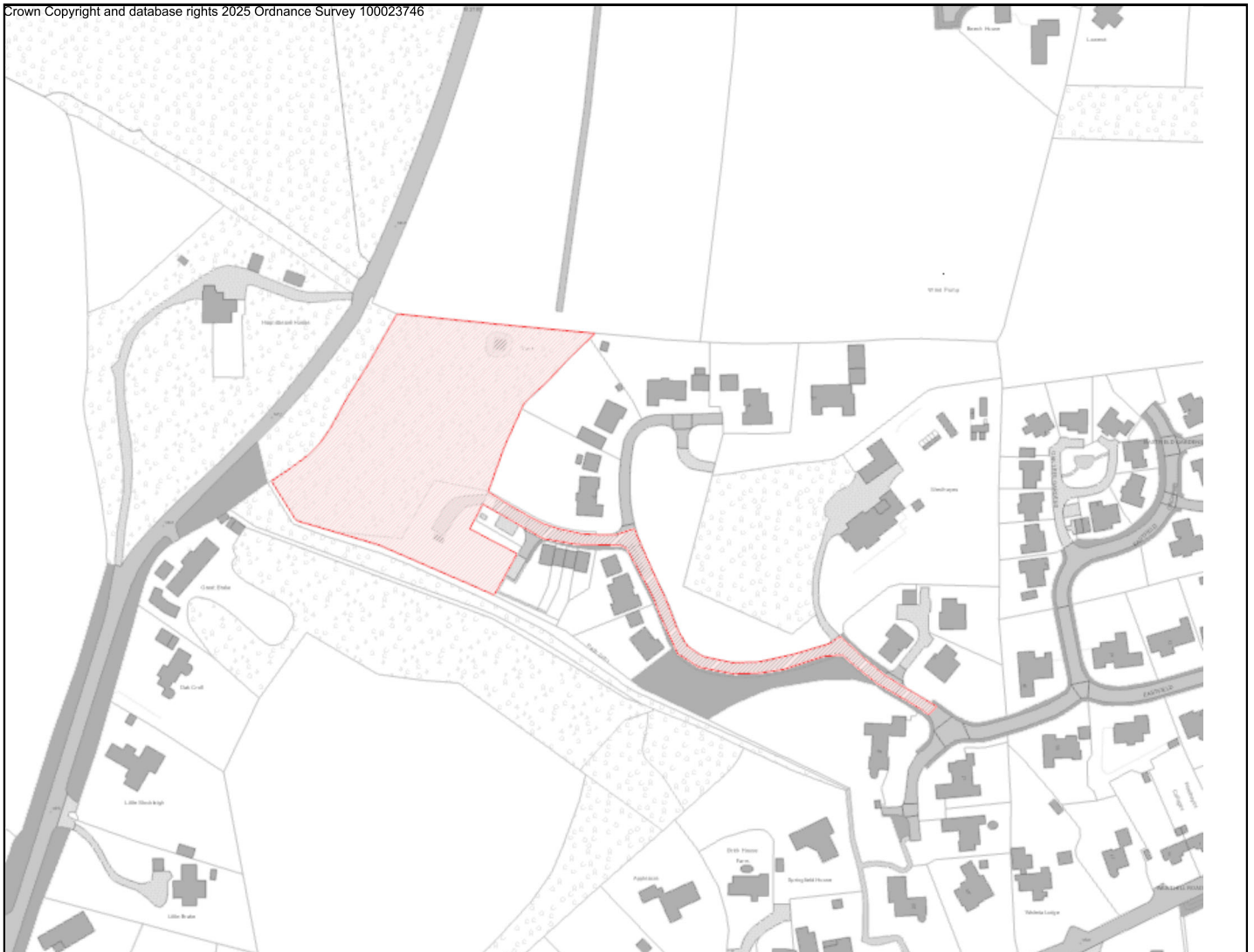
Location Land Adjoining West Hayes Eastfield West Hill
EX11 1GG

Proposal Outline application for the erection of 9 dwellings, including 4 affordable dwellings and associated parking. Approval sought for access, appearance, layout and scale (matters reserved: landscaping)



RECOMMENDATION: Approval with conditions

Crown Copyright and database rights 2025 Ordnance Survey 100023746



		Committee Date: 21.10.2025
West Hill And Aylesbeare (West Hill)	25/0057/OUT	Target Date: 27.03.2025
Applicant:	Mr Paul Hunt	
Location:	Land Adjoining West Hayes Eastfield West Hill	
Proposal:	Outline application for the erection of 9 dwellings, including 4 affordable dwellings and associated parking. Approval sought for access, appearance, layout and scale (matters reserved: landscaping)	

RECOMMENDATION: Approval with conditions, subject to completion of s.106 obligations to secure affordable housing provision (including off site financial contribution), and adoption of an Appropriate Assessment

EXECUTIVE SUMMARY - UPDATE

This application was considered at the meeting of the Planning Committee held on 19th August. However, a resolution was deferred pending the submission of consultation comments from the Council's Ecologist.

These have now been received and, in the light of issues raised, an addendum to the applicant's ecological consultants' Ecological Impact Assessment (EclA) in the form of a Technical Note, a Lighting Review Statement and revised Biodiversity Net Gain (BNG) Statutory Biodiversity Metric have also since been submitted.

These have been the subject of further consultation with the Council's Ecologist, whose comments are summarised in the following paragraphs.

The Technical Note and EclA acknowledge that the development would result in biodiversity net loss of habitats. The site is mapped as a Priority Habitat, which are habitats considered of principal importance for the purpose of conserving or enhancing biodiversity, under Section 41 of the Natural Environment and Rural Communities Act (2006). The site was discounted from the local plan site selection partly based on the designation of woodland habitat.

However, it should be recognised that the southern parts of the site consist of hardstanding and grassland and unlikely to be considered as a Priority Habitat.

The EclA expands upon the site's habitats varying between grassland and scrub

and it is advised that it had been grazed for over 20 years. Satellite image shows that between 2016 and 2018 the wooded nature of the site was reduced. For BNG purposes, under the mandatory framework only habitat changes made on or after January 2020 would be considered.

The applicant proposes to offset the losses of habitats and deliver 10% BNG using a habitat bank located outside of Honiton. The habitat bank is not currently registered on the Natural England offsite register, but it is envisaged that it would be by the end of this year.

The EclA and Technical Note consider, despite the habitat losses, the proposed tree, hedge and scrub planting would maintain habitat connectivity to the nearby offsite areas of woodland and non-statutory designated wildlife sites.

In addition, the proposed site design layout has been amended to include a dark corridor around the whole development.

Although no lux contour plan has been provided, the Lighting Review Statement indicates that based on the submitted plans, the provision of dark corridors should be achievable subject to detailed assessment and control measures.

In relation to BNG, the amended calculations set out in the revised metric indicate the submitted proposal would result in a net loss of -9.29% area biodiversity units and a net gain of +58.87% hedgerow biodiversity units post development.

The proposals include the enhancement of an area of grassland into other neutral grassland in good condition. It is stated this area will have restricted access, i.e. access only provided for maintenance rather than being used for Public Open Space. To ensure feasibility of the proposed enhancement measures, ongoing maintenance and monitoring will be required.

Any proposed creation or enhancement of other neutral grassland in good condition should be supported by soil nutrient testing to ensure it is feasible. This would be required to inform a Habitat Management and Monitoring Plan (HMMP).

Given the site is mapped as Priority Habitat for woodland and is within a maternity roost sustenance zone for lesser horseshoe bats, it is recommended that the ecological enhancement area is developed into woodland mosaic habitat including areas of mixed scrub. This would also be beneficial to dormice.

As landscaping is proposed as a reserved matter, this could be addressed by means of the submission of a detailed landscaping plan at this later stage.

While the provision of species-rich hedges on the site would deliver a net gain, it is recommended that hedges be provided as species-rich Devon bank style hedges with occasional standard trees. It is also recommended that hedges be provided around the boundaries of the dark corridors in front of close-boarded timber fencing/development platform.

In conclusion, the development would result in a quantified net loss of habitats, which are mapped as Priority Habitat, and would result in the degradation of previously identified Strategic Nature Area in open countryside. However, the supporting documents consider that wider landscape connectivity would be maintained through the delivery of onsite planting measures.

It is proposed to offset residual development impacts, meet the minimum 10% biodiversity net gain objective, and to meet trading rules using a habitat bank located in a separate landscape character area. This is acceptable under the mandatory BNG framework.

Technical concerns regarding the feasibility and delivery of dark corridors have been addressed in the Lighting Review Statement and amended site plan. The dark corridors are predicted to be achievable subject to detailed modelling analysis and secured suitable control measures.

The proposals would deliver significant onsite gains and provide habitat for protected species. including a regionally important bat roost.

The statutory BNG condition does not legally secure the long-term maintenance of habitats. Therefore, to provide certainty in delivery and long-term maintenance, securing ecological enhancements with a planning obligation (S106 agreement) is recommended.

The proposed mitigation, creation and enhancement measures for other protected and notable species are appropriate and proportional to the predicted impacts for the proposed scale of development.

Conditions are therefore recommended to:

- secure compliance with the ecological measures set out within the EclA, Technical Note and Lighting Review Statement
- require the submission for approval of a Construction and Ecological Management Plan (CEcoMP)(previously recommended at condition 10)
- require the submission for approval of a detailed lighting scheme based on the Lighting Review Statement
- require the submission for approval of a Habitat Management and Monitoring Plan (HMMP) for a minimum 30-year period following completion of the development

In the light of this, together with the balance of the other material considerations that are reproduced in the remainder of the Executive Summary below, it is once again recommended that the application be approved.

EXECUTIVE SUMMARY 19.8.2025

This application is brought before the Committee owing to a difference of opinion between officers and the ward member. It is also a 'departure' application where the officer recommendation is one of support.

The application seeks outline planning permission for a residential development, comprising the construction of 9 dwellings (4 of which would be affordable) on land to the west of Hayes End, itself a comparatively recent housing development, on the western edge of West Hill outside of the defined Built-up Area Boundary (BUAB) of the village.

The site contains, and is bordered by, a significant number of trees, the majority of which are the subject of a tree preservation order.

Although an outline submission, approval is sought at this stage of details relating to the layout of the scheme, the scale and appearance of the proposed units and the means of access to the site, reserving only landscaping details for consideration at a later stage.

These show the affordable housing element in the form of a terrace that would be similar to, and positioned almost alongside, four affordable units provided as part of the Hayes End scheme. The remaining five dwellings would all be detached.

The site layout proposals have been amended during the course of the application to accommodate concerns raised by the Council's Arboricultural Officers in regard to the loss of two of six trees proposed for felling. On the basis of these submitted revisions the development is now considered to be acceptable from an arboricultural standpoint.

Owing to the location of the site beyond the BuAB of the village, the proposal is, in principle, contrary to the policies of both the adopted and emerging Local Plans.

However, the boost to housing supply reflects a national objective and is therefore considered to weigh heavily in favour of the proposed development. Currently, the District has a significant shortfall in the supply of housing, which has been calculated at 2.97 years as against a requirement to provide 5 years supply.

The proposal would bring about additional housing in what is considered, on balance, a sustainable location with services within reasonable walking distance and, for the most part, along footways that are mainly level and well-lit and, in places, alongside lightly trafficked roads.

No objections have been raised by technical consultees taking into account the context and constraints of the site.

The boost towards meeting housing supply forms a compelling material consideration. The National Planning Policy Framework (NPPF) directs decision makers to apply a 'tilted balance' in such circumstances where there is a lack of a 5 year housing land supply whereby there is presumption in favour of sustainable development unless any harm significantly and demonstrably outweighs the benefits.

It is considered in this case that the tilted balance applies and, having regard to the various material considerations set out in the report, that any harm would not outweigh the benefits of the boost to housing land supply that the scheme would provide.

It is recognised that the site has been discounted as a housing allocation from the 'Regulation 19' draft emerging Local Plan. However, given recent appeal decisions that have allowed for non-allocated sites to be released for housing development, taken together with the absence of any objections to the proposals on arboricultural grounds (which mainly underpinned the omission of the site as an allocation, it being otherwise acknowledged as being reasonably accessible to services and facilities) and the very limited weight that can be given to the emerging Local Plan at this stage and the need to boost housing land supply, it is considered that the balance is in favour of granting permission.

As such, although the policy and contextual objections raised by the parish council and ward member are acknowledged, it is thought that they would be outweighed by the overriding requirement to increase housing supply in this case.

Approval is therefore recommended.

CONSULTATIONS

Local Consultations

Parish/Town Council (Original consultation comments)

This application was considered at the West Hill Parish Council meeting on 19th February 2025. Members of the public attended the meeting to share their view on the application.

Cllrs considered the Design and Access Statement and noted the applicant's disingenuous statement regarding their "consultation" with the Parish Council in 2024:

Page 12, section 4.4 Following on from a consultation with West Hill PC in January 2024 the scheme evolved from a 5-house with no affordable housing scheme to a 9-house, including 4 affordable dwellings scheme.

In fact, WHPC had objected to their planning application 24/0008/PIP (5 dwellings and associated parking) which was then refused by EDDC (February 2024). EDDC, also refused an earlier application on the site (11/1186/MFUL, 15 dwellings, refused and dismissed at appeal).

The Council also noted that the applicants had listened to some of the responses to the previous application and had made changes to their plan particularly with regard to providing affordable homes.

Key considerations:

1. Location: A material matter in this application is location as the proposed site is:

- outside the built-up area boundary
- outside the West Hill Settlement Boundary included in the East Devon Local Plan 2020-2042 currently undergoing Regulation 19 consultation. Indeed, during Local Plan process the proposed Settlement Boundary was revised to exclude this site

and is therefore countryside. The adopted East Devon Local Plan in Strategy 7 states:

"Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development"

The application fails to meet the criteria for development in the countryside and also fails to maintain the woodland character of the area.

2. Trees: The site contains many mature trees of mixed woodland which make a significant and positive contribution to the visual amenity of the area viewed from the village and the B3180. The whole site is covered by TPO 21/0029/TPO.

The proposed plans refer to "mixed fruit trees". The proposed new planting is unlikely to survive due to shading from the existing mature trees.

There will be a high risk of harm to the Root Protection Areas of the existing trees from the construction, heavy machinery etc.

Eventually there would also be pressure from future residents to prune back due to shading and leaf drop.

Therefore, the proposal would be likely to introduce significant pressure on the retention of the trees. As such, the proposed development would be contrary to Policy D3 of the East Devon Local Plan, adopted January 2016 which, in this respect, seeks to ensure developments deliver harmonious and sustainable relationships between structures and trees and do not result in a net loss in their quality.

3. Landscape: Policy D1 of the East Devon Local Plan says that development in the countryside will only be permitted where it respects the key characteristics and special qualities of the area in which the development is proposed. This proposal introduces 9 new properties into a woodland landscape setting and would consequently result in substantial harm to the intrinsic character and beauty of the area as it would not respect its key characteristics. West Hill is known as a "woodland village" and the Neighbourhood Plan policy NP26 seeks to protect the

character of the village which is defined by its devon banks, treescape and tree-lined lanes.

4. Density: The planning statement accompanying the application states that the area of the site is 0.8 ha and the proposed 9 dwellings would therefore result in a density of 11.25 dwellings per hectare.

The site was considered by the Strategic Planning Committee of EDDC for a site for 4 dwellings as a part of their work on the emerging local plan. It was rejected for allocation for the following reasons:

"Reasonable access to a limited range of community facilities and services along a mostly paved and lit route but S.41 habitat "deciduous woodland" covers most of the site with several parts also protected by TPOs. These woodlands and TPO constraints mean that only a small area in the south east of the site would be acceptable but this area is below the site size threshold of 0.15 ha so not allocated."

The usable area is quoted as being less than 0.15 ha but even at this size the actual density of dwellings would be 60 dwellings per ha which would be significantly greater than the rest of West Hill and would therefore fail to protect the character of the village.

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 2.97 years, 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 Parish Council is well aware of the very many sites surrounding the village outside the BUAB and that were put forward to the Local Plan but rejected as unsustainable. The limited infrastructure in West Hill is already inadequate with local schools at capacity and the local medical and dental facilities overstretched. There is no large open space for recreational activities in West Hill. With new development inside the Built Up Area Boundary already approved this would further stretch the very limited facilities currently available in West Hill resulting in the need for people to travel further afield for basic needs. Although there is a bus service this is infrequent and does not operate on a Sunday. In reality we all know that this application will result in increasing car traffic and is therefore not sustainable development.

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 the application.

Parish/Town Council (Further consultation comments in response to amendments to site layout)

This amended application was considered by WHPC at an extraordinary meeting on 19th May 2025. The meeting agreed the following comments.

The amendments to the original proposal do not change the comments submitted by WHPC in their response to the original application. It remains a fact that the site is outside the Built Up Area Boundary and building on this site will destroy what is currently natural countryside. This is contrary to the Local Plan and should be rejected. It also will add to the problems that will be caused by previously agreed developments close to this site in further stretching the limited resources and facilities of West Hill. The Council also remains concerned that there will be pressure in the future to cut back or even fell trees due to shading and leaf fall.

In the letter from the agent it is stated that the maintenance of the "wildflower meadow" will be the responsibility of the residents. This sounds more like wishful thinking than a plan and there is no proposal about how this will be monitored and by whom and what the consequences of failing to carry out the maintenance will be.

WHPC continues to object to this proposed development.

West Hill and Aylesbeare - Cllr Jess Bailey

I wish to register my objection to this planning application.

I have previously objected to a smaller scheme on this site (ref 24/008) and I now wish to object to this latest application.

There is absolutely no way this application should be approved as it would lead to the felling of 5 substantial pine trees, 4 of which are classed as category B trees.

On top of this the remainder of the site is heavily wooded and if permission were to be granted it would inevitably put significant pressure on the health and viability of the trees on the site with future owners wishing to reduce and fell due to leaf drop and shading etc.

The applicant has incorrectly stated that the site was accepted in the regulation 18 consultation for the emerging local plan. In fact it was only ever a 'second choice' site and it went on to be dropped prior to the regulation 19 consultation. I opposed its inclusion in the local plan.

I also opposed the proposed amended of the settlement boundary for West Hill to include this site as it is heavily wooded and completely ill-suited to development.

Wooded sites such as this are incredibly valuable both in terms of biodiversity and contribution to the wider landscape. There are significant varieties of bats present and the site plays an important role in mitigating the landscape impact of development in West Hill including visibility from the B3180.

No mechanism has been provided to secure a contribution towards measures to mitigate the effects of recreational use of the East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area by residents of the proposed development. Without such a mechanism the proposal is considered to conflict with the Conservation of Habitats and Species Regulations 2017.

If approved this application would have a material detrimental impact and cause substantial harm and should therefore be REFUSED.

Technical Consultations

EDDC Trees (Original consultation comments)

I commented on the previous application (24/0008/PIP) to develop the site and objected based on the impact on trees protected by a TPO, loss of TPOd trees and insufficient arboricultural information.

I have reviewed the submitted plans and the arboricultural impact assessment (AIA) prepared by David Archer Associates.

I note that the AIA was prepared in support of the previous proposals for 5 plots (24/0008/PIP) permission for which was refused.

The current proposals are for 9 plots, it appears this would require the same number of trees to be removed as the previous scheme but the pressure on retained trees would be increased significantly. For example no construction space has been allowed for outside the RPAs of the trees to the north and east of plot 9 and its driveway. The same issue applies to the trees to the north of plot 7.

It therefore seems likely that the root systems of retained trees would be adversely affected by groundworks and that the planning layout would result in increased pressure on retained trees to be pruned or felled due to issues related to proximity, leaf fall, shedding, shading and overbearing of the properties by the trees. These issues have not been addressed in an up to date AIA.

It follows that I object to this application due to the loss of significant protected trees that would result, the potential damage to, and future impact on retained trees, and the lack an up to date AIA that might justify the above.

EDDC Trees (Further consultation comments in response to amendments to site layout)

I have reviewed the latest amended plans prepared by Redwood Land Investments. Following on from my previous comments the changes made to the layout in relation to plot 9 and plot 5 to increase the separation distances from the trees and enable the retention of T39 and T40, Scots pines are viewed positively.

I also note that the locations of T52, T53, also Scots pines now appear to correctly be plotted on the plans and that the topographic survey now better reflects the canopy spread of T43, oak.

In view of the amendments to the plans I consider the future relationship of the proposed new houses to the retained trees should be reasonably satisfactory and it is unlikely there would be unsustainable pressure on the trees.

If the application is approved, I would advise a condition should be applied that requires adherence to an updated tree protection plan (TPP) and arboricultural method statement (AMS).

I understand the soft landscaping details will be dealt with by Reserved Matters, and that a detailed scheme will be required.

Example of a suitable tree protection condition:

1) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority.

2) The development shall be carried out in accordance with the approved details. The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturist, and details shall be included within the AMS.

3) The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturist and submitted to the Planning Authority for approval and final discharge of the condition.

4) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed plan showing layout of any existing, replacement or new above and below ground services, foul and surface water drainage and other infrastructure - insofar as they may affect existing trees - shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals or compliance which may be required under any other Legislation e.g. NJUG Vol. 4 Guidelines). Such layout and design and implementation shall provide for the long term retention of the trees and hedgerows. Any unavoidable but necessary root severance and soil disturbance is to be minimised by providing a specification for root pruning in accordance with BS 3998: 2010. No development or other operations shall take place except in complete accordance with the approved Construction Specification / Method Statement / approved service / drainage/infrastructure layout.

Reason - To ensure retention and protection of trees on the site during and after construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2016.)

Environmental Health

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring

Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

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

Housing Strategy/Enabling Officer - Cassandra Pressling
Objection

The adopted East Devon Local Plan, Strategy 27, states that if communities such as West Hill wish to promote development other than that which is supported through this strategy and other strategies in the Plan they will need to produce a Neighbourhood Plan or promote community led development (for example Community Land Trusts) justifying how and why, in a local context, the development will promote the objectives of sustainable development.

This site is not allocated in the Neighbourhood Plan and it is not community led development. There are no Community Land Trusts in operation in West Hill.

There is also no up to date parish housing needs survey in West Hill, so this application could not be considered under Strategy 35.

I therefore object to this application.

Exeter & Devon Airport - Airfield Operations+Safeguarding

This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria However it does require the implementation of the following condition due to the type of development being within an area of Potential IFP interference.

Condition: Wildlife Hazard Management Plan

Development shall not commence until a IFP assessment has been provided to Exeter airport and no impact confirmed by Exeter airport IFP Designers

Reason:

The IFP Safeguarding Map has this application in a Grey Square, which means any development, regardless of height, needs looking at in more detail, so an in-depth assessment will be required performed by Exeter Airports IFP designer.

Accordingly, Exeter Airport will have no safeguarding objections to this development provided that the requested condition is applied, and all safeguarding criteria are met and there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation. This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding

criteria However it does require the implementation of the following condition due to the type of development being within an area of Potential IFP interference.

Other Representations

12 representations of objection have been received.

Summary of Grounds of Objection

1. The proposed site is outside the Built Up Area Boundary and, if approved, it would set a precedent for future developments being built in the countryside and be contrary to various Local Plan strategies and policies.
2. A previous application for 5 properties was refused in 2024; none of the objections raised
3. Development would result in the loss of trees covered by TPOs and have an impact on the roots of the remaining trees.
4. Elevated site where houses will cause loss of privacy to surrounding properties.
5. Increased risk of flooding through exacerbation of surface water runoff from increased hard surfacing and loss of trees and other flora.
6. Loss of countryside and trees which make a significant contribution to the character of West Hill.
7. Impact on birds, bats and other wildlife.
8. Additional driveway, garages and patios and increased roads, street lighting, footpaths from previous application.
9. Extra residents and cumulative population growth within village adding further pressure on existing infrastructure, such as local schools and health services.
10. Eastfield was originally built to access lower number of properties, is already at capacity and is therefore unsuitable for any increase in traffic/parking.
11. In combination with projected housing developments planned for Eastfield and Windmill Lane, the rurality of West Hill will be further destroyed.
12. More traffic on small rural roads, many without footpaths, with only limited public transport and therefore increased risk to school children and other pedestrians.
13. Destruction of natural habitat of wildlife and ecology of area.
14. Proposal does not respect special qualities of West Hill, particularly its sylvan character and is therefore contrary to local and neighbourhood plan policies.
15. Need for housing can be better met by the alternative proposals at Eastfield and Windmill Lane.
16. Harm from proposal outweighs the benefits.
17. Shading from tree canopies and leaf drop will be an issue, particularly in the rear gardens of plots 6 and 7, resulting in future pressure to prune or fell trees.
18. Existing social housing on Hayes End is pavement fronted and any additional traffic flow past these houses will be both detrimental and dangerous to the occupants.
19. Necessity for new developments is questionable; a report by the Institute for Public Policy Research (IPPR) in February 2025 indicates that over 1.4 million homes in England, for which planning permission has been granted since 2007, remain unbuilt. The report identifies land banking as the primary cause of this inaction.
20. Noise, dust and pollution from vehicle emissions from heavy construction and other traffic, as well as road damage, generated by the development.

PLANNING HISTORY

Reference	Description	Decision	Date
24/0008/PIP	Permission in principle for the erection of 5 dwellings and associated parking	PIP Refusal of Permission in Principle	12.03.2024

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Ottery St Mary and West Hill Neighbourhood (Made)

Strategy 1 (Spatial Strategy for Development in East Devon) Adopted

Strategy 3 (Sustainable Development) Adopted

Strategy 5B (Sustainable Transport) Adopted

Strategy 7 (Development in the Countryside) Adopted

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

Strategy 34 (District Wide Affordable Housing Provision Targets) Adopted

Strategy 43 (Open Space Standards) Adopted

Strategy 46 (Landscape Conservation and Enhancement and AONBs) Adopted

D1 (Design and Local Distinctiveness) Adopted

Strategy 47 (Nature Conservation and Geology) Adopted

Strategy 48 (Local Distinctiveness in the Built Environment) Adopted

Strategy 50 (Infrastructure Delivery) Adopted

D2 (Landscape Requirements) Adopted

D3 (Trees and Development Sites) Adopted

EN5 (Wildlife Habitats and Features) Adopted

EN14 (Control of Pollution) Adopted

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

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP01 (Spatial strategy) Draft

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft

Strategic Policy SP07 (Delivery of infrastructure) Draft

Strategic Policy SD28 (Development allocations at West Hill) Draft

Strategic Policy HN01 (Housing to address needs) Draft

Strategic Policy HN02 (Affordable housing) 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

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

Introduction

This application is brought before the Committee owing to a difference of opinion between officers and the ward member.

Site Location and Description

The application site comprises a parcel of land, extending to approximately 0.95 hectares in area, located between the comparatively modern Hayes End housing development and the B3180 County road on the western edge of West Hill.

Accessed via Hayes End, the site and its immediate surroundings are characterised by the presence of a number of mature trees, the majority of which are the subject of formal protection by means of a tree preservation order (ref. 21/0029/TPO). These include a strip of woodland that separates the site from the B3180 and a line of trees beyond a public footpath (no. 5) that borders the site to the south.

This footpath connects the B3180 with West Hill Road and is itself largely screened from the site by a line of Laurel bushes. A further line of protected trees forms the northern site boundary and separates it from an open field beyond. Part of the eastern boundary, with the rear gardens of two detached properties in Hayes End, is defined by timber fencing with post and rail fencing forming much of the remainder of this boundary, punctuated by a gated entrance to the site at the end of an offshoot of Hayes End.

There is a fall of around 5 metres across the site from west to east.

The site is located outside of, albeit a short distance from, the Built-up Area Boundary (BuAB) of West Hill as defined in the adopted Villages Plan that supplements the adopted Local Plan.

Background

Permission in Principle (PiP) was sought in 2024 (application 24/0008/PIP refers) for a development comprising the construction of 5no dwellings and associated parking on the site.

However, the application was refused, via the Council's scheme of delegation, on the following grounds:

1. This site is located within the countryside outside of an identified built-up area boundary where there are no development plan policies that explicitly permit this form of development. The development would be contrary to the spatial strategy of the development plan for the distribution of new housing and contrary to the National Planning Policy Frameworks (NPPF) aim for development to be genuinely plan led. The resulting development would not align with the spatial approach to the distribution of housing, result in the unregulated development in the countryside and not accord with the objectives of sustainable development. As such, the development would conflict with Strategy 1 (Spatial Strategy for Development in East Devon) which sets out the spatial strategy for development in the East Devon Local Plan (LP) that directs significant housing growth to the West End of the district and the main towns forming focal points for development to serve their own needs; Strategy 2 (Scale and Distribution of Residential Development) of the LP which identifies the scale and distribution of residential development in the district; Strategy 6 (Development within Built-Up Area Boundaries of the LP, as well as the East Devon Villages Plan, which defines the built-up area boundaries for sustainable

settlements that are considered appropriate to accommodate growth and development and Strategy 7 (Development in the Countryside) of the LP which states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan that explicitly permits such development. The proposed development is also contrary to provisions of the NPPF 2023. As the proposal conflicts with the development plan, and with no material considerations outweighing this.

2. In the absence of a Tree Survey and Arboricultural Impact Assessment the Local Planning Authority is unable to determine the impacts of the development on the existing trees or how such impacts would be mitigated. By virtue of the scale of the development proposed and the layout and orientation of the dwellings, it is likely that the root systems of retained trees would be adversely affected by groundworks and would result in future pressure on retained trees to be pruned or felled due to their proximity, shading and overbearing of the properties by the trees. The development fails to accord with the principles of BS5837 and would cause undue harm to the character and appearance of the area. The proposals are therefore contrary to Policies D1 (Design and Local Distinctiveness) and D3 (Trees and the Development Sites) of the East Devon Local Plan 2013 -2031 and Policy NP26 (West Hill Design) of the Ottery St Mary and West Hill Neighbourhood Plan.

3. No mechanism has been provided to secure a contribution towards measures to mitigate the effects of recreational use of the East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area by residents of the proposed development. Without such a mechanism the proposal is considered to conflict with the Conservation of Habitats and Species Regulations 2017. In addition the proposal is considered to be contrary to guidance in the National Planning Policy Framework 2021 and to Strategies 47 (Nature Conservation and Geology) and 50 (Infrastructure Delivery) of the East Devon Local Plan 2013-2031 and Policy NP14 - Demonstrating Infrastructure Capacity of the Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill 2017-2031.

The site was considered as a potential site allocation for housing by the Strategic Planning Committee in September 2024. However, it was resolved that it not be included as an allocation within the subsequent 'Regulation 19' version of the Draft Emerging Local Plan that was the subject of public consultation earlier this year based upon the following assessment:

'Reasonable access to a limited range of community facilities and services along a mostly paved and lit route, but S.41 habitat "deciduous woodland" covers most of site, with several parts also protected by TPOs. These woodland and TPO constraints mean that only a small area in south east of site would be acceptable, but this area is below the site size threshold of 0.15 ha, so not allocated. Consider including this smaller area within the settlement boundary.'

Proposed Development

The current application seeks outline planning permission for a revised scheme for the site consisting of the construction of 9no dwellings, four of which would be affordable, and associated parking provision.

Although submitted in outline, the application seeks to discharge details of the layout, scale and appearance of the development together with means of access, reserving only details of landscaping for later approval.

As such, the application is accompanied by detailed site layout, elevation and floor plan details for formal consideration at this stage.

These show the proposed 4no affordable units arranged in a terrace near to the entrance to the site, in close proximity to a similar terrace that forms part of the Hayes End development and forming a continuation of the road that serves these properties. This scheme, carried out by the same developer as that promoting the current application, consisted of the same number of affordable dwellings alongside six open market units.

A further detached dwelling has since been added on a large plot at the end of Hayes End.

The units at both ends of the proposed terrace (plots 1 and 4) would in this case be slightly larger three bedroom dwellings set within larger plots than the two bedroom dwellings proposed in between (on plots 2 and 3).

The remaining five units would comprise detached two storey dwellings with plots 5, 8 and 9 designed as larger four bedroom properties, each with integral single garages, and plots 6 and 7 as slightly smaller three bedroom units.

Each building form, including that of the proposed terrace, would feature a combination of principal half-hip roofed main elements with subservient gables extending off them. Plots 6 and 7 would each exhibit handed forms and designs to the other while plots 8 and 9 would do likewise. Plot 5 would match plot 9 in scale, form and design.

Externally, all nine dwellings would be finished in render over brick with tiled roofs. However, the detailed specifications for these has not been provided and would therefore need to be secured by condition should outline permission be granted.

The layout also includes the provision of a total of 18no external parking spaces throughout the scheme, with all being laid out at the front of each respective unit, in addition to bin and cycle storage facilities for each dwelling.

The scheme would also incorporate an 'ecology enhancement area' of around 2,200 sq. m. together with an additional 45 sq. m. area for 'mixed scrub' that is designed, among other things, to meet relevant Biodiversity Net Gain (BNG) requirements.

Considerations/Assessment

The proposal falls to be considered having regard to the following material issues that are discussed in turn.

Principle of Development/Five Year Housing Land Supply

Strategies 1 (Spatial Strategy for Development in East Devon) and 2 (Scale and Distribution of Residential Development) of the adopted East Devon Local Plan set

out the scale and distribution of residential development in the District for the period 2013-2031. The main focus is on the West End and the seven main towns.

As stated above, the proposal would in this case comprise development outside of the BuAB of West Hill as defined in the adopted Villages Plan. In policy terms therefore, it would constitute development within the countryside where the provisions of Local Plan Strategy 7 (Development in the Countryside) apply.

These only allow for development where it would be in accordance with specific local or neighbourhood plan policy(ies).

In this regard Strategy 27 (Development at the Small Towns and Larger Villages) allows for development (away from named settlements that are considered to be sustainable and capable of accommodating some housing growth) that is promoted via either a neighbourhood plan or a 'community led' approach (such as a community land trust).

However, the proposal in this case is not 'community led' nor facilitated by any policy contained within the made Ottery St. Mary and West Hill Neighbourhood Plan.

The site would not therefore provide an appropriate location for the proposed development having regard to the development plan's overall settlement strategy and expectation for such development to be contained within a designated BuAB.

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

However, the need for housing over the next five years is a crucial consideration in planning decisions. The National Planning Policy Framework (2024) (NPPF) requires that local planning authorities must identify specific sites for housing for the next five years and broader areas for growth for the subsequent 10-15 years.

If the Council cannot demonstrate a five-year housing supply when adopting a new local plan, it would conflict with paragraph 78 of the NPPF. Without an adequate supply of housing, an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of the NPPF.

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

It should also be recognised that, at the time of the determination of application 24/0008/PIP referred to above, the District Council was in a position to be able to

demonstrate an appropriate supply of available housing land at that time in line with the then Government's requirements.

However, it can now currently only demonstrate a housing land supply of 2.97 years in line with the revised standard methodology for calculation introduced via the revised NPPF, thereby falling significantly short of the current five-year requirement.

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

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

The latest Annual Housing Monitoring Report underscored the urgent need for strategic action to enhance housing delivery and mitigate risks associated with supply shortfalls. Proactive planning and policy adjustments are critical to meeting future housing demands and regulatory requirements.

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

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

The 2024 NPPF as a material consideration

The NPPF is a material consideration in the determination of planning and related applications. Paragraph 11d) states that plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- 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:

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

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

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

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

Location/Accessibility

The provisions of adopted Local Plan Strategy 5B (Sustainable Transport) require that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport and would need to be of a form, incorporate proposals for and be at locations where it would encourage and allow for efficient, safe and accessible means of transport with low environmental impact, including (among other things), walking and cycling.

These provisions are supplemented by those of Policy TC2 (Accessibility of New Development) which require new development to be located so as to be accessible by pedestrians and cyclists, as well as public transport, and also well related to compatible land uses so as to minimise the need for car travel.

The Government-published Manual for Streets states 'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot.

The nature and character of the route are of importance, as is the distance itself.

The 'village core' of West Hill can reasonably be identified as the part of the West Hill Road area that accommodates the primary school, village hall and shops/post office at the former Potters Country Market site or Bendarroch Road, where the parish church and Royal British Legion Club are sited.

The distance between the application site and the facilities in the West Hill Road area is within the above-stated distance/walking time. Moreover, it is comparable to that between land to the north east of the site that is accessed off Windmill Lane, upon which the Committee resolved in February this year to grant permission for a scheme comprising 31 dwellings (application 23/1143/MFUL refers), and the facilities in both West Hill Road and Bendarroch Road.

Indeed, the walking route between the site and the West Hill Road facilities is considered to be essentially safer and more desirable for pedestrians than the connection between the Windmill Lane site and the Bendarroch Road facilities owing to the lack of footways along the latter and, conversely, a largely continuous level of footway provision connecting the Hayes End development, Eastfield and West Hill Road.

Indeed, notwithstanding the absence of its inclusion within the emerging Local Plan, this is recognised in the synopsis of the suitability of the site as an allocation for housing development referred to above.

The site is therefore considered to be located so that prospective occupiers of the development would not necessarily be overly reliant on the private car for access to services and facilities within the village and, in terms of its locational sustainability credentials, the scheme would be comparable with other housing schemes permitted in West Hill. It is therefore considered that the proposal would align with the objectives of Local Plan Strategy 5B and Policy TC2.

Impact upon Character and Appearance of Area

The provisions of Local Plan Policy D1 (Design and Local Distinctiveness) only permit proposals where, among other criteria, they: respect the key characteristics and special qualities of the surrounding area; their scale, massing, density, height and materials relate well to their context, and do not adversely affect important landscape characteristics, important ecological features, trees worthy of retention, the amenity of occupiers of adjoining residential properties or the amenity of prospective occupants of the development itself in terms of storage space for bins and bicycles.

The latter of these are addressed in their respective sections of the report below.

The broader provisions referenced are largely reflected in those of Policy NP26 (West Hill Design) of the made Ottery St. Mary and West Hill Neighbourhood Plan (NP). These require that proposals for development should reflect the established character and development pattern of their surroundings and should preserve key features of the village, including trees, spacious gardens and individuality between properties.

Among the more detailed criteria within this policy are that proposals for new residential development should: maintain the low density pattern of development in West Hill and should reflect built density and layout of the surroundings; show individual variation between units whilst respecting the character of the surrounding area; include adequate off road parking; incorporate appropriate boundary treatment;

avoid loss of or damage to trees of good arboricultural and amenity value, and demonstrate that adequate landscaping proposals have been included to reflect the existing landscape character of the surrounding area.

These in turn reflect the more generic provisions of NP Policy NP2 (Sensitive, High Quality Design) that require that all proposals for development demonstrate a high quality of design that has regard to the local context, is appropriately scaled and sited and makes an overall positive contribution to the NP area. The policy also applies more detailed criteria that are akin to those of Policy NP26.

In consideration of the proposals against the design/layout criteria set out within these policies, it is thought that they would essentially be satisfied.

Given the overall site area of just under 1 hectare, the scheme would provide a housing density equivalent to around just over 9 dwellings per hectare (dph). Although comparing slightly less favourably with the dph of the adjacent development at Hayes End, along with that of older developments at Windmill Lane and Moorlands, it would compare far more favourably with the more recent development at Eastfield Orchard (incorporating Oak Tree Gardens, Eastfield Gardens and Hawthorne Close) to the north of Eastfield, which exhibits a density of around 17 dph.

Furthermore, albeit necessary in order to address the constraints presented by the trees, and notwithstanding the reduced developable site area, it is considered that the proposals would create a layout of development with individual plot sizes/areas that would largely compare with those of developments elsewhere throughout West Hill. Although it is recognised that the individual dwelling and plot sizes of the open market units would be reduced in comparison to those on the neighbouring Hayes End development, it is nevertheless maintained that, within the wider context of the village as a whole, they would still be generously proportioned.

It is also highlighted that the sizes/areas of the affordable dwelling plots would themselves be slightly more generous than those of the corresponding part of the Hayes End scheme.

As such therefore, there are no objections to the quantum of development within the site.

In terms of the building forms and designs themselves, these are essentially separated into four groups; namely, the units on plots 1-4 at either end of the terrace of affordable dwellings, plots 2 and 3 within the same terrace, the detached units on plots 5, 8 and 9 and, finally, those on plots 6 and 7.

Although not necessarily providing the degree of variation between individual units that is sought through NP Policy NP26, with plots 2 and 3, 6 and 7 and 8 and 9 being handed pairs of the same dwelling type to one another, there would be some variety integral to the overall design concept for the scheme.

As such and given the relatively modest scale of the development at 9no units overall, it is considered that the scheme would exhibit sufficient variety as to satisfy the requirements of this criterion of NP Policy NP26.

Equally, the quantum of development is thought to be sufficiently limited as to ensure that the intended use of matching external wall and roof finishes throughout the scheme would not result in a degree of repetition that would be to the detriment of its character or appearance or that of the surrounding area.

In terms of the visual impact upon the rural landscape character of the site and the wider surrounding area, it is considered material to assessment of the proposal in this regard that the site is essentially largely visually contained and well screened from inward view from short, medium and longer range distances by the existing mature tree and hedge screening around it on all sides.

Coupled with the site's semi-domestic character (it having once formed part of the grounds of Westhayes, a large, detached dwelling located between Hayes End and Oak Tree Gardens), it is considered that development could be achieved without any significant physical or visual intrusion into the open countryside that surrounds this part of West Hill.

National design guidance states that the appropriate density will result from the context, accessibility, the proposed building types, form and character of the development. Whilst the density would in this case be higher than some of the surrounding built form, the emphasis on echoing the surrounding key characteristics means that the development would not appear overly urban due to these density levels. The NPPF encourages the need to make efficient use of land, and to refuse applications that fail to do so. However, in this case, when taking into account the above factors and the need to boost housing supply the density is considered acceptable; more particularly in light of the limited impacts upon the wider character and appearance of the locality that would result from the development owing to the level of tree screening around it and the assimilation into the landscape that would be achieved by the trees within the site.

The proposal is therefore considered to comply with the relevant criteria set out in Local Plan Policy D1 and Neighbourhood Plan Policies NP2 and NP26.

Impact upon Trees

During the course of the application, the scheme details have been the subject of officer negotiations with the agents representing the applicants in the light of initial concerns raised by the Council's Arboricultural Officers in regard to the loss of 6no trees, principal among which were a pair of Scots Pines in the vicinity of plot 5.

The siting and orientation of plot 9, alongside the orientation of plot 8, have also been revised so as to achieve an increase in the separation distance of the former from trees.

On the basis of these revisions, the Arboricultural Officer is now satisfied that the relationship between the proposed dwellings and the trees to be retained would be satisfactory with it being unlikely that there would be future pressure for works to be

carried out on the latter that could compromise their amenity contribution to the site or the surrounding area.

There are also no objections to the proposed loss of the four other trees proposed for removal, these comprising 3no Corsican Pines, one of which is of a 'C' category and the other two within a 'B' category, and a dead Scots Pine.

However, a condition is recommended to secure the submission for approval of an updated tree protection plan and arboricultural method statement.

In the circumstances, whilst the concerns raised by the parish council, ward member and interested third parties relating to the effect of the proposals upon the health and well-being of trees within the site are acknowledged, in the absence of objection from the Council's Arboricultural Officers, who have been closely involved throughout the course of the application, it is not considered that objection to the development on tree-related grounds could be readily sustained.

It is therefore accepted that the development would satisfy the provisions of Local Plan Policy D3 (Trees and Development Sites) that seek to ensure that development delivers a harmonious and sustainable relationship between structures and trees and that there would be no net loss in the quality of trees resulting from it.

Impact upon Neighbour Amenity

The siting and orientation of the individual dwellings proposed, coupled with their distance from the nearest residential properties in Hayes End to the east, taken together with the screening provided by the existing level of tree cover within the site, is considered to be such as to mitigate against any detrimental or harmful impact upon the living conditions of the occupiers.

This relates to both overlooking/loss of privacy and physical impacts resulting in loss of outlook or aspect from, or any overbearing, dominating or intrusive upon, these properties.

The proposal would therefore meet with the relevant criterion set out in Local Plan Policy D1 to which reference is made above.

Highways/Access/Parking

The proposals have not, at the time of writing, drawn any consultation comments from the County Highway Authority (CHA).

However, the scheme is designed around a continuation of the existing road off of the neighbouring Hayes End development and terminates at plots 8 and 9. It also makes parking provision on the basis of 2no spaces per dwelling together with the integral garaging referred to previously.

This level of off-road parking provision is considered to be adequate to serve the development while there are not thought to be any identifiable issues of concern in regard to levels of visibility along the estate road or in relation to the manoeuvring of vehicles to and from any of the proposed parking spaces.

The proposal would therefore comply with the provisions of Local Plan Policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development).

Affordable Housing

As stated above, the scheme proposes the provision of four affordable units. However, with this equating to only 44.4% provision being below the 50% target level of provision that is sought under Local Plan Strategy 34 (District Wide Affordable Housing Provision Targets), it is proposed that the balance of 0.6 units be made up by way of an off-site commuted payment. In this case, this would amount to £34,749.

Although not strictly policy compliant as provision is not being made wholly on site, it is considered an acceptable level of provision in the circumstances when balanced against factors such as the position taken in relation to comparable situations elsewhere, the emerging nature of the Council's affordable housing policy and the wider housing land supply shortfall situation referred to above.

In terms of tenure, the affordable housing would comprise 3no social rented units and a single shared ownership dwelling in line with the Council's approach in relation to tenure mix.

Although the layout, as per that of the neighbouring Hayes End development, shows the 4no affordable units to be clustered in the form of a terrace and not dispersed or 'pepper potted' throughout the site, given the comparatively modest overall number of dwellings within the scheme and the proposed form, design and external appearance of the terrace, the latter reflecting the approach throughout the development as a whole, it is not considered that this should be regarded as weighing against the proposal in the wider planning balance.

At the time of writing, a draft section 106 unilateral undertaking has been provided that seeks to secure the affordable housing provision, including the off site contribution. This is currently undergoing review by the Council's Legal team and Housing Enabling Officer and any update will be reported to Members orally.

Subject to it being satisfactorily concluded, it is considered that the proposal would comply with the provisions of Local Plan Strategy 34.

Drainage

It is proposed that foul drainage from the development be discharged via the main sewer.

Surface water drainage would also be discharged by way of a surface water sewer via a connection to the system that serves the Hayes End development.

However, given that such an arrangement would not meet with South West Water's surface water runoff destination hierarchy, which favours discharge via infiltration and other means ahead of sewer connection, it is considered that the appropriateness of alternative sequentially preferred means should be investigated.

A condition is therefore recommended to secure such details.

Ecology/ Biodiversity Net Gain (BNG)

The application submissions include a preliminary Ecological Impact Assessment (EclA) report that incorporates a Biodiversity Net Gain (BNG) assessment. (The latter is considered in more detail in the next section of the report.)

The report sets out a series of mitigation and ecological enhancement measures in regard to the impacts arising from the development upon habitats, bats, nesting birds, hazel dormice, reptiles, amphibians, badgers and hedgehogs. It follows protected species surveys undertaken in September/October 2023 and between May and August 2024.

In summary, these comprise:

- Tree, hedge (including boundaries between plots) and neutral flowering grass planting, part of the latter of which would be managed as wildflower meadow in the 'ecological enhancement area' referred to above with connected wildlife buffer areas along the site boundaries (incorporating dark zones and foraging potential for commuting bats)

(The detail of this planting would form part of a landscaping scheme to be submitted with the reserved matters application in the event of the approval of the current application)

- Ground level assessment of trees to be felled to check for any increase in bat roosting features and suitability from the previous surveys
- Avoidance of illumination of bat flight corridors, principally along the entirety of the northern site boundary
- Installation of reduced visible light transmission glazing to windows that face towards hedgerows
- Integrated bat roosting provision at a ratio of two bat boxes per dwelling, positioned close to suitable foraging and commuting habitats
- Appropriately timed removal of bird nests (subject to inspection if within the nesting season)
- Integrated bird nesting provision at a ratio of one nest box per dwelling
- Management of grassland within the site by regular mowing/strimming to a low sward height prior to works to dissuade reptiles for these areas
- Retention of a brush pile in the north eastern corner to maintain refuge for reptiles and other small wildlife
- Overnight covering of excavation piles to avoid entrapment of badgers, hedgehogs and other wildlife as well as daily checking for the presence of wildlife

The application is also accompanied by the requisite BNG statutory biodiversity metric, condition assessment and summary of the baseline and post-development habitat units.

These have been reviewed by the Council's Ecologist and, in the light of issues raised, an addendum to the EclA report in the form of a Technical Note, a Lighting Review Statement and revised Biodiversity Net Gain (BNG) Statutory Biodiversity Metric have also since been submitted.

These have been the subject of further consultation with the Council's Ecologist, whose comments are summarised in the following paragraphs.

The Technical Note and EclA acknowledge that the development would result in biodiversity net loss of habitats. The site is mapped as a Priority Habitat, which are habitats considered of principal importance for the purpose of conserving or enhancing biodiversity, under Section 41 of the Natural Environment and Rural Communities Act (2006). The site was discounted from the local plan site selection partly based on the designation of woodland habitat.

However, it should be recognised that the southern parts of the site consist of hardstanding and grassland and unlikely to be considered as a Priority Habitat.

The EclA expands upon the site's habitats varying between grassland and scrub and it is advised that it had been grazed for over 20 years. Satellite image shows that between 2016 and 2018 the wooded nature of the site was reduced. For BNG purposes, under the mandatory framework only habitat changes made on or after January 2020 would be considered.

The applicant proposes to offset the losses of habitats and deliver 10% BNG using a habitat bank located outside of Honiton. The habitat bank is not currently registered on the Natural England offsite register, but it is envisaged that it would be by the end of this year.

The EclA and Technical Note consider, despite the habitat losses, the proposed tree, hedge and scrub planting would maintain habitat connectivity to the nearby offsite areas of woodland and non-statutory designated wildlife sites.

In addition, the proposed site design layout has been amended to include a dark corridor around the whole development. The design is included in an appendix to the Technical Note and the Lighting Review Statement.

Although no lux contour plan has been provided, the Lighting Review Statement indicates that based on the submitted plans, the provision of dark corridors should be achievable subject to detailed assessment and control measures.

In relation to BNG, the amended calculations set out in the revised metric indicate the submitted proposal would result in a net loss of -9.29% area biodiversity units and a net gain of +58.87% hedgerow biodiversity units post development.

The proposals include the enhancement of an area of grassland into other neutral grassland in good condition. It is stated this area will have restricted access, i.e. access only provided for maintenance rather than being used for Public Open Space. To ensure feasibility of the proposed enhancement measures, ongoing maintenance and monitoring will be required.

Any proposed creation or enhancement of other neutral grassland in good condition should be supported by soil nutrient testing to ensure it is feasible. This would be required to inform a Habitat Management and Monitoring Plan (HMMP).

Given the site is mapped as Priority Habitat for woodland and is within a maternity roost sustenance zone for lesser horseshoe bats, it is recommended that the

ecological enhancement area is developed into woodland mosaic habitat including areas of mixed scrub. This would also be beneficial to dormice.

As landscaping is proposed as a reserved matter, this could be addressed by means of the submission of a detailed landscaping plan at this later stage.

While the provision of species-rich hedges on the site would deliver a net gain, it is recommended that hedges be provided as species-rich Devon bank style hedges with occasional standard trees. It is also recommended that hedges be provided around the boundaries of the dark corridors in front of close-boarded timber fencing/development platform.

In conclusion, the development would result in a quantified net loss of habitats, which are mapped as Priority Habitat, and would result in the degradation of previously identified Strategic Nature Area in open countryside. However, the supporting documents consider that wider landscape connectivity would be maintained through the delivery of onsite planting measures.

It is proposed to offset residual development impacts, meet the minimum 10% biodiversity net gain objective, and to meet trading rules using a habitat bank located in a separate landscape character area. This is acceptable under the mandatory BNG framework.

Technical concerns regarding the feasibility and delivery of dark corridors have been addressed in the Lighting Review Statement and amended site plan. The dark corridors are predicted to be achievable subject to detailed modelling analysis and secured suitable control measures.

The proposals would deliver significant onsite gains and provide habitat for protected species, including a regionally important bat roost.

The statutory BNG condition does not legally secure the long-term maintenance of habitats. Therefore, to provide certainty in delivery and long-term maintenance, securing ecological enhancements with a planning obligation (S106 agreement) is recommended.

The proposed mitigation, creation and enhancement measures for other protected and notable species are appropriate and proportional to the predicted impacts for the proposed scale of development. They would therefore meet with the relevant provisions of Local Plan Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) that seek to ensure that the negative impacts arising from development are appropriately mitigated and, where not possible, that adequate compensatory habitat creation or enhancement is incorporated in the interests of maintaining biodiversity.

Conditions are therefore recommended to:

- secure compliance with the ecological measures set out within the EclA, Technical Note and Lighting Review Statement
- require the submission for approval of a Construction and Ecological Management Plan (CECoMP)(previously recommended at condition 10)

- require the submission for approval of a detailed lighting scheme based on the Lighting Review Statement
- require the submission for approval of a Habitat Management and Monitoring Plan (HMMP) for a minimum 30-year period following completion of the development

Aviation Safeguarding

The proposal has been examined from an aerodrome safeguarding aspect by Exeter Airport and does not appear to conflict with safeguarding criteria.

However, due to the type of development being within an area of potential Instrument Flight Procedure (IFP) interference from hazards presented by wildlife, a condition is recommended to secure the submission of an IFP assessment, which would in turn be the subject of review by the Airport, to ensure that all safeguarding criteria are satisfied.

This also assumes that there are no changes made to the application proposals.

Subject to this, the provisions of Local Plan Policy TC12 (Aerodrome Safeguarded Areas and Public Safety Zones), which, among others, preclude developments in the vicinity of an airport that would compromise air safety.

Planning Balance

Planning legislation is clear that planning applications should be determined in accordance with the development plan, unless other material considerations suggest otherwise.

There is identified conflict with the development plan in that the proposal seeks to build residential development in the countryside outside the defined BUAB for West Hill. The proposal does not therefore comprise a plan-led development and there is identified conflict with the development plan in this regard.

The NPPF emphasises the need to significantly boost the supply of housing. East Devon has a significant shortfall in the supply of housing and can only demonstrate 2.97 years' worth of supply. The 'tilted balance' presumption in favour of sustainable development is therefore engaged and relevant policies that have demonstrably failed to provide a suitable supply of housing must be considered out of date.

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

It is widely accepted that releasing additional greenfield sites will be necessary to meet the Council's ongoing housing trajectory. While the proposal conflicts with both the adopted Local Plan and the made Ottery St. Mary and West Hill Neighbourhood Plan by developing outside the BuAB, the Council cannot currently demonstrate a sufficient five-year housing land supply.

Further, whilst the omission of the site as a housing allocation in the emerging Local Plan is recognised, it is reiterated that recent appeal decisions have shown that even if a site is not allocated in either the current adopted or draft emerging plan or is outside development boundaries, housing proposals can still nevertheless be considered as 'sustainable development' if there is no identified contextual conflict, they would not unbalance communities and are within reasonable reach of an appropriate level of services and facilities.

In this case, the site is considered to be accessible to a suitable range of services and facilities within West Hill

It is therefore recommended that planning permission be granted as the benefits of the development, including the delivery of housing to improve the district's housing land supply, are material considerations that outweigh the identified conflict with the policies of the development plan. Any harm would not significantly and demonstrably outweigh the benefits of this scheme.

A recommendation of approval, subject to conditions, completion of appropriate section 106 obligations to secure the affordable housing and balancing off-site contribution and adoption of the Habitat Regulations appropriate assessment (below) is therefore made.

Habitat Regulations Appropriate Assessment

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

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

unilateral undertaking. 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.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That, subject to section 106 obligations being agreed to secure 4no affordable dwellings and an affordable housing financial contribution, the application be APPROVED subject to the following conditions:
 1. Approval of the details of the 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.)
 2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
 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. The approved landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013-2031.)
5. Prior to the commencement of development, a Construction Management Plan (CMP) shall be submitted to, and approved in writing by, the Local Planning Authority and shall thereafter be implemented and remain in place throughout the development. The CMP shall include:
 - (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; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) the proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) details of the amount and location of construction worker parking.
- (n) photographic evidence of the condition of adjacent public highway prior to commencement of any work.
- (o) measures for the control of: 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 CMP.

(Reason - A pre-commencement condition is required to ensure that adequate facilities are available for construction and other traffic attracted to the site and to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan 2013-2031.)

6. 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 ameliorate and mitigate against the impact of the development on the local community in accordance with Policy EN15 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)

7. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and

roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness of the adopted East Devon Local Plan 2013-2031.)

8. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details. The TPP and AMS shall adhere to the principles embodied in B.S. 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturist, and details shall be included within the AMS.

The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures.

On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturist and submitted to the Planning Authority for approval and final discharge of the condition.

In addition, prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed plan showing the layout of any existing, replacement or new above and below ground services, foul and surface water drainage and other infrastructure (insofar as they may affect existing trees) shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals or compliance which may be required under any other Legislation e.g. NJUG Vol. 4 Guidelines). Such layout and design and implementation shall provide for the long term retention of the trees and hedgerows. Any unavoidable but necessary root severance and soil disturbance is to be minimised by providing a specification for root pruning in accordance with B.S. 3998: 2010. No development or other operations shall take place except in complete accordance with the approved Construction Specification/Method Statement/approved service/drainage/infrastructure layout.

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

9. No individual dwelling shall be occupied until the access, turning area, parking and garaging necessary for and associated with that dwelling have been completed in accordance with the approved plans. The turning areas, parking and garaging shall thereafter be kept free of obstruction and available for use for these purposes at all times.

(Reason - To ensure that adequate and safe provision is made for the occupiers and in the interests of highway safety in accordance with the requirements of Policy TC7 - Adequacy of Road Network and Site Access and TC9 (Parking Provision in New Development) of the adopted East Devon Local Plan 2013-2031.)

10. No development shall take place (including ground works) until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the Local Planning Authority. The CECoMP shall include the following:

(a) Risk assessment of potentially damaging construction activities.

(b) Identification of "biodiversity protection zones".

(c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

(d) The location and timing of sensitive works to avoid harm to biodiversity features.

(e) The times during construction when specialist ecologists need to be present on site to oversee works.

(f) Responsible persons and lines of communication, including reporting compliance of actions to the Local Planning Authority.

(g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements. i.e. for reptiles, dormice and bats

(h) Use of protective fences (including buffer distances), 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 - A pre-commencement condition is required to ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures further to a pre-construction risk evaluation of potentially damaging construction activities and the agreement of appropriate management measures, where necessary, in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031.)

11. The development shall be carried out in accordance with the Ecological Impact Assessment (Richard Green Ecology, May 2025), Technical note (Richard Green Ecology, September 2025), and Lighting Review Statement (The Lighting Bee, September 2025), in particular the ecological mitigation and enhancement measures. The development shall not be first occupied until the Local Planning Authority has been provided with a compliance report by a qualified ecologist, including photographs and completed toolbox talk sheets, detailing that all ecological mitigation and enhancement features, including:

- a) integrated bat boxes (2 per dwelling)
- b) integrated bird boxes (1 per dwelling)
- c) insect bricks (1 per dwelling)
- d) hedgehog highways [13 cm² holes at ground level every 5 m]
- e) Reptile/amphibian hibernacula (1 no.)

have been installed/constructed, and compliance with any required ecological method statement(s) including the pre-inspection of trees for bats results.

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

12. No development shall be commenced until details of final finished floor levels and finished ground levels in relation to a fixed datum have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - A pre-commencement condition is required to ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)

13. No individual dwelling shall be occupied until the cycle and bin storage facilities for that dwelling have been provided in accordance with the details shown on drawing no. 358/303 B. The approved facilities shall thereafter be retained in perpetuity.

(Reason - In the interests of promoting sustainable travel and ensuring that adequate provision is made for the storage of recycling and refuse within the development in accordance with Policies TC4 (Footpaths, Bridleways and Cycleways) and D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)

14. No development shall commence until an Instrument Flight Procedure (IFP) assessment has been submitted to, and approved in writing by, the Local Planning Authority.

(Reason – A pre-commencement condition is required in the interests of aviation safety and to comply with Policy TC12 (Aerodrome Safeguarded Areas and Public Safety Zones) of the adopted East Devon Local Plan 2013-2031.)

15. Notwithstanding the submitted details, no development shall take place until details of the means of disposal of surface water drainage from the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details before any dwelling on the site is occupied, or as may otherwise be agreed in writing by the Local Planning Authority and shall thereafter be retained and maintained for the lifetime of the development.

(Reason - A pre-commencement condition is required to enable investigation into the potential use of sequentially preferable sustainable drainage systems in the interests of adapting to climate change and avoiding flood risk to meet with

the requirements of Policy EN22 (Surface Run-Off Implications of New Development) of the adopted East Devon Local Plan 2013-2031.)

16. No development shall commence unless a detailed lighting scheme based on the Lighting Review Statement (The Lighting Bee, September 2025), has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate, through appropriate lux contour modelling (considering internal and external lighting and the horizontal and vertical planes) and specification, that the proposed lighting will not result in adverse impacts on nocturnal wildlife, particularly bats and dormice, and shall be fully compliant with the most recent guidance from the Institution of Lighting Professionals (currently GN08/23: Bats and Artificial Lighting at Night).

The lighting scheme shall include:

- a) Details of all proposed luminaires, including type, location, height, orientation, and light levels.
- b) Measures to minimise light spill onto key habitats, including hedgerows, scrub, and the ecological enhancement area.
- c) Specifications for motion-activated lighting, timers, and shielding to reduce unnecessary illumination.
- d) Confirmation that all luminaires lack UV elements and use warm white light sources (2700K or lower).
- e) A plan showing the location of sensitive ecological features and how they will be protected from light intrusion.

Once approved, the lighting shall be installed and maintained strictly in accordance with the approved scheme. No variation shall take place without prior written consent from the Local Planning Authority.

(Reason – A pre-commencement condition is required to ensure that the development has no adverse effect on protected and notable species in accordance with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031.)

17. A Habitat Management and Monitoring Plan (HMMP) for a minimum 30-year period following completion of the development shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development.

The Plan shall be prepared in accordance with the approved soft landscape plans and shall include the following:

a) Details of the body or organization responsible for implementation of the plan accompanied by a site plan showing areas to be adopted; maintained by management company or other defined body; and areas to be privately owned/maintained.

b) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ bodies responsible for its delivery.

- c) A 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.
- d) The planned habitat creation works to create and/or enhance habitat to achieve the biodiversity gain in accordance with the approved Biodiversity Gain Plan.
- e) The management measures to maintain created, enhanced, and retained habitats in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development.
- f) Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works (including an annual work plan capable of being rolled forward over a minimum 30-year period) in relation to:
 - i. Existing trees and hedgerows/banks.
 - ii. Hedgerow management shall be carried out in accordance with the Hedge Management Cycle as set out in Hedgeline guidance.
- g) The location and design of biodiversity features including integrated bird boxes, integrated bat boxes, insect bricks, and other features, e.g., permeable fencing, to be shown clearly on accompanying plans.
- h) Boundary structures, drainage swales, water bodies and other infrastructure/ facilities within public/ communal areas.
- i) The monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.
- j) 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.
- k) The Plan shall also set out (where the results from monitoring show that its conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

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

- 1.1. Notice in writing shall be given to the Council when the HMMP works have started.
- 1.2. No occupation shall take place until:
 - a) the habitat creation and enhancement works set out in the approved HMMP have been completed; and

b) Notice in writing, in the form of a landscape verification report completed by a competent ecologist or landscape architect, shall be given to the Local Planning Authority when the habitat creation and enhancement works as set out in the HMMP have been established to define the completion of development and start of the 30- year BNG maintenance and monitoring period.

1.3. The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

1.4. Monitoring reports shall be submitted to the Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

(Reason – A pre-commencement condition is required to ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Strategy 47 (Nature Conservation and Geology) and Policies EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.

NOTE FOR APPLICANT

Informative:

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

Biodiversity Net Gain

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

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

The BG conditions states that development may not begin unless:

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

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

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

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

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

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 applies (planning permission for development already carried out).
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
 - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to

use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Where there are losses or deterioration to irreplaceable habitats a bespoke compensation package needs to be agreed with the planning authority, in addition to the Biodiversity Gain Plan.

For information on how to prepare and submit a Biodiversity Gain Plan please use the following link [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan)

Plans relating to this application:

358/300	Location Plan	30.01.25
358/320	Proposed roof plans	30.01.25
358/312	Proposed Combined Plans	29.01.25
EWH:358/300	Location Plan	13.01.25
EWH:358/306	Proposed Floor Plans	13.01.25
EWH:358/309	Proposed Floor Plans	13.01.25
EWH:358/311	Proposed Combined Plans	13.01.25
EWH:358/315	Combined Plans	13.01.25

EWH:358/316	Proposed Elevation	13.01.25
EWH:358/307	Proposed Floor Plans	13.01.25
EWH:358/310	Proposed Elevation	13.01.25
EWH:358/313	Combined Plans	13.01.25
EWH:358/314	Proposed Elevation	13.01.25
EWH:358/302 B	Proposed Block Plan	29.04.25
EWH:358/303 B	Proposed Site Plan	29.04.25

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.