

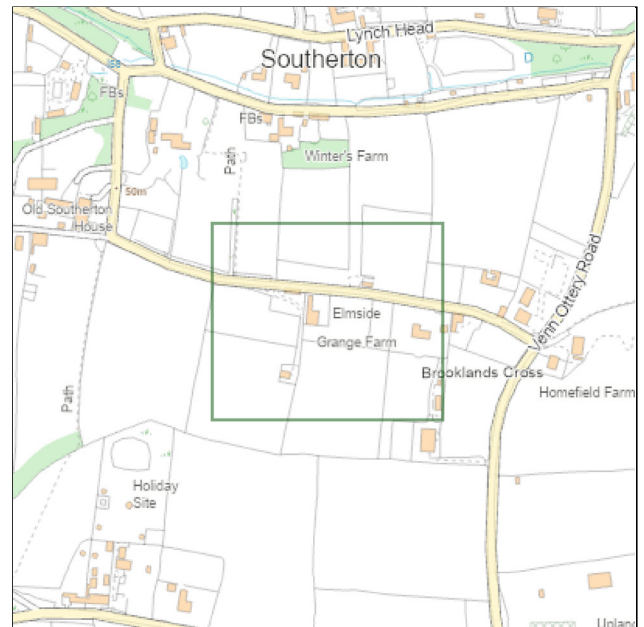
**Ward** Newton Poppleford And Harpford

**Reference** 25/1180/FUL

**Applicant** Mrs Karin Boase

**Location** Elmside Newton Poppleford Devon EX10 0BY

**Proposal** Part retrospective full planning application:  
Proposed incidental outbuilding (garage / workshop) and change of use of paddock to residential use and retention of existing access.



**RECOMMENDATION: Approval with conditions**

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<b>25/1180/FUL</b>		<b>Committee date: 18.11.2025</b>
<b>Newton Poppleford and Harpford</b>	<b>Target Date: 08.08.2025</b>	<b>EOT Requested: 22.10.2025</b>
<b>Applicant:</b>	<b>Bondstones (Miss Sarah Henderson)</b> <b>The Old Library</b> <b>Hestercombe House</b> <b>Taunton</b> <b>TA2 8LG</b>  <b>On Behalf Of</b>  <b>Mrs Karin Boase</b> <b>Elmside</b> <b>Newton Poppleford</b> <b>Devon</b> <b>EX10 0BY</b>	
<b>Location:</b>	<b>Elmside</b> <b>Newton Poppleford</b> <b>Devon</b> <b>EX10 0BY</b>	
<b>Proposal:</b>	<b>Part retrospective full planning application: Proposed incidental outbuilding (garage / workshop) and change of use of paddock to residential use and retention of existing access.</b>	

**RECOMMENDATION: Approval with Conditions**

#### **EXECUTIVE SUMMARY**

**This application is before the Committee as the Parish Council and local Ward Member object to the proposal, and the officers recommendation is to approve.**

**The application seeks permission for the construction of a new detached outbuilding (garage / workshop), change of use of an adjacent paddock to residential use - and for the retention of a vehicular access.**

**Although the proposal represents a departure from the strict protection of the countryside under Strategy 7 of the East Devon Local Plan, when considered in**

**the context of previous appeal decisions, it is not considered that a refusal could be sustained on matters of principle.**

**The change of use would not result in significant visual intrusion or harm to the character and appearance of the National Landscape, subject to suitable landscaping to mitigate loss of the roadside hedgerow and there is no adverse impact on amenity.**

**On balance, the proposal is considered to be acceptable and whilst contrary to the aims of Strategy 7 it does conform with Strategy 46 and 47 and Policies D1 and D2 of the East Devon Local Plan, subject to conditions.**

**The application is considered to be acceptable and is therefore recommended for approval.**

## **CONSULTATIONS**

### **Parish/Town Council**

Council do not support this application in view of shortcomings on the planning site.

### **Cllr C Burhop**

Although this site is being described as 'paddock' by the applicant it would appear that the land is actually classified as agricultural land and as such is classed, I believe, as 'Best and Most Versatile' agricultural land.

Strategy EN13 of EDDC's made Local Plan states that such land is protected from development unless the benefits of development outweigh the loss of such land. The fact that the applicant is not currently using the land as agricultural land is, I believe, irrelevant in this case.

I cannot see that there is any net benefit from developing on this land and therefore would have to object on this basis.

Furthermore, Strategy 46 of the same Local Plan states that development in the AONB (now National Landscape) should be resisted unless the development conserves and enhances the National landscape and does not undermine the landscape quality. As custodians of the National Landscape I believe we have a responsibility to resist this development on this basis.

### **EDDC's Tree Team**

The site lies within the East Devon National Landscape, and part of the application seeks retrospective permission for the retention of a new access into what was previously agricultural land, along with its conversion into residential garden.

Aerial imagery (Outlined in yellow, below) and Google Street View (Shown below) confirm that the northern boundary of the site was formerly a continuous Devon hedgerow, a traditional and ecologically significant boundary feature. Devon

hedgerows are characteristic of East Devon's rural landscape and contribute significantly to the historic, ecological, and visual character of the National Landscape. The removal of this section of hedgerow has resulted in harm and domestication of this protected landscape. The principle of the new access, even retrospectively, should be refused.

The submitted landscaping proposals do not provide sufficient detail to demonstrate that the loss of the historic hedgebank has been adequately offset or mitigated. The proposal fails to conserve or enhance the landscape character and instead undermines the landscape quality, contrary to Strategy 3, 5, and 46, along with Policy D1 and D2 of the East Devon Local Plan.

Furthermore, the removal of the hedgerow appears to have been carried out in contravention of the Hedgerow Regulations 1997. Should the application be refused, enforcement action be initiated and a Hedgerow Replacement Notice served to secure reinstatement of the original boundary treatment.

With regard to the proposed driveway and garage, no arboricultural information has been submitted to demonstrate how these elements will be constructed without damaging the Root Protection Areas (RPAs) of trees and hedgerows along the southern site boundary. The proposed soakaway also appears to fall within the RPA of a hedgerow and adjacent maple tree and would need to be relocated if the scheme were approved.

While the construction of the proposed driveway and garage may be technically feasible from an arboricultural perspective, they are not achievable without further detail on how these works will be carried out to avoid damage to the retained hedgerow and trees. It may, in fact, be more straightforward to relocate the proposed garage and driveway further north, away from the adjacent hedgerow and trees, to reduce potential impacts.

If planning permission is granted (whether under delegated powers, by committee, or at appeal) it should be subject to conditions requiring:

Relocation of the soakaway outside the Root Protection Areas (RPAs) of the adjacent hedgerow and trees;

Construction of the garage on a piled foundation, with the finished floor level set above ground level within the RPAs;

A no-dig driveway design within the RPAs of the adjacent hedgerow and trees; and  
Submission of an Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837:2012.

### **EDDC Landscape Architect**

Thank you for consulting me on the above application. Due to work commitments and the limited scale of this application I am unable to provide a formal response but if there any landscape issues I would happy to advise at one of my landscape surgeries.

### **EDDC Ecology**

Following the removal of the Devon hedgebank along the northern boundary, I fully support the concerns raised by the EDDC Tree Officer (dated 12/08/25). Historical Ordnance Survey mapping (1890) confirms this was an established and historic hedgebank, recognised as a Devon Biodiversity Action Plan (DBAP) habitat and listed as a Habitat of Principal Importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

Paragraphs 187(d) and 192(b) of the National Planning Policy Framework (NPPF, 2024) emphasises the importance of conserving and enhancing the natural environment. Given the ecological and historical significance of the hedgebank, its removal represents a clear loss of a priority habitat. In line with the NPPF's requirement for biodiversity net gain, I recommend that the applicant provides a detailed compensation strategy. This should include proposals for habitat restoration or creation and demonstrate how the loss will be offset in a manner that supports ecological connectivity and long-term biodiversity enhancement.

### **Other Representations**

No third party representations received.

### **PLANNING HISTORY**

25/0041/FUL Full Application	Build a 2 bay garage with workshop with new driveway. Traditional timber frame with larch clad walls and rosemary clay tiled roof	Application Returned	
10/1045/FUL Full Application	Extension	Approval with conditions 01/07/2010	
06/0737/FUL Full Application	Proposed double garage	Refusal 04/05/2006	Appeal Allowed (with conditions) 25/01/2007
06/0007/FUL Full Application	Garage	Refusal 27/02/2006	
05/2008/FUL Full Application	Amendments to previously approved extension.	Approval with conditions 16/09/2005	
03/P2214 Full Application	Extension (Reapplication 7/37/03/p0328/00259)	Approval with	

		conditions 27/10/2003	
03/P0328 Full Application	Extensions	Refusal 02/04/2003	
85/P0021 Full Application	Alterations.	Permitted Development 30/01/1985	

## **POLICIES**

National Planning Policy Framework  
National Planning Policy Guidance

### **Adopted East Devon Local Plan 2013-2031 Policies**

Strategy 7:	Development in the Countryside
Strategy 46:	Landscape Conservation and Enhancement and AONBs
Policy D1:	Design and Local Distinctiveness
Policy D2:	Landscape Requirements
Policy D3:	Trees and Development Sites
Policy EN13:	Development on High Quality Agricultural Land

### **Draft East Devon Local Plan (2020 – 2042) – Emerging**

7 Strategic Policy:	Development beyond Settlement Boundaries
26 Strategic Policy:	Development at service villages
62. Policy:	Design and Local Distinctiveness
74 Policy:	Landscape Features
75 Policy:	Areas of Outstanding Natural Beauty
83 Policy:	Development on High Quality Agricultural Land
87 Policy:	Biodiversity Net Gain
91 Policy:	Ecological enhancement and incorporation of design features to maximize the biodiversity value of proposals
92 Policy:	Tree policy

### **Newton Poppleford and Harpford Neighbourhood Plan**

Policy EP1	Conservation and enhancement of the East Devon AONB and Natural Environment
Policy EP4	Surface Water Run-off
Policy EP6	Local Amenity
Policy H3	Outside the Built-up area boundary
Policy HQD1	Maintain the built character of our parish through High Quality Design.

## **CONSIDERATION:**

### **Site Description**

- The application site comprises a parcel of agricultural land located adjacent to the existing residential dwelling known as Elmside,
- The land wraps around Elmside to the East and South.
- The site lies outside of any defined built up area boundary and is therefore within the open countryside as defined by the East Devon Local Plan.
- The nearest neighbouring property known as Grange Farm is located more than 55+ metres to the East of the site.
- The land itself is positioned to the South of the unclassified road known as 'the road from Badgers Hill to Brooklands Cross'.

### **Description of Development**

Planning permission is sought for the change of use of land from agricultural to residential, together with the formation of a new driveway and the construction of a detached outbuilding.

In addition, the proposal seeks retrospective consent for the creation of a vehicular access that has been formed via the Northern boundary of the site.

### **Assessment**

In assessing the application, the main issue that is material to the consideration of this particular proposal is the effect of the proposed change of use on the character and appearance of the countryside and its landscape and the loss of agricultural land.

### **Principle of Development**

**Strategy 7** of the East Devon Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development - and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement.
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings, and

3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

There are no policies that explicitly permit the extension of residential curtilages into the countryside so this proposal is a departure from the development plan; it is necessary to assess if there are material circumstances that would justify allowing this development as a departure from the plan.

A material consideration is the appeal decision relating to planning application reference 24/0525/COU, change of use of land to a residential garden at land opposite Grange Farm, Brooklands Cross, Newton Poppleford. This site is literally just along the road from the current application site and relates to a small field opposite the main dwelling, on the other side of the road, so not even directly adjacent to the dwelling it was to serve. This appeal was allowed. The Inspectors report includes the following comments:

*The proposal before me would not involve the provision of any built form on the site. It is inevitable that the use of the site as a garden would involve the siting of some domestic paraphernalia, and I noted on my site visit that the grass had already been cut short to effectively form an expanse of lawn area. However, in my view, none of this would change the fundamental openness and verdancy of the site to an extent that could constitute harm, including to the scenic beauty of the NL. Indeed, given the site's close proximity to existing dwellings, its domestic use would not appear incongruous or out of keeping.*

*In any event, given the extensive planting on the boundaries of the site, any views of it from public spaces are very limited. I acknowledge that the appellant has already changed the gate at the site entrance, and that this may have involved the removal of a very small section of hedgerow. A small gravel area has also been put in place to allow parking for a vehicle. However, these are very minor changes in the context of the wider surroundings, and again I do not conclude that they result in harm.*

Having regard to this recent appeal decision it would be difficult to object to this proposal on matter of principle alone.

## **Landscape Impact/Character Of The Area**

**Strategy 46** of the East Devon Local Plan states that development needs to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty. Development will only be permitted where it:

1. Conserves and enhances the landscape character of the area;
2. Does not undermine landscape quality; and
3. Is appropriate to the economic, social and well being of the area.



**Policy D2** of the East Devon Local Plan states that landscape schemes should meet all of the following criteria:

1. Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
2. Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
3. Measures to ensure safe and convenient public access for all should be incorporated.
4. Measures to ensure routine maintenance and long term management should be included.
5. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
6. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

**Policy D1** of the East Devon Local Plan states that proposals will only be permitted where they respect the key characteristics and special qualities of the area in which the development is proposed, ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context, do not adversely affect the distinctive historic or architectural character of the area, nor the amenity of occupiers of adjoining residential properties.

The applicant seeks consent for the construction of a detached outbuilding which is to be used as a garage / workshop, and for the change of use of an area of land to the East of the host dwelling to a residential use, together with the retention of an existing access via the Northern boundary of the site for which the works have already been carried out. The application has been amended since submission to include replacement planting of the roadside hedgerow along the northern boundary.

The application site comprises an attractive parcel of level land adjacent to Elmside, which is located in the open countryside, outside of any defined built-up area boundary, and within the East Devon National Landscape. It is bound by established trees and hedgerows that reduce visibility into the site from public vantage points, except along the road frontage where a hedgerow has been removed and the new access created. The loss of the hedgerow has opened up views into the site from the road. The site is bounded to the east and west by residential gardens.

The proposed physical changes to the land include the inclusion of new boundary treatments, loss of the roadside hedgerow, the creation of the access and construction of a single storey outbuilding at the back of the site.

While the change of use introduces a domestic element into a parcel of land, the proposal would be read in the context of the existing dwelling and garden at Elmside and the neighbouring residential land to the east. It would 'infill' the land between the two residential plots and as such would not adversely impact on the character of the area provided the roadside hedge is reinstated to reduce views into the site.

The detached outbuilding has been positioned away from the highway and designed sympathetically, using materials that reflect its rural location, and the existing boundary treatments will help assimilate the development into its surroundings.

The existing boundary treatment restricts wider views and the proposed works would not result in significant additional harm to landscape character. The proposal would therefore not introduce significant additional harm to the character of the area subject to reinstatement of the roadside hedgerow which could be controlled by condition.

## **Heritage**

Given the lack of any listed buildings or other designated heritage assets in the immediate vicinity, it is considered that the proposal would not result in any heritage based harm.

## **Neighbour Amenity**

The nearest neighbouring property to the application site is Grange farm, which is a large detached dwelling located to the East of the application site at a sufficient distance to ensure that the proposed change of use and the construction of the detached outbuilding would not give rise to any harmful impacts in terms of overlooking, overbearing, loss of light or noise disturbance.

Given the separation distances and the existing boundary treatment, it is not considered that allowing the proposal would cause unacceptable amenity harm.

## **Trees/hedges**

The proposals originally involved works within close proximity to trees and hedgerows, in particular the siting of the proposed outbuilding and access track to it within a root protection area (RPA). In response to objections raised by the Councils tree officer the outbuilding and track have now been relocated away from the RPA and soakaway moved out of the RPA.

The Local Planning Authorities Tree officer also raised concerns regarding the adequacy of the details submitted in respect of the loss of the historic hedgerow and lack of mitigation proposals, recommending that the application be refused. The application has since been amended to include a new beech and hazel hedgerow along the northern site boundary and wrapping around into the new access.

Subject to the implementation of the replacement hedge it is considered that the proposal would not result in any further arboricultural harm.

## Ecology

The application site currently comprises an area of grassed agricultural land adjacent to the existing residential curtilage, with trees and hedgerows on three sides, the northern, roadside hedge having been removed relatively recently.

No ecological survey has been included with this application. The proposed detached outbuilding would be sited on grassland and this particular element would not result in the removal of any established vegetation or encroachment into adjacent hedgerows.

The Council's tree officer and ecologist have raised concerns about the loss of the hedgerow from the northern boundary, the ecologist stating the following:

*Following the removal of the Devon hedgebank along the northern boundary, I fully support the concerns raised by the EDDC Tree Officer (dated 12/08/25). Historical Ordnance Survey mapping (1890) confirms this was an established and historic hedgebank, recognised as a Devon Biodiversity Action Plan (DBAP) habitat and listed as a Habitat of Principal Importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.*

*Paragraphs 187(d) and 192(b) of the National Planning Policy Framework (NPPF, 2024) emphasises the importance of conserving and enhancing the natural environment. Given the ecological and historical significance of the hedgebank, its removal represents a clear loss of a priority habitat. In line with the NPPF's requirement for biodiversity net gain, I recommend that the applicant provides a detailed compensation strategy. This should include proposals for habitat restoration or creation and demonstrate how the loss will be offset in a manner that supports ecological connectivity and long-term biodiversity enhancement.*

Further to the comments above it is proposed that condition be applied to any permission requiring submission and implementation of the mitigation measures suggested.

Accordingly, subject to the inclusion of an appropriate condition, the proposal is considered to be acceptable in this respect.

## Highways/Access

The vehicular access which has been created onto the unclassified lane is considered to be adequate in terms of visibility to serve its proposed use, and the level of traffic associated with the change of use is unlikely to give rise to any significant impacts on highway safety. Sufficient space within the site would be provided for parking and turning to allow vehicles to enter and exit in a forward gear.

While Devon County Councils Highway Authority have not made comments relating to the scheme, given the above, the proposal is considered to be acceptable in highway safety terms and does not result in undue harm to the rural character of the unclassified lane.

The proposal is therefore considered to be compliant with the requirements of the local plan and the national planning policy framework with regard to safe and suitable access.

### **Loss of Agricultural land**

**Policy EN13** of the East Devon Local Plan states that the best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from development not associated with agriculture or forestry and that planning permission for development affecting such land will only be granted exceptionally if there is an overriding need for the development and either:

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

This site is located on Grade 1 agricultural land. In considering the recent, nearby appeal, the inspector considered loss of BMV and commented as follows:

*The site is regarded as Grade 1 agricultural land. However, it was apparent from my site visit that it has not been used for this purpose for quite some time, and from the evidence before me, it appears highly unlikely that it would return to agricultural use in the near future, even if this appeal were to fail. Furthermore, the small extent of the site means that it could make no meaningful contribution to food production. I therefore afford this issue little weight.*

The circumstances of this site are very similar and as such little weight is given to the loss of BMV.

### **Planning Balance**

In concluding, although the proposal represents a departure from the strict protection of the countryside under Strategy 7 of the East Devon Local Plan, when considered in the context of previous appeal decisions, it is not considered that a refusal could be sustained just on grounds of principle of the development.

Subject to re-instatement of the front boundary hedgerow and on site habitat mitigation, the change of use would not result in significant visual intrusion or harm to the character and appearance of the National Landscape or biodiversity in the longer term. The site, located between two gardens would not adversely impact on the character of the area. Impact on trees is now acceptable and there will be no adverse impact on neighbour amenity.

On balance, the proposal is considered to be acceptable and compliant with the aims of Strategies 46 , 47 and Policies D1, D2 and EN13 of the East Devon Local Plan.

## **RECOMMENDATION**

### **APPROVE**

- 1.) 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.)

- 2.) Prior to the construction of the new driveway, details (and, where so requested, a sample) of the material(s) to be used 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/sample.

(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.)

- 3) Prior to the commencement of any further development (the access having already been formed) a detailed landscaping scheme shall be submitted to an approved in writing by the local planning authority which shall include a detailed compensation strategy for the loss of priority habitat hedgerow previously located on the site's northern boundary. This should include proposals for habitat restoration or creation and shall demonstrate how the loss of the hedgerow will be offset in a manner that supports ecological connectivity and long-term biodiversity enhancement. The scheme should also identify existing hedgerows and trees to be retained.

The landscaping scheme shall be implemented within the first planting season following the commencement of further development unless an alternative timetable has previously been agreed in writing with the local planning authority.

Any planting found to be dead, dying, severely damaged or diseased, in the opinion of the Council, within ten years of the completion of the development hereby approved or ten years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

Reason: In the interest of visual amenity and biodiversity in accordance with Strategy 47 (Nature Conservation & Geology), Strategy 46 Landscape Conservation & Enhancement and AONBs) and Policy D1 (Design & Local Distinctiveness) of the East Devon Local Plan , 2013 to 2031.

- 4) Any development, including the new driveway, within or adjacent to the root protection areas (RPA) of retained trees and hedgerows shall be constructed using a no dig design and methodology.

Prior to commencement of any development within or adjacent the RPA a detailed specification for the no dig construction, together with an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) prepared in accordance with BS 5837:2012, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved AMS and TPP.

(Reason - To protect retained trees and hedgerows in accordance with Policy D3 (Trees and Development Sites) of the East Devon Local Plan 2013-2031).

- 5) The detached double garage/workshop building hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the dwelling known as Elmside, Newton Poppleford. EX10 0BY

(Reason - In the interests of safeguarding the character and appearance of the area, which forms part of the designated East Devon National Landscape, and the amenities of the occupiers of nearby residential properties in accordance with the requirements of Strategy 7 (Development in the Countryside) and Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no building, enclosure, swimming or other pool shall be constructed or erected with the land hereby approved as additional residential curtilage, without a grant of planning permission.

(Reason - To protect 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.)

- 7) Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100-year storm event plus 45% for climate change unless details of an alternative means of surface water drainage are submitted to and approved in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be brought into use until the agreed drainage scheme has been provided and it shall thereafter be retained and maintained for the lifetime of the

development. No soakaway, drain or drainage feature shall be located within root protection area as defined on the approved plans.

(Reason - In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy EN22 (Surface Run-Off Implications of New Development) and in the interests of biodiversity in accordance with Strategy 47 of the adopted East Devon Local Plan 2013-2031.)

Plans relating to this application:

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4

PLA-001

PLA-003 Rev B - Amended

NOTE FOR APPLICANT

1.)

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.

2.)

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

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

The BG conditions states that development may not begin unless:

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

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

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

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

In this case exemption 2 from the list below is considered to apply:

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

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or

(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

(i) the application for planning permission was made before 2 April 2024;

(ii) planning permission is granted which has effect before 2 April 2024; or

(iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

(i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

(ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.



4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

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

Irreplaceable habitat

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

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

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

## **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.

<b>Ward Member 3 day consultation completed?</b>		<b>N/A</b>
	<b>Service Lead – Planning Development Manager Assistant Development Manager Principal Planning Officer Senior Planning Officer</b>	<b>Chair/Vice-Chair of Development Management Committee</b>
<b>Authorised By:</b>		
<b>Date:</b>		