

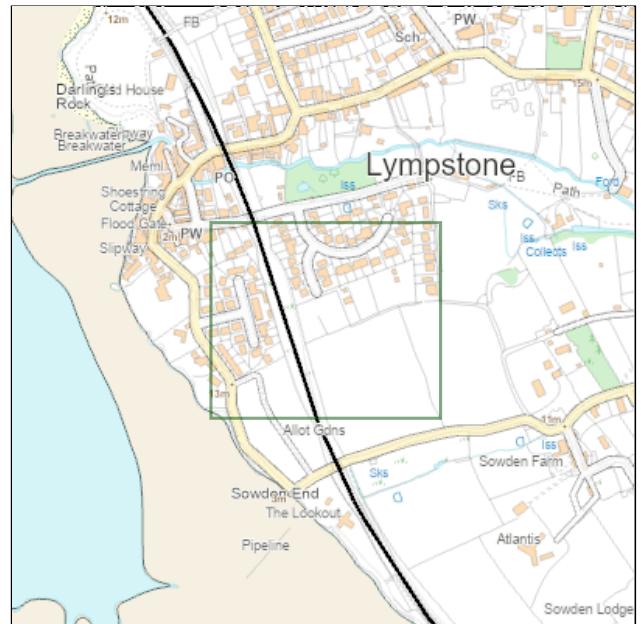
Ward Woodbury And Lympstone

Reference 25/1601/OUT

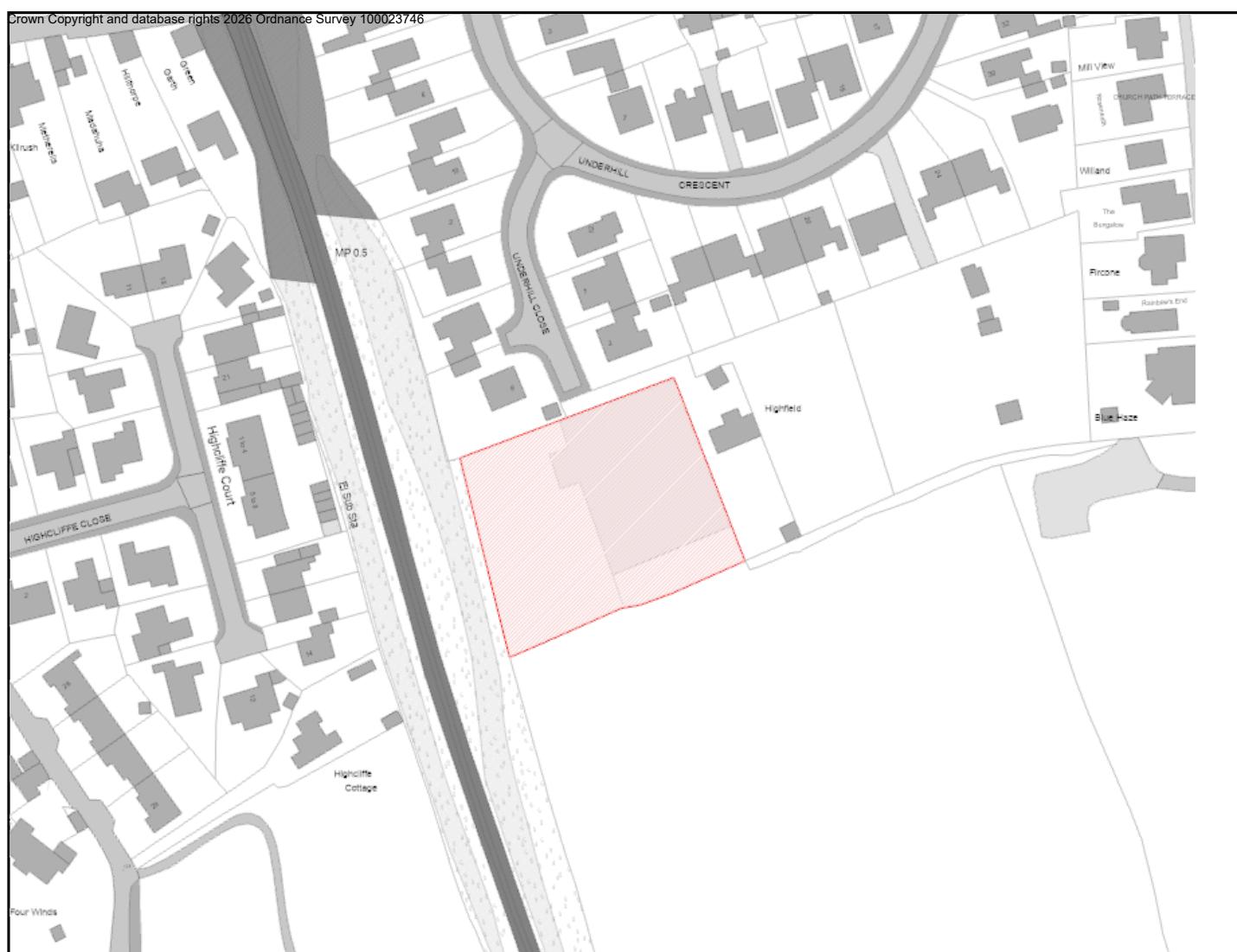
Applicant Mr Anthony

Location Car Park Land South Of Underhill Close
Lympstone

Proposal Outline application for the erection of three
detached dwellings (All matters reserved)



RECOMMENDATION: Approval with conditions



		Committee Date: 27.01.2026
Woodbury And Lympstone (Lympstone)	25/1601/OUT	Target Date: 29.09.2025
Applicant:	Mr Anthony	
Location:	Car Park Land South Of Underhill Close	
Proposal:	Outline application for the erection of three detached dwellings (All matters reserved)	

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EXECUTIVE SUMMARY

The application must be considered by the Planning Committee because the officer recommendation is in conflict with comments received from the Parish Council and the Ward Councillor.

The site lies on the southern edge of Lympstone, immediately adjacent to, but outside of the BuAB as defined by both the adopted Local Plan and the emerging Local Plan. The site is also located within a Green Wedge as defined by the Local Plan, and close to but not within the Coastal Preservation Area.

The site has a long planning history with outline approval being granted for a predominately single storey dwelling on appeal in 2022. The site now benefits from an extant consent to construct a 690 square metre dwelling.

Outline approval is sought for the three two storey detached dwellings on the site. The proposal would allow for a more efficient use of land, through the provision of three homes instead of one, with the illustrative scheme indicating a 15% increase in floor area from 690 square metres to a total of 795 square metres for the three dwellings.

In previous appeals for the site, Inspectors have considered that the proposed dwelling would have a negligible impact upon the Green Wedge, and that the proposal would be seen against the context of varied scales and styles on the edge of the settlement. Although the extant approval is for a predominately single storey dwelling, the first floor of the approved scheme measures 22 metres long by 8.5 metres wide, and in comparison the proposed scheme indicates a similar quantum of development at first floor level but broken up into smaller elements that would be more in keeping with the surrounding pattern and character of development.

As with the extant approved scheme, the proposed dwellings would also have limited visibility from publicly accessible locations due to the low built form, existing vegetation and site topography. The proposal would therefore have a low landscape impact, and in terms of the Green Wedge, would not lead to sporadic or isolated development, or encourage settlement coalescence.

Previous appeals at the site have also stated that the site lies a short walk from Lympstone's amenities and therefore despite its position outside of the BuAB, the site would comply with Local Plan Policy TC2.

EDDC's housing land supply position engages the presumption in favour of sustainable development, whereby permission for development proposals should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the scheme. The NPPF supports development that makes efficient use of land, and the proposal would provide three houses on the site rather than one. The proposal complies with policies contained within the Local Plan and the NPPF, and in respect of the tilted balance, it is not considered there would be any adverse impacts of granting permission.

As such, the application is recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

Objection - The site is outside the BUAB, in the Green Wedge and is potentially harmful to the landscape and surrounding neighbours. The continued use of the site as a car parking would be preferred.

Woodbury And Lympstone - Cllr Geoff Jung

Objection - Increasing the development footprint in this prominent location is not supported.

9/1/26: Although there is a previous application for a dwelling for this location, and therefore a presumption for development I cannot support this application as the development is in the Green Wedge and I have always not supported development at this location or any other Green Wedge location

Woodbury and Lympstone – Cllr Ben Ingham 9/1/26

I recommend this application for refusal.

It is in the green wedge, outside the BUAB, and adds to the traffic through the centre of the village on every journey.

I appreciate permission exists for this site for one dwelling, but that was gained on appeal through a misguided decision by the inspector, in my opinion.

Technical Consultations

Environmental Health

No objection - Initial concerns about railway noise removed following submission of Calculation of Railway Noise Assessment.

A Construction and Environment Management Plan (CEMP) is required by condition.

EDDC Trees

No objection

Network Rail

No objections in principle to the proposed development.

Other Representations

Seven third party representations have been received, with six representations of objection to the proposal and one representation in support of the proposal.

A summary of grounds for objection is as follows:

- The Planning Inspector previously stated there should be no extensions or roof extensions to the house previously allowed. The approved house was predominately single storey and the proposal is for three two storey dwellings.
- The site is very sensitive and prominent, within the green wedge and outside the BuAB. The upper floor footprint exceeds the parameters agreed on the previous application. The proposal would be highly visible from the cycle path and the estuary.
- The proposal would vastly increase the scale and massing in comparison to the approved scheme and would have a detrimental impact upon neighbours.
- The proposal would disrupt views from the estuary and the cycle path
- Additional vehicles on Underhill Close will worsen congestion and create hazards for pedestrians
- Concerns over water pressure

A summary of grounds for support is as follows:

- Three houses on this site, as opposed to one large monolithic structure would be far preferable.
- This development will enhance the area and is not too different to the two houses that are subject to application 24/0674/FUL, which were, in the main, supported by local residents.

PLANNING HISTORY

Reference	Description	Decision	Date
79/C1826	Two chalet type dwelling houses with dormer windows and garages	Refusal	29.01.1980

15/1838/OUT	Outline application with all matters reserved for the construction of 4 no dwellings	Withdrawn	27.11.2015
18/1995/OUT	Outline planning application for a predominantly single storey dwelling with annex (including accommodation for a carer) on the car park/paddock situated at the head of Underhill Close, Lymestone (all matters reserved other than access).	Refusal	02.11.2018
19/1506/FUL	Retention of car parking area and associated lighting	Withdrawn	29.06.2020
20/0933/OUT	Construction of predominately single storey dwelling with annexe accommodation (outline application with all matters except access reserved)	Refusal	19.03.2021
20/0945/OUT	Construction of predominately single storey dwelling with annexe accommodation and reconfiguration of part of existing car park for public use; outline application with all matters except access reserved	Refusal	19.03.2021
Appeal ref. APP/U1105/ W/21/3282445	Construction of predominately single storey dwelling with annexe accommodation (outline application with all matters except access reserved)	Appeal Allowed	01.03.2022
22/2410/RES	Application for approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a predominantly single storey dwelling following outline application (20/0933/OUT) (pursuant to the grant of outline planning permission appeal ref APP/U1105/W/21/3282445)	Approval	21.07.2023

23/2540/VAR	Variation of conditions 1 (Approved plans), 8 (Privacy screen) and 9 (Void space) of 22/2410/RES (Application for approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a predominantly single storey dwelling following outline application (20/0933/OUT) (pursuant to the grant of outline planning permission appeal ref: APP/U1105/W/21/3282445) to update the house design and drawing reference numbers	Non-determination appeal lodged	
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Appeal ref. APP/U1105/W/ 24/3341698	Variation of conditions 1 (Approved plans), 8 (Privacy screen) and 9 (Void space) of 22/2410/RES (Application for approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a predominantly single storey dwelling following outline application (20/0933/OUT) (pursuant to the grant of outline planning permission appeal ref: APP/U1105/W/21/3282445) to update the house design and drawing reference numbers	Appeal allowed	27.11. 2024
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24/0725/VAR	Removal of condition 7 (Permitted Development for hard surfacing) of Planning Permission 22/2410/RES (Application for approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a predominantly single storey dwelling following outline application (20/0933/OUT) (pursuant to the grant of outline planning permission appeal ref APP/U1105/W/21/3282445)	Approval with conditions	13.06.2024
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24/0112/ PREAPP	Erection of four x 4 bedroom detached houses	Response	20.03.2025
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25/1114/FUL	Construction of a new dwelling with annexe accommodation and associated landscaping	Approval with conditions	14.08.2025
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development) Adopted
Strategy 5B (Sustainable Transport) Adopted
Strategy 7 (Development in the Countryside) Adopted
Strategy 8 (Development in Green Wedges) Adopted
Strategy 27 (Development at the Small Towns and Larger Villages) Adopted
Strategy 44 (Undeveloped Coast and Coastal Preservation Area) Adopted
Strategy 47 (Nature Conservation and Geology) Adopted
D1 (Design and Local Distinctiveness) 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

Lympstone Neighbourhood Plan (Made)

Policy 4 — Subject to the other policies of this Plan, proposals that provide for a range of housing sizes, types and tenures, to ensure that all sectors of the community are catered for, will be supported.
Policy 5 — To reflect the character of Lympstone, small/smaller scale developments of fewer than 10 dwellings would be preferred
Policy 6 — Density of housing will reflect the existing grain/density/pattern of surrounding development.
Policy 7 — New development should follow the guidance set out in the Village Design Statement.
Policy 8 — All development proposals with the exception of the conversion of listed historic buildings should seek to have a minimum energy efficiency standard equivalent to Level 4 of the Code for Sustainable Homes (DCLG 2006) or in line with current national standards.
Policy 11 — New Developments should provide off-road parking spaces to ensure that pressure on limited existing parking is not increased. 1 bed properties should have 1 parking space; 2 or more bedrooms should have a minimum of 2 spaces

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft
Strategic Policy AR01 (Flooding) Draft
Strategic Policy AR02 (Water efficiency) Draft
Strategic Policy DS01 (Design and local distinctiveness) Draft
Policy DS02 (Housing density and efficient use of land) 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 OL03 (Coastal Preservation Areas) Draft
Policy OL05 (Green wedges) Draft
Policy OL09 (Control of pollution) Draft
Policy PB03 (Protection of irreplaceable habitats and important features) Draft
Strategic Policy PB04 (Habitats Regulations Assessment) Draft
Strategic Policy PB05 (Biodiversity Net Gain) Draft
Policy PB07 (Ecological enhancement and biodiversity in the built environment) Draft
Policy PB08 (Tree, hedges and woodland on development sites) Draft

Government Planning Documents

National Planning Policy Framework 2024 (as amended)

Site Location and Description

Underhill Close comprises a series of detached chalet bungalows on rising ground at the southern periphery of Lympstone. The application site is an area of land to the south of Underhill Close, with an area of approximately 0.34 hectares. The site is within the countryside and outside of the Built up Area Boundary (BuAB) of Lympstone as defined by the Lympstone Neighbourhood Plan. The site currently comprises a temporary tarmacadam car park with street lighting to the east of the plot and a paddock to the west of the plot. The site is bordered to the west by the railway line and embankment and agricultural land to the south. To the east of the site is a two storey property 'Highfield,' and the site is bounded by the gardens of No. 8 and No. 3 Underhill Close to the north. The site benefits from an existing vehicular access off Underhill Close.

The site is located within a Green Wedge as defined by the Local Plan. The boundary of the Coastal Preservation Area as defined by the Local Plan runs along the south eastern boundary of the site but the site itself is not within the Coastal Preservation Area. Lympstone Footpath 4 runs north to south approximately 140 metres east of the site. The draft Local Plan also places the site outside of the BuAB, and inside the Green Wedge. The previous use of the site as a car park was unauthorised.

Proposed Development

Outline approval is sought for the erection of three detached dwellings on the site, with all matters reserved.

The illustrative site layout indicates an access drive running off the existing site access, off which the three plots would be accessed. The proposal indicates three detached dwellings orientated towards Underhill Close, with rear gardens extending to the rear / south east of the plot.

The total built form would occupy a footprint of 49 metres wide, with a maximum built depth of 13.5 metres. The illustrative footprint indicates 5.5 metres between the dwellings of plots 1 and 2, and 6.9 metres between the dwellings of plots 2 and 3.

The indicative street elevation shows the first floors of the dwellings being set back from the ground floor footprints.

The submission states that each dwelling would have a proposed area of 265 square metres.

Each dwelling would have two parking spaces. The illustrative site plan indicates the existing hedgerow boundary surrounding the site would be retained.

Analysis

The principal issues for consideration are

- The principle of development,
- Design impact on character of site including landscape impact
- Residential / Neighbour Amenity
- Highways, access and parking
- Ecology / biodiversity
- Biodiversity Net Gain

Principle of Development

Lympstone is listed under Local Plan Strategy 27 of the Local Plan as a village with a range of accessible services and facilities to meet many of the everyday needs of local residents as well as having reasonable public transport. The application lies outside of but immediately adjacent to the BuAB of Lympstone, as defined by the Local Plan and Lympstone Village Plan therefore in planning policy terms is in the countryside where Strategy 7 applies. This strategy is an overarching strategy for all development which 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.

However, the previous planning history of the site is a material consideration. The previous outline application (20/0933/OUT) was found to be acceptable at appeal, and application 25/1114/FUL effectively renewed the detailed permission for a single dwelling on the site approved under application 22/2410/RES. There have been no changes in planning policy since that decision, other than the loss of a 5 year housing land supply. The site therefore benefits from an extant consent for the erection of a substantial predominately single storey dwelling.

A further material consideration is East Devon's housing land supply position which currently stands at 3.5 years, which engages the presumption in favour of sustainable development, as at NPPF Para 11d, whereby permission for development proposals should be granted unless the application of policies within the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development proposed; or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard

to key policies for directing development to sustainable locations, making effective use of land, and securing well-designed places.

Given the planning history of the site however, it is not considered that the principle of some residential development on the site could reasonably be resisted. The NPPF states at Para 129 that planning policies and decisions should support development that makes efficient use of land. Arguably, the submitted outline scheme which proposes three 265 square metres dwellings instead of the extant approved scheme which is for a 690 square metre dwelling, would provide a more efficient use of the site in providing three homes rather than one, with just a 15% increase in floor area. Draft Local Plan Policy DS02, which can only be given a moderate level of limited weight at this stage, reflects the NPPF and states that 'Proposals for residential development should optimise the density of the site in a manner that conserves or enhances the character of the area and makes efficient use of land'.

It is also noted that permission was granted in 2024 for two dwellings to the east of Highfield, application 24/0674/FUL refers, which also lies outside the BuAB of the current Local Plan. At the time of the decision the site was considered suitable and sustainable and a preferred site for new residential development by EDDC's Strategic Planning Committee, despite the site's Green Wedge designation. However, the site which is the subject of this application still falls outside of the BuAB within the emerging local plan.

An assessment is therefore required in respect of the merits of this proposed scheme against those of the previously approved single dwelling, in terms of its landscape and visual impact and impact upon residential amenity.

Design impact on character of site including landscape impact

Appearance and layout are reserved matters to be considered at a later date.

The site is elevated with a gently sloping southerly aspect, dropping to a valley beyond the boundary. The railway line runs in a cutting immediately to the west of the site with further housing beyond and the Exe Estuary beyond that. There is housing directly to the north of the site and pasture directly to the south.

The current height of surrounding hedgerow boundaries restricts views in and out of the site to the south and west although, if the southern hedge boundary was to be lowered, there would be extensive views over the Exe Estuary.

The illustrative site plan shows three modern, flat roofed detached dwellings aligning with the building line established by Highfield to the east of the site, positioned further into the site and further away from No. 8 and No. 3 Underhill Close than the approved dwelling. The previously approved dwelling was for a predominately single storey dwelling, whereas the proposal indicates three two storey houses, potentially increasing the visual impact of the scheme.

The illustrative site section indicates that consideration has been made for existing building lines and ridge levels, with the ridge being indicated at slightly lower than the ridge line of the approved scheme.

The extant approval is for a dwelling arranged around a U shaped courtyard with overall dimensions of approximately 40 metres long by approximately 24 metres wide, with the depth of the plan varying between 8 metres and 9.5 metres. The first floor level has dimensions of approximately 22 metres long by 8.5 metres wide. The approved dwelling has an area of approximately 532 square metres at ground floor and 158 square metres at first floor, giving a total floor area of 690 square metres. The quantum of development shown in the illustrative site plan is 795 square metres, a 15% increase over the extant approval.

In respect of the impact of building on the green wedge and outside of the Built up Area Boundary, in the first appeal decision for the site (PINS Reference APP/U1105/W/21/3282445), the Inspector stated: 'The development would read as infill and would relate very well to surrounding housing, falling inside a notional building line across this southern extent of the village. It is bound by a substantive hedgebank along its south perimeter. If this feature is retained, and if the dwelling were to maintain a low-profile design as suggested, the proposal would have a negligible presence within the Green Wedge in views from the public footpaths and the highway network to the south. On this basis, the scheme would consolidate the pattern of development at this village edge without harm to the character and appearance of the Green Wedge and without any semblance of encroachment towards Exmouth'.

This was expanded on further in the second appeal decision for the site (PINS Reference APP/U1105/W/21/3341698), where the Inspector stated: "The proposed dwelling would be visible from a footpath to the east, along with filtered views from an area of open space to the south-west. There are also likely to be distant views for recreational users of the Exe Estuary, and from higher ground in and around the western extents of Exmouth. In such views, there is a clear built context for residential development. Built and consented modern housing in proximity to the site, including the approved scheme, alongside more traditional dwellings establish a mixed character of residential development on the edge of the settlement'. The Inspector went on to say that the proposed scheme 'would still be predominantly single storey, and would maintain a low profile, sitting substantially below the ridge and chimney of Highfields. Its overall scale and massing would not be incongruous in the context of dwellings of varied scales and styles on the settlement edge. As such, in considering the fallback position of the approved scheme, the proposed changes to the form of the dwelling would not be unduly prominent or uncharacteristic in this location, and would not harm the character or purposes of the Green Wedge'.

Local Plan Strategy 8 'Development in Green Wedges' states that 'Within Green Wedges, as defined on the Proposal Map, development will not be permitted if it would add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence'.

The proposal is set in close proximity to existing housing and is likely to have a low landscape impact. The extant approval for a single dwelling was permitted conditional upon removal of permitted development rights in relation to the existing boundary treatments to ensure the retention of the boundary hedgerows. There is still a possibility that the desire to obtain views over the estuary could lead occupants

to reduce the height of the existing hedgerow, which would have adverse landscape impact. This is also a potential outcome with the extant approved scheme however.

The proposal would be visible from properties at the southern end of Underhill Close, and some properties at Highcliffe Court to the west of the railway cutting would also have filtered views over the site through boundary vegetation from upper floor windows. The upper storeys of the proposal would also likely be visible in views of the site from Lympstone Footpath 4 to the east of the site, at a distance of approximately 210 metres away.

From the south and south west of the site, from Sowden Lane and the Sustrans cycle track, there would be limited views of the site due to the topography and screening from hedgerows.

The proposed dwellings would have limited visibility from publicly accessible locations due to their generally low form and the screening provided by existing boundary vegetation. In views from the south east where the development would be visible, it will be seen at some distance against the backdrop of existing housing and would therefore have a low visual impact.

In comparison with the extant approval, although the development would occupy a slightly larger footprint, the ground floor elements would be screened by the existing hedgerow. At first floor, instead of a 21.5 metre long first floor elevation, the indicative site section indicates the proposed first floor elevations would be approximately 7-8 metres wide. The overall quantum of development at first floor is similar to that of the extant approval but broken up into smaller elements with space between that would reduce the effective massing and visual impact and would be more in keeping with the surrounding pattern and character of development.

In terms of the Green Wedge, the proposal would not lead to sporadic or isolated development, or encourage settlement coalescence.

On the basis of the submitted details it is considered that the scheme would have a low visual impact, would not be unduly prominent or uncharacteristic, and would not harm the character or purposes of the Green Wedge. Through the provision of smaller dwellings rather than one large house, the proposal would reduce the visual impact of the first floor element and be more in keeping with the surrounding character of development.

A number of permitted development rights have been removed from the extant approved scheme in order to reduce the visual impact of any uncontrolled future development in the interests of the character and appearance of the area and the Green Wedge.

In the 23/2540/VAR appeal, the Inspector stated of the proposal 'Its simple outline and low-profile forms part of its character, and even within the conditions and limitations permitted by the GPDO, extension of the property at ground-floor, first-floor, or roof level could add significantly to the footprint and mass of the dwelling, harming the character and appearance of the area. Similarly, buildings within the curtilage of the property permitted by Schedule 2, Part 1 Class E of the GPDO could

introduce substantial built form towards the southern periphery of the site, undermining the landscape strategy of the rural and informal southern garden, and affecting the character and appearance of the area. I therefore consider that in this case, there is clear justification to limit permitted development rights in so far as they relate to the enlargement or extension of the dwelling, additions to the roof, and the provision of buildings within the curtilage of the dwelling'.

In respect of the potential for the addition of further photovoltaic panels, the Inspector stated 'Once completed, the GPDO would allow an additional 0.6m height in solar equipment across the roofs of the dwelling, which if implemented to its full extent, could result in a harmful increase in built massing at the site'. As per the previous appeal it is therefore considered appropriate to restrict any roof additions.

The Inspector also considered it appropriate to remove permitted development rights to control the future boundary treatments to the site to ensure the appearance and landscaping of the site, including its boundary hedgerows, are maintained. For the same reasons it is also considered for the same restrictions upon permitted development rights to be imposed to any new approval at the site.

Given the above, subject to the imposition of appropriately worded conditions, it is considered that the proposal would be in accordance with Local Plan Strategy 8, Policy D1 and Lympstone Neighbourhood Plan Policy D1.

Residential / Neighbour Amenity

The illustrative layout submitted indicates the proposal would provide a minimum of 22 metres between the proposed dwellings and existing dwellings at No. 3 and No. 8 Underhill Close, with the site boundary to the north being formed by a mature hedge, which is considered adequate. The proposal indicates the dwellings could be sited further south within the site, further away from the existing dwellings at the southern end of Underhill Close.

Appearance is a reserved matter but there is no reason to believe that it would not be possible to design a scheme that would protect the amenity and privacy of existing occupiers whilst providing a good standard of residential amenity for future residents.

Environmental Health raised concerns regarding the proximity of the dwellings to the railway and the potential for future residents to be adversely affected by noise. To this end the applicant has undertaken a Calculation of Railway Noise (CRN) Assessment. On site measurements were carried out over a 24 hour period which demonstrated that no additional sound mitigation would be required to any of the dwellings. On this basis Environmental Health do not anticipate any environmental health concerns.

Environmental Health have recommended that a Construction and Environment Management Plan (CEMP) be submitted prior to any works commencing on site in the interests of the amenity of nearby residents.

Given the above, subject to the proposed conditions, the proposal would not lead to any adverse impacts to the amenity of adjoining residential properties and therefore would be in accordance with Local Plan Policy D1.

Highways, access and parking

As stated previously, Lympstone Village has a BuAB and offers a range of accessible services and facilities to meet many of the everyday needs of local residents, as well as having good public transport links by bus, and rail as well as access to the Sustrans National Cycle Network Route 2 running between Exmouth to Exeter and beyond. Whilst the site lies just outside of the BuAB, the inspector noted in one of the previous appeals ((PINS ref: APP/U1105/W/21/3282445) that the proposal site 'would be a short and untaxing walk to Lympstone's amenities'. The proposal therefore complies with Local Plan Policy TC2.

Local Plan Policy TC7 states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network. It is not considered that the increase in traffic arising from development of the site would be likely to present any highway safety concerns. The site is sufficiently spacious to allow 2 parking spaces for each of the three plots, as well as space to allow vehicles to turn and re-enter the carriageway in a forward facing gear. A condition should be imposed requiring details of secure cycle storage in accordance with the East Devon Local Plan.

Given the above, the proposal would comply with Local Plan Policy TC2, TC7 and TC9 and Lympstone Neighbourhood Plan Policy T1.

Ecology / biodiversity

The application is accompanied by an Ecological Impact Assessment (EcIA). The site as existing comprises a large tarmac car park, as well as modified grassland, ruderal/ephemeral vegetation, and native hedgerows to the north, east and south boundaries of the site

The report notes that the site has foraging and commuting potential for bats, and there is potential for birds to be nesting in the hedges. Hedgehogs and badgers are likely to traverse or forage onsite, however the hedgerows are noted as being largely suboptimal for dormice due to frequent cutting, and a lack of sufficient structure and diversity of woody, fruiting shrubs. Overall, the existing site is considered to have a low ecological value. Hedgerow 4 which currently bisects the site would be removed and the report recommends this is undertaken outside of the bird nesting season of March to September inclusive.

The report recommends that Construction Exclusion Zones are maintained along all retained hedgerows at a minimum distance of two metres. The report also recommends the covering of trenching and ensuring any pipework is capped to prevent adverse impacts to protected species. Enhancements proposed include the inclusion of a bat tube / box to each dwelling, a bee brick and bird brick in each new dwelling, gapping up of existing hedges, and the creation of a new species-rich

native hedgerow along the north-east site boundary inside the existing boundary to offset the loss of Hedgerow 4. Recommendations are also made in respect of artificial lighting to reduce disturbance to bats, and that proposed fencing between plots is designed to allow mammal movement across the gardens.

The report states that monitoring of both the avoidance and mitigation measures is to be undertaken to ensure they are put in place and carried out correctly, and will be undertaken by a suitably qualified ecologist / Ecological Clerk of Works.

A condition would therefore be imposed upon any approval requiring compliance with the submitted Ecological Impact Assessment. With the appropriate condition in place the proposal would comply with Local Plan Policy EN5.

Biodiversity Net Gain

The application is accompanied by a Biodiversity Net Gain Statement, Statutory Biodiversity Metric and Statutory Biodiversity Metric Condition Assessments.

There are no irreplaceable habitats onsite or adjacent to the site and therefore there is no loss or impact on any such habitats.

Although the hedgerows will be retained in the scheme, and any gaps infilled with native woody species, in terms of the metric because the hedgerows would be in private gardens they will be considered 'lost' for the purposes of Biodiversity Net Gain (BNG). This reflects the likely degradation of these features over time, as inclusion within private gardens typically leads to reduced ecological value due to unmanaged growth, removal, or fragmentation.

The Statutory Biodiversity Metric indicates an increase in habitat units of 19.98%, but a loss in hedgerow units of 87.69%. Therefore, the purchase of 0.92 hedgerow units would be required to comply with the 10% uplift.

EDDC's ecologist has informally commented that the submitted metric indicates the hedges being removed entirely in terms of their score, however the hedgerow post development could be added into the metric as 'native hedgerow in poor condition' which would more accurately reflect the hedgerow condition in a private garden and would slightly reduce the amount of off-site units required. This may be dealt with post permission when the BNG plan is submitted.

Appropriate Assessment

The nature of this application and its location close to the Exe Estuary and Pebblebed Heaths and their European Habitat designation is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest

from developments within 10 kilometres of the designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. 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.

Trees

There are no existing trees on the site that could be impacted by the proposal. The submitted Ecological Impact Assessment gives details of proposed hedge protection including details of the protective fencing, which would be conditioned as part of any approval to ensure suitable protection during works on site.

As such the proposal would comply with Local Plan Policy D2 and D3.

Drainage

Foul drainage would be dealt with via mains drainage. The application form states that surface water would be dealt with via mains drainage. Local Plan Policy EN22 - Surface Run-Off Implications of New Development states that planning permission for new development will require that the surface water run-off implications of the proposal have been fully considered and found to be acceptable.

Planning Policy Guidance in respect of sustainable drainage states that surface water to be discharged according to the following hierarchy of drainage options:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

The proposal to discharge into a combined sewer would not be acceptable in the absence of evidence of why other methods up disposal further up the drainage hierarchy are not practical.

As per the comments from Network Rail, any soakaways or attenuation ponds should not be constructed within 5 metres of network rail's boundary, and the drainage design must prevent water flowing onto Network Rail's property.

A condition would therefore be imposed requiring surface water drainage to be provided by means of soakaways within the site unless an alternative means of surface water drainage is agreed prior to installation.

Subject to the imposition of the above condition, the proposal is considered to accord with policies EN19 and EN22 of the local plan.

Railway safety

Network Rail have stated there are no objections in principle to the proposed development. The proposal indicates built form 7 metres closer to the railway than

the existing approved scheme, but the illustrative scheme indicates the nearest dwelling would be approximately 27 metres from the railway line.

Network Rail have commented that the proposal would lead to an increased risk of trespass onto the railway, therefore the developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary at a minimum height of 1.8metres, and make provision for its future maintenance and renewal.

Any soakaways or attenuation ponds must not be constructed near/within 5 metres of Network Rail's boundary and surface water mut not discharge onto Network Rail's property or drains.

Other matters

The site is within flood zone 1 therefore there are no concerns in respect of flooding. There are no listed buildings near the site that could be impacted by the proposal.

Planning Balance

The proposal would allow for a more efficient use of land, through the provision of three homes instead of one on the spacious site, with the illustrative scheme indicating a 15% increase in floor area from 690 square metres to a total of 795 square metres for the three dwellings.

In previous appeals for the site, inspectors have considered that the proposed dwelling would have a negligible impact upon the Green Wedge, and that the proposal would be seen against the context of varied scales and styles on the edge of the settlement. Although the extant approval is for a predominately single storey dwelling, the first floor of the approved scheme measures 22 metres long by 8.5 metres wide, the overall quantum of development indicated in the illustrative scheme is similar to the approved scheme but broken up into smaller elements that would be more in keeping with the surrounding pattern and character of development.

In comparison with the extant approval, the proposed dwellings would also have limited visibility from publicly accessible locations due to the low built form, existing vegetation and site topography. The proposal would therefore have a low landscape impact and in terms of the Green Wedge, would not lead to sporadic or isolated development, or encourage settlement coalescence.

Previous appeals at the site have also stated that the site lies a short walk from Lympstone's amenities and therefore despite its position outside of the BuAB, the site would comply with Local Plan Policy TC2.

EDDC's housing land supply position engages the presumption in favour of sustainable development, whereby permission for development proposals should be granted unless the application of policies within the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development proposed; or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The NPPF supports development that makes efficient use

of land, and the proposal would provide three houses on the site rather than one. The proposal complies with policies contained within the Local Plan and the NPPF, and in respect of the tilted balance, it is not considered there would be any adverse impacts of granting permission.

Accordingly, with the appropriate conditions in place, the officer recommendation is one of approval.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. 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.)

2. Approval of the details of the layout, scale, access and appearance of the buildings and 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 all matters reserved).

3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.

(Reason - For the avoidance of doubt.)

4. No development shall take place on site until a Construction and Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be implemented and shall 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 - A pre-commencement condition is required 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 Policy EN14 (Control of Pollution) and D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031).

5. The development hereby permitted shall be carried out in accordance with the mitigation and enhancement measures contained within the Ecological Impact Assessment prepared by ESL Ltd dated April 2025, in particular the ecological enhancement measures detailed in Section 6 of the EIA.

(Reason: To ensure that the development has no adverse effect on protected and notable species and provides ecological mitigation and enhancement measures in accordance with Strategy 47 (Nature Conservation and Geology), Policy EN5 (Wildlife Habitats and Features), and Policy EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031).

6. Prior to the occupation of the development hereby permitted, details of the proposed minimum 1.8 metre high trespass proof boundary fence to the western site boundary with Network Rail Land shall be submitted to and approved in writing by the Local Planning Authority. Details shall include detailed plans and elevations of proposed fencing.

The works shall be carried out strictly in accordance with the approved details and shall be completed prior to the development being brought into use and thereafter retained and maintained for the lifetime of the development.

(Reason: To prevent unauthorised access to Network Rail land in the interests of providing safe and secure layouts in accordance with Local Plan Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031).

7. No dwelling approved as part of the permitted development shall be occupied until details of secure cycle storage facilities to serve it have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the dwelling(s) to which the storage facilities relate.

(Reason : To promote sustainable travel in accordance with Strategy 5B (Sustainable Transport) and policy TC9 (Parking Provision in New Development) of the East Devon Local Plan 2012-2031 and national policies as set out in the National Planning Policy Framework and associated Planning Practice Guidance).

8. 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 an alternative means of surface water drainage is submitted to and agreed 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 occupied or brought into use

until the agreed drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification) no works within the Schedule Part 1 Classes A and C for the enlargement, improvement or other alterations to the dwelling hereby permitted other than works that do not materially affect the external appearance of the building, shall be undertaken.

(Reason: To reduce the visual impact of any uncontrolled future development in the interests of the character and appearance of the area and the Green Wedge in accordance with Strategy 7 (Development in the Countryside), Strategy 8 (Development in Green Wedges) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013-2031).

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification) no works shall be undertaken within the Schedule Part 1 Class E for the provision within the curtilages of the dwellinghouse hereby permitted of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouses as such.

(Reason: To reduce the visual impact of any uncontrolled future development in the interests of the character and appearance of the area and the Green Wedge in accordance with Strategy 7 (Development in the Countryside), Strategy 8 (Development in Green Wedges) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013-2031).

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of the dwellinghouses.

(Reason: To reduce the visual impact of any uncontrolled future development in the interests of the character and appearance of the area and the Green Wedge in accordance with Strategy 7 (Development in the Countryside), Strategy 8 (Development in Green Wedges) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013-2031).

12. Prior to the commencement of the development hereby approved details of a water conservation and efficiency strategy shall have been submitted to and

approved in writing by the Local Planning Authority. The strategy shall make provision for the use of water butts of a minimum capacity of 110 litres per bedroom and these shall be installed and brought into use prior to the first occupation of the dwellinghouse to which they relate and thereafter maintained and retained.

(Reason : In the interest of water conservation and to reduce potential surface water run-off from the site in line with policy EN22 (Surface Run-off Implications of New Development); SuDS for Devon Guidance (2017) and national policies as set out in the National Planning Policy Framework and associated Planning Practice Guidance).

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 Informative:

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)

Plans relating to this application:

UND-001 Location Plan 01.08.25

List of Background Papers

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

Environmental Health

I have considered the application and the submitted NIA and do not anticipate any environmental health concerns

Woodbury And Lympstone - Cllr Geoff Jung
25/1601/OUT

I have viewed the documents for the outline application for the erection of three detached dwellings (All matters reserved) on the Car Park Land South of Underhill Close Lympstone.

I did not support the previous applications but unfortunately the Planning Inspector overruled the previous local authority refusal. I note that the inspector in the case of the appeal 23/2540/VAR the Inspector approved a Condition which prevented any additional structures being built in the curtilage and also no increase in the size of the dwelling, stating "..consider that in this case, there is clear justification to limit permitted development rights in so far as they relate to the enlargement or extension of the dwelling, additions to the roof, and the provision of buildings within the curtilage of the dwelling (conditions 9 and 10)."

Therefore, although there is an agreed planning application for one very large house, I cannot support an application for 3 dwellings increasing the development footprint even further on this most prominent location. I therefore cannot support this proposal, but I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

EDDC Trees

No arb concerns.

Environmental Health

This application involves the introduction of noise sensitive dwellings in close proximity to an existing Railway. I am concerned that the noise impact from the train movements has not been assessed, particularly for plot 1. A CRN assessment should be undertaken to determine the noise impact from train movements. The purpose of this noise assessment is to determine whether future residents are likely to be adversely affected by noise. If the noise impact assessment highlights noise as an issue, further noise attenuation will need to be considered and assessed to determine if it is at an appropriate level to achieve internal noise levels in line with BS8233.

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.

Network Rail

Thank you for your email dated 5 August 2025 together with the opportunity to comment on this proposal.

Network Rail has no objections in principle to the proposed development. The applicant should consider the below Network Rail advice for development adjacent to the railway.

SAFETY

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basic Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.

FENCING

Because of the nature of the proposed development we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund boundary works, fencing and boundary enhancements necessitated by third party commercial development. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

DRAINAGE

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels - if altered, to be such that water flows away from the railway. Drainage does not show up on Buried service checks.

GROUND LEVELS

The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges.

FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail.

There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

SITE LAYOUT

The applicant must ensure that the construction and subsequent maintenance can be carried out to the proposed development (including any boundary treatment) without affecting the safety of, or encroaching onto Network Rail land and air-space. Network Rail therefore requires a minimum 2 metres gap between the proposal and our boundary fencing for the following reasons:

- o To allow for all construction works on site and any future maintenance to be carried out wholly within the applicant's own land ownership and without encroachment onto Network Rail land and air-space.
- o To ensure that should the proposal fail or collapse that it will do so without damaging Network Rail's boundary treatment or causing damage to the railway (e.g. any embankments, cuttings, any lineside equipment, signals, overhead lines) and to prevent the materials from the development falling into the path of trains.
- o To ensure that the proposal (including any boundary treatments) cannot be scaled and thus used as a means of accessing Network Rail land without authorisation.
- o To ensure that Network Rail can maintain and renew its boundary treatment, fencing, walls etc
- o To ensure that the applicant does not construct their proposal so that any foundations (for walls, buildings etc) do not end up encroaching onto Network Rail land. Any foundations that encroach onto Network Rail land could undermine, destabilise or other impact upon the operational railway land, including embankments, cuttings etc.

PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

ENVIRONMENTAL ISSUES

The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.

Parish/Town Council

Recommendation: Object

Lympstone Parish Council objects to this application for the following reasons:

The site is outside the BUAB and has not been allocated in EDDC's new Local Plan.

The site is designated Green Wedge ie Strategy 7 of EDLP applies.

Historically, the only application with permission is for 'one single dwelling, predominantly single storey'.

Potential harmful impact on the distinctive landscape and on neighbours.

LPC has consistently objected to development on this site.

The recent appeal conclusion 23/2540/VAR on the previously agreed 'single dwelling, predominantly single storey' included restrictions on permitted development - 'clear justification to limit permitted development rights in so far as they relate to the enlargement or extension of the dwelling, additions to the roof, and the provision of buildings within the curtilage of the dwelling'.

Also, 'extension of the property at ground floor, first floor, or roof level could add significantly to the footprint and mass of the dwelling, harming the character and appearance of the area'.

As the temporary car park on this site has not yet been returned to pasture, the continued use of the car park to alleviate the lack of public parking spaces would be preferred.

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.