

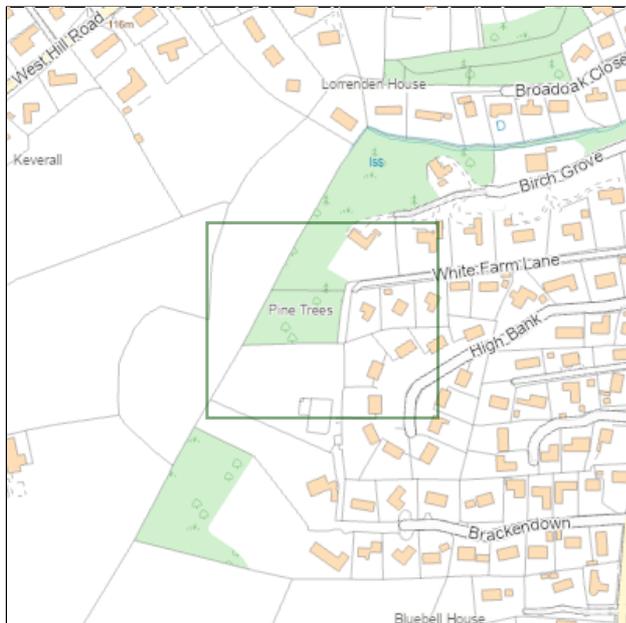
Ward West Hill And Aylesbeare

Reference 25/2209/FUL

Applicant Mr Andrew and Paul Lightfoot

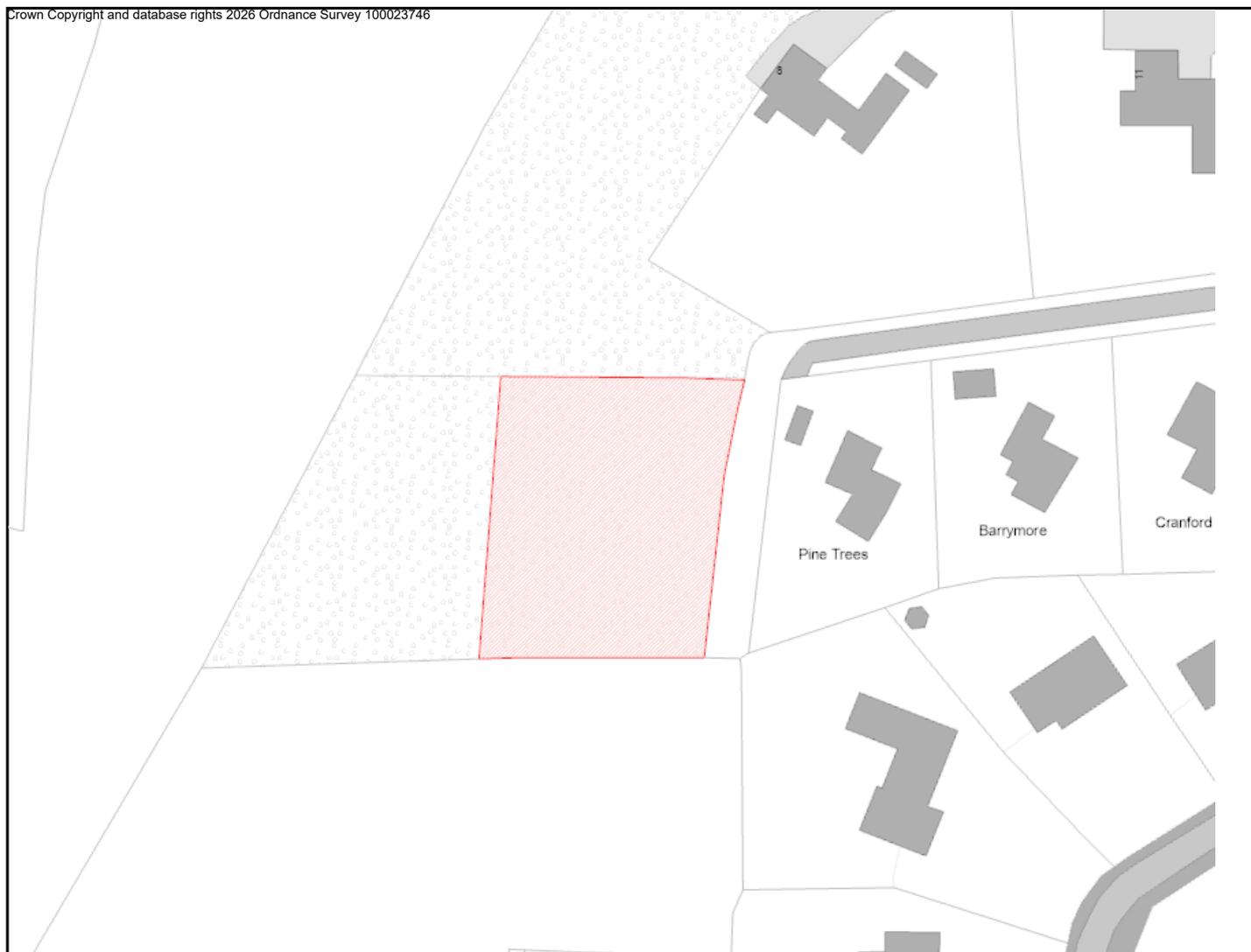
Location Land Adjoining White Farm Lane West Hill
Ottery St Mary

Proposal Construction of 1no. dwelling



RECOMMENDATION: Approval with conditions

Crown Copyright and database rights 2026 Ordnance Survey 100023746



| | | |
|---|---------------------------------------|-----------------------------------|
| | | Committee Date: 24.02.2026 |
| West Hill And Aylesbeare (West Hill) | 25/2209/FUL | Target Date: 27.02.2026 |
| Applicant: | Mr. Andrew and Paul Lightfoot | |
| Location: | Land Adjoining White Farm Lane | |
| Proposal: | Construction of 1no. dwelling | |

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application seeks full planning permission for the construction of a single dwelling on land adjoining White Farm Lane, West Hill. The site lies outside the Built-up Area Boundary (BUAB) and is therefore classed as countryside as described by Strategy 7 of the East Devon Local Plan. Such a development would conflict with both local and neighbourhood planning policies, and this conflict is acknowledged within the report.

However, a material change in circumstances has occurred since the previous refusal and appeal dismissal for a similar proposal in 2015. East Devon District Council can no longer demonstrate a five-year housing land supply, currently standing at 3.5 years. As a result, relevant local plan policies are considered out of date, and there is a presumption in favour of sustainable development (NPPF paragraph 11) beyond defined settlement boundaries.

The proposal has received objections from the Parish Council, the Tree Officer, and local residents, citing concerns including landscape harm, sustainability, tree loss, access, drainage, and landscape character impacts. The Tree Officer's objection centres on historic woodland clearance and the risk of future pressure to remove trees. The applicant has submitted Arboricultural and daylight assessments, which conclude that no tree felling is required and that adequate daylight can be achieved without future removal. A provisional Woodland Tree Preservation Order now covers the site and would provide additional long-term protection once confirmed.

Ecological impacts are considered manageable through conditions, and Biodiversity Net Gain will be delivered via off-site units. It is the officer view that proposed means of access, drainage, and foul treatment arrangements are acceptable. While the dwelling would still result in some landscape harm due to its countryside location and partial visibility, this harm is considered limited.

When balancing the identified harms against the benefits, officers consider that the adverse impacts do not demonstrably outweigh the benefit of delivering an additional dwelling at a time of housing shortfall.

As such, the officer recommendation is approval subject to conditions covering tree protection, ecological mitigation, drainage, materials, landscaping, construction hours, and compliance with the statutory Biodiversity Gain Plan requirement.

CONSULTATIONS

Local Consultations

Clerk To West Hill Parish Council

West Hill Parish Council (WHPC) discussed this planning application at a meeting on 2nd December 2025.

A previous application to build on this site was rejected at appeal. The site was then, and still is, outside the BUAB. It is therefore considered to be in countryside where Local Plan Strategy 7 applies.

Strategy 7 states that development will only be permitted where it is in accordance with a specific Local or Neighbourhood plan policy that explicitly permits such a development and where it would not harm the distinctive landscape amenity and environmental qualities within which it is located.

At the time of the previous application there was no Local or Neighbourhood Plan policy which explicitly permitted such developments and nor is there today. The reasons that the previous application was rejected as unsustainable are equally valid today and therefore the current application should also be considered as unsustainable.

In section 4.4 of the Planning Statement it is argued that in the absence of a 5 year housing supply and given that the NP is over 5 years old there is a presumption in favour of sustainable development. The decision of the Planning Inspector previously, based on criteria which are just as valid today, ruled that the proposed development was unsustainable. Logically therefore the currently proposed development should also be considered unsustainable and therefore the arguments in section 4.4 are not valid.

The site, being outside the BUAB, is actually countryside. Building a substantial 3 storey 5 bedroom dwelling in this location which could be viewed from the nearby countryside would be intrusive and harmful to the local landscape and would be in direct conflict with strategy 7 of the local plan.

Given that the proposed development is outside the BUAB, would be visually intrusive and, using the same criteria as the previous application, is unsustainable WHPC objects to this application.

Ward members

No comments received.

Technical Consultations

EDDC Trees

SITE HISTORY -

15/2052/OUT: Outline planning permission for the construction of a dwelling
REFUSED

Appeal - DISMISSED.

25/0057/TPO Woodland Tree Preservation Order SERVED.

As per previous Tree Officer comments on the refused application 15/2052/OUT, 'The area of land to which this application relates was and remains woodland. Aerial photographs taken in 2010 show a complete canopy cover at that time. Between then and now the trees have been progressively felled. The issue was reported to the Forestry Commission (FC) as a potential breach of the felling licence regulations. The FC investigated the case... .., it is apparent that as a result of the felling being carried out over successive calendar quarters that the FC had no grounds to pursue any action relating to an illegal felling. The FC make a significant comment in their letter [to the owner], "In addition where clearance takes place in advance of a planning application it also undermines the planning process, masking the proposed developments true impact on trees and woodland. Over time natural regeneration of trees can be anticipated to restock the woodland.'

On site, it is still clear where the site has been cleared. This is further exacerbated by the fact that natural regeneration has not been allowed to take place as during the recent site visit, it could be seen all natural regeneration has been cleared; a pile of brashwood, mainly of Silver Birch was visible on site (note; Sweet chestnut was also visible which appear to be epimoric growth cut from nearby boundary trees). One stem of a twin stemmed Beech had also recently been felled and still remains in situ - it was not clear why this had been felled.

Overall the structure and condition of the remaining trees on site appeared be good. However, two Scots Pine directly to the south of the dwelling contain a number of woodpecker holes (which could be used as bat roosts); such features are indicators of internal decay and as such tend to be highlighted within tree risk assessments. As tends to be characteristic of sites where trees are in close proximity to dwelling, this tends to increase the likelihood of the trees being felled over safety concerns thus denuding the woodland cover further. Leaf and debris fall, lack of useable garden space and concerns over light levels are also likely to lead to pressure for further tree removal.

There is also one large wide spreading Beech located on a neighbouring property; some of the crown and RPA of the Beech will act as a constraint. The structure of the tree suggests it has historically been pollard. Concern has obviously been raised about the safety of the limbs as throughout the crown, the stems have been braced to minimise the risk of failure. This tree has not been included within the tree constraints plan though the RPA is likely to be impacted by any access drive installed.

It is noted no further trees are required for removal to facilitate the proposal though services will be required to be 'moled' to avoid impacting the rooting system of the

retained trees. The dwelling is proposed to be located outside of the RPA of all trees though to facilitate construction, tree protective fencing will need to be located within the RPA - therefore ground protection will be required. The AIA refers to a tree shade constraints plan though none has been provided. Shading is likely to be an issue throughout the day with trees located to the east, south and west of the dwelling. Shading in the later afternoon / evening is likely to be particularly significant due to the density of trees to the west of the dwelling.

Based on the history of site clearance, the recent clearance of natural regeneration and the likely future pressure for further tree removal I object to the proposal. It is considered that the development will not deliver a harmonious and sustainable relationship between structures and trees and is therefore considered to be contrary to policy D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.

A Woodland Tree Preservation Order has been served to ensure appropriate future management of the site.

Environmental Health

I have considered the application and note that this site is close to nearby residents who may be impacted during the construction process. 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. We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website.

Other Representations

14 third-party objections have been received. These objections can be summarised as covering the following points:

- o Outside the village boundary and conflicts with adopted planning policy.
- o Impacts upon trees and ecology.
- o Unsafe access and lane maintenance.
- o Weak infrastructure.
- o Drainage/sewage risks from the proposed treatment plant.
- o Impacts upon the character of the area.
- o Housing need.

PLANNING HISTORY

15/2052/OUT - Construction of 1no. dwelling – Refused, dismissed at appeal.

Previous reasons for refusal:

1. The development proposed, by virtue of its location outside of the built-up area boundary of West Hill as defined in the Adopted and emerging East Devon Local Plan, would fail to respect the pattern of settlement of the village and encroach on the countryside. It would not therefore be well related, complementary or compatible with the built form of West Hill and would be contrary to the West Hill Design Statement, policies S5 (Countryside Protection) and D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan, strategy 7 (Development in the Countryside) and policy D1 (Design and Local

Distinctiveness) of the submitted New East Devon Local Plan and guidance in the National Planning Policy Framework.

2. By virtue of the excessive distance to public transport links and facilities in West Hill and the surrounding area, as well as the road network being unsuitable for pedestrian or cycle access to such facilities, the occupiers of the proposed dwellings would be largely dependent on car-based trips to access shops, employment, leisure and community facilities. The proposal would therefore constitute unsustainable development which would be contrary to policies S5 (Countryside Protection) and TA1 (Accessibility of New Development) of the adopted East Devon Local Plan, strategies 7 (Development in the Countryside) and 5B (Sustainable Transport) and policy TC2 (Accessibility of New Development) of the submitted New East Devon Local Plan and guidance in the National Planning Policy Framework.
3. Considering the scale of tree clearance and lack of replanting of this forestry land which has taken place prior to the planning application the requirement for further trees to be felled to accommodate a dwelling, and the future pressure associated with domestic gardens to fell trees, the scheme would result in the loss of a significant area of woodland and also of individual trees which bound the village, and contribute to the character of the area. As such the proposal is considered contrary to policies D5 (Trees and Development Sites) of the adopted East Devon Local Plan and D3 (Trees on Development Sites) of the submitted New East Devon Local Plan.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

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

Strategy 3 (Sustainable Development) Adopted

Strategy 5B (Sustainable Transport) Adopted

Strategy 7 (Development in the Countryside) Adopted

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

Strategy 38 (Sustainable Design and Construction) Adopted

Strategy 46 (Landscape Conservation and Enhancement and AONBs) Adopted

Strategy 47 (Nature Conservation and Geology) Adopted

Strategy 48 (Local Distinctiveness in the Built Environment) 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 Systems) Adopted

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

TC7 (Adequacy of Road Network and Site Access) Adopted

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP01 (Spatial strategy) Draft

Strategic Policy SP03 (Housing requirement by Designated Neighbourhood Area) Draft

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft

Strategic Policy SD28 (Development allocations at West Hill) Draft

Strategic Policy AR01 (Flooding) 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

Policy OL09 (Control of pollution) Draft

Policy PB02 (Protection of regionally and locally important wildlife sites) 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)

National Planning Practice Guidance

Ottery St Mary and West Hill Neighbourhood (Made 2018)

2017-2031

Policy NP1 (Development in the Countryside)

Policy NP2 (Sensitive, High Quality Design)

Policy NP3 (Infill, Backland and Residential Garden)

Policy NP8 (Protection of Local Wildlife Sites and Features of Ecological Value)

Policy NP9 (Accessible Developments)

Policy NP26 (West Hill Design)

Site Location and Description

The application site is located approximately 9 metres beyond the built-up area boundary of West Hill and adjacent to the road known as White Farm Lane which is the primary access route to the plot. The lane is a private road that stretches approximately 300 metres and joins to Higher Broad Oak Road, an unclassified road.

The plot is measured at approximately half an acre and is lined with mature trees of varying species. Since the submission of this application, these trees have been the subject of a Woodland Tree preservation order (25/0057/TPO). The centre of the site is relatively clear. The site does not benefit from any special designations and is located within Flood Zone 1.

The topography slopes down on a near east-to-west axis with a difference of 5m being observed on mapping data. Adjacent to the east is residential housing, to the west and south is agricultural land. To the north of the site is a densely wooded area.

ANALYSIS

Proposed development

The application proposal is similar to outline planning application 15/2052/OUT which was refused and dismissed at appeal. Importantly, the Inspector identified that the proposal would have resulted in harm to the countryside and, given that at the time the LPA could demonstrate a 5-year-housing-land-supply (5YHLS), as per para 14 of the NPPF (March 2012) there was no presumption of favour in granting of the permission that would demonstrably outweigh the anticipated levels of harm which the proposal posed.

This submission is accompanied by an ecological survey, an Arboricultural survey and a daylight study. The latter two of which have been submitted as a means of addressing the third reason for refusal of planning application 15/2052/OUT.

The proposal is for a detached two-storey dwelling with a mezzanine loft space. The dwelling is comprised of two elements; the central gable element which is two-stories and includes the mezzanine loft space and, a single-storey element that projects from the western elevation. The scheme also proposes a detached double garage and associated access works.

The central element is of a contemporary design and features a projecting canopy and walls on the gable-ends. The roof is of a steep-sloping dual pitched design. The dwelling would measure approximately 11.2 metres in height when viewed from the west, and 8.5 metres in height when viewed from the east. The 2.7 metre disparity is due to the change in levels experienced across the site. This element of the scheme will also measure approximately 22.3 metres in length and 8 metres in width. This element would be situated upon a concrete plinth that forms the ground

floor, the first floor would be predominantly clad aluminium standing seam cladding with some faces being clad in timber.

The central element would feature a single-storey, flat roofed projection on the Western elevation which forms an en-suite bedroom. The roof of this projection would become a roof terrace. This projection measures approximately 8.2 metres in depth, 7 metres in width and 4 metres in height (excluding a glass balustrade) and be clad in timber.

On the Eastern elevation, the proposal would feature a raised, flat-roofed, glazed porch served by an external staircase.

The detached garage is of a similar design to the dwelling house. The garage would be of a steep sloping, dual-pitched roof design with projecting roof face and walls on the gable-end. The materials would match that of the dwelling house. The garage would measure approximately 8 metres in length, 7.5 metres in height and 7.5 metres in width.

The access to the site would be via an existing opening to the Northeast. The proposed drive would be a no-dig, grass surfaced drive situated on top of the existing ground.

Principal of Development

The proposed development would be located beyond the Built-up-area-boundary of West Hill. In policy context, the proposal would be situated within the 'Countryside' as described within Strategy 7 of the EDLP. Development within these areas will only be permitted where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

The need for housing over the next five years is an essential consideration in planning decisions. If the Council cannot demonstrate a five-year housing supply when adopting a new local plan, it would conflict with paragraph 78 of the NPPF. Without an adequate supply of housing, an Inspector would likely find such an emerging plan unsound and inconsistent with the requirements of the NPPF.

The District Council can currently only demonstrate a housing land supply of 3.5 years in line with the revised standard methodology for calculation introduced via the revised NPPF and is therefore significantly short of the required figure.

Issues

The parish council have objected to the scheme, raising concerns for development in the countryside, the proposed location being unsustainable and the scheme being visually intrusive upon the landscape.

The Arboricultural officer has raised an objection due to historic site clearance, clearance of natural regeneration and the anticipated future pressure for further felling.

Upon review of the scheme and the objections, it is considered that the issues to be assessed are the impact upon trees, impacts upon ecology, impact upon the character of the area and landscape harm, location sustainability, issues relating to site access and services and, site drainage. Each of these issues will be discussed below:

Impacts upon trees.

The district Arboricultural officer had identified a beech tree located on the adjacent site to the north that had been omitted from the tree survey and tree protection plan. This has since been addressed within a revised TPP and survey.

The Arboricultural officer cites historic clearance as one reason for their objection. This historic clearance is assumed to have occurred pre-2015 and in preparation for the later refused outline planning application 15/2052/OUT. In the appeal decision, the planning inspectorate confirmed that trees had been felled but stopped short of associating felling with the submission of the application. The inspectorate did however identify that the siting of a dwelling in an area that is now more exposed would be harmful to the landscape.

It should be noted that prior to the refused outline planning application being submitted, the Forestry Commission had undertaken an investigation into alleged illegal felling within the site. It has been argued by the applicant that any management of the woodland had been completed within the applicants permitted allowances and occurred beyond the redline boundary as shown within the location plan. The outcome of the investigation was issued to the applicant on 13th June 2014 where the Forestry Commission had concluded that no further enforcement action would be undertaken as no breach of the Forestry Act 1967 had occurred.

The Arboricultural officer has concluded that recent clearance of natural regeneration and the likely future pressure for further tree removal will contradict the requirements of EDLP Policy D3 (Trees and Development sites). Policy D3 does not permit development where the proposal would not deliver a harmonious and sustainable relationship between structures and trees.

The applicants Arboricultural Impact Assessment (AIA) has been informed by a daylight/sunlight study, produced by Richard W Stag MRICS. The survey considers reason-for-refusal 3 of application 15/2052/OUT and concludes that the dwelling would receive sufficient levels of daylight as required by BR209 (2022). The AIA concludes that additional felling would not be required, and the application does not propose any felling.

In their appeal decision, the planning inspectorate agreed that felling would not be required to accommodate the development however, concerns were expressed about prospective future felling as means of achieving optimum levels of light. It should be noted that the woodland has been the subject of a Provisional Woodland Tree Preservation Order which had been served since the submission of this application. The presence of this TPO will provide additional protection to the trees within the site and permission will be required for ongoing maintenance. The submitted tree protection plan and daylight survey confirms that no trees will be felled to accommodate the development. The findings within the daylight survey confirm that, if approved, the proposed dwelling would not require future tree felling to afford sufficient levels of day light within the dwelling. As such, the proposed development would be considered both harmonious and sustainable and is therefore considered to align with the requirements of Policy D3 of the EDLP.

Impact upon ecology.

The applicant has submitted an Ecological report completed by Redstone Ecology in October 2025. The report identifies that the site may be used by foraging bats but not suitable for roosting. There was no evidence of badger setts being located within the site; however, a main sett was located offsite and approximately 20 metres to the west of the redline boundary. The site is considered suitable for nesting and foraging birds.

The ecological report assesses the unmitigated effect of the proposal during and following construction and proposes mitigation measures to address any prospective harm during and following construction. A Natural England license is not deemed to be required. The measures outlined within Section 4 of this survey can and should be conditioned if an approval were forthcoming.

The implementation of a condition would ensure that the proposed development would mitigate any ecological harm, thus reducing the proposal's ecological impact. Subject to the implementation of a condition, the proposed development would be considered to align with the requirements of Policy EN5 of the EDLP.

Biodiversity Net Gain

The proposed development would be the subject of Biodiversity Net Gain. The submitted statutory metric calculations indicate that there would be a net-loss of habitat area equating to 27.81%. The scheme would not be able to off-set such a loss through on-site measures. The BNG statement confirms that off-site biodiversity units will be acquired to satisfy the BNG statutory requirements.

Whilst it would be preferable for BNG to occur within the site, the securing of off-site BNG credits aligns with the statutory requirements as described within Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

Impacts upon access and services.

The site would be accessed via an existing access point served by White Farm Lane. White Farm Lane is used by 5 dwellings. The addition of one dwelling is not anticipated to compromise the road safety of users of both White Farm Lane and Higher Broad Oak Road. The comments received suggest that construction vehicle traffic would significantly impact the safety and use of the lane. These impacts would be temporary and exclusively during the construction phase. The development for one dwelling is a small form of development that would not necessitate the implementation of a construction management plan.

Drainage

Concerns have been raised with regards to drainage and sewage. The application proposes the use of soakaways for surface water run-off management and a package treatment plant to manage foul sewage. The soakaway, package treatment plant and associated infrastructure would be located beyond the root protection areas of any trees. The package treatment plant would require regular maintenance and servicing however, this could be completed within the site and it is not anticipated that such maintenance would impact the wider road network. If an approval were forthcoming, the use of soakaways would be conditioned.

The applicant has described that the use of a package treatment is required due to the topography of the land. The nearest connection point to the mains foul drainage is 30 metres to the East of the site. This connection sits at approximately 3.5 metres above the ground floor level of the dwelling meaning that such a connection is not feasible. Mapping data suggests that ground conditions are freely draining and subsoil drainage is therefore considered suitable. As such, it is considered that a private means of foul drainage is suitable for the site and the application therefore aligns with the requirements of Policy EN19 of the EDLP.

Impact upon the character of the area and landscape harm.

The proposed development would be located at the end of White Farm Lane, a private road that stems from Higher Broad Oak Road (Figure 1). When walking along White Farm Lane, the site is tucked away behind dense boundaries on the right and residential structures on the left (Figures 2 and 3).



Figure 1 - View facing West along White Farm Lane. Image taken from Higher Broad Oak Road.



Figure 2 - View of the entrance to the application site. Image taken from White Farm Lane



Figure 3 - View into the application site from White Farm Lane.

The proposed dwelling is large, and the proposed use of standing seam cladding is considered out of character with materials used elsewhere along White Farm Lane. With this said, the proposal is located far along and tucked back from the private road. Although the scheme is situated along White Farm Lane, its distance from neighbouring houses is enough to be considered visually separate so as not to influence the character or existing patterns of development of the dwellings located along the lane.

The drawings indicate the use of a brown-like colour for the standing seam cladding as well as timber. Such colours would be comparable to those naturally occurring on the site (Figure 4). There are no views of the site when moving along Higher Broad Oak Road meaning that despite the proposal's size and material finish, it would not be impactful upon the character of the street.

When facing towards the applicant site from the B3180 and West Hill Road, views towards the application site are blocked by the presence of mature trees and dwellings that line the east and southeastern sides of the streets. Views towards the site would be achieved through small, sporadic gaps found between trees and dwellings.

When considering the limited opportunity to view the site, the existing boundary treatments and the proposed materials which are comparable in colour and tone to the surrounding flora, the scheme's prominence would be reduced.



Figure 4 - View of the application Site facing Southwest. Image taken from within the site.

The planning inspectorate concluded in their appeal decision that a single dwelling in this location would be an intrusive feature in the countryside which would be harmful to the character of the local landscape. Whilst efforts have been made to reduce the scheme's prominence within the landscape, it can be concluded that by virtue of the proposal's location beyond the built-up area boundary and its siting amongst an area of woodland, that the scheme would still be considered harmful to the character of the landscape. The scheme would therefore be considered contrary to the requirements of Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the EDLP. This weighs negatively in the planning balance.

Location sustainability.

A site visit was conducted on 04/11/2025. During this visit, it was noted that White Farm Lane does not benefit from any road-side footpaths or street lighting, neither does Higher Broad Oak Road. Higher Broad Oak is an approximate 15-minute walk to the centre of West Hill where there are an array of services including (but not limited to) shops and a post office and approximately a 20-minute walk to the nearest bus stop and school. The walk from site to these services was conducted during the visit and it was noted that the walk was considered to be relatively 'hilly' but not excessively. Others were observed walking along Higher Broad Oak Road and traffic was travelling at low speeds. It was felt that, despite the rural nature of the roads, the walk could be reasonably completed by foot or bicycle if required. The nature of the roads may encourage occupants to use vehicles as opposed to walking or cycling, especially in poor weather conditions. The planning inspectorate concluded within their appeal decision for 15/2052/OUT that the site would not necessarily be considered sustainable but that it would also be unreasonable to withhold permission for this type of development within West Hill on the basis of the need to travel by car.

Relevant Appeal Decisions

There are two notable appeal decisions within West Hill which are material to the determination of 25/2209/FUL

this application; application 15/20252/OUT which was outline consent at the application site and, 23/2612/OUT which was for five dwellings located beyond the built-up-area-boundary of West Hill.

The appeal decision for application 15/2052/OUT has been discussed throughout this report. The conclusions from the inspectorate's report, based on the submitted information, anticipated that future occupants may seek to fell more trees to achieve suitable levels of light which would contribute to an intrusion into the countryside. This application has submitted additional surveys which conclude that this will not be required. The appeal decision confirms that for development beyond the BUAB of West Hill, it would be unreasonable to withhold consent based on the need to travel by car. This specifically addresses reason-for-refusal two of the decision notice. Finally, the appeal decision concludes that as the LPA could demonstrate a 5YHLS at the time of appeal, the EDLP was considered up to date and that there was no presumption in favour of granting permission to outweigh the anticipated harm to the character of the countryside.

The appeal decision for application 23/2612/OUT was published on 17th July 2025. At the time of this decision, the LPA could not demonstrate a 5YHLS meaning there was a presumption in favour of sustainable development. In that instance, the scheme proposed 5 dwellings situated along Lower Broad Oak Road, some 200 metres from the BUAB of West Hill. The inspectorate concluded that the scheme was not poorly located to facilities and services such that it amounted to a harm of significance or demonstrable nature. Despite identifying visual landscape harm, the harm attributed to the development did not demonstrably outweigh the public benefits associated with the scheme.

Habitats Risk Assessment

The site is not located within any Special Area's of Conservation or Special Protection Area. The site is not part of, nor is it likely to have a significant effect on, a European Site. The proposal would however be located within the Pebblebed Heaths 10km buffer zone. The applicant has paid a habitat mitigation fee to mitigate against any adverse effect of the development on the Pebblebed Heaths Special Protection Area.

Due to the site's location beyond the Special Protection Area and, given that the development is not likely to have a significant effect upon a European site, the proposal can be screened out of requiring an appropriate assessment.

The Planning balance.

Since the appeal dismissal of application 15/2052/OUT, there has been a material change in circumstances in that the district is currently unable to demonstrate a 5 YHLS. As the site is not located within an area as described within footnote 7 of the NPPF 2024, there is a presumption in favour of sustainable development as set out within Paragraph 11 of the same document. As the district cannot demonstrate a 5YHLS, the policies in the local plan important for determining this application is considered out of date and carry reduced weight. Paragraph 11 of the NPPF requires that the adverse impacts of the development be demonstrably outweighed by the benefits of the scheme.

In this instance, the landscape harm is associated by the principle of a proposed dwelling being located within the countryside and the scheme being somewhat visible notwithstanding its woodland setting. The application has provided Arboricultural assessments and surveys which conclude that there will not be any loss of trees. Tree Preservation Orders have since been applied to the trees on site which will grant additional protections.

The appeal decision of application 15/2052/OUT confirms that it would be unreasonable to withhold consent on the basis of a development located within West Hill requiring transport by vehicle. The locally allowed appeal decision for application 23/2612/OUT being of a comparable distance from services further supports this view.

Whilst landscape harm has been identified and the scheme is considered contrary to local plan policies, these policies are attributed less weight due to the lack of a 5-year housing land supply.

The harm attributed to this scheme is considered to be limited. The benefits attributed to this scheme of delivering one dwelling are also considered limited. It can therefore be concluded that the anticipated levels of harm do not demonstrably outweigh the benefits of an additional dwelling, and the scheme should therefore be permitted on this basis.

CONCLUSION

From the discussion above, it is clear that the proposed development would be in conflict with the local and neighbourhood development plans. As the LPA cannot demonstrate a 5 YHLS, the weight to which policies within these plans carry is reduced. The harm attributed to the scheme does not demonstrably outweigh the public benefits of an additional dwelling within the LPA's housing stock. The scheme is therefore considered acceptable in this context and recommended for approval with conditions.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. 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.)
3. 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. No soakaway or other drainage feature shall be sited with the root protection area of any tree within or adjacent of the site.

(Reason - In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy EN22 of the East Devon Local Plan 2013 to 2031).

4. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving,

temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a revised Tree protection plan (TPP) that includes ground protection measures and a detailed Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved TPP and AMS. The AMS shall include full details of the following:

- a) Implementation, supervision and monitoring of the approved Tree Protection Scheme
- b) Implementation, supervision and monitoring of the approved Tree Work Specification
- c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
- d) Timing and phasing of Arboricultural works in relation to the approved development.

Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS.

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

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

5. The development shall be carried out strictly in accordance with the recommendations found within the document titled 'Ecological Assessment - Proposed New Dwellings', specifically with reference to section 4, received by the local planning authority on 28/10/2025, dated October 2025 and produced by Redstone Ecology.

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

6. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site.

(Reason - To protect adjoining occupiers from excessive noise in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of

Pollution of the Adopted East Devon Local Plan 2013-2031).

7. 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 : A pre-commencement condition is required in order that details are considered at an early stage of the development 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) of the adopted East Devon Local Plan 2013-2031); SuDS for Devon Guidance (2017) and national policies as set out in the National Planning Policy Framework and associated Planning Practice Guidance).
8. No development shall take place until the following information has been submitted to and approved in writing by the local planning authority: a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; full details of the proposed finished floor levels of all buildings and hard landscaped surfaces. The development shall be carried out in accordance with the approved details.
(Reason - A pre-commencement condition is required to ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
9. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
10. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - o Means of enclosure;
 - o Boundary treatments;
 - o Hard surfacing materials;
 - o Planting scheme and schedule
 - o An implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance

with the agreed implementation programme.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

11. 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 development permitted by virtue of Classes A and E of Part 1 of Schedule 2 to the Order shall be undertaken.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees and Development Sites) of the Adopted East Devon Local Plan 2013-2031)

NOTE FOR APPLICANT

Informative:

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

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 \(www.gov.uk\)](https://www.gov.uk)

Plans relating to this application:

| | | |
|------------------|----------------------|----------|
| 25.19-01 G | Proposed Site Plan | 19.01.26 |
| 25.19-04 REV B | Proposed Elevation | 28.10.25 |
| 25.19-03 REV A | Proposed Elevation | 28.10.25 |
| 25.19-02 rev B | Proposed Floor Plans | 10.11.25 |
| 25.19 -SLP Rev B | Location Plan | 14.11.25 |

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.